

HOUSE BILL NO. 62

INTRODUCED BY R. BRODEHL

BY REQUEST OF THE TASK FORCE ON STATE PUBLIC DEFENDER OPERATIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE DEPARTMENT OF REVENUE TO COLLECT COURT-IMPOSED COSTS FOR PUBLIC DEFENDER SERVICES; REQUIRING THE DEPARTMENT OF REVENUE TO DEPOSIT COLLECTIONS IN THE PUBLIC DEFENDER ACCOUNT; REQUIRING A COURT TO NOTIFY THE DEPARTMENT OF REVENUE OF ANY MODIFICATION TO ASSESSED COSTS; AMENDING SECTION 46-8-113, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 46-8-113, MCA, is amended to read:

"46-8-113. Payment by defendant for assigned counsel -- costs to be filed with court. (1) Subject to the provisions of subsections (2) and (3), as part of or as a condition of a sentence that is imposed under the provisions of this title, the court shall determine whether a convicted defendant should pay the costs of counsel assigned to represent the defendant as follows:

(a) If the defendant pleads guilty prior to trial:

(i) to one or more misdemeanor charges and no felony charges, the cost of counsel is \$250; or

(ii) to one or more felony charges, the cost of counsel is \$800.

(b) If the case goes to trial, the defendant shall pay the costs incurred by the office of state public defender for providing the defendant with counsel in the criminal trial. The office of state public defender shall file with the court a statement of the hours spent on the case and the costs and expenses incurred for the trial.

~~(2) Any costs imposed pursuant to this section must be paid in accordance with 46-18-251(2)(e)~~ A court imposing costs under this section shall notify the department of revenue of the costs assessed against the defendant by sending a copy of the order imposing costs to the department of revenue. The department of revenue is responsible for collecting costs assessed under this section directly from the defendant and depositing the costs in the public defender account established in 47-1-110.

(3) In any proceeding for the determination of whether a defendant is or will be able to pay the costs of counsel, the court shall question the defendant as to the defendant's ability to pay those costs and shall inform

1 the defendant that purposely false or misleading statements by the defendant may result in criminal charges
2 against the defendant.

3 (4) The court may not sentence a defendant to pay the costs for assigned counsel unless the defendant
4 is or will be able to pay the costs imposed by subsection (1). The court may find that the defendant is able to pay
5 only a portion of the costs assessed. In determining the amount and method of payment of costs, the court shall
6 take into account the financial resources of the defendant and the nature of the burden that payment of costs will
7 impose.

8 (5) A defendant who has been sentenced to pay costs may at any time petition the court that sentenced
9 the defendant for remission of the payment of costs or of any unpaid portion of the costs. If it appears to the
10 satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the
11 defendant's immediate family, the court may remit all or part of the amount due in costs or modify the method of
12 payment and shall notify the department of revenue of any modification to the amount of costs to collect.

13 (6) A defendant's obligation to make payments for the cost of counsel is suspended during periods of
14 incarceration.

15 (7) Any costs imposed under this section must be included in the court's judgment."
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17 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2017.
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