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*Senate* BILL NO. 289

INTRODUCED BY Eck HB 289 Adler  
Brault Hallyn

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN ADDITIONAL SURCHARGE UPON CRIMINAL CONVICTIONS TO FINANCE LOCAL VICTIM AND WITNESS ADVOCATE PROGRAMS; AMENDING SECTION 46-18-236, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 46-18-236, MCA, is amended to read:

**"46-18-236. Imposition of charge upon conviction or forfeiture -- administration.** (1) Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a defendant upon his conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows:

- (a) \$15 for each misdemeanor charge; ~~and~~
- (b) the greater of \$20 or 10% of the fine levied for each felony charge; and
- (c) an additional \$10 for each misdemeanor and felony charge.

(2) If a convicting court determines under 46-18-231 and 46-18-232 that the defendant is not able to pay the fine and costs or that ~~he~~ the defendant is unable to pay within a reasonable time, the court ~~must~~ shall waive payment of the charge imposed by this section.

(3) The ~~charge~~ charges imposed by this section ~~is~~ are not ~~a fine~~ finer and must be imposed in addition to any fine and may not be used in determining the jurisdiction of any court.

(4) When the payment of a fine is to be made in installments over a period of time, the ~~charge~~ charges imposed by this section must be collected from the first payment made and each subsequent payment as necessary if the first payment is not sufficient to cover the ~~charge~~ charges.

(5) The charges collected under subsection (1), except those collected by a justice's court, must be deposited with the appropriate local government finance officer or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the county finance officer



1 or treasurer. If the court of original jurisdiction is a court within a consolidated city-county government  
2 within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be deposited with  
3 the finance officer or treasurer of the consolidated government.

4 (6) (a) A city or town finance officer or treasurer may retain the charges collected under ~~subsection~~  
5 subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for  
6 the payment of salaries of the city or town attorney and his deputies.

7 (b) Each county finance officer or treasurer may retain the charges collected under ~~subsection~~  
8 subsections (1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed  
9 within that county. The county finance officer or treasurer shall use the money for the payment of salaries  
10 of its deputy county attorneys and for the payment of other salaries in the office of the county attorney,  
11 and any funds not needed for ~~such~~ those salaries may be used for the payment of any other county  
12 salaries.

13 (7) (a) Each county, city, or town finance officer or treasurer may retain the charges collected  
14 under subsection (1)(c) for payment of the expenses of a victim and witness advocate program that  
15 provides the services specified in 40-15-103 and Title 46, chapter 24, part 2, and that is operated or used  
16 by the county, city, or town.

17 (b) If the county, city, or town does not operate or use a victim and witness advocate program,  
18 all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance  
19 account established in 53-9-109."

20

21 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 1997.

22

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0289, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill establishing an additional surcharge upon criminal convictions to finance local victim and witness advocate programs.

ASSUMPTIONS:

1. The 1995 crime data reports that there were approximately 42,000 offenses reported. Assume that 80% or 33,600 of the offenses resulted in convictions and/or forfeiture of bond or bail, and fines for these were all paid.
2. Assuming that the 1995 figures will hold constant in the 1999 biennium, then total new revenues of \$336,000 (33,600 x \$10) will be collected each year.
3. Currently, 29 counties or 52% do not have a victim and witness advocate program, but the Board of Crime Control believes that percentage would be reduced in half with supportive efforts by the board. Therefore, 26%, or \$87,000 (26% x \$336,000) will come to the state, and the remaining \$249,000 will go to counties to operate local victim and witness advocate programs.
4. The state program operates by an appropriation from the general fund. If the fund balance of the state crime victims account exceeds \$500,000 at fiscal year end, the excess is moved to the general fund. It is assumed that the \$87,000 will be in excess of the \$500,000 maximum, and will be deposited to the general fund at fiscal year end. The new revenue will not produce additional expenses.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Revenue:</u>	<u>Difference</u>	<u>Difference</u>
Court fines (01)	\$87,000	\$87,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local counties, cities or towns will receive approximately \$249,000 additionally each year to operate their victim and witness advocate programs.

TECHNICAL NOTE:

This bill allocates fines not used by local programs shall be deposited to the crime victims compensation and assistance account. Whereas, 3-10-610,MCA, provides that all fines and fees collected by a justice court shall be deposited 50% to the county general fund, and 50% to the state general fund.

*Dave Lewis* 2-11-97  
 DAVE LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

*Dorothy Eck* 2/11/97  
 DOROTHY ECK, PRIMARY SPONSOR DATE

Fiscal Note for SB0289, as introduced

**SB 289**

## 1 SENATE BILL NO. 289

2 INTRODUCED BY ECK, BARNHART, NELSON, BROOKE, HALLIGAN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN ADDITIONAL SURCHARGE UPON CRIMINAL  
5 CONVICTIONS TO FINANCE LOCAL VICTIM AND WITNESS ADVOCATE PROGRAMS; AMENDING  
6 SECTION 46-18-236, MCA; AND PROVIDING AN EFFECTIVE DATE."7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9  
10 **Section 1.** Section 46-18-236, MCA, is amended to read:11 **"46-18-236. Imposition of charge upon conviction or forfeiture -- administration.** (1) Except as  
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15 provides the services specified in 40-15-103 and Title 46, chapter 24, part 2, and that is operated or used  
16 by the county, city, or town.

17 (b) If the county, city, or town does not operate or use a victim and witness advocate program,  
18 all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance  
19 account established in 53-9-109 STATE GENERAL FUND."

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Dave Lewis 3-11-97  
DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Dorothy Eck 3/11/97  
DOROTHY ECK, PRIMARY SPONSOR DATE

Fiscal Note for SB0289, third reading

Am SB 289 -#2