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SEN.ITE BILL NO. 127

INTRODUCED BY

Bishop

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM PAY FOR CERTAIN EXPENSES INCURRED IN STATE DISTRICT COURT FOR POSTCONVICTION RELIEF HEARINGS AND HABEAS CORPUS PROCEEDINGS AND FOR CERTAIN EXPENSES INCURRED BY THE STATE IN FEDERAL HABEAS CORPUS CASES CHALLENGING THE VALIDITY OF A CONVICTION OR OF A SENTENCE; AMENDING SECTION 3-5-901, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

"3-5-901. State assumption of certain district court expenses -- designation as district court criminal reimbursement program. (1) ~~The state shall, to~~ To the extent that revenue is available under 61-3-509, the state shall fund:

(a) the following district court expenses in criminal cases only:

~~(a)(i)~~ salaries of court reporters;

~~(b)(ii)~~ fees for transcripts of proceedings;

~~(c)(iii)~~ witness fees and necessary expenses;

~~(d)(iv)~~ juror fees;

~~(e)(v)~~ expenses for indigent defense;

~~(f)(vi)~~ expenses of the appellate defender commission and the office of appellate defender; and

~~(g)(vii)~~ expenses for psychiatric examinations;

(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings; and

(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

- 1 (i) transcript fees;
2 (ii) witness fees; and
3 (iii) expenses for psychiatric examinations.

4 (2) The revenue received under 61-3-509 is statutorily appropriated, as provided in 17-7-502, to
5 the supreme court for funding the expenses listed in subsection (1) and the costs of administering this
6 section.

7 (3) If money appropriated for the expenses listed in subsection (1):

8 (a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used
9 for district court grants as provided in 7-6-2352; or

10 (b) is insufficient to fully fund those expenses, the expenses listed in subsection (1)(c), the
11 expenses for the appellate defender commission, and the expenses for the office of appellate defender must
12 be funded first ~~and the~~. The county is responsible for payment of the balance.

13 (4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that
14 is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the
15 supreme court for district court and courts of limited jurisdiction automation purposes during the 1995
16 biennium.

17 (5) This section may be cited as the district court criminal reimbursement program. (Subsection
18 (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

19

20 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1995.

21

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0127, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

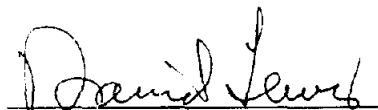
An act providing that the district court criminal reimbursement program (DCCRP) pay for certain expenses incurred in state district court for post conviction relief hearings and habeas corpus proceedings and for certain expenses incurred by the state in federal habeas corpus cases challenging the validity of a conviction or of a sentence.


ASSUMPTIONS:

1. The DCCRP is, by law, to expend all revenues generated each year. If monies remain after reimbursing proper court costs, then grants are to be made to district courts.
2. Thus, the new types of expenses created by this bill will be reimbursed, then current expenses, then grants which may or may not be paid. It is estimated that the new types of expenses created by this bill will amount to \$15,000 a year.

FISCAL IMPACT:

Passage of SB0127 will have no fiscal impact on state government.

 1-20-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-20-95
AL BISHOP, PRIMARY SPONSOR DATE
Fiscal Note for SB0127, as introduced

SB 127

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SENATE BILL NO. 127

INTRODUCED BY Bishop

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM PAY FOR CERTAIN EXPENSES INCURRED IN STATE DISTRICT COURT FOR POSTCONVICTION RELIEF HEARINGS AND HABEAS CORPUS PROCEEDINGS AND FOR CERTAIN EXPENSES INCURRED BY THE STATE IN FEDERAL HABEAS CORPUS CASES CHALLENGING THE VALIDITY OF A CONVICTION OR OF A SENTENCE; AMENDING SECTION 3-5-901, MCA; AND PROVIDING AN EFFECTIVE DATE."

