

1 *House* BILL NO. *253*

2 INTRODUCED BY *Morgan Hollibaugh*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A STATE AGENCY, OTHER THAN A DISTRICT
5 COURT, TO PAY FEES CHARGED BY A SHERIFF FOR SERVICES PROVIDED TO THE STATE AGENCY; AND
6 AMENDING SECTION 7-32-2141, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 7-32-2141, MCA, is amended to read:

11 **"7-32-2141. Fees of sheriff.** (1) For the services provided in subsections (1)(a) through (1)(n), the
12 sheriff ~~shall~~ must receive the fees, ~~if any,~~ set by the county governing body. If fees have not been set by
13 the county governing body, the sheriff ~~shall~~ must receive the following:

14 (a) for the service of summons and complaint on each defendant, \$5;

15 (b) for making a return of a summons for a person not found in the county, in addition to actual
16 mileage traveled, \$5;

17 (c) for levying and serving each writ of attachment of execution on real or personal property, \$5;

18 (d) for service of attachment on the body or order of arrest on each defendant, \$5;

19 (e) for the service of affidavit, order, and undertaking in claim and delivery, \$5;

20 (f) for serving a subpoena, \$2.50 for each witness summoned;

21 (g) for serving a writ of possession or restitution, \$5;

22 (h) for trial of the right of property or damages, including all services except mileage, \$7;

23 (i) for taking bond or undertaking in any case authorized by law, \$5;

24 (j) for serving every notice, rule, or order, \$5 for each person served;

25 (k) for a copy of any writ, process, or other paper when demanded or required by law, 25 cents
26 for each page;

27 (l) for posting notices and advertising any property for sale on execution or under any judgment
28 or order of sale, exclusive of cost of publication, \$5;

29 (m) for holding any sheriff's sale for personal or real property on execution or under any judgment
30 or order of sale, \$7.50;

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0253, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring state agencies, other than district courts, to pay fees charged by a sheriff for services provided to the state agency.

ASSUMPTIONS:

1. The rate for a service charged by a sheriff will generally be the amount "set by the governing board" and not the amount listed in the bill. The average amount charged per service will be \$25.
2. Five agencies are materially affected by this bill. The agency name and the estimated number of annual services follow:

Public Health & Human Services (PHHS)	17,400 x	\$25 = \$435,000
Labor & Industry	755 x	\$25 = 18,900
State Fund	60 x	25 = 1,500
University System	50 x	25 = 1,200
Fish, Wildlife & Parks	700 X	25 = 17,500

3. Assume that the bill is effective October 1, 1997 and the FY98 expenses will be 75% of the normal annual amount.

FISCAL IMPACT:

Expenditures:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
Operating expense for:		
PHHS (01, 03)	\$326,200	\$435,000
Labor & Industry (01, 02, 03, 06)	14,200	18,900
State Fund (06)	1,100	1,500
University System (02)	900	1,200
Fish, Wildlife & Parks (02)	<u>13,100</u>	<u>17,500</u>
Total	\$355,500	\$474,100

Funding:

General fund (01)	\$85,100	\$113,500
State special (02)	18,900	25,200
Federal special (03)	247,900	330,600
Proprietary (06)	<u>3,600</u>	<u>4,800</u>
Total	\$355,500	\$474,100

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The counties' general fund would increase by the same amount as the state's expenditures increase.

Dave Lewis 1-20-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

J. A. Mercer 1/21/97
JOHN MERCER, PRIMARY SPONSOR DATE

Fiscal Note for HB0253, as introduced

HB 253

APPROVED BY COM ON
LOCAL GOVERNMENT

HOUSE BILL NO. 253

INTRODUCED BY MERCER, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A STATE AGENCY, OTHER THAN A DISTRICT COURT, TO PAY FEES CHARGED BY A SHERIFF FOR SERVICES RELATED TO CHILD SUPPORT THAT ARE PROVIDED TO THE STATE AGENCY; PROVIDING FOR THE COLLECTION OF THE FEES FROM THE PERSON SERVED OR UPON WHOM SERVICE IS ATTEMPTED; AND AMENDING SECTION SECTIONS 7-32-2141 AND 40-5-210, MCA."

