

SENATE BILL NO. 377

INTRODUCED BY S. FITZPATRICK

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO COURTS OF LIMITED JURISDICTION; PROVIDING A PROCEDURE TO REMOVE CERTAIN CASES FILED IN COURTS OF LIMITED JURISDICTION TO DISTRICT COURT; ALLOWING DISTRICT COURT JUDGES TO CONSOLIDATE JURISDICTION IN A DISTRICT COURT WHEN A CASE FILED IN A COURT OF LIMITED JURISDICTION AROSE OUT OF THE SAME TRANSACTION AS A CASE FILED IN DISTRICT COURT; REQUIRING A PARTY TO PAY DISTRICT COURT FEES ON REMOVAL; AMENDING SECTION 3-5-311, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Removal to district court.** (1) A party desiring to remove a civil action

from a justices' court, a municipal court, a city court, or the small claims division of a justices' court shall file in the district court of the judicial district in which the action is pending a notice of removal containing a short and plain statement of the grounds for removal with a copy of the summons and any complaints served on the party in the action.

(2) Civil actions or proceedings may be removed for the following reasons:

(a) the amount in controversy exceeds the \$15,000 jurisdictional limit for justices' courts provided in 3-10-301 and applied to municipal courts in 3-6-103; or

(b) the civil action or proceeding filed in a justices' court, a municipal court, a city court, or the small claims division of a justices' court arose out of the same transaction or occurrence as a civil action or proceeding pending in district court.

(3) (a) Promptly after the filing of a notice of removal of a civil action or proceeding, the party shall give written notice to all parties and shall file a copy of the notice with the clerk of the district court in which the civil action or proceeding is to be tried.

(b) The notice of removal effectuates the removal, and the justices' court, municipal court, city

1 court, or small claims division of a justices' court may not proceed any further unless the case is remanded.

2 (c) On receiving notice of removal, the justices' court, municipal court, city court, or small claims  
3 division of a justices' court shall transmit the pleadings and all papers in the action to the clerk of the district  
4 court immediately.

5 (4) If a party believes the removal is improper, the party shall file a motion to remand within 20  
6 days of service of the notice of removal.

7 (5) A party who files a notice to remove a civil action to district court under this section shall pay all  
8 costs and fees of filing the papers in the district court pursuant to 25-1-201.

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10 **Section 2.** Section 3-5-311, MCA, is amended to read:

11 **"3-5-311. Powers of judges at chambers.** (1) The judge of the district court may at chambers:

12 (a) issue, hear, and determine writs of mandamus, quo warranto, certiorari, prohibition, and  
13 injunction, other original and remedial writs, and all writs of habeas corpus on petition by or on behalf of any  
14 person held in actual custody in the judicial district;

15 (b) grant all orders and writs that are usually granted in the first instance upon an ex parte  
16 application and hear and dispose of those orders and writs;

17 (c) hear and determine any matter necessary in the exercise of the judge's powers in matters of  
18 probate or in any action or proceeding provided by law and any action in which all party defendants have made  
19 default;

20 (d) issue any process, make any order, and make and enter any default judgment- ; and

21 (e) consolidate jurisdiction in district court over a civil action or proceeding filed in a justices' court,  
22 a municipal court, a city court, or the small claims division of a justices' court when the civil action or proceeding  
23 arose out of the same transaction or occurrence as a case pending in district court.

24 (2) When default judgments are entered in default cases, the judge shall forward to the clerk of the  
25 court of the county in which the action is pending the judgment, together with a minute entry of the proceedings.  
26 The clerk shall incorporate the judgment and minute entry into the minutes of the court.

27 (3) If a jury is necessary, the judge may open court and obtain a jury as in other cases."  
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