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~~(c)(iii)~~ witness fees and necessary expenses;

~~(d)(iv)~~ juror fees;

~~(e)(v)~~ expenses for indigent defense;

~~(f)(vi)~~ expenses of the appellate defender commission and the office of appellate defender; and

~~(g)(vii)~~ expenses for psychiatric examinations;

(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings; and

(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

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2 (ii) witness fees; and
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5 the supreme court for funding the expenses listed in subsection (1) and the costs of administering this
6 section.

7 (3) If money appropriated for the expenses listed in subsection (1):

8 (a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used
9 for district court grants as provided in 7-6-2352; or

10 (b) is insufficient to fully fund those expenses, the expenses listed in subsection (1)(c), the
11 expenses for the appellate defender commission, and the expenses for the office of appellate defender must
12 be funded first ~~and the~~. The county is responsible for payment of the balance.

13 (4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that
14 is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the
15 supreme court for district court and courts of limited jurisdiction automation purposes during the 1995
16 biennium.

17 (5) This section may be cited as the district court criminal reimbursement program. (Subsection
18 (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

19

20 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

21

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SENATE BILL NO. 127

INTRODUCED BY Bishop

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM PAY FOR CERTAIN EXPENSES INCURRED IN STATE DISTRICT COURT FOR POSTCONVICTION RELIEF HEARINGS AND HABEAS CORPUS PROCEEDINGS AND FOR CERTAIN EXPENSES INCURRED BY THE STATE IN FEDERAL HABEAS CORPUS CASES CHALLENGING THE VALIDITY OF A CONVICTION OR OF A SENTENCE; AMENDING SECTION 3-5-901, MCA; AND PROVIDING AN EFFECTIVE DATE."

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~~(b)(ii)~~ fees for transcripts of proceedings;

~~(c)(iii)~~ witness fees and necessary expenses;

~~(d)(iv)~~ juror fees;

~~(e)(v)~~ expenses for indigent defense;

~~(f)(vi)~~ expenses of the appellate defender commission and the office of appellate defender; and

~~(g)(vii)~~ expenses for psychiatric examinations;

(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings; and

(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

1 (i) transcript fees;

2 (ii) witness fees; and

3 (iii) expenses for psychiatric examinations.

4 (2) The revenue received under 61-3-509 is statutorily appropriated, as provided in 17-7-502, to
5 the supreme court for funding the expenses listed in subsection (1) and the costs of administering this
6 section.

7 (3) If money appropriated for the expenses listed in subsection (1):

8 (a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used
9 for district court grants as provided in 7-6-2352; or

10 (b) is insufficient to fully fund those expenses, the expenses listed in subsection (1)(c), the
11 expenses for the appellate defender commission, and the expenses for the office of appellate defender must
12 be funded first and the. The county is responsible for payment of the balance.

13 (4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that
14 is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the
15 supreme court for district court and courts of limited jurisdiction automation purposes during the 1995
16 biennium.

17 (5) This section may be cited as the district court criminal reimbursement program. (Subsection
18 (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

19

20 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

21

-END-



HOUSE STANDING COMMITTEE REPORT

March 24, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Local Government report that Senate Bill 127 (third reading copy -- blue) be concurred in as amended.

Signed: Wm E Boharski
Bill Boharski, Chair

Carried by: Rep. Anderson

And, that such amendments read:

1. Page 2, line 19.
Insert: "

NEW SECTION. Section 2. Coordination instruction. If both [this act] and Senate Bill No. 83 are passed and approved and if both include a section that amends 3-5-901, then 3-5-901 must read as follows:

"3-5-901. State assumption of certain district court expenses -- designation as district court criminal reimbursement program. (1) ~~The state shall, to~~ To the extent that revenue is available under 61-3-509, the state shall fund:

(a) the following district court expenses in criminal cases only:

- ~~(a)(i)~~ salaries of court reporters;
- ~~(b)(ii)~~ fees for transcripts of proceedings;
- ~~(c)(iii)~~ witness fees and necessary expenses;
- ~~(d)(iv)~~ juror fees;
- ~~(e)(v)~~ expenses for indigent defense; and
- ~~(f)~~ expenses of the appellate defender commission and the office of appellate defender; and
- ~~(g)(vi)~~ expenses for psychiatric examinations;

(b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held pursuant to Title

Committee Vote:
Yes 11, No 1.

