

Amendments to Senate Bill No. 352  
Reference Copy

Requested by Senator Fred Thomas

For the Senate Free Conference Committee

Prepared by Jaret Coles  
April 24, 2019 (8:13am)

1. Title, page 1, line 6.

**Following:** "FUNDS;"

**Insert:** "REVISING THE IMPOSITION OF COSTS FOR A PUBLIC DEFENDER  
ON A CONVICTED DEFENDANT;"

**Following:** "APPROPRIATIONS;"

**Insert:** "AMENDING SECTION 46-8-113, MCA;"

2. Page 1, line 13.

**Insert:** "**Section 1.** Section 46-8-113, MCA, is amended to read:

**"46-8-113. Payment by defendant for assigned counsel -- costs to be filed with court -- collection of unpaid costs.** (1) Subject to the provisions of subsections (2) ~~and (3)~~ through (4), as part of or as a condition of a sentence that is imposed under the provisions of this title, the court shall ~~determine whether order~~ order a convicted defendant ~~should to~~ to pay the costs of counsel assigned to represent the defendant as follows:

(a) If the defendant pleads guilty prior to trial:

(i) to one or more misdemeanor charges and no felony charges, the cost of counsel is \$250; or

(ii) to one or more felony charges, the cost of counsel is \$800.

(b) If the case goes to trial, the defendant shall pay the costs incurred by the office of state public defender for providing the defendant with counsel in the criminal trial. ~~Upon request, the~~ The office of state public defender shall file with the court a statement of the hours spent on the case and the costs and expenses incurred for the trial.

(2) (a) The office of the court administrator shall prepare a single combined report for each court assessing costs under this section by individual defendant and provide a copy of the report to the office of state public defender on a monthly basis. The report must include available information to personally identify the defendant.

(b) The office of state public defender shall:

(i) notify the department of revenue of the defendant's unpaid costs and provide the department of revenue with the defendant's full name, social security number, and address and the amount of the defendant's unpaid costs; and

(ii) work cooperatively with the department of revenue to collect the defendant's unpaid costs.

(c) The department of revenue shall collect the defendant's unpaid costs assessed under this section. All costs collected by the department of revenue or the office of state public defender if the office receives or collects any costs owed under this section must be deposited in the state general fund and clearly credited against any balance owed by a defendant.

(d) The office of the court administrator, office of state public defender, and department of revenue shall develop a mutually agreed-upon report format and procedures for ensuring the timely and accurate transfer of information to collect unpaid costs assessed under this section.

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

(4) The court may not sentence a defendant to pay the costs for assigned counsel unless the defendant is or will be able to pay the costs imposed by subsection (1). The court may find that the defendant is able to pay only a portion of the costs assessed. In determining the amount and method of payment of costs, the court shall take into account the financial resources of the defendant ~~and the nature of the burden that payment of costs will impose.~~

(5) A defendant who has been sentenced to pay costs may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of the costs. ~~If it appears to the satisfaction of the court~~ finds that payment of the amount due will impose manifest hardship on the defendant ~~or the defendant's immediate family~~, the court may reduce all or part of the amount due in costs or modify the method of payment. The court shall notify the office of state public defender of any reduction to the amount due.

(6) A defendant's obligation to make payments for the cost of counsel is suspended during periods of incarceration.

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

{*Internal References to 46-8-113:*

46-8-114 x 46-18-101 x 46-18-201x 46-18-201x  
47-1-110x 61-8-731x}"

**Renumber:** subsequent sections

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