

SENATE BILL NO. 412

INTRODUCED BY L. SMITH, D. HARVEY, D. HAWK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FEE WAIVERS OF CERTAIN GOVERNMENT DOCUMENTS TO FORMER FOSTER CHILDREN UNDER 21 YEARS OF AGE; SUPERSEDING THE UNFUNDED MANDATE LAWS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 7-4-2631, 20-25-515, 50-15-111, 61-5-111, 61-5-114, AND 61-12-504, MCA."

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

NEW SECTION. Section 1. Fee waivers for government documents provided to former foster children -- exception for academic records -- rulemaking authority.

(1) Except as provided in subsection (3), a person who meets the following criteria may not be assessed the fees identified in subsection (2):

(a) the person was previously a foster child as defined in 52-2-602 but is no longer in the custody of the department of public health and human services due to the person turning 18 years of age; and

(b) the person is under 21 years of age.

(2) The following fees may not be assessed to the individuals identified in subsection (1):

(a) the fee to county clerks for each certified copy of a birth certificate under 7-4-2631;

(b) the fee to the department of public health and human services for the replacement of a birth certificate under 50-15-111;

(c) the fee to the department of justice for the application or renewal of a driver's license or motorcycle endorsement under 61-5-111;

(d) the fee to the department of justice for a replacement license under 61-5-114;

(e) the fee to the department of justice for an identification card under 61-12-504; and

(f) a fee charged by a unit of the Montana university system for the release of a student's transcript or academic record under 20-25-515.

(3) Notwithstanding the requirement in subsection (2)(f), a fee charged by a unit of the Montana university system for the release of a student's transcript or academic record under 20-25-515 may be

1 assessed to a person who meets the criteria in subsection (1) if the unit of the Montana university system first
 2 assesses the fee to the department of public health and human services for reimbursement under [section 2]
 3 and:

4 (a) the department certifies that it is unable to reimburse the fee under the requirements of [section
 5 2]; or

6 (b) the fee is not paid within 30 days after it is assessed to the department.

7 (4) A person eligible for a fee waiver under this section may be required to provide an oral
 8 attestation that the person meets the criteria under subsection (1)(a). The office or department responsible for
 9 furnishing a document listed under subsection (2) may not require the person to provide additional evidence of
 10 eligibility beyond the oral attestation.

11 (5) The department of public health and human services may adopt rules to implement [sections 1
 12 and 2].

13
 14 **NEW SECTION. Section 2. Reimbursement of waived fees -- authorization to utilize federal**
 15 **funds -- directions to department.** The department of public health and human services is authorized to apply
 16 for and receive from the federal government funds that may be appropriated by the United States congress for
 17 aiding in the successful transition of foster care children to adulthood. The department may use the funds to
 18 reimburse the entity responsible for collecting the fees identified in [section 1(2)] for the value of fees waived
 19 under [section 1]. The department is not required to reimburse the value of fees waived under [section 1] if no
 20 funds are received from the congress for aiding in the successful transition of foster care children to adulthood.

21
 22 **Section 3.** Section 7-4-2631, MCA, is amended to read:

23 **"7-4-2631. Fees of county clerk.** (1) Except as provided in 7-2-2803(4), 7-4-2632, 7-4-2637, and this
 24 section, the county clerks shall charge, for the use of their respective counties:

25 (a) for filing and indexing each writ of attachment, execution, certificate of sale, lien, or other
 26 instrument required by law to be filed and indexed, \$5;

27 (b) for filing of subdivision and townsite plats, \$25 plus:

28 (i) for each lot up to and including 100, 50 cents;