SB 127
HOUSE
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46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter 22, and appeals from those proceedings; and

(c) the following expenses incurred by the state in federal habeas corpus cases that challenge the validity of a conviction or of a sentence:

(i) transcript fees;

(ii) witness fees; and

(iii) expenses for psychiatric examinations.

(2) The revenue received under 61-3-509 is statutorily appropriated, as provided in 17-7-502, to the supreme court for funding the expenses listed in subsection (1) and the costs of administering this section. If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c).

(3) If money appropriated for the expenses listed in subsection (1):

(a) exceeds the amount necessary to fully fund those expenses, the excess amount up to \$500,000 of the excess amount must be used for youth court and probation foster care placements if the department of family services certifies to the supreme court that appropriations for youth court and probation foster care placements will be inadequate to fund those costs and remaining excess amounts must be used for district court grants as provided in 7-6-2352; or

(b) is insufficient to fully fund those expenses, the appellate defender commission and the office of appellate defender must be funded first and the county is responsible for payment of the balance.

(4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the supreme court for district court and courts of limited jurisdiction automation purposes during the 1995 biennium. (Subsection (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

Renumber: subsequent section

-END-

1 SENATE BILL NO. 127

2 INTRODUCED BY BISHOP

3 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE DISTRICT COURT CRIMINAL
6 REIMBURSEMENT PROGRAM PAY FOR CERTAIN EXPENSES INCURRED IN STATE DISTRICT COURT FOR
7 POSTCONVICTION RELIEF HEARINGS AND HABEAS CORPUS PROCEEDINGS AND FOR CERTAIN
8 EXPENSES INCURRED BY THE STATE IN FEDERAL HABEAS CORPUS CASES CHALLENGING THE
9 VALIDITY OF A CONVICTION OR OF A SENTENCE; AMENDING SECTION 3-5-901, MCA; AND PROVIDING
10 AN EFFECTIVE DATE."

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

13
14 **Section 1.** Section 3-5-901, MCA, is amended to read:

15 **"3-5-901. State assumption of certain district court expenses -- designation as district court**
16 **criminal reimbursement program.** (1) ~~The state shall, to~~ To the extent that revenue is available under
17 61-3-509, the state shall fund:

18 (a) the following district court expenses in criminal cases only:

19 ~~(a)(i)~~ salaries of court reporters;

20 ~~(b)(ii)~~ fees for transcripts of proceedings;

21 ~~(c)(iii)~~ witness fees and necessary expenses;

22 ~~(d)(iv)~~ juror fees;

23 ~~(e)(v)~~ expenses for indigent defense;

24 ~~(f)(vi)~~ expenses of the appellate defender commission and the office of appellate defender; and

25 ~~(g)(vii)~~ expenses for psychiatric examinations;

26 (b) the district court expenses, as listed in subsection (1)(a), in all postconviction proceedings held
27 pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter
28 22, and appeals from those proceedings; and

29 (c) the following expenses incurred by the state in federal habeas corpus cases that challenge the
30 validity of a conviction or of a sentence:

1 (i) transcript fees;

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3 (iii) expenses for psychiatric examinations.

4 (2) The revenue received under 61-3-509 is statutorily appropriated, as provided in 17-7-502, to
5 the supreme court for funding the expenses listed in subsection (1) and the costs of administering this
6 section.

7 (3) If money appropriated for the expenses listed in subsection (1):

8 (a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used
9 for district court grants as provided in 7-6-2352; or

10 (b) is insufficient to fully fund those expenses, the expenses listed in subsection (1)(c), the
11 expenses for the appellate defender commission, and the expenses for the office of appellate defender must
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14 is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the
15 supreme court for district court and courts of limited jurisdiction automation purposes during the 1995
16 biennium.

