

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF PROPOSED  
ARM 23.2.301 pertaining to the ) AMENDMENT  
affidavit of indigence and statement )  
of inability to pay court costs and fees ) NO PUBLIC HEARING  
 ) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Justice proposes to amend the above-stated rule.

2. The Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Justice no later than 5:00 p.m. on October 27, 2017, to advise us of the nature of the accommodation that you need. Please contact J. Stuart Segrest, Department of Justice, P.O. Box 201401, Helena, Montana, 59620-1401; telephone (406) 444-2026; fax (406) 444-3549; or e-mail contactdoj@mt.gov.

3. The rule as proposed to be amended provides as follows: [following is the rule in its current form]

23.2.301 AFFIDAVIT OF INDIGENCE

AFFIDAVIT OF INDIGENCE  
AND ORDER

**ANSWER ALL QUESTIONS. USE N/A IF NOT APPLICABLE**

STATE OF MONTANA )  
 ) :ss.  
County of \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn, depose and say: That I have a good cause of action or defense but am unable to pay the costs or get security to secure the cause of action or defense. I request the court or administrative tribunal to waive the costs and approve indigence status. I declare the following:

**I. PERSONAL INFORMATION**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_ Birthdate \_\_\_\_\_ Age \_\_\_\_ SSN \_\_\_\_\_  
Employed Yes \_\_\_\_ No \_\_\_\_ Self-Employed Yes \_\_\_\_ No \_\_\_\_

Employer's name & address \_\_\_\_\_

Month last employed \_\_\_\_\_ Job \_\_\_\_\_

Single \_\_\_\_\_ Married \_\_\_\_\_ Divorced \_\_\_\_\_ Separated \_\_\_\_\_

Dependents? \_\_\_\_\_ Spouse \_\_\_\_\_ Number of children \_\_\_\_\_

Spouse's name \_\_\_\_\_

Spouse's birthdate \_\_\_\_\_ Age \_\_\_\_\_ Spouse's SSN \_\_\_\_\_

Spouse's employer & address \_\_\_\_\_

Are you sharing expenses with anyone? Yes \_\_\_\_\_ No \_\_\_\_\_

Explain \_\_\_\_\_

Are you sharing income with anyone? Yes \_\_\_\_\_ No \_\_\_\_\_

Explain \_\_\_\_\_

**II. INCOME**

Income available:

My wages or salary \$ \_\_\_\_\_ AFDC \$ \_\_\_\_\_

Other wages/salary \$ \_\_\_\_\_ Unemployment \$ \_\_\_\_\_

Workers' Comp \$ \_\_\_\_\_ SSI \$ \_\_\_\_\_

Food Stamps \$ \_\_\_\_\_ Medicaid \$ \_\_\_\_\_

Pension \$ \_\_\_\_\_ Retirement \$ \_\_\_\_\_

Child support \$ \_\_\_\_\_ Other Income \$ \_\_\_\_\_

Total Household Income:

Last month \$ \_\_\_\_\_ Previous 12 months \$ \_\_\_\_\_

**III. ASSETS**

A. Motor vehicles? Yes \_\_\_\_\_ No \_\_\_\_\_ How many? \_\_\_\_\_

Spouse's motor vehicles \_\_\_\_\_

Is/are vehicle(s) paid for? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, how much do you owe? \$ \_\_\_\_\_

Year, make and model \_\_\_\_\_

B. Do you or your spouse own any land or other real estate or are you or your spouse buying any? Yes \_\_\_\_\_ No \_\_\_\_\_

What is the approximate value? \_\_\_\_\_

How much did you pay for it? \$ \_\_\_\_\_ When? \_\_\_\_\_

Is it paid for? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, how much do you or your spouse owe? \_\_\_\_\_

C. Checking accounts? Yes \_\_\_\_\_ No \_\_\_\_\_ \$ \_\_\_\_\_

Savings accounts? Yes \_\_\_\_\_ No \_\_\_\_\_ \$ \_\_\_\_\_

Bank \_\_\_\_\_

Stocks or bonds? Yes \_\_\_\_\_ No \_\_\_\_\_ \$ \_\_\_\_\_

Wages due but not yet received \$ \_\_\_\_\_

Money owed to me or my spouse \$ \_\_\_\_\_

Guns, boats, sporting equipment, trailer, camper, or tools \$ \_\_\_\_\_  
 Stereo or TV \$ \_\_\_\_\_  
 Furniture & appliances \$ \_\_\_\_\_  
 Other personal property \$ \_\_\_\_\_  
 Specify: \_\_\_\_\_  
 \_\_\_\_\_

