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16
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SENATE BILL NO. 81

INTRODUCED BY Hertel

A BILL FOR AN ACT ENTITLED: "AN ACT DELETING SUBSTANTIAL HARDSHIP IN PROVIDING FOR PERSONAL OR FAMILY NECESSITIES AS DEMONSTRATING FINANCIAL INABILITY TO OBTAIN LEGAL REPRESENTATION ENTITLING A DEFENDANT TO COURT-APPOINTED COUNSEL; AND AMENDING SECTION 46-8-111, MCA."

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

Section 1. Section 46-8-111, MCA, is amended to read:

"46-8-111. Eligibility for court-appointed counsel -- determination of indigence. (1) The court shall make a determination of indigence.

(2) In applying for court-appointed counsel, a defendant shall submit a sworn financial statement demonstrating financial inability to obtain legal representation ~~without substantial hardship in providing for personal or family necessities~~. The statement is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the declarant for perjury or false swearing."

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0081, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

Deleting substantial hardship in providing for personal or family necessities as demonstrating financial inability to obtain legal representation entitling a defendant to court-appointed counsel.

ASSUMPTIONS:

1. The bill has no fiscal impact on state agency expenditures or revenue.

TECHNICAL NOTES:

This bill potentially conflicts with 46-8-101, MCA [see State v. Lande (1979), 180 Mont. 157, 587 P.2d 666].

 1-14-95

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

 1/16/95

JOHN R. HERTEL, PRIMARY SPONSOR DATE

Fiscal Note for SB0081, as introduced

SB 81