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

Section 1. Section 7-32-2141, MCA, is amended to read:

"7-32-2141. Fees of sheriff. (1) For the services provided in subsections (1)(a) through (1)(n), the sheriff ~~shall~~ must receive the fees, ~~if any,~~ set by the county governing body. If fees have not been set by the county governing body, the sheriff ~~shall~~ must receive the following:

- (a) for the service of summons and complaint on each defendant, \$5;
- (b) for making a return of a summons for a person not found in the county, in addition to actual mileage traveled, \$5;
- (c) for levying and serving each writ of attachment of execution on real or personal property, \$5;
- (d) for service of attachment on the body or order of arrest on each defendant, \$5;
- (e) for the service of affidavit, order, and undertaking in claim and delivery, \$5;
- (f) for serving a subpoena, \$2.50 for each witness summoned;
- (g) for serving a writ of possession or restitution, \$5;
- (h) for trial of the right of property or damages, including all services except mileage, \$7;
- (i) for taking bond or undertaking in any case authorized by law, \$5;
- (j) for serving every notice, rule, or order, \$5 for each person served;
- (k) for a copy of any writ, process, or other paper when demanded or required by law, 25 cents for each page;
- (l) for posting notices and advertising any property for sale on execution or under any judgment or order of sale, exclusive of cost of publication, \$5;

1 (m) for holding any sheriff's sale for personal or real property on execution or under any judgment
2 or order of sale, \$7.50;

3 (n) for cancellation or postponement of sheriff's sale, \$5.

4 (2) All fees collected by the sheriff for the services provided in subsection (1) must be paid to the
5 county treasurer as provided in 7-4-2511(1), and the fees must be deposited by the county treasurer in the
6 general fund of the county unless the county has instituted a public safety levy, in which case the fees
7 must be deposited in the account established pursuant to 7-6-2513.

8 (3) Except for a district court, an agency of the state shall pay the fees established in subsection
9 (1) for services RELATED TO CHILD SUPPORT THAT ARE provided by a sheriff pursuant to subsection (1).
10 AN AGENCY PAYING THE FEES PROVIDED FOR IN THIS SUBSECTION MAY INCLUDE THE AMOUNT OF
11 THE FEES IN THE HANDLING FEES PURSUANT TO 40-5-210. THE CHILD SUPPORT ENFORCEMENT
12 DIVISION OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAY IMMEDIATELY
13 COLLECT THE FEE FROM THE PARTY UPON WHOM SERVICE IS ATTEMPTED OR PERFECTED BY ANY
14 METHOD AVAILABLE TO IT FOR THE COLLECTION OF JUDGMENTS OR OTHER ADJUDICATED DEBTS."
15

16 **SECTION 2. SECTION 40-5-210, MCA, IS AMENDED TO READ:**

17 "40-5-210. **Standardized fee schedule -- rules.** (1) The department may charge an application fee
18 to each person applying for services under 40-5-203, except that the fee may not be charged to persons
19 who receive continuing services under 40-5-203(3). The application fee may be:

20 (a) a flat dollar amount; or

21 (b) an amount based on a sliding fee schedule that is based on the applicant's income level.

22 (2) If paternity is established or presumed under 40-5-234 for the alleged father, the fees for
23 paternity blood testing may be recovered from the parent, whether the alleged father or the mother,
24 denying paternity of the alleged father. The total amount of the paternity blood testing fee may not exceed
25 the actual costs of the paternity blood tests.

26 (3) The department may charge a handling fee for each payment of support collected on behalf of
27 any obligee who is not a recipient of public assistance. The department may withhold the fee from the
28 support payment before distribution to the obligee.

