

HOUSE BILL NO. 124
INTRODUCED BY A. OLSON

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SPECIAL REVENUE ACCOUNT TO BE USED BY THE DEPARTMENT OF JUSTICE ON BEHALF OF THE MONTANA LAW ENFORCEMENT ACADEMY; PROVIDING FOR A SURCHARGE ~~ON THE USE OF CIVIL AND CRIMINAL COURTS~~ UPON CERTAIN CRIMINAL CONVICTIONS TO FUND LAW ENFORCEMENT ACADEMY OPERATIONS; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

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

NEW SECTION. Section 1. Department of justice account established. (1) There is an account in the state special revenue fund to be used by the department of justice on behalf of the Montana law enforcement academy, established in 44-10-103.

(2) Money in the account created in subsection (1) must be appropriated by the legislature for the purposes provided in Title 44, chapter 10, part 2, including use as matching funds for grants to be sought under 44-10-202(10).

NEW SECTION. Section 2. Surcharges on use of court system UPON CERTAIN CRIMINAL CONVICTIONS
~~-- exception.~~ (1) Except as provided in subsection (2), all courts of ~~original~~ LIMITED jurisdiction, EXCEPT SMALL CLAIMS COURTS, shall impose a \$10 surcharge ~~levied for use of the court system~~ on:

~~(a) a defendant who is convicted of criminal conduct under state statute or who forfeits bond or bail;~~
~~(b) the initiating party in civil and probate cases at the commencement of each action, proceeding, or filing; and~~

~~(c) each defendant or respondent upon first appearance in court in civil cases.~~

~~(2) A court may waive payment of the surcharge imposed by subsection (1) if the court determines that a defendant in a criminal case is unable to pay the surcharge or that a defendant in a civil case meets the requirements of 25-10-404.~~

(2) A COURT MAY NOT WAIVE PAYMENT OF THE SURCHARGE UNLESS THE COURT DETERMINES THAT THE DEFENDANT IS UNABLE TO PAY THE SURCHARGE. INABILITY TO PAY MUST BE SUPPORTED BY A SWORN STATEMENT FROM THE DEFENDANT DEMONSTRATING FINANCIAL INABILITY TO PAY WITHOUT SUBSTANTIAL HARDSHIP IN PROVIDING FOR

PERSONAL OR FAMILY NECESSITIES. THE STATEMENT IS NOT ADMISSIBLE IN THE PROCEEDING UNLESS OFFERED FOR IMPEACHMENT PURPOSES AND IS NOT ADMISSIBLE IN A SUBSEQUENT PROSECUTION FOR PERJURY OR FALSE SWEARING.

(3) The surcharge imposed by this section is not a fee or a fine and must be imposed in addition to other taxable court costs, fees, or fines. The surcharge may not be used in determining the jurisdiction of any court.

(4) The amounts collected under this section must be forwarded to the department of revenue for deposit in the account created in [section 1].

NEW SECTION. Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 44, chapter 10, part 2, and the provisions of Title 44, chapter 10, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 3, chapter 1, part 3, and the provisions of Title 3, chapter 1, part 3, apply to [section 2].

NEW SECTION. Section 4. Effective date -- applicability. (1) [This act] is effective July 1, 2003.

(2) [Section 2] applies to:

(a) a defendant convicted on or after July 1, 2003; and

(b) proceedings filed on or after July 1, 2003.

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