

By Mr. DiMasi of Boston, petition of Salvatore F. DiMasi, W. Paul White and Michael F. Flaherty for legislation to further define and to further regulate indigent court costs. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT FURTHER DEFINING AND REGULATING INDIGENT COURT COSTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Paragraph 4 of Section 27A of Chapter 261 of
2 the General Laws, as most recently amended by Chapter 609 of
3 the Acts of 1982, is hereby amended by inserting after the phrase
4 "fees of an amendment of record" in line eleven the following
5 sentence: — Normal fees and costs shall not include services
6 performed for the court, including the following: —

7 (1) stenographic recordation of the court proceedings. This
8 section shall not prohibit the payment by this fund for transcripts
9 for the parties from said recordation, however.

10 (2) court interpreters engaged by the court. This section shall
11 not prohibit the payment by this fund for interpreters for the
12 parties, however.

13 (3) expert witnesses engaged by the court. This section shall not
14 prohibit payment by this fund for expert witnesses for the parties,
15 however.

1 SECTION 2. Section 27C of Chapter 261 of the General Laws,
2 as most recently amended by Chapter 609 of the Acts of 1982,
3 is hereby further amended by inserting at the beginning of
4 paragraph (2) before the phrase "If the affidavit appears regular"
5 the additional new phrase "If the party has been determined to
6 be indigent under the provisions of c. 211D of the General Laws

7 or”, and by striking out paragraphs (4) and (5) thereof, and
8 inserting after paragraph (3) the following new paragraphs: —

9 (4) If the court does not make a finding of indigency, then the
10 party may appeal that decision pursuant to the provisions of
11 Section 27D. If the court makes a finding of indigency, the clerk
12 shall notify the committee for Public Counsel Services and the
13 party shall be entitled to normal fees and costs and to extra fees
14 and costs that are reasonably necessary to assure the applicant
15 as effective a representation of his case as he would have if he
16 were financially able to pay.

17 (5) Requests for payment of normal fees and costs and extra
18 fees and costs shall be submitted to the Committee for Public
19 Counsel Services, which shall establish procedures for the receipt,
20 approval or denial, processing, and payment of such applications.
21 Any application denied by the Committee for Public Counsel
22 Services may be appealed ex parte to the court in whose
23 jurisdiction the matter is pending. Such court shall hold an ex
24 parte hearing on the appeal and if the court denies the appeal from
25 the Committee action, the party shall have the right to appeal
26 pursuant to Section 27D. The court shall, within three days, set
27 forth its written findings and reasons justifying such denial, which
28 document shall be part of the record on appeal.

29 (6) The clerk of each court shall conspicuously post in the part
30 of his office open to the public a notice informing the public in
31 plain language of the availability of these procedures. The
32 Committee for Public Counsel Services shall provide to the clerks
33 such notice for posting.

1 SECTION 3. Section 27D of Chapter 261 of the General Laws,
2 as most recently amended by c. 609 of the Acts of 1982, is hereby
3 further amended by striking out in line thirteen of said paragraph
4 the number (4) and inserting in its place the number (5) and by
5 adding the following new sentence at the end of the paragraph: —

6 The entire appeal proceeding shall be treated as an ex parte
7 proceeding.

1 SECTION 4. Section 27G of Chapter 261 of the General Laws
2 as most recently amended by Chapter 609 of the Acts of 1982 is

3 hereby further amended by striking out the first paragraph and
4 inserting in its place the following new first paragraph: —

5 The Committee for Public Counsel Services shall receive from
6 any indigent party or his attorney all bills and vouchers for any
7 document, service or object rendered to said party for which the
8 Committee or a court has issued an order for payment, and the
9 Committee shall process for payment said bills and vouchers in
10 accordance with the provisions of section 12 of chapter 211D.

1 SECTION 5. Section 27G of Chapter 261 of the General Laws
2 as most recently amended by Chapter 609 of the Acts of 1982 is
3 hereby further amended by striking out in the second and third
4 paragraphs the phrase “office of the chief administrative justice”
5 and inserting in its place the phrase “committee for public counsel
6 services” and by inserting in the second paragraph in line six after
7 the phrase “This record shall be a public record” the new words
8 “at the conclusion of the proceedings.”

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