29 (4) The department may charge an obligor a late payment fee for each late payment of support
30 collected on behalf of any obligee.

1 (5) The department may establish a fee schedule in order to recover costs and expenses in excess
2 of the application, handling, and late fees. The fees must be commensurate with costs or an average of the
3 expenditures related to specific or routine activities.

4 (a) The department shall develop procedures for determining whether it is appropriate for either the
5 obligor or the obligee to be responsible for payment of the fee. In developing the procedures, the
6 department shall consider federal regulations promulgated under Title IV-D of the Social Security Act.

7 (b) In an action to establish paternity or to establish or enforce a child support obligation, whether
8 in district court or by administrative process, the department must be awarded costs in the amount
9 established in the fee schedule as part of any judgment, decree, or order whenever the department:

10 (i) is a prevailing party in the action; or

11 (ii) is not a party but incurs expenses and costs related to the action.

12 (6) The department may collect the fees awarded under this section by one of the following means:

13 (a) if the fee is owed by an obligor, the fee may be:

14 (i) collected through any remedy available to the department for the collection of child support
15 arrearages; or

16 (ii) deducted from any payments made by the obligor before the payment is distributed to the
17 obligee. Credit for the payment must be reduced by the amount of the deduction for the fee. The deduction
18 for fees may not reduce any current support due to the obligee. The deduction for a late payment fee may
19 not reduce any current or past-due support due to the obligee.

20 (b) if the fee is owed by the obligee, the fee may be collected separately through any remedy
21 available to the department for the collection of child support or the department may withhold the fee
22 amount out of any payment collected on behalf of the obligee. The obligor must receive full credit for the
23 payment as if the withholding of fees did not occur.

24 (7) The department, upon a showing of necessity, may waive or defer any fee assessed under this
25 section.

26 (8) The department may adopt rules necessary to implement fee schedules under this section.

27 (9) The department may collect fees allowed or awarded under other statutes or court order by any
28 means allowed in subsection (6).

29 ~~(9)~~(10) The fees and costs charged and collected under this section must be paid monthly into the
30 state treasury to the credit of the child support enforcement division special revenue fund and must be

1 accompanied by a detailed statement of the amounts collected."

2 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0253, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

A bill requiring state agencies, other than district courts, to pay fees charged by a sheriff for services related to child support that are provided to the state agency.

ASSUMPTIONS:

1. The rate for a service charged by a sheriff will generally be the amount "set by the governing board" and not the amount listed in the bill. The average amount charged per service will be \$25.
2. The Child Support Enforcement Division (CSED) estimates requiring service of process 7,400 times each year. The cost of this amended bill is approximately \$185,000, with \$62,900 (34%) charged to the general fund, and \$122,100 (66%) assumed by federal funds.
3. Even though the amended language gives CSED the power to collect this fee "by any method available", federal regulations require that this fee be paid after all other fiscal demands are satisfied. Therefore, CSED staff believe that very little, if any, of the fees will be collected.
3. The bill is effective October 1, 1997, so the FY98 expenses will be 75% of the normal annual amount.

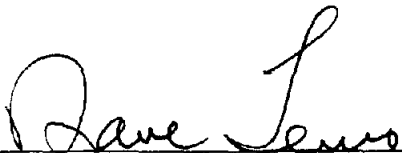
FISCAL IMPACT:

Child Support Enforcement:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Operating expense	\$138,800	\$185,000
<u>Funding:</u>		
General fund (01)	\$47,200	\$62,900
Federal special (03)	<u>91,600</u>	<u>122,100</u>
Total	\$138,800	\$185,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The counties' general fund would increase by the same amount as the state's expenditures increase.



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

 2-10-97
JOHN MERCER, PRIMARY SPONSOR DATE

Fiscal Note for HB0253, 2nd reading

AM HB 253 #2

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2 INTRODUCED BY MERCER, HALLIGAN

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