17 (5) This section may be cited as the district court criminal reimbursement program. (Subsection
18 (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

19
20 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF BOTH [THIS ACT] AND SENATE
21 BILL NO. 83 ARE PASSED AND APPROVED AND IF BOTH INCLUDE A SECTION THAT AMENDS 3-5-901,
22 THEN 3-5-901 MUST READ AS FOLLOWS:

23 "3-5-901. State assumption of certain district court expenses -- designation as district court
24 criminal reimbursement program. (1) ~~The state shall, to~~ To the extent that revenue is available under
25 61-3-509, the state shall fund:

26 (a) the following district court expenses in criminal cases only:

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30 ~~(a)(iv)~~ juror fees;

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2 ~~(f) expenses of the appellate defender commission and the office of appellate defender; and~~

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 5 pursuant to Title 46, chapter 21, and in all habeas corpus proceedings held pursuant to Title 46, chapter
 6 22, and appeals from those proceedings; and

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 8 validity of a conviction or of a sentence:

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12 ~~(2) The revenue received under 61-3-509 is statutorily appropriated, as provided in 17-7-502, to~~
 13 ~~the supreme court for funding the expenses listed in subsection (1) and the costs of administering this~~
 14 ~~section. If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund~~
 15 ~~the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided~~
 16 ~~in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c).~~

17 (3) If money appropriated for the expenses listed in subsection (1):

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 20 ~~department of family services certifies to the supreme court that appropriations for youth court and~~
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 28 biennium. (Subsection (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

29
 30 **NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 1995.

-END-

Conference Committee
on SB 127
Report No. 1, April 10, 1995

Page 1 of 1

Mr. President and Mr. Speaker:

We, your Conference Committee on SB 127, met and considered:

House Committee on Local Government committee amendments to
the third reading copy, dated March 24, 1995.

We recommend that SB 127 (reference copy - salmon) be amended as
follows:

1. Page 3, line 16.

Following: "(1)(c)"

Insert: "and the costs of administering this section"

And that this Conference Committee report be adopted.

For the Senate:

Bishop

all Bishop
Chair

Estrada

[Signature]
Nelson

[Signature]
Amd. Coord.

[Signature]
Sec. of Senate

For the House:

Anderson

[Signature]
Chair

Tash

[Signature]
Wyatt

ADOPT

REJECT

SB 127
CCR #1
821249CC.SPV

1 SENATE BILL NO. 127

2 INTRODUCED BY BISHOP

3 BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION
4

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 5 the supreme court for funding the expenses listed in subsection (1) and the costs of administering this
 6 section.

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 11 expenses for the appellate defender commission, and the expenses for the office of appellate defender must
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 22 **THEN 3-5-901 MUST READ AS FOLLOWS:**

23 **"3-5-901. State assumption of certain district court expenses -- designation as district court**
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1 ~~(e)(v)~~ expenses for indigent defense; and

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3 ~~(g)(vi)~~ expenses for psychiatric examinations;

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 14 ~~section. If revenue received under 61-3-509 exceeds the amount appropriated by the legislature to fund~~
 15 ~~the expenses of the appellate defender program, the excess amount is statutorily appropriated, as provided~~
 16 ~~in 17-7-502, to the supreme court to fund the expenses described in subsections (1)(a) through (1)(c) AND~~
 17 THE COSTS OF ADMINISTERING THIS SECTION.

18 (3) If money appropriated for the expenses listed in subsection (1):

19 (a) exceeds the amount necessary to fully fund those expenses, ~~the excess amount up to~~
 20 \$500,000 of the excess amount must be used for youth court and probation foster care placements if the
 21 department of family services certifies to the supreme court that appropriations for youth court and
 22 probation foster care placements will be inadequate to fund those costs and remaining excess amounts
 23 must be used for district court grants as provided in 7-6-2352; or

24 (b) is insufficient to fully fund those expenses, ~~the appellate defender commission and the office~~
 25 ~~of appellate defender must be funded first and~~ the county is responsible for payment of the balance.

26 (4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that
 27 is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the
 28 supreme court for district court and courts of limited jurisdiction automation purposes during the 1995
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30