**IV. OBLIGATIONS/DEBTS**

Do you or your spouse have any outstanding debts or obligations: (specify and list amount): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I further declare that I am the person named above, that I have read the foregoing questions and information and know the same to be true of my own knowledge, AND THAT IF ANY PART OF THE ABOVE IS MADE FALSELY I AM SUBJECT TO PROSECUTION FOR PERJURY.

\_\_\_\_\_  
 Signature of Requestor

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
 Notary Public for the State of Montana  
 Residing at \_\_\_\_\_, Montana  
 My Commission expires \_\_\_\_\_

**ORDER**

Indigence status is hereby denied/granted.

DATED: \_\_\_\_\_

\_\_\_\_\_  
 Judge/Administrative Officer

[following is the rule in its proposed form]

23.2.301 STATEMENT OF INABILITY TO PAY COURT COSTS AND FEES

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (optional)

**Appearing without a lawyer**

- MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY
- IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA
- IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

<p>_____ Petitioner / Plaintiff, and _____ Respondent / Defendant.</p>	<p><b>Case No:</b> _____ <i>(leave blank, the clerk will write in)</i></p> <p>Statement of Inability to Pay Court Costs and Fees</p>
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I have a good cause of action or defense but am unable to pay filing or other court fees. I request the court waive the costs and fees. I provide the following information about my income and expenses.

My full legal name is: \_\_\_\_\_. I was born in this month \_\_\_\_\_ and this year \_\_\_\_\_.

I am represented by an entity that provides free legal services to low-income persons.

Or

I am represented by a volunteer/pro bono attorney, and am financially eligible for free legal services. *(Attach a certificate of eligibility from legal aid organization.)*  
*[If you checked either box above, skip to the bottom of this form, and sign it. You don't need to fill out pages 2, 3, and 4. If you did not check either box above, you*

may still qualify for a fee waiver—please continue to fill out pages 2, 3, and 4 of this form so the Court has the information it needs to decide if you qualify for the fee waiver.]

**I. INCOME**

**What do you do for work?** \_\_\_\_\_

**Who is your employer?** \_\_\_\_\_

**Are you married?**  Yes  No **NOTE: You do not need to provide your spouse's income below if you are not married, if you and your spouse are separated, or if one of you is filing for dissolution of marriage.**

Do you receive any of these benefits [check the box for each benefit you receive]?

- SNAP     TANF     SSI     Medicaid     WIC     LIEAP

- If you checked a box, skip to the bottom of this form, and sign it. You don't need to fill out the rest of this form.
- If no, then fill in the chart below with the income you receive.
- If you or your spouse don't receive income from a listed source, put a "0" in the blank for that amount per month.

Income Sources	Gross amount YOU receive per month	Gross amount YOUR SPOUSE receives per month
Employment	\$	\$
Investments	\$	\$
Rental Income	\$	\$
Retirement	\$	\$
Workers' Compensation	\$	\$
Social Security	\$	\$
Unemployment	\$	\$
Survivor's Benefits	\$	\$
Veterans Benefits	\$	\$

Child Support	\$	\$
Pension	\$	\$
A person or agency pays my rent or other monthly expenses	\$	\$
Other Income--describe: _____	\$	\$
<b>Total here:</b>	\$	\$

If you are unemployed, when were you last employed? \_\_\_\_\_  
 Your job? \_\_\_\_\_

How many persons, if any, depend on you financially? If none, then write 'N/A' below. *[Attach another page if needed.]*

Initials only, of the person	Age	Relationship to You

**II. ASSETS**

What property do you own, along with your spouse, if married and not separated and not filing for dissolution? Fill in the chart below, for each item that you could sell for \$600 or more. If you don't own an item listed, write "N/A" in the "Value" column for that item.