- 1 (ii) for each additional lot in excess of 100, 25 cents;
- 2 (c) for filing certificates of surveys and amendments thereto, \$25 plus 50 cents per tract or lot;
- 3 (d) for each page of a document required to be filed with a subdivision, townsite plat, or certificate
- 4 of survey for which a filing fee is not otherwise set by law, \$1;
- 5 (e) for a copy of a record or paper:
- 6 (i) for the first page of any document, 50 cents, and 25 cents for each subsequent page; and
- 7 (ii) for each certification with seal affixed, \$2;
- 8 (f) for searching an index record of files of the office for each year when required in abstracting or
- 9 otherwise, 50 cents;
- 10 (g) for administering an oath with certificate and seal, no charge;
- 11 (h) for taking and certifying an acknowledgment, with seal affixed, for signature to it, no charge;
- 12 (i) for filing, indexing, or other services provided for by Title 30, chapter 9A, part 5, the fees
- 13 prescribed under those sections;
- 14 (j) for recording each stock subscription and contract, stock certificate, and articles of
- 15 incorporation for water users' associations, \$3;
- 16 (k) for filing a copy of notarial commission and issuing a certificate of official character of such
- 17 notary public, \$2;
- 18 (l) for each certified copy of a birth certificate, \$8, and for each certified copy of a death certificate,
- 19 \$7;
- 20 (m) for electronic storage of minutes of an administrative board, district, or commission pursuant to
- 21 7-1-204, 7-11-1030, 7-13-2350, 7-22-2113, 7-33-2112, or 76-15-324, no charge; and
- 22 (n) for filing, recording, or indexing any other instrument not expressly provided for in this section
- 23 or 7-4-2632, the same fee provided in this section or 7-4-2632 for a similar service.
- 24 (2) The county clerks shall charge, for the use of their respective counties, the fee as provided in
- 25 7-4-2632 for recording and indexing the following:
- 26 (a) each certificate of location of a quartz or placer mining claim or millsite claim, including a
- 27 certificate that the instrument has been recorded with the seal affixed; and
- 28 (b) each affidavit of annual labor on a mining claim, including a certificate that the instrument has

1 been recorded with the seal affixed.

2 (3) State agencies submitting documents to be put of record shall pay the fees provided for in this
3 section. If a state agency or political subdivision has requested an account with the county clerk, any applicable
4 fees must be paid on a periodic basis.

5 (4) (a) A county shall transfer \$2 of each fee collected for a death certificate issued under
6 subsection (1)(l) to the department of revenue for deposit in the account in the state special revenue fund to the
7 credit of the board of funeral service.

8 (b) The fee must be transferred monthly unless the department and the county have agreed to a
9 different transfer schedule.

10 (5) A clerk may not charge a fee for a certified copy of a birth certificate under subsection (1)(l) to a
11 former foster child who is under 21 years of age as provided in [section 1]."

12

13 **Section 4.** Section 20-25-515, MCA, is amended to read:

14 **"20-25-515. Release of student records.** A university or college shall release a student's academic
15 record only when requested by the student or by a subpoena issued by a court or tribunal of competent
16 jurisdiction. A student's written permission must be obtained before the university or college may release any
17 other kind of record unless ~~such~~the record ~~shall~~must have been subpoenaed by a court or tribunal of
18 competent jurisdiction. A fee charged by a university or college for the release of the transcript or academic
19 record of a student who meets the criteria in [section 1(1)] must first be charged to the department of public
20 health and human services under the requirements of [section 1]."

21

22 **Section 5.** Section 50-15-111, MCA, is amended to read:

23 **"50-15-111. Certified copy fees -- transfer.** (1) The department shall prescribe, by rule, a fee for:

24 (a) a certified copy of certificates or records other than a death certificate;

25 (b) a search of files or records when a copy is not made;

26 (c) a copy of information provided for statistical or administrative purposes as allowed by law;

27 (d) the replacement of a birth certificate subsequent to adoption, legitimation, paternity

28 determination or acknowledgment, or court order;

- 1 (e) filing a delayed registration of a vital event;
- 2 (f) the amendment of a vital record, after 1 year from the date of filing; and
- 3 (g) other services specified by this chapter or by rule.
- 4 (2) (a) The minimum fee for a death certificate must be:
 - 5 (i) \$16 for each certified copy, including any additional certified copies requested at the same time
 - 6 as the first certified copy; and
 - 7 (ii) \$14 for each informational copy of a death certificate.
- 8 (b) The department may, by rule, prescribe a fee for a death certificate that is higher than the
- 9 minimum fee listed in subsection (2)(a).
- 10 (3) Fees received under subsection (1) must be deposited in the state special revenue fund to be
- 11 used by the department for:
 - 12 (a) the maintenance of indexes to vital records;
 - 13 (b) the preservation of vital records; and
 - 14 (c) the administration of the system of vital statistics.
- 15 (4) For fees received under subsection (2)(a), the department shall:
 - 16 (a) transfer \$1 of each fee to the department of labor and industry for use as provided in 37-19-
 - 17 204; and
 - 18 (b) deposit the remainder of the fee in the state special revenue fund to be used by the department
 - 19 for the purposes listed in subsection (3)
- 20 (5) The department may not charge a fee for a replacement of a birth certificate under subsection
- 21 (1)(d) to a former foster child who is under 21 years of age as provided in [section 1]."

