

HOUSE BILL NO. 124

INTRODUCED BY MCCAFFREE, WEEDING, J. JOHNSON, GALVIN

IN THE HOUSE

JANUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
	FIRST READING.
JANUARY 21, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 22, 1993	PRINTING REPORT.
JANUARY 23, 1993	SECOND READING, DO PASS.
JANUARY 25, 1993	ENGROSSING REPORT.
JANUARY 26, 1993	THIRD READING, PASSED. AYES, 90; NOES, 7.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
FEBRUARY 10, 1993	ON MOTION, REREFERRED TO COMMITTEE ON FINANCE & CLAIMS.
FEBRUARY 13, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1993	ON MOTION, REREFERRED TO COMMITTEE ON FINANCE & CLAIMS.
MARCH 4, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 6, 1993	SECOND READING, CONCURRED IN.
MARCH 8, 1993	THIRD READING, CONCURRED IN. AYES, 42; NOES, 6.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 2, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 124
 2 INTRODUCED BY Ed M. Caffrey
 3 Johnston P. Labin
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ADULT
 5 CHILD TO PAY BURIAL, ENTOMBMENT, OR CREMATION COSTS FOR AN
 6 INDIGENT PARENT; ALLOWING A COUNTY OR THE STATE TO SEEK
 7 REIMBURSEMENT OF COSTS FOR BURIAL, ENTOMBMENT, OR CREMATION
 8 OF INDIGENTS; AND AMENDING SECTIONS 40-6-301, 53-3-110, AND
 9 53-3-114, MCA."

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

12 **Section 1.** Section 40-6-301, MCA, is amended to read:

13 **"40-6-301. Duty of child to support indigent parents.**

14 (1) It is hereby declared and made the duty of every adult
 15 child, having the financial ability so to do, to furnish and
 16 provide necessary food, clothing, shelter, and medical
 17 attendance, and burial, entombment, or cremation costs for
 18 his an indigent parent or parents, unless, in the judgment
 19 of the court or jury, he the child is excused therefrom by
 20 reason of intemperance, indolence, immorality, or profligacy
 21 of such the parent.

22 (2) If a county or the department of social and
 23 rehabilitation services pays for burial, entombment, or
 24 cremation costs under 53-3-110, the county or the department
 25 may seek reimbursement under this part, if applicable."

1 **Section 2.** Section 53-3-110, MCA, is amended to read:

2 **"53-3-110. Burial of deceased indigent --**
 3 reimbursement. (1) In a county without state-assumed welfare
 4 services, the county welfare board shall provide for the
 5 burial of a deceased indigent.

6 (2) In a county with state-assumed welfare services,
 7 the department shall provide for the burial of a deceased
 8 indigent.

9 (3) A county or the department may seek reimbursement
 10 under 40-6-303, if applicable, for costs paid under this
 11 section."

12 **Section 3.** Section 53-3-114, MCA, is amended to read:

13 **"53-3-114. Department to adopt rules.** The department
 14 shall adopt such rules as are necessary to implement this
 15 chapter. Rules adopted may include those necessary for
 16 application, eligibility, residency, fraud, recovery of
 17 overpayments; the form, amount, scope, and duration of
 18 relief; confidentiality; burial, entombment, or cremation of
 19 deceased indigents; and definition of terms. The department
 20 may not adopt rules to govern the amounts of relief to be
 21 provided in counties where the department has not assumed
 22 responsibility for the direct administration of welfare
 23 services."

-End-

-B 124
 INTRODUCED BILL

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0124, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill amending state law requiring adult children to pay burial, entombment, or cremation costs for indigent parents.

ASSUMPTIONS:

1. It is estimated that SRS will pay for approximately 188 burials for indigent individuals in each year of the next biennium at an annual cost of \$190,000. This is 100% state general fund.
2. Data are not available regarding the children of indigent individuals buried and paid for by SRS. Information from the field suggests that almost all individuals buried with this fund did not have known children in the state.

FISCAL IMPACT: Minimal.

