

HOUSE BILL NO. 809
INTRODUCED BY FRITZ, DANIELS
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

February 12, 1985	Introduced and referred to Committee on Judiciary.
February 14, 1985	Fiscal Note requested.
February 21, 1985	Fiscal Note returned. Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass. Considered correctly engrossed.
February 25, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Judiciary.
March 21, 1985	Committee recommend bill be concurrent in. Report adopted.
March 23, 1985	Second reading, concurred in.
March 26, 1985	Third reading, concurred in. Ayes, 49; Noes, 1. Returned to House.

IN THE HOUSE

March 27, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

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4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE
 6 REQUIREMENT THAT EXPENSES FOR APPOINTED COUNSEL IN A
 7 CRIMINAL PROCEEDING BE BORNE BY A STATE AGENCY CAUSING AN
 8 ARREST; AMENDING SECTIONS 46-8-114 AND 46-8-201, MCA; AND
 9 PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 46-8-114, MCA, is amended to read:

13 "46-8-114. Time and method of payment of costs. When a
 14 defendant is sentenced to pay the costs of court-appointed
 15 counsel, the court may order payment to be made within a
 16 specified period of time or in specified installments. Such
 17 payments shall be made to the clerk of the district court.
 18 The clerk of the district court shall disburse the payments
 19 to the county or ~~state-agency~~ local government unit
 20 responsible for the expenses of court-appointed counsel as
 21 provided for in 46-8-201."

22 Section 2. Section 46-8-201, MCA, is amended to read:

23 "46-8-201. Remuneration of appointed counsel. (1)
 24 Whenever in a criminal proceeding an attorney represents or
 25 defends any person by order of the court on the ground that

1 the person is financially unable to employ counsel, the
 2 attorney shall be paid for his services such sum as a
 3 district court or justice of the state supreme court
 4 certifies to be a reasonable compensation therefor and shall
 5 be reimbursed for reasonable costs incurred in the criminal
 6 proceeding.

7 (2) The expense of implementing subsection (1) is
 8 chargeable to the county in which the proceeding arose,
 9 except that:

10 (a) in proceedings solely involving the violation of a
 11 city ordinance or state statute prosecuted in a municipal or
 12 city court, the expense is chargeable to the city or town in
 13 which the proceeding arose; and

14 (b) ~~when there has been an arrest by agents of the~~
 15 ~~department of fish, wildlife, and parks or agents of the~~
 16 ~~department of justice, the expense must be borne by the~~
 17 ~~state agency causing the arrest."~~

18 NEW SECTION. Section 3. Effective date. This act is
 19 effective July 1, 1985.

-End-



STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 420-85

Form BD-15

In compliance with a written request received February 14, 19 85, there is hereby submitted a Fiscal Note for House Bill 809 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 809 would eliminate the requirement that the state pay expenses for appointed counsel in cases when the arrest was made by a Department of Justice or Fish, Wildlife and Parks agent.

ASSUMPTIONS:

Department of Justice:

1. It is assumed that the ratio of DUI arrests made to the number requiring appointed counsel in Lake County is indicative of the maximum ratio statewide.
2. It is assumed that calendar 1984 statistics on DUI arrests and court appointed counsel will remain constant in the 1986-87 biennium.

Department of Fish, Wildlife & Parks:

1. Two cases per year are anticipated at the district court level.

FISCAL IMPACT:

	<u>FY 1986</u>	<u>FY 1987</u>
Estimated potential cost savings		
General Fund	\$ 83,327	\$ 83,237
State Special Revenue	\$ 2,000	\$ 2,000

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

The cities and counties would have costs equal to whatever savings the state receives.

TECHNICAL NOTE:

Currently (and in the recent past) only Lake County has billed the Department of Justice under MCA 46-8-201 (2)(b). In FY 1984, the Department of Justice made payments totaling \$4,280 to that county.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 21, 1985
HB 809

APPROVED BY COMMITTEE
ON JUDICIARY

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ARREST TO SITUATIONS IN WHICH THE STATE AGENCY PROSECUTES
THE CHARGE; AMENDING SECTIONS 46-8-114 AND 46-8-201, MCA;
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payments shall be made to the clerk of the district court.
The clerk of the district court shall disburse the payments
to the county, AGENCY, STATE AGENCY, or state-agency local
government unit responsible for the expenses of
court-appointed counsel as provided for in 46-8-201."

Section 2. Section 46-8-201, MCA, is amended to read:

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defends any person by order of the court on the ground that
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attorney shall be paid for his services such sum as a
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certifies to be a reasonable compensation therefor and shall
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proceeding.

(2) The expense of implementing subsection (1) is
chargeable to the county in which the proceeding arose,
except that:

(A) in proceedings solely involving the violation
of a city ordinance or state statute prosecuted in a
municipal or city court, the expense is chargeable to the
city or town in which the proceeding arose; ~~and; AND~~

~~(B) when there has been an arrest by agents of the
department of fish, wildlife, and parks or agents of the
department of justice, the expense must be borne by the
state agency causing the arrest;~~

(B) WHEN THERE HAS BEEN AN ARREST BY AGENTS OF THE
DEPARTMENT OF FISH, WILDLIFE, AND PARKS OR AGENTS OF THE
DEPARTMENT OF JUSTICE AND THE CHARGE IS PROSECUTED BY
PERSONNEL OF THE STATE AGENCY THAT MADE THE CHARGE, THE
EXPENSE MUST BE BORNE BY THE PROSECUTING STATE AGENCY."

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SECOND READING

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19 (B) WHEN THERE HAS BEEN AN ARREST BY AGENTS OF THE
20 DEPARTMENT OF FISH, WILDLIFE, AND PARKS OR AGENTS OF THE
21 DEPARTMENT OF JUSTICE AND THE CHARGE IS PROSECUTED BY
22 PERSONNEL OF THE STATE AGENCY THAT MADE THE CHARGE, THE
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(A) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in a municipal or city court, the expense is chargeable to the city or town in which the proceeding arose; and; AND

~~(b)--when there has been an arrest--by--agents--of--the department--of--fish,--wildlife,--and-parks--or--agents--of--the department--of--justice,--the--expense--must--be--borne--by--the state-agency-causing-the-arrest.~~

(B) WHEN THERE HAS BEEN AN ARREST BY AGENTS OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS OR AGENTS OF THE DEPARTMENT OF JUSTICE AND THE CHARGE IS PROSECUTED BY PERSONNEL OF THE STATE AGENCY THAT MADE THE CHARGE, THE EXPENSE MUST BE BORNE BY THE PROSECUTING STATE AGENCY."

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