Asset	Value*
Cash, savings and checking	\$
Vehicle 1, provide year, make and model: _____	\$
Vehicle 2, provide year, make and model: _____	\$
Home where you live now	\$
Real estate other than home you're living in	\$
Motorcycle/Four wheeler	\$
Snowmobile	\$

Camper/RV	\$
Mobile home (if not the home where you live now)	\$
Guns, collections	\$
Boat/Watercraft	\$
Other Item worth more than \$600	\$

\* Value is the amount the item would sell for less the amount you still owe on it, if anything

### III. MONTHLY EXPENSES

What bills do you (and your spouse, if married) actually pay each month? Fill in the chart below. If you don't have a monthly expense that's listed in the chart, write "0" in the amount column for that expense.

<b>Monthly expense:</b>	<b>Amount per Month</b>
Rent/Mortgage	\$
Utilities (all combined)	\$
Phone (cell/landline)	\$
Vehicle Payments (all combined)	\$
Vehicle Insurance (all combined)	\$
Health insurance	\$
Other health costs, such as prescriptions	\$
Other Insurance	\$
Groceries	\$
Credit card payments actually paid	\$
Child support payments actually paid	\$
Spousal support payments actually paid	\$
School-related expenses	\$
Child care	\$
Wages withheld by court order	\$

Internet/Cablevision/Satellite TV (combined)	\$
Gas for vehicle (or other transportation costs, such as bus fare)	\$
Other monthly bills, describe: _____	\$
<b>Total here:</b>	\$

**IV. OTHER INFORMATION -- optional**

If you have additional information that you want the court to consider about your inability to pay court costs, attach another page called "Additional Information." Check here if you attach another page:

**I declare under penalty of perjury and under the laws of the State of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Signature: \_\_\_\_\_

- MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY
- IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA
- IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

<p>_____, Petitioner / Plaintiff, and _____, Respondent / Defendant.</p>	<p><b>Case No:</b> _____ (leave blank, the clerk will write in)</p> <p>Order Regarding Statement of Inability to Pay Court Costs</p>
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**Warning! Read carefully the section checked below.  
It is a court order.**



Waiver of court costs is **Granted**. Declarant shall proceed without payment of court fees or costs.

Temporary Waiver of court costs is **Granted**. Declarant may file without payment of court fees or costs, but the Court may determine at a later time that the declarant has the ability to pay all fees or costs and will require declarant to do so.

Temporary Waiver of fees is **Granted**. Declarant may file without payment of court fees or costs, but must appear before the Court at \_\_\_\_\_ a.m/p.m. on the \_\_\_\_\_ day of \_\_\_\_\_ and show cause why the declarant lacks the ability to pay all fees or costs.

**Warning! If this third box is checked, you must come to court on the date ordered above. If you don't come, the judge will deny your request to waive court costs, and you will have to pay the court costs.**

Waiver of Fees and costs is **Denied**. Waiver is denied based on the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Presiding Judge

AUTH: 25-10-404, MCA  
IMP: 25-10-404, MCA

REASON: This rule amendment is reasonably necessary to address deficiencies with the current financial statement form, as requested by the Access to Justice Commission. As noted by the Access to Justice Commission, the current form is not uniformly used. The current form also does not provide a section to indicate that the person is represented by a legal services organization, and thus not required to file a financial statement under 25-10-404(3), MCA. The amended form is also easier to understand than the current form, which will facilitate its use by pro se litigants. Finally, the amended form provides a separate, standalone order, which will assist the court in timely addressing fee waiver applications.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: J. Stuart Segrest, Department of Justice, P.O. Box 201401, Helena, Montana, 59620-1401; telephone (406) 444-

2026; fax (406) 444-3549; or e-mail [contactdoj@mt.gov](mailto:contactdoj@mt.gov), and must be received no later than 5:00 p.m., November 10, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to J. Stuart Segrest at the above address no later than 5:00 p.m., November 10, 2017.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 25.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Matthew T. Cochenour  
Matthew T. Cochenour  
Rule Reviewer

/s/ Timothy C. Fox  
Timothy C. Fox  
Attorney General  
Department of Justice

Certified to the Secretary of State October 2, 2017.