

SENATE BILL NO. 18
INTRODUCED BY D. GRIMES
BY REQUEST OF THE SUPREME COURT

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING PAYMENT OF EXPENSES RELATED TO ADULT INVOLUNTARY COMMITMENT AND YOUTH COURT PROCEEDINGS SUBSEQUENT TO STATE ASSUMPTION OF DISTRICT COURT COSTS; ELIMINATING A REDUNDANT REFERENCE TO TRAINING COSTS AS COSTS TO BE PAID THROUGH THE STATE ASSUMPTION PROGRAM; CLARIFYING PAYMENT OF YOUTH COURT EXPENSES; PROVIDING THAT COUNTIES' INDIGENT DEFENSE COSTS FOR INVOLUNTARY COMMITMENT PROCEEDINGS ARE REIMBURSED BY THE STATE THROUGH THE STATE ASSUMPTION PROGRAM; CLARIFYING THAT PAYMENT OF WITNESS TESTIMONY IN INVOLUNTARY COMMITMENT PROCEEDINGS IS TO BE MADE BY THE COUNTY; AMENDING SECTIONS 3-5-901, 53-21-116, AND 53-21-132, MCA; REPEALING SECTION 41-5-111, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the 57th Legislature in section 62 of Senate Bill No. 176, Chapter 585, Laws of 2001, directed the District Court Council to review expenses related specifically to adult involuntary commitment and Youth Court proceedings for the purpose of proposing to the 58th Legislature whether those expenses should be enumerated in section 3-5-901, MCA, and designated as District Court expenses to be paid by the Judicial Branch under that section; and

WHEREAS, the cost of involuntary commitment and Youth Court proceedings are significant budget items for both the Executive and Judicial Branches of government; and

WHEREAS, involuntary commitment and Youth Court proceedings are initiated by local law enforcement agencies and County Attorneys; and

WHEREAS, involuntary commitment proceedings address the health care needs of individual citizens; and

WHEREAS, Youth Court proceedings address the safety of the public and juveniles; and

WHEREAS, the costs of law enforcement, public safety, prosecutorial services, and indigent health care are the responsibility of the Executive Branch of government, whether county or state; and

WHEREAS, the costs of the District Court Judge and necessary court staff involved in involuntary commitment proceedings, as well as the costs of materials and appointed counsel, are the responsibility of the

Judicial Branch of government; and

WHEREAS, the costs of the Youth Court Judge and necessary Youth Court staff involved in Youth Court proceedings, as well as the costs of materials, appointed counsel, and guardians ad litem, are the responsibility of the Judicial Branch of government; and

WHEREAS, the costs of office space and maintenance of office space for District Court Judges, including staff and youth division staff, are the responsibility of the counties pursuant to section 3-1-125, MCA; and

WHEREAS, the District Court Council has proposed that Judicial Branch costs are court costs that should be enumerated in section 3-5-901, MCA, and designated as District Court expenses to be paid by the Judicial Branch under that section; and

WHEREAS, the District Court Council has proposed that law enforcement and health care costs are costs of the Executive Branch and should be paid by the Executive Branch of government, either county or state, and not paid by the Judicial Branch under section 3-5-901, MCA; and

WHEREAS, based on a proposal from the District Court Council, the 58th Legislature of the State of Montana finds that most costs associated with adult involuntary commitment and Youth Court proceedings are properly allocated under Title 53, chapter 21, part 1, and Title 41, chapter 5, respectively, and under section 3-5-901, MCA, with only a few clarifications needed.

THEREFORE, the 58th Legislature of the State of Montana adopts amendments and clarifications to state assumption of District Court costs specifically related to expenses of adult involuntary commitment and Youth Court proceedings.

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

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 this program, the state shall fund all district court costs, except as provided in subsection (2). These costs include but are not limited to:

(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, fees for transcripts of proceedings, as provided in 3-5-604, witness fees and necessary expenses, juror fees, and expenses for psychiatric examinations;
- (c) 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) 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) 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) 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) all district court expenses associated with civil jury trials if those expenses were paid out of the district court budget in fiscal year 1998 or fiscal year 1999; ~~and~~
 - (i) all other costs associated with the operation and maintenance of the district court, including contract costs for court reporters who are independent contractors, ~~costs of the youth court and youth division offices, and costs of training for persons listed in subsections (1)(a)(i) through (1)(a)(v);~~ but excluding the cost of providing district court office, courtroom, and other space as provided in 3-1-125; ~~and~~
 - (j) the following expenses incurred by the state in a proceeding held pursuant to Title 41, chapter 5:

(i) costs of the youth court and youth division operations, except for those costs paid by other entities identified in Title 41, chapter 5, and the costs of providing youth court office, courtroom, and other space pursuant to 3-1-125;

(ii) reasonable compensation for services and related expenses for counsel appointed by the court;

(iii) transcript fees;

(iv) witness fees; and

(v) expenses associated with appointment of a guardian ad litem or child advocate for the youth.

