

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW	)	NOTICE OF PUBLIC HEARING ON
RULE I pertaining to reimbursement	)	PROPOSED ADOPTION
to counties for expert witness	)	
expenses in certain criminal	)	
proceedings	)	

TO: All Concerned Persons

1. On February 15, 2024, at 10:00 a.m., the Department of Justice will hold a public hearing via remote conferencing to consider the proposed adoption of the above-stated rule. Interested parties may access the remote conferencing platform in the following way:

Join Zoom Meeting at: <https://mt.gov.zoom.us/j/82247334784?pwd=cjdndW1MY3crcHhMODNjWHpRSUFyUT09>, meeting ID: 822 4733 4784, and password: 149159.

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 the Department of Justice no later than 5:00 p.m. on February 9, 2024, to advise us of the nature of the accommodation that you need. Please contact Maggie Sowisdral, Department of Justice, P.O Box 201401, Helena, Montana, 59620-1401; telephone (406) 444-3652; or e-mail [Maggie.Sowisdral@mt.gov](mailto:Maggie.Sowisdral@mt.gov).

3. The rule proposed to be adopted provides as follows:

NEW RULE I COUNTY REIMBURSEMENT FOR EXPERT WITNESS FEES

(1) The Department of Justice has been appropriated funds to reimburse counties for expert witness expenses in certain criminal proceedings.

(2) The funds shall be used to compensate expert witnesses in felony charges filed under Title 45, chapter 5, parts 1 or 5, MCA, except in cases for which the death penalty is being sought by the prosecution and when the witness fees and expenses must be paid by the office of court administrator as provided in 3-5-901, MCA.

(3) County attorneys shall submit a request for reimbursement to the attorney general by April 1 of each year for reimbursement of these expert witness expenses on a form prescribed by the Department of Justice.

(4) The attorney general shall make reimbursement determinations based on the following conditions:

(a) \$5,000 shall be reserved for each county with a population of 30,000 or more based on the most recent census data;

(b) the remaining balance shall be appropriated to counties with a population less than 30,000 based on the most recent census data; and

(c) the seriousness of the charge(s), complexity of the case, and financial need of the county.

(5) The attorney general shall make reimbursement determinations by May 1 of each year.

(6) Should there be unused funds, the Department of Justice at its discretion may reimburse counties for other civil and criminal cases.

AUTH: 26-2-506, MCA

IMP: 26-2-506, MCA

REASON: This rule is necessary because the 2023 Montana Legislature passed Senate Bill 229, which granted rulemaking authority to the Attorney General to adopt rules to provide for reimbursement procedures, including setting priorities for expenses and balancing between the needs of rural and urban counties.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Maggie Sowisdral, Department of Justice, P.O Box 201401, Helena, Montana, 59620-1401; telephone (406) 444-3652; or e-mail Maggie.Sowisdral@mt.gov, and must be received no later than 5:00 p.m., February 28, 2024.

5. David Ortley, Deputy Attorney General, Department of Justice, has been designated to preside over and conduct this hearing.

6. 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.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sosmt.gov/ARM/Register>.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on November 30, 2023.

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

10. The cumulative amount for all persons of the proposed monetary benefit in NEW RULE I is approximately \$150,000 annually based on the FY 2024 dollar

amount appropriated to the Department of Justice to reimburse the 56 counties for their expert witness fees. The number of persons affected is 56 based on the number of counties in the state of Montana.

/s/ DAVID ORTLEY

David Ortley  
Deputy Attorney General  
Rule Reviewer

/s/ AUSTIN KNUDSEN

Austin Knudsen  
Attorney General  
Department of Justice

Certified to the Secretary of State January 16, 2024.