Dave Lewis 1.12.93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Ed McCaffree
ED MCCAFFREE, PRIMARY SPONSOR DATE

Fiscal Note for HB0124, as introduced

HB 124

APPROVED BY COMM. ON
HUMAN SERVICES AND AGING

HOUSE BILL NO. 124

INTRODUCED BY MCCAFFREE, WEEDING, J. JOHNSON, GALVIN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ADULT CHILD TO PAY BURIAL, ENTOMBMENT, OR CREMATION COSTS FOR AN INDIGENT PARENT; ALLOWING A COUNTY OR THE STATE TO SEEK REIMBURSEMENT OF COSTS FOR BURIAL, ENTOMBMENT, OR CREMATION OF INDIGENTS; PROHIBITING OFFSETS AGAINST CONTRACT CHARGES FOR INDIGENT BURIALS; AND AMENDING SECTIONS 40-6-301, 53-3-110, AND 53-3-114, MCA."

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

Section 1. Section 40-6-301, MCA, is amended to read:**"40-6-301. Duty of child to support indigent parents.**

(1) It is hereby-declared-and-made the duty of every adult child, having the financial ability ~~so-to-do~~, to furnish and provide necessary food, clothing, shelter, and medical attendance, and burial, entombment, or cremation costs for ~~his an~~ indigent parent ~~or-parents~~, unless, in the judgment of the court or jury, he the child is excused therefrom by reason of intemperance, indolence, immorality, or profligacy of such the parent.

(2) If a county or the department of social and rehabilitation services pays for burial, entombment, or cremation costs under 53-3-110, the county or the department

may seek reimbursement under this part, if applicable."

Section 2. Section 53-3-110, MCA, is amended to read:

"53-3-110. Burial of deceased indigent --
reimbursement. (1) In a county without state-assumed welfare services, the county welfare board shall provide for the burial of a deceased indigent.

(2) In a county with state-assumed welfare services, the department shall provide for the burial of a deceased indigent.

(3) A county or the department may seek reimbursement under 40-6-303, if applicable, for costs paid under this section.

(4) A COUNTY OR THE DEPARTMENT MAY NOT DEDUCT AMOUNTS THAT MAY BE RECOVERED FROM A RELATIVE OF A DECEASED INDIGENT OR RECOVERED FROM RESOURCES OF A DECEASED INDIGENT FROM A CONTRACT AMOUNT DUE A FUNERAL HOME OR MORTICIAN FOR BURIAL SERVICES PROVIDED UNDER 7-4-2915 OR THIS SECTION."

Section 3. Section 53-3-114, MCA, is amended to read:

"53-3-114. Department to adopt rules. The department shall adopt such rules as are necessary to implement this chapter. Rules adopted may include those necessary for application, eligibility, residency, fraud, recovery of overpayments; the form, amount, scope, and duration of relief; confidentiality; burial, entombment, or cremation of deceased indigents; and definition of terms. The department

HB 0124/02

1 may not adopt rules to govern the amounts of relief to be
2 provided in counties where the department has not assumed
3 responsibility for the direct administration of welfare
4 services."

-End-

HOUSE BILL NO. 124

INTRODUCED BY MCCAFFREE, WEEDING, J. JOHNSON, GALVIN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ADULT CHILD TO PAY BURIAL, ENTOMBMENT, OR CREMATION COSTS FOR AN INDIGENT PARENT; ALLOWING A COUNTY OR THE STATE TO SEEK REIMBURSEMENT OF COSTS FOR BURIAL, ENTOMBMENT, OR CREMATION OF INDIGENTS; PROHIBITING OFFSETS AGAINST CONTRACT CHARGES FOR INDIGENT BURIALS; AND AMENDING SECTIONS 40-6-301, 53-3-110, AND 53-3-114, MCA."

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

Section 1. Section 40-6-301, MCA, is amended to read:**"40-6-301. Duty of child to support indigent parents.**

(1) It is hereby-declared-and-made the duty of every adult child, having the financial ability so-to-do, to furnish and provide necessary food, clothing, shelter, and medical attendance, and burial, entombment, or cremation costs for his an indigent parent or-parents, unless, in the judgment of the court or jury, he the child is excused therefrom by reason of intemperance, indolence, immorality, or profligacy of such the parent.

(2) If a county or the department of social and rehabilitation services pays for burial, entombment, or cremation costs under 53-3-110, the county or the department

may seek reimbursement under this part, if applicable."