Section 6. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, license expirations, license replacements, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

1 (b) The department may enter into an authorized agent agreement with the county treasurer of any
2 county in which the department no longer maintains a driver examination station for the purpose of providing
3 driver's license renewal services.

4 (2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a
5 driver's license to each qualifying applicant. The license must contain:

6 (i) a full-face photograph of the licensee in the size and form prescribed by the department;

7 (ii) a distinguishing number issued to the licensee;

8 (iii) the full legal name, date of birth, and Montana residence address unless the licensee requests
9 use of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant
10 driver's license unless authorized by department rule;

11 (iv) a brief description of the licensee;

12 (v) either the licensee's customary manual signature or a reproduction of the licensee's customary
13 manual signature; and

14 (vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran.

15 (b) The department may not use the licensee's social security number as the distinguishing
16 number. A license is not valid until it is signed by the licensee.

17 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a
18 records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the
19 applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills
20 test if:

21 (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or
22 may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor
23 vehicle on the highway; and

24 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions
25 appropriate to the applicant's functional abilities; or

26 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring
27 license.

28 (b) In the case of a commercial driver's license, the department shall, if the information was not

1 provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in
2 which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period
3 immediately preceding the date of the renewal application and may also require that the applicant successfully
4 complete a written examination as required by federal regulations.

5 (c) A person is considered to have applied for renewal of a Montana driver's license if the
6 application is made within 6 months before or 1 year after the expiration of the person's license or if the person
7 has applied for a REAL ID-compliant driver's license pursuant to 61-5-129. Except as provided in subsection
8 (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination
9 station.

10 (d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(v), a person may renew a driver's
11 license by mail or online.

12 (ii) An applicant who renews a driver's license by mail or online shall submit a completed
13 application and the fees required for renewal.

14 (iii) If the department does not have a digitized photograph and signature record of the renewal
15 applicant from the expiring license, then the renewal applicant shall apply in person.

16 (iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or
17 online is 12 years for a driver's license or 8 years for a REAL ID-compliant driver's license.

18 (v) The department may not renew a license by mail or online if:

19 (A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status
20 for the applicant;

21 (B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the
22 retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572;

23 (C) the applicant seeks a change of address, a change of date of birth, or a name change; or

24 (D) the applicant's license:

25 (I) has been expired for more than 1 year; or

26 (II) except as provided in subsection (3)(f), was renewed by mail or online at the time of the
27 applicant's previous renewal.

28 (e) A renewal applicant who is stationed outside Montana on active military duty may renew the

1 license by mail or online as long as the applicant is on active military duty.

2 (f) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active
3 military duty may renew the applicant's license by mail or online for one additional consecutive term following a
4 renewal by mail or online.

5 (g) The department shall send electronically or mail a driver's license renewal notice no earlier
6 than 120 days and no later than 30 days prior to the expiration date of a driver's license. The department shall
7 send the notice to the licensee's Montana mailing address shown on the driver's license or, if requested by the
8 licensee, provide the notice using an authorized method of electronic delivery, or both.

9 (4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the
10 anniversary of the licensee's birthday 12 years or less after the date of issue or on the licensee's 75th birthday,
11 whichever occurs first.

12 (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the
13 licensee's birthday 4 years or less after the date of issue.

14 (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st
15 birthday.

16 (d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the
17 anniversary of the licensee's birthday 4 years or less after the date of issue.

18 (ii) When a person obtains a Montana commercial driver's license with a hazardous materials
19 endorsement after surrendering a comparable commercial driver's license with a hazardous materials
20 endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's
21 birthday 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial
22 driver's license information system, a security threat assessment was performed on the person as a condition of
23 issuance of the surrendered license.

