

HB 602 INTRODUCED BY HANSEN, S., ET AL.  
STATE ASSUMPTION OF INDIGENT DEFENSE COSTS IN  
JUSTICES' COURT

2/04 INTRODUCED  
2/04 REFERRED TO JUDICIARY  
2/05 FISCAL NOTE REQUESTED  
2/06 FISCAL NOTE RECEIVED  
2/19 HEARING  
2/23 TABLED IN COMMITTEE

1 *House* BILL NO. *602*  
 2 INTRODUCED BY *Steve Spartz*  
 3 *Squire* *Marko* *Chris* *John* *Beam*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING STATE  
 5 ASSUMPTION OF INDIGENT DEFENSE COSTS IN CRIMINAL CASES IN  
 6 JUSTICES' COURTS; AMENDING SECTIONS 3-5-901, 3-5-902,  
 7 46-8-201, AND 46-8-202, MCA; AND PROVIDING AN EFFECTIVE  
 8 DATE."  
 9

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

11 Section 1. Section 3-5-901, MCA, is amended to read:

12 "3-5-901. State assumption of certain ~~district~~ court  
 13 expenses. (1) Effective July 1, 1985, the state shall, to  
 14 the extent that money is appropriated, fund the following  
 15 district court expenses in criminal cases only:

- 16 (a) salaries of court reporters;
- 17 (b) transcripts of proceedings;
- 18 (c) witness fees and necessary expenses;
- 19 (d) juror fees;
- 20 (e) indigent defense; and
- 21 (f) psychiatric examinations.

22 (2) The state shall, to the extent that money is  
 23 appropriated, fund indigent defense expenses in criminal  
 24 cases in justices' courts.

25 ~~(2)~~(3) The department of commerce, in consultation

1 with the justices' courts and the district judges for each  
 2 judicial district, shall include within the department's  
 3 biennial budget request to the legislature a request for  
 4 funding the expenses listed in ~~subsection--(1)~~ subsections  
 5 (1) and (2).

6 ~~(3)~~(4) If money appropriated for the expenses listed  
 7 in ~~subsection--(1)~~ subsections (1) and (2) is insufficient to  
 8 fully fund those expenses, the county is responsible for  
 9 payment of the balance. If no money is appropriated, the  
 10 county is responsible for payment of all expenses."

11 Section 2. Section 3-5-902, MCA, is amended to read:

12 "3-5-902. Fiscal administration for payment of court  
 13 expenses. The department of commerce shall:

- 14 (1) establish procedures for disbursement of funds for  
 15 payment of district court expenses listed in 3-5-901,  
 16 including prorating of those funds if they are insufficient  
 17 to cover all expenses listed in 3-5-901;

- 18 (2) develop a uniform accounting system for use by the  
 19 counties in reporting court expenses at a detailed level for  
 20 budgeting and auditing purposes; and

- 21 (3) provide for annual auditing of district court  
 22 expenses to assure normal operations and consistency in  
 23 reporting of expenditures."

24 Section 3. Section 46-8-201, MCA, is amended to read:

25 "46-8-201. Remuneration of appointed counsel. (1)



1 Whenever in a criminal proceeding an attorney represents or  
 2 defends any person by order of the court on the ground that  
 3 the person is financially unable to employ counsel, the  
 4 attorney shall be paid for his services such sum as a  
 5 justice's court, district court, or justice of the state  
 6 supreme court certifies to be a reasonable compensation  
 7 therefor and shall be reimbursed for reasonable costs  
 8 incurred in the criminal proceeding.

9 (2) The expense of implementing subsection (1) is  
 10 chargeable as provided in 3-5-901 to the county in which the  
 11 proceeding arose, the department of commerce, or both,  
 12 except that:

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

17 (b) when there has been an arrest by agents of the  
 18 department of fish, wildlife, and parks or agents of the  
 19 department of justice and the charge is prosecuted by  
 20 personnel of the state agency that made the charge, the  
 21 expense must be borne by the prosecuting state agency."

22 Section 4. Section 46-8-202, MCA, is amended to read:

23 "46-8-202. Public defender's office. Any county  
 24 through its board of county commissioners may provide for  
 25 the creation of a public defender's office and the

1 appointment of a salaried public defender and such assistant  
 2 public defenders as may be necessary to satisfy the legal  
 3 requirements in providing counsel for defendants unable to  
 4 employ counsel. The costs of such office shall be at state  
 5 expense payable according to procedures established under  
 6 3-5-902(1) and, to the extent those costs are not paid by  
 7 the state, at county expense in accordance with  
 8 3-5-901~~(3)~~(4) and 3-5-902(1)."

9 NEW SECTION. Section 5. Extension of authority. Any  
 10 existing authority of the department of commerce to make  
 11 rules on the subject of the provisions of this act is  
 12 extended to the provisions of this act.

13 NEW SECTION. Section 6. Effective date. This act is  
 14 effective July 1, 1987.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB602, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act authorizing state assumption of indigent defense costs in criminal cases in Justices' Court; amending Sections 3-5-901, 3-5-902, 46-8-201, and 46-8-202, MCA; and providing an effective date.

ASSUMPTIONS:

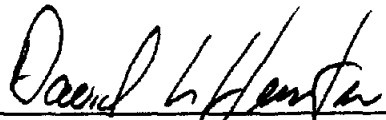
1. Indigent defense costs reported by counties in FY86 will be comparable for FY88 and FY89, \$1,280,841.
2. Justice court indigent defense costs are 15% of total indigent defense costs.

FISCAL IMPACT:

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Expenditures:						
General Fund	\$ 2,500,000	\$ 2,692,126	\$ 192,126	\$ 2,500,000	\$ 2,692,126	\$ 192,126

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Individual counties are currently responsible for indigent defense costs in Justice Courts. To the extent that money is appropriated and sufficient to fully fund the expenses, the counties will experience a savings by the amount of reimbursement.



DATE

2/4/87

DAVID L. HUNTER, BUDGET DIRECTOR

Office of Budget and Program Planning



DATE

STELLA JEAN HANSEN, PRIMARY SPONSOR

Fiscal Note for HB602, as introduced.

HB 602