

HB

375

# COMMITTEE REPORT

## HOUSE

FURTHER: JUDICIARY

March 12, 1979

Date: 23 April 79

Mr. Speaker:

The Committee on C&RA has had HB 375

"An Act relating to costs of attorney services provided to indigents charged with violations of municipal ordinances."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)  same title
- replace with CS for \_\_\_\_\_  new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

*[Handwritten signatures]*

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**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

*[Handwritten signatures]*

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*[Handwritten signature]*

\_\_\_\_\_

CHAIRMAN



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

COMMITTEE MINUTES

Pouch V  
State Capitol  
Juneau, Alaska 99801

Official Business

DATE: 4/23/79

BILL NUMBER AND TITLE: HB 375 Relating to costs of attorney services provided to indigents charged with violations of municipal ordinances

ORIGINAL SPONSOR : Rules by Request of the Governor

OTHER SPONSORS:

RECEIVED FROM:

FURTHER REFERRALS: Judiciary

MEMBERS PRESENT:

Bill Parker X  
Margaret Branson X  
Pat O'Connell X

Pat Carney X  
Charlie Parr X  
Fred Zharoff X  
Ray Meicalfe X

INDIVIDUALS CONTACTED:

WITNESSES TESTIFYING:

Brian Shortell -Public Defender

The proposed law would clarify the statutes. Prior to '75 the municipalities assumed court costs for the defense of criminal cases prosecuted under municipal law. The system of accounting was said to be too cumbersome for the municipalities. the impact of the trasferral to the state P D. office has been tremendous. The Anchorage P.D. office is in a desparate situation as the P.D. office had been underfunded from the beginning. Survival of Anchorage office depends on something being done to remedy the situation. Statute should be clarified to make clar that the court costs and defense costs are not the same.

1971 - Alexander vs. City of Anchoarge

1973 - State vs. City of Anchorage

AS 22.15.270 Outlines defense court costs.

Misdemeanors classified as defendable by Public Defender if the penalty involves jail time. A person is entitled to defense if: he could lose a license; jail is a possibility; the fine is heavy enough to connote criminality.

Expenses vary from community to community.. P.D. office was funded for one lawyer and 1 secretary. Attorneys now have to handle 70-90 cases. If bill passes, Shortell would either contract with the municipalities to perform services or would bill for services performed.

Parr:Parr- Municipal tax payers should pay for enforcement of their own laws. Presecution and defense should be municipal costs.

O'Connell - Definition of indigency is the main problem.

Present law requires that a person make repayment to the state if they are found not be be indigent.

COMMITTEE ACTION:

Passed out of committee.

TAPE # 7

SIDE

2

Sections 1236=1732

Lee Sharp, Attorney City/Borough Juneau

1. Municipalities should be able to define "indigency" for themselves if they are to be responsible for costs.

2. Repayment provision is not currently being enforced by the AG. If it isn't being enforced for the state, the municipalities would not be repaid either.

3. Supreme Court ruled that costs included P.D., jury fees, court room, etc.

4. If the municipality decides the costs are too great, they will ask the state to prosecute. So the state would then be paying for both the defense and the prosecution.

5. There is a danger that the indigent would not get the best possible defense as that state might "paper to death" and the municipality would be in the position of pushing for dismissal to cut costs.

Sharp- The basic problem is the definition of indigency.

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. pending HOUSE BILL NO. 375  
 Title An act relating to costs of attorney services provided to indigents  
 Requested by Office of the Governor Date March 5, 1979

II. FISCAL DETAIL  
 Agency Affected Office of the Governor  
 Program Category Affected Administration of Justice  
 BRU, Program, or Subprogram(s) Affected Public Defender Agency  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		-0-				
200 TRAVEL		-0-				
300 CONTRACTUAL		-0-				
400 COMMODITIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		<b>-0-</b>				

FUNDING (Thousands of Dollars)

<u>GENERAL FUND</u>		-0-				
<u>FEDERAL FUNDS</u>						
<u>OTHER (Specify Fund Source)</u>						

POSITIONS

<u>FULL TIME</u>		-0-				
<u>PART TIME</u>						
<u>TEMPORARY</u>						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Since July 1, 1976 the Public Defender Agency has been charged with the defense of indigents charged with violations of municipal ordinances. Out of necessity, the agency has assumed this obligation using existing personnel and resources. For FY 79 two additional positions were authorized in HB 909; one Attorney III for 6 months and one Legal Secretary for 7 months.

Transferring the responsibility for indigent defense to the municipalities is not expected to reduce the case load of the Public Defender Agency, as it is assumed the municipalities would continue to contract with this agency for such services. Any such receipts would be deposited in the general fund.

IV. DATE March 5, 1979 PREPARED BY Janet Green  
 AGENCY Office of the Governor  
 PHONE 465-3545  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

BILL NO. HB 375 re Cost of Attorney Services

Received from \_\_\_\_\_

Original Sponsor \_\_\_\_\_

Referred to Quinn

Fiscal Note \_\_\_\_\_

LAA Legal Research Contact \_\_\_\_\_

CONTACTS:

Alan Hickey 3428 Admin.

Brian Shortell 279-7541

Frank Butchford 4911

RECEIVED: 3/13/79

14B 31

March 12, 1979

The Honorable Terry Gardiner  
Speaker of the House  
Alaska State Legislature  
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III sec. 18, of the Alaska Constitution, I am transmitting a bill transferring to municipalities the cost of providing defense counsel to indigents charged with violation of municipal ordinances.

In the past, the cost of judicial services, including the cost of defending indigent defendants, was borne by the municipality which filed the charges against the person under municipal ordinance. Because it was difficult, if not impossible, for the court system to precisely apportion the cost of judicial services, legislation was passed in 1976 amending AS 22.15.270 to have the state bear those costs. However, the transfer of responsibility for providing defense counsel for indigents charged with violations of municipal ordinances has imposed a substantial burden on the Public Defender Agency. These defense costs, unlike normal court operating costs, are easily identifiable. This bill would transfer back to the municipality bringing the charge against the indigent the responsibility for paying those costs, and thus more fairly allocate the costs to the user of the services.

Sincerely,

*S/SSH*

Jay S. Hammond  
Governor