(2) For the purposes of subsection (1), district court costs do not include:

(a) one-half of the salaries of county attorneys;

(b) salaries of deputy county attorneys;

(c) salaries of employees and expenses of the office of county attorney;

(d) costs for clerks of district court and employees and expenses of the office of the clerks of district court; or

(e) costs of providing district court office space.

(3) In addition to the costs assumed under the state-funded district court program, as provided in subsection (1), the state shall fund:

(a) the expenses of the appellate defender program. These costs must be allocated to and paid by the appellate defender program.

(b) district court expenses related to involuntary commitment proceedings and youth court proceedings in an annual amount not to exceed the district court expense for those proceedings in fiscal year 2001 plus a 3% growth factor each year. Any amount that exceeds the district court expense for those proceedings is the responsibility of the county.

(4) (a) In addition to the costs assumed under the state-funded district court program, as provided in subsection (1), the state shall reimburse counties:

(i) in district court criminal cases only, expenses for indigent defense; ~~and~~

(ii) in involuntary commitment cases pursuant to Title 53, chapter 21, reasonable compensation for services and related expenses for counsel appointed by the court; and

~~(ii)~~(iii) in proceedings under subsection (1)(e):

(A) expenses for appointed counsel for the youth; and

(B) expenses for appointed counsel for the parent, guardian, or other person having physical or legal custody of the youth.

(b) If money appropriated for the expenses listed in subsection (4)(a) is insufficient to fully fund those expenses, the county is responsible for payment of the balance. (Subsections (3)(b) and (4)(b) terminate June 30, 2003--sec. 65, Ch. 585, L. 2001.)"

Section 2. Section 53-21-116, MCA, is amended to read:

"53-21-116. Right to be present at hearing or trial -- appointment of counsel. The person alleged to be suffering from a mental disorder and requiring commitment has the right to be present at any hearing or trial. If the person ~~has no attorney~~ is indigent, the judge shall appoint ~~one~~ counsel to represent the person at either the hearing or the trial, or both, ~~who~~ and the counsel must be compensated ~~from the public funds of the county where the respondent resides~~ pursuant to 3-5-901(4)(a)(ii)."

Section 3. Section 53-21-132, MCA, is amended to read:

"53-21-132. Cost of examination and commitment. (1) The cost of precommitment examination, detention, treatment, and taking a person who is suffering from a mental disorder and who requires commitment to a mental health facility must be paid by the county in which the person resides at the time that the person is committed. The sheriff must be allowed the actual expenses incurred in taking a committed person to the facility, as provided by 7-32-2144.

(2) The county of residence shall also pay all precommitment expenses, ~~including transportation to a mental health facility~~, incurred in connection with the detention, examination, and precommitment custody of the respondent, including transportation to a mental health facility and any cost associated with testimony during an involuntary commitment proceeding by a professional person acting pursuant to 53-21-123. However, the county of residence is not required to pay costs of treatment and custody of the respondent after the respondent is committed pursuant to this part. Precommitment costs related to the use of two-way electronic audio-video communication in the county of commitment must be paid by the county in which the person resides at the time that the person is committed. The costs of the use of two-way electronic audio-video communication from the state hospital for a patient who is under a voluntary or involuntary commitment to the state hospital must be paid by the state. The fact that a person is examined, hospitalized, or receives medical, psychological, or other mental health treatment pursuant to this part does not relieve a third party from a contractual obligation to pay for the cost of the examination, hospitalization, or treatment.

(3) The adult respondent or the parent or guardian of a minor shall pay the cost of treatment and custody ordered pursuant to 53-21-127, except to the extent that the adult or minor is eligible for public mental health

program funds.

(4) A community service provider that is a private, nonpublic provider may not be required to treat or treat without compensation a person who has been committed."

NEW SECTION. **Section 4. Repealer.** Section 41-5-111, MCA, is repealed.

NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2003.

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