

Amendments to Senate Bill No. 125
3rd Reading Copy

Requested by Representative Julie French

For the House Judiciary Committee

Prepared by David Niss
March 16, 2007 (7:49am)

1. Title, line 7.

Strike: "EXAMINATION AND"

2. Title, lines 7 and 8.

Strike: "PROVIDING" on line 7 through ";" on line 8

3. Title, line 12.

Strike: "46-14-206,"

Insert: "3-5-901,"

4. Page 4, line 24 through page 5, line 28.

Strike: section 1 in its entirety

5. Page 4.

Following: line 22

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

"3-5-901. State assumption of district court expenses. (1)
There is a state-funded district court program under the judicial
branch. Under this program, the office of court administrator
shall fund all district court costs, except as provided in
subsection (3). These costs include but are not limited to the
following:

- (a) salaries and benefits for:
 - (i) district court judges;
 - (ii) law clerks;
 - (iii) court reporters, as provided in 3-5-601;
 - (iv) juvenile probation officers, youth division offices staff, and assessment officers of the youth court; and
 - (v) other employees of the district court;
- (b) in criminal cases:
 - (i) fees for transcripts of proceedings, as provided in 3-5-604;
 - (ii) witness fees and necessary expenses, as provided in 46-15-116;
 - (iii) juror fees and necessary expenses;
 - (iv) for a psychiatric evaluation under 46-14-202, the cost of the examination and other associated expenses, as provided in 46-14-202(4)(a)(i) and (4)(a)(iii); and
 - (v) for a psychiatric evaluation under 46-14-221, the cost of the examination and other associated expenses, as provided in

46-14-221(5)(9);

(c) except as provided in 47-1-201(5), the district court expenses 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;

(d) except as provided in 47-1-201(5), 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;

(e) except as provided in 47-1-201(5), the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 3, part 4 or 6, that seeks temporary investigative authority of a youth, temporary legal custody of a youth, or termination of the parent-child legal relationship and permanent custody:

- (i) transcript fees;
- (ii) witness fees;
- (iii) expenses for medical and psychological evaluation of a youth or the youth's parent, guardian, or other person having physical or legal custody of the youth except for expenses for services that a person is eligible to receive under a public program that provides medical or psychological evaluation;
- (iv) expenses associated with appointment of a guardian ad litem or child advocate for the youth; and
- (v) expenses associated with court-ordered alternative dispute resolution;

(f) except as provided in 47-1-201(5), costs of juror and witness fees and witness expenses before a grand jury;

(g) costs of the court-sanctioned educational program concerning the effects of dissolution of marriage on children, as required in 40-4-226, and expenses of education when ordered for the investigation and preparation of a report concerning parenting arrangements, as provided in 40-4-215(2)(a);

(h) except as provided in 47-1-201(5), all district court expenses associated with civil jury trials if similar expenses were paid out of the district court fund or the county general fund in any previous year;

(i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors; and

(j) costs associated with the operation and maintenance of the youth court and youth court division operations pursuant to 41-5-111 and subsection (1)(a) of this section, except for those costs paid by other entities identified in Title 41, chapter 5.

(2) If a cost is not paid directly by the office of court administrator, the county shall pay the cost and the office of court administrator shall reimburse the county within 30 days of

receipt of a claim.

(3) For the purposes of subsection (1), district court costs paid by the office of court administrator do not include:

(a) costs for clerks of district court and employees and expenses of the offices of the clerks of district court;

(b) costs of providing and maintaining district court office space; or

(c) charges incurred against a county by virtue of any provision of Title 7 or 46."

{ Internal References to 3-5-901:

3-1-1601X	3-5-511X	3-5-602X	3-5-604X
3-5-604X	3-5-902X	3-5-902X	3-15-204X
3-15-204X	26-2-506X	26-2-506X	40-4-215X
40-4-226X	41-5-111X	46-11-319X	46-14-202X
46-14-221X			

6. Page 6, lines 10 through 14.

Strike: "and" on line 10 through "treated on line 14"

7. Page 6, line 15.

Strike: "(7)"

Insert: "(8)"

8. Page 6.

Following: line 24

Insert: "(3) The facility shall develop an individualized treatment plan to assist the defendant in gaining fitness to proceed. The treatment plan may include a physician's or advanced practice registered nurse's prescription of reasonable and appropriate medication that is consistent with accepted medical standards. If the defendant refuses the prescribed medication, the physician or advanced practice registered nurse shall file a report with the court, the county attorney, and the defendant's counsel. The report must contain:

(a) a summary of the treatment plan, including a description of the recommended medication;

(b) the physician's or advanced practice registered nurse's opinion as to whether medication is substantially likely to render the defendant competent to stand trial and substantially unlikely to have side effects that will interfere significantly with the defendant's ability to assist counsel in conducting a defense;

(c) the physician's or advanced practice registered nurse's opinion as to whether alternative, less intrusive treatments are likely to achieve substantially the same results; and

(d) the physician's or advanced practice registered nurse's opinion as to whether administering the medication is medically appropriate.

(4) Upon receiving the physician's or advanced practice

registered nurse's report on the refusal of the defendant to comply with prescribed medication, the county attorney may petition the court for an order authorizing the administration of medication involuntarily. The defendant has a right to a hearing on the petition. The hearing may, in the discretion of the court, be conducted by two-way electronic audio-video communication. The audio-video communication must operate so that the defendant, the defendant's counsel, and the judge can see each other simultaneously and converse with each other and so that the defendant and the defendant's counsel can also communicate privately. The defendant may request that counsel from the mental disabilities board of visitors be present, for consulting purposes only, if the defendant is located at the state hospital."

Renumber: subsequent subsections

9. Page 6, line 25.

Strike: "If" through "medication, the"

Insert: "The"

10. Page 6, line 26.

Strike: "hold a hearing prior to commitment and"

11. Page 6, lines 26 through 29.

Strike: "the" on line 26 through "medication and" on line 29

12. Page 6, line 30.

Strike: "factors"

Insert: "circumstances"

13. Page 7, line 1.

Strike: "(i)"

Insert: "(a)"

Renumber: subsequent subsections

14. Page 7, line 5.

Strike: "less-intrusive"

Insert: "less intrusive"

15. Page 7, line 7.

Following: "that"

Insert: "all of"

Strike: "elements"

Insert: "circumstances"

Strike: "(4) (a) or (4) (b)"

Insert: "(5)"

16. Page 7, line 24.

Strike: "element"

Insert: "circumstance"

Strike: "(4)"

Insert: "(5)"

17. Page 7, line 25.

Strike: "(3)"

Insert: "(2)"

18. Page 7, line 30.

Strike: "(7)"

Insert: "(8)"

- END -