

SENATE BILL NO. 26

INTRODUCED BY S. FITZPATRICK

BY REQUEST OF THE SUPREME COURT

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE COURT'S RESPONSIBILITY TO PAY CERTAIN FEES FOR PROSECUTION WITNESSES; AMENDING SECTIONS 26-2-506 AND 46-15-116, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 26-2-506, MCA, is amended to read:

"26-2-506. Fees paid by party subpoenaing -- exceptions. (1) Except as provided in subsection (2), fees and compensation of a witness in all criminal and civil actions must be paid by the party who caused the witness to be subpoenaed.

(2) (a) When a witness is subpoenaed by a public defender, as defined in 47-1-103, the fees and expenses must be paid by the office of state public defender as provided in 47-1-119.

(b) In a criminal proceeding, when a witness is subpoenaed on behalf of the attorney general or a county attorney, the witness fees and expenses must be paid by the office of court administrator as provided in 3-5-901 county.

(c) In any proceeding in which a defendant or respondent is entitled to a public defender, as defined in 47-1-103, but is acting pro se, the witness fees and expenses must be paid by the office of court administrator, as provided in 3-5-901."

Section 2. Section 46-15-116, MCA, is amended to read:

"46-15-116. Fees, costs, and expenses. (1) When a person attends before a judge, grand jury, or court as a witness in a criminal case upon a subpoena, the witness must receive the witness fee prescribed by Title 26, chapter 2, part 5, except as otherwise provided in this section.

~~(2) The court, on motion by either party, may allow additional fees for expert witnesses.~~

~~(3)~~(2) The court may determine the reasonable and necessary expenses of subpoenaed witnesses for an indigent defendant not represented by a public defender, as defined in 47-1-103, and order the clerk of court

1 to pay the expenses.

2 ~~(4)~~(3) When a person is subpoenaed in this state to testify in another state or is subpoenaed from
3 another state to testify in this state, the person must be paid for lodging, mileage or travel, and per diem, the sum
4 equal to that allowed by Title 2, chapter 18, part 5, for each day that the person is required to travel and attend
5 as a witness. If the state where the witness is found has by statute required that the subpoenaed witness be paid
6 an amount in excess of the amount specified in this section, the witness may be paid the amount required by that
7 state.

8 ~~(5)~~(4) The witness fees, costs, and expenses must be paid as provided in 26-2-506."

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10 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2019.

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