24 (e) A license issued to a person who is a foreign national whose presence in the United States is
25 temporarily authorized under federal law expires, as determined by the department, no later than the expiration
26 date of the official document issued to the person by the bureau of citizenship and immigration services of the
27 department of homeland security authorizing the person's presence in the United States.

28 (5) When the department issues a driver's license to a person under 18 years of age, the license

1 must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

2 (6) (a) Upon application for a driver's license or commercial driver's license and any combination of
3 the specified endorsements, the following fees must be paid:

4 (i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

5 (ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

6 (iii) commercial driver's license:

7 (A) interstate -- \$10 a year or fraction of a year; or

8 (B) intrastate -- \$8.50 a year or fraction of a year.

9 (b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents.

10 (7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the
11 department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this
12 part, the department shall include the word "veteran" on the face of the license.

13 (b) After a person's status as a veteran is denoted on a driver's license, the department may not
14 require further documentation of that status from the holder of the license upon subsequent renewal or
15 replacement.

16 (8) (a) Except as provided in subsection (8)(b), an applicant may request a replacement driver's
17 license online or by mail.

18 (b) If the department does not have a digitized photograph and signature record of the applicant,
19 the applicant shall apply in person.

20 (c) The term of the replacement license must be the term of the applicant's current driver's license.

21 (9) (a) An applicant may request an expedited delivery service for a driver's license or identification
22 card. The department shall set a fee for expedited delivery based on the cost of providing this service.

23 (b) The fees for expedited delivery must be deposited in the motor vehicle division administration
24 account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for
25 delivery, personnel, and related technology.

26 (10) The department may not charge a fee for an application for or a renewal of a driver's license or
27 motorcycle endorsement under subsection (6) to a former foster child who is under 21 years of age as provided
28 in [section 1]."

1

2 **Section 7.** Section 61-5-114, MCA, is amended to read:

3 **"61-5-114. Replacement license -- veteran designation.** (1) If a learner license or a driver's license
4 issued under the provisions of this chapter is lost or destroyed or a person wants to update personal
5 information contained on a learner license or a driver's license issued to the person, the person to whom the
6 license was issued may, ~~upon~~on the payment of a fee of \$10, obtain a replacement license, ~~upon~~on furnishing
7 proof satisfactory to the department that the license has been lost or destroyed or that personal information has
8 changed. The department may not charge a fee for a replacement license to a former foster child who is under
9 21 years of age as provided in [section 1].

10 (2) If the hazardous materials endorsement on a commercial driver's license issued under the
11 provisions of this chapter is revoked or removed pursuant to the authority provided in 61-5-147, the person to
12 whom the license was issued shall surrender to the department the person's commercial driver's license with
13 the hazardous materials endorsement and may obtain, ~~upon~~on making application and paying a \$10 fee, a
14 replacement license that does not include a hazardous materials endorsement.

15 (3) The department shall include the word "veteran" on the face of a driver's license if the
16 requirements of 61-5-111(7) are met by the person applying for the driver's license."

17

18 **Section 8.** Section 61-12-504, MCA, is amended to read:

19 **"61-12-504. Fees for identification cards -- expiration of cards.** (1) ~~Upon~~On application for an
20 identification card issued pursuant to this part, a fee of \$16 must be collected and deposited in the general fund.
21 The department may not collect a fee for an identification card from a former foster child who is under 21 years
22 of age as provided in [section 1].

23 (2) A person with a disability, as defined in 39-30-103, may obtain a free identification card. An
24 individual discharged from any correctional facility must be furnished a free identification card upon release,
25 discharge, or parole.

26 (3) (a) An identification card expires on the anniversary of the cardholder's date of birth 8 years
27 after the date of issue.

28 (b) An identification card issued to a person whose presence in the United States is temporarily

1 authorized under federal laws expires, as determined by the department, no later than the expiration date of the
2 official document issued to the person by the United States citizenship and immigration services of the
3 department of homeland security that authorizes the person's presence in the United States."

4

5 NEW SECTION. **Section 9. Unfunded mandate laws superseded.** The provisions of [this act]
6 expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

7

8 NEW SECTION. **Section 10. Codification instruction.** [Sections 1 and 2] are intended to be codified
9 as an integral part of Title 52, chapter 2, and the provisions of Title 52, chapter 2, apply to [sections 1 and 2].

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- END -