

April 13 2016

*Ed Smith*CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: AF 07-0110

Request for Excusal

State of Montana or _____

County of _____

JurorName

JurorMailingAddress

JurorMailingCity, JurorMailingState

JurorMailingZip

(Print Name) declares:

Affiant is informed of having been called as a trial juror in the District Court of _____
County of the State of Montana, to be held at _____, Montana. Affiant is
applying for the following excusal and requests the Court's review:

- PERMANENT EXCLUSION – Must be chronically incapacitated by illness or injury
(include Physician's certification). If Court approves, the Affiant will be permanently
excused from jury service.
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- CHANGE IN RESIDENCE – Affiant no longer resides in _____
County.
- UNDUE HARDSHIP – Must state occupation and specific facts which Affiant believes
constitutes undue hardship; having in mind jury service constitutes a duty of every
competent citizen.
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Note: If the Court denies your excuse for undue hardship, you may again submit a request
if you are summoned for a trial. Examples of potential undue hardships include military
service, move, college, long-planned vacation, employment out of state, residence out of
state, or other unusual personal circumstance. If you know you will be gone for a specific
period of time, please list it here:

I declare under penalty of perjury and the laws of the state of Montana that the foregoing
is true and correct.

Signature of Prospective Juror

	APPROVED
	NOT APPROVED

COMMENTS:

DATED this _____ day of _____, 20_____

District Judge

JurorName

JurorMailingAddress

JurorMailingCity, JurorMailingState JurorMailingZip

Commission Comments:

The Uniform District Court Rules Commission received a request from the Automation Committee of the Montana Association of Clerks of District Court. The committee discussed the Affidavit of Excusal which is reflected on the last page of the attached copy of the Uniform District Court Rules found on page 67 in the Lawyer's Deskbook Directory. The Affidavit of Excusal is not codified in Title 25, Chapter 19, and MCA. However, Rule 9, Uniform District Court Rules, refers to a juror questionnaire to which is on file with the clerk of the district court's office. The Affidavit of Excusal is a standard form, provided in conjunction with the Questionnaire as to Qualification for Jury Service, for jurors to use in requesting to be excused from jury service.

The Automation Committee proposed removing the notary block which appears beneath the signature line on the Affidavit of Excusal. In place of the notary block, the committee proposed adding the following language above the signature line:

"I declare under penalty of perjury and the laws of the state of Montana that the foregoing is true and correct."

This language is allowable under §1-1-203, MCA and §1-6-105, MCA, cited below. The Automation Committee proposed this specific language so that regardless of whether the potential juror signs the affidavit within the state of Montana or outside the state of Montana, the language is appropriate. According to the Automation Committee, it can be difficult for those who are elderly, chronically ill or live in rural/remote Montana communities to sign in front of a notary. Removing the requirement for citizens to seek out a notary not only provides a necessary convenience to Montana citizens but also provides for a more expeditious response to the annual notice of jury service to the clerk of court.

1-1-203. Terms relating to instruments and other writings. Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) "Affidavit" means a sworn written declaration made before an officer authorized to administer oaths or an unsworn written declaration made under penalty of perjury as provided in 1-6-105.

1-6-105. Unsworn declarations -- penalty of perjury. (1) Whenever, under any law of this state or under any rule, order, or requirement made under the law of this state, any matter is required or permitted to be supported, evidenced, established, or proved by a person's sworn written declaration, verification, certificate, oath, or affidavit, the matter may with like force and effect be supported, evidenced, established, or proved by an unsworn written declaration, certificate, verification, or statement that is subscribed by the person as true under penalty of perjury in substantially the following form:

(a) If executed within the state:

"I declare under penalty of perjury that the foregoing is true and correct.
.....
Date and place Signature"

(b) If executed in any place outside the state:
"I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.
.....
Date and place Signature"

(2) A deliberate falsification in any declaration pursuant to this section constitutes the offense of perjury as provided in 45-7-201 and is punishable as the offense of false swearing as provided in 45-7-202. A declaration under penalty of perjury executed in accordance with any provision of this code is not limited to the official proceedings referenced in 45-7-201.

(3) This section does not apply to writings requiring an acknowledgment, deposition, oath of office, or oath required to be taken before a special official other than a notary public.

History: En. Sec. 2, Ch. 238, L. 2011.

After the proposal was submitted to the members of the Uniform District Court Rules Commission, some other minor changes were suggested. Thereafter the Uniform District Court Rules Committee received further proposed changes from the Automation Committee. All of the proposed changes have been incorporated into the form being proposed for adoption by the Montana Supreme Court. The Uniform District Court Rules Commission approved the revised Affidavit for Excusal.