

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to indigent court costs.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO 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. Chapter 261 of the General Laws is hereby amended by striking out section 27(C)(4)
2 and inserting in place thereof the following section:-

3

4 Section 27(C)(4). If the court makes a finding of indigency:

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6 (a) In criminal cases, juvenile delinquency proceedings and youthful offender cases, and
7 in cases arising under chapter one-hundred and twenty-three A, any request for normal and/or
8 extra fees and costs shall first be submitted to the committee for public counsel services which
9 shall be authorized to approve those requests. The committee shall authorize any request with
10 respect to normal fees and costs, and it shall authorize any request with respect to extra fees
11 and costs if the document, service, or object is reasonably necessary to assure the applicant as
12 effective a prosecution, defense or appeal as he would have if he were financially able to pay. If
13 the committee recommends that such an application be denied, in whole or in part, the request
14 shall be referred for prompt hearing to the court in which the action is pending at the request
15 of the applicant. The committee shall make reasonable efforts to act on the application within
16 10 business days. If the committee fails to act within 10 business days of the date the
17 application was filed, the applicant may file a motion with the court in which the action is
18 pending. The court shall not deny any request or motion filed pursuant to this section if the
19 document, service or object is reasonably necessary to assure the applicant as effective a

20 prosecution, defense or appeal as he would have if he were financially able to pay. The court
21 shall not deny any request without first holding a hearing thereon.

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23 (b) In all other cases, any request for normal and/or extra fees shall be submitted to the
24 court in which the action is pending. The court shall not deny any request with respect to
25 normal fees and costs, and it shall not deny any request with respect to extra fees and costs if it
26 finds the document, service or object is reasonably necessary to assure the applicant as
27 effective a prosecution, defense or appeal as he would have if he were financially able to pay.
28 The court shall not deny any request without first holding a hearing thereon.

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30 (c) If there is an appeal pursuant to section twenty-seven D following a denial, the court
31 shall, within three days, set forth its written findings and reasons justifying such denial, which
32 document shall be part of the record on appeal.

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34 SECTION 2. Chapter 261 of the General Laws is hereby amended by striking out
35 section 27(G) and inserting in place thereof the following section:-

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37 Section 27(G). The committee for public counsel services shall receive from any indigent
38 party or his attorney all bills and vouchers for any document, service or object rendered to said
39 party for which payment by the commonwealth has been authorized pursuant to subsection
40 4(a) of section 27C of this chapter, and shall make prompt payment thereon. The clerk shall
41 receive from any indigent party or his attorney all bills and vouchers for any document, service
42 or object rendered to said party for which an order for payment by the commonwealth has
43 been issued pursuant to subsection 4(b) of section 27C of this chapter, and shall transmit said
44 bills and vouchers and an attested copy of said order to the committee for public counsel
45 services, which shall make prompt payment thereon.

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