

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 BY REQUEST OF THE PUBLIC DEFENDER COMMISSION

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6 A BILL FOR AN ACT ENTITLED: "AN ACT SUSPENDING PAYMENT OF PUBLIC DEFENDER FEES DURING
7 PERIODS OF INCARCERATION; REQUIRING DISTRICT COURTS TO PROVIDE INFORMATION REGARDING
8 PUBLIC DEFENDER FEE ASSESSMENTS TO THE OFFICE OF THE STATE PUBLIC DEFENDER;
9 REQUIRING PAYMENT OF FEES TO BE MADE TO THE OFFICE OF THE STATE PUBLIC DEFENDER; AND
10 AMENDING SECTIONS 46-8-113 AND 46-8-114, MCA."

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

13
14 **Section 1.** Section 46-8-113, MCA, is amended to read:

15 **"46-8-113. Payment by defendant for assigned counsel -- costs to be filed with court.** (1) Subject
16 to the provisions of subsections (2) and (3), as part of or as a condition of a sentence that is imposed under the
17 provisions of this title, the court shall determine whether a convicted defendant should pay the costs of counsel
18 assigned to represent the defendant as follows:

- 19 (a) If the defendant pleads guilty prior to trial:
 - 20 (i) to one or more misdemeanor charges and no felony charges, the cost of counsel is \$250; or
 - 21 (ii) to one or more felony charges, the cost of counsel is \$800.
- 22 (b) If the case goes to trial, the defendant shall pay the costs incurred by the office of state public
23 defender for providing the defendant with counsel in the criminal trial. The office of state public defender shall file
24 with the court a statement of the hours spent on the case and the costs and expenses incurred for the trial.

25 (2) Any costs imposed pursuant to this section must be paid in accordance with 46-18-251(2)(e).

26 (3) In any proceeding for the determination of whether a defendant is or will be able to pay the costs of
27 counsel, the court shall question the defendant as to the defendant's ability to pay those costs and shall inform
28 the defendant that purposely false or misleading statements by the defendant may result in criminal charges
29 against the defendant.

30 (4) The court may not sentence a defendant to pay the costs for assigned counsel unless the defendant

1 is or will be able to pay the costs imposed by subsection (1). The court may find that the defendant is able to pay
2 only a portion of the costs assessed. In determining the amount and method of payment of costs, the court shall
3 take into account the financial resources of the defendant and the nature of the burden that payment of costs will
4 impose.

5 (5) A defendant who has been sentenced to pay costs may at any time petition the court that sentenced
6 the defendant for remission of the payment of costs or of any unpaid portion of the costs. If it appears to the
7 satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the
8 defendant's immediate family, the court may remit all or part of the amount due in costs or modify the method of
9 payment.

10 (6) Any costs imposed under this section must be included in the court's judgment.

11 (7) (a) The court shall provide the office of the state public defender with a copy of the judgment by
12 including the central services office, in addition to the attorney of record, in the certificate of mailing.

13 (b) If the court does not issue a judgment, it shall provide the central services office of the state public
14 defender with access to its case management system."

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16 **Section 2.** Section 46-8-114, MCA, is amended to read:

17 "**46-8-114. Time and method of payment.** When a defendant is sentenced to pay the costs of assigned
18 counsel pursuant to 46-8-113, the court may order payment to be made within a specified period of time or in
19 specified installments. The obligation to make payments is suspended during periods of incarceration. Payments
20 for public defender fees for judgments entered after the creation of the office of the state public defender must
21 be made to the ~~clerk of the sentencing court for allocation as provided in 46-18-201, 46-18-232, and 46-18-251~~
22 central services office of the state public defender and deposited in the account established in 47-1-110."

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