

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

592B0785

SENATE BILL NO. 215

Introduced by: Senator Whiting and Representative Duniphan

1 FOR AN ACT ENTITLED, An Act to revise certain provisions fixing the compensation of
2 certain court appointed counsel and expert witnesses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-40-8 be amended to read as follows:

5 23A-40-8. Counsel assigned pursuant to § 23A-40-6 and subdivision 23A-40-7 (2) shall,
6 after the disposition of the cause, be paid by the county in which the action is brought, or, in case
7 of a parole revocation, by the county from which the inmate was sentenced, a reasonable and just
8 compensation for his counsel's services and for necessary expenses and costs incident to the
9 proceedings ~~in an amount to be fixed by a judge of the circuit court or a magistrate judge within~~
10 guidelines established by the presiding judge of the circuit court. However, at the outset of any
11 criminal case in which court appointed counsel has been requested, the judge presiding over the
12 case shall set a maximum allowable expenditure for court appointed counsel costs. If it appears
13 during proceedings in the case that counsel may exceed the maximum set by the court, the court
14 may adjust the maximum expenditure allowed only upon application by such counsel and upon
15 a showing of good cause.

16 Section 2. That § 19-15-16 be amended to read as follows:

1 19-15-16. The compensation of expert witnesses appointed by the court shall be fixed by the
2 court at a reasonable amount, which shall be set by the court prior to the appointment of the
3 expert witnesses and may be adjusted on a showing of good cause. In criminal proceedings it
4 shall be paid by the county under the order of the court, as a part of the costs of the action. In
5 civil proceedings the compensation of experts appointed by the court shall, after it has been fixed
6 by the court, be paid in equal parts by the opposing litigants to the clerk of the court at such time
7 as the court shall prescribe, and thereafter assessed as costs of the suit.