SENATE DOCKET, NO. 1462 FILED ON: 1/21/2011

SENATE . . . . . No. 748

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia S. Creem

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:

An Act relative to the indigent court costs statute.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Cynthia S. Creem	
	☐ *[District]*
	☐

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SENATE . . . . . No. 748

By Ms. Creem, a petition (accompanied by bill, Senate, No. 748) of Cynthia S. Creem for legislation relative to the indigent court statute. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1629* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act relative to the indigent court costs statute.

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

SECTION 1. Chapter 261 of the General Laws is hereby amended by striking out section 27(C)(4) and inserting in place thereof the following section:-

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

(a) In criminal cases, juvenile delinquency proceedings and youthful offender cases, and in cases arising under chapter one-hundred and twenty-three A, any request for normal and/or extra fees and costs shall first be submitted to the committee for public counsel services which shall be authorized to approve those requests. The committee shall authorize any request with respect to normal fees and costs, and it shall authorize any request with respect to extra fees and costs if the document, service, or object is reasonably necessary to assure the applicant as effective a prosecution, defense or appeal as he would have if he were financially able to pay. If the committee recommends that such an application be denied, in whole or in part, the request shall be referred for prompt hearing to the court in which the action is pending at the request of the applicant. The committtee shall make reasonable efforts to act on the application within 10 business days. If the committee fails to act within 10 business days of the date the application was filed, the applicant may file a motion with the court in which the action is pending. The court shall not deny any request or motion filed pursuant to this section if the document, service or object is reasonably necessary to assure the applicant as effective a prosecution, defense or appeal as he would have if he were financially able to pay. The court shall not deny any request without first holding a hearing thereon.

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

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

29 SECTION 2. Chapter 261 of the General Laws is hereby amended by striking out section
30 27(G) and inserting in place thereof the following section:-

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