Section 2. Section 53-3-110, MCA, is amended to read:

"53-3-110. Burial of deceased indigent -- reimbursement. (1) In a county without state-assumed welfare services, the county welfare board shall provide for the burial of a deceased indigent.

(2) In a county with state-assumed welfare services, the department shall provide for the burial of a deceased indigent.

(3) A county or the department may seek reimbursement under 40-6-303, if applicable, for costs paid under this section.

(4) A COUNTY OR THE DEPARTMENT MAY NOT DEDUCT AMOUNTS THAT MAY BE RECOVERED FROM A RELATIVE OF A DECEASED INDIGENT OR RECOVERED FROM RESOURCES OF A DECEASED INDIGENT FROM A CONTRACT AMOUNT DUE A FUNERAL HOME OR MORTICIAN FOR BURIAL SERVICES PROVIDED UNDER 7-4-2915 OR THIS SECTION."

Section 3. Section 53-3-114, MCA, is amended to read:

"53-3-114. Department to adopt rules. The department shall adopt such rules as are necessary to implement this chapter. Rules adopted may include those necessary for application, eligibility, residency, fraud, recovery of overpayments; the form, amount, scope, and duration of relief; confidentiality; burial, entombment, or cremation of deceased indigents; and definition of terms. The department

HB 0124/02

1 may not adopt rules to govern the amounts of relief to be
2 provided in counties where the department has not assumed
3 responsibility for the direct administration of welfare
4 services."

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 4, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 124 (first reading copy -- blue), respectfully report that House Bill No. 124 be amended as follows and as so amended be concurred in.

Signed: Judy H. Jacobson
Senator Judy H. Jacobson, Chair

That such amendments read:

1. Title, line 9.

Following: ";

Insert: "REQUIRING REIMBURSEMENT FOR RECOVERY AFTER PAYMENT OF A CONTRACT CHARGE;"

2. Page 2, line 3.

Following: "Burial"

Insert: ", entombment, or cremation"

3. Page 2, line 8.

Following: "burial"

Insert: ", entombment, or cremation"

4. Page 2, line 9.

Following: "."

Insert: "A person who meets the eligibility requirements for general relief contained in 53-3-205 in the month that the person dies is indigent for purposes of this subsection."

5. Page 2, line 14.

Strike: "A RELATIVE"

Insert: "an adult child"

6. Page 2, line 17.

Following: "."

Insert: "A funeral home or a mortician that recovers an amount in excess of a contract amount paid under this subsection shall reimburse the county or the department for the amount recovered up to the amount of the contract."

-END-

M- Amd. Coord.
M Sec. of Senate

Senator Weeding
Senator Carrying Bill

HB 124
SENATE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 4, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 124 (first reading copy -- blue), respectfully report that House Bill No. 124 be amended as follows and as so amended be concurred in.

Signed: *Judy H. Jacobson*

Senator Judy H. Jacobson, Chair

Amend the Senate committee on Finance and Claims standing committee report dated February 4, 1993, as follows:

Strike: Amendment No. 4 in its entirety.

AND THAT HOUSE BILL NO. 124, THIRD READING COPY, BE FURTHER AMENDED AS FOLLOWS:

Page 2, line 9.

Following: "."

Insert: "A person is indigent for purposes of this subsection if the value of all income and resources available to pay that person's burial, entombment, or cremation at the time of death is less than the negotiated amount due the funeral home or mortician for an indigent burial. Available income and resources include:

(a) any income as defined in 53-3-109 that was received by the deceased person and not spent prior to that person's death; and

(b) any resources as defined in 53-3-109 that are not excluded under 53-3-205."

-END-

HB 124

M- Amd. Coord.
M Sec. of Senate

Senator Weeding
Senator Carrying Bill

SENATE

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HOUSE BILL NO. 124

INTRODUCED BY MCCAFFREE, WEEDING, J. JOHNSON, GALVIN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN ADULT CHILD TO PAY BURIAL, ENTOMBMENT, OR CREMATION COSTS FOR AN INDIGENT PARENT; ALLOWING A COUNTY OR THE STATE TO SEEK REIMBURSEMENT OF COSTS FOR BURIAL, ENTOMBMENT, OR CREMATION OF INDIGENTS; PROHIBITING OFFSETS AGAINST CONTRACT CHARGES FOR INDIGENT BURIALS; REQUIRING REIMBURSEMENT FOR RECOVERY AFTER PAYMENT OF A CONTRACT CHARGE; AND AMENDING SECTIONS 40-6-301, 53-3-110, AND 53-3-114, MCA."

