

Intoxicating Liquor—Fines—Clerk of District Court—Parole.

Fines imposed for violating the prohibition laws should be paid to the clerk of the district court of the county from which the defendant was committed and if paid at the state prison should be remitted to the clerk of said court. In either case, the defendant is eligible to parole after serving one-half of his minimum sentence.

Austin B. Middleton, Esq.,
Warden, Montana State Prison,
Deer Lodge, Montana.

April 17, 1925.

My dear Mr. Middleton:

You have requested an opinion as to whether a fine imposed in a conviction for violation of the liquor laws should be paid and also if the fine is paid to the clerk of court of the county from where the prisoner was sentenced, whether the prisoner is eligible to parole after serving one-half of the minimum sentence.

Section 11084 of chapter 116, session laws of Montana, 1923, provides as follows:

"There is hereby created a fund known as the 'law enforcement fund.' All fines must be applied to the payment of the costs of the case in which the fine is imposed, as hereafter provided, and after such costs are so deducted from the fine by the clerk of the court to whom such fine has been paid, the balance of such fine and all other receipts from penalties, confiscations and forfeitures for violation of the law relating to intoxicating liquors, and from the sales of all property seized, confiscated and sold under such laws, shall be paid over to the county treasurer of the county in which such violation or sale occurred, and such county treasurer shall credit fifty per cent to the general fund of the county, and the remaining fifty per cent thereof shall be by said county treasurer transmitted to the state treasurer, and by such state treasurer deposited to the credit of the law enforcement fund.

"The term 'costs' as herein used shall mean to include all costs incurred in connection with the securing of evidence against, and the arrest of the defendant or defendants."

It is, therefore, my opinion that this fine should be paid to the clerk of court of the county from which the prisoner was committed and that a receipt of the payment of the same should be forwarded to you and accepted by you the same as though the fine had been paid at the prison. On the other hand, if the fine be paid at the prison it should be remitted to the clerk of court of the county interested. In either case the prisoner is eligible to parole after serving one-half of his minimum sentence.

Very truly yours,
L. A. FOOT,
Attorney General.