

SENATE BILL NO. 22

INTRODUCED BY R. WEBB

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE VICTIM AND WITNESS SURCHARGE; AMENDING SECTION 46-18-236, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 46-18-236, MCA, is amended to read:

"46-18-236. (Temporary) Imposition of charge upon conviction or forfeiture -- administration. (1)

Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows:

- (a) \$15 for each misdemeanor charge;
- (b) the greater of \$20 or 10% of the fine levied for each felony charge; and
- (c) an additional ~~\$50~~ ~~\$100~~ \$75 for each misdemeanor and felony charge under Title 45, 61-8-401, 61-8-406, or 61-8-411.

(2) If a convicting court determines under 46-18-231 and 46-18-232 that the person is not able to pay the fine and costs or that the person is unable to pay within a reasonable time, the court shall waive payment of the charge imposed by this section.

(3) The charges imposed by this section are not fines and must be imposed in addition to any fine and may not be used in determining the jurisdiction of any court.

(4) When the payment of a fine is to be made in installments over a period of time, the charges imposed by this section must be collected from the first payment made and each subsequent payment as necessary if the first payment is not sufficient to cover the charges.

(5) The charges collected under subsection (1), except those collected under subsections (1)(a) and (1)(b) by a justice's court, must be deposited with the appropriate local government finance officer or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court or justice's

1 court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the
 2 county finance officer or treasurer. If the court of original jurisdiction is a court within a consolidated city-county
 3 government within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be
 4 deposited with the finance officer or treasurer of the consolidated government.

5 (6) (a) A city or town finance officer or treasurer may retain the charges collected under subsections
 6 (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for the payment of
 7 salaries of the city or town attorney and deputies.

8 (b) Each county finance officer or treasurer may retain the charges collected under subsections (1)(a)
 9 and (1)(b) by district courts for crimes committed or alleged to have been committed within that county. The
 10 county finance officer or treasurer shall use the money for the payment of salaries of its deputy county attorneys
 11 and for the payment of other salaries in the office of the county attorney, and any funds not needed for those
 12 salaries may be used for the payment of any other county salaries.

13 (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or treasurer may
 14 retain the charges collected under subsection (1)(c) for payment of the expenses of a victim and witness advocate
 15 program, including a program operated by a private, nonprofit organization, that provides the services specified
 16 in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or used by the county, city, or town.

17 (b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each charge
 18 collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs incurred by
 19 the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to
 20 allocation under 46-18-251.

21 (c) Except as provided in subsection (7)(b), if the county, city, or town does not operate or use a victim
 22 and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims
 23 compensation and assistance program in the department of justice for deposit in the account provided for in
 24 53-9-113.(Terminates June 30, 2021--sec. 27, Ch. 285, L. 2015; sec. 1, Ch. 292, L. 2015.)

25 **46-18-236. (Effective July 1, 2021) Imposition of charge upon conviction or forfeiture --**
 26 **administration.** (1) Except as provided in subsection (2), there must be imposed by all courts of original
 27 jurisdiction on a person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond
 28 or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows:

29 (a) \$15 for each misdemeanor charge;

30 (b) the greater of \$20 or 10% of the fine levied for each felony charge; and

1 (c) an additional ~~\$50~~ ~~\$100~~ \$75 for each misdemeanor and felony charge under Title 45, 61-8-401,
2 61-8-406, or 61-8-411.

3 (2) If a convicting court determines under 46-18-231 and 46-18-232 that the person is not able to pay
4 the fine and costs or that the person is unable to pay within a reasonable time, the court shall waive payment of
5 the charge imposed by this section.

6 (3) The charges imposed by this section are not fines and must be imposed in addition to any fine and
7 may not be used in determining the jurisdiction of any court.

8 (4) When the payment of a fine is to be made in installments over a period of time, the charges imposed
9 by this section must be collected from the first payment made and each subsequent payment as necessary if the
10 first payment is not sufficient to cover the charges.

11 (5) The charges collected under subsection (1), except those collected under subsections (1)(a) and
12 (1)(b) by a justice's court, must be deposited with the appropriate local government finance officer or treasurer.
13 If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under
14 subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court or justice's
15 court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the
16 county finance officer or treasurer. If the court of original jurisdiction is a court within a consolidated city-county
17 government within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be
18 deposited with the finance officer or treasurer of the consolidated government.

19 (6) (a) A city or town finance officer or treasurer may retain the charges collected under subsections
20 (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for the payment of
21 salaries of the city or town attorney and deputies.

22 (b) Each county finance officer or treasurer may retain the charges collected under subsections (1)(a)
23 and (1)(b) by district courts for crimes committed or alleged to have been committed within that county. The
24 county finance officer or treasurer shall use the money for the payment of salaries of its deputy county attorneys
25 and for the payment of other salaries in the office of the county attorney, and any funds not needed for those
26 salaries may be used for the payment of any other county salaries.

27 (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or treasurer may
28 retain the charges collected under subsection (1)(c) for payment of the expenses of a victim and witness advocate
29 program, including a program operated by a private, nonprofit organization, that provides the services specified
30 in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or used by the county, city, or town.

1 (b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each charge
2 collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs incurred by
3 the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to
4 allocation under 46-18-251.

5 (c) Except as provided in subsection (7)(b), if the county, city, or town does not operate or use a victim
6 and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims
7 compensation and assistance program in the department of justice for deposit in the state general fund to be used
8 to provide services to crime victims as provided in Title 53, chapter 9, part 1."

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10 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2019.

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12 NEW SECTION. **Section 3. Applicability.** [This act] applies to crimes committed on or after July 1,
13 2019.

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