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

Section 1. Section 40-6-301, MCA, is amended to read:**"40-6-301. Duty of child to support indigent parents.**

~~(1) It is hereby declared and made the duty of every adult child, having the financial ability so to do, to furnish and provide necessary food, clothing, shelter, and medical attendance, and burial, entombment, or cremation costs for his an indigent parent or parents, unless, in the judgment of the court or jury, he the child is excused therefrom by reason of intemperance, indolence, immorality, or profligacy of such the parent.~~

(2) If a county or the department of social and rehabilitation services pays for burial, entombment, or

cremation costs under 53-3-110, the county or the department may seek reimbursement under this part, if applicable."

Section 2. Section 53-3-110, MCA, is amended to read:

"53-3-110. Burial, ENTOMBMENT, OR CREMATION of deceased indigent -- reimbursement. (1) In a county without state-assumed welfare services, the county welfare board shall provide for the burial of a deceased indigent.

(2) In a county with state-assumed welfare services, the department shall provide for the burial, ENTOMBMENT, OR CREMATION of a deceased indigent. ~~A PERSON WHO MEETS THE ELIGIBILITY REQUIREMENTS FOR GENERAL RELIEF CONTAINED IN 53-3-205 IN THE MONTH THAT THE PERSON DIES IS INDIGENT FOR PURPOSES OF THIS SUBSECTION. A PERSON IS INDIGENT FOR PURPOSES OF THIS SUBSECTION IF THE VALUE OF ALL INCOME AND RESOURCES AVAILABLE TO PAY THAT PERSON'S BURIAL, ENTOMBMENT, OR CREMATION AT THE TIME OF DEATH IS LESS THAN THE NEGOTIATED AMOUNT DUE THE FUNERAL HOME OR MORTICIAN FOR AN INDIGENT BURIAL. AVAILABLE INCOME AND RESOURCES INCLUDE:~~

~~(A) ANY INCOME AS DEFINED IN 53-3-109 THAT WAS RECEIVED BY THE DECEASED PERSON AND NOT SPENT PRIOR TO THAT PERSON'S DEATH; AND~~

~~(B) ANY RESOURCES AS DEFINED IN 53-3-109 THAT ARE NOT EXCLUDED UNDER 53-3-205.~~

(3) A county or the department may seek reimbursement under 40-6-303, if applicable, for costs paid under this

section.

(4) A COUNTY OR THE DEPARTMENT MAY NOT DEDUCT AMOUNTS THAT MAY BE RECOVERED FROM A-RELATIVE AN ADULT CHILD OF A DECEASED INDIGENT OR RECOVERED FROM RESOURCES OF A DECEASED INDIGENT FROM A CONTRACT AMOUNT DUE A FUNERAL HOME OR MORTICIAN FOR BURIAL SERVICES PROVIDED UNDER 7-4-2915 OR THIS SECTION. A FUNERAL HOME OR A MORTICIAN THAT RECOVERS AN AMOUNT IN EXCESS OF A CONTRACT AMOUNT PAID UNDER THIS SUBSECTION SHALL REIMBURSE THE COUNTY OR THE DEPARTMENT FOR THE AMOUNT RECOVERED UP TO THE AMOUNT OF THE CONTRACT."

Section 3. Section 53-3-114, MCA, is amended to read:

"53-3-114. Department to adopt rules. The department shall adopt such rules as are necessary to implement this chapter. Rules adopted may include those necessary for application, eligibility, residency, fraud, recovery of overpayments; the form, amount, scope, and duration of relief; confidentiality; burial, entombment, or cremation of deceased indigents; and definition of terms. The department may not adopt rules to govern the amounts of relief to be provided in counties where the department has not assumed responsibility for the direct administration of welfare services."

-End-