

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 43

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

R. David Pederson

AN ACT

RELATING TO CRIMINAL PROCEEDINGS; CLARIFYING THAT NEEDY  
PERSONS ARE ENTITLED TO RECEIVE EFFECTIVE ASSISTANCE OF  
COUNSEL; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-16-3 NMSA 1978 (being Laws 1968,  
Chapter 69, Section 60) is amended to read:

"31-16-3. RIGHT TO REPRESENTATION. --

A. A needy person who is being detained by a law  
enforcement officer, or who is under formal charge of having  
committed, or is being detained under a conviction of, a  
serious crime is entitled to be represented by an attorney and  
to receive effective assistance of counsel to the same extent  
as a person having his own counsel and to be provided with the  
necessary services and facilities of representation, including

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1 investigation and other preparation. The attorney, services  
2 and facilities and expenses and court costs shall be provided  
3 at public expense for needy persons and those services shall  
4 be adequately compensated from the general fund.

5 B. A needy person entitled to representation by an  
6 attorney under Subsection A of this section is entitled to be:

7 (1) counseled and defended at all stages of  
8 the matter beginning with the earliest time when a person  
9 providing his own counsel would be entitled to be represented  
10 by an attorney;

11 (2) represented in any appeal or review  
12 proceedings; and

13 (3) represented in any other postconviction  
14 proceeding [~~that~~], including habeas corpus petitions filed in  
15 the state courts of New Mexico, when the attorney or the needy  
16 person considers it appropriate unless the court in which the  
17 proceeding is brought determines that it is not a proceeding  
18 that a reasonable person with adequate means would be willing  
19 to bring at his own expense.

20 C. A needy person's right to a benefit under this  
21 section is unaffected by his having provided a similar benefit  
22 at his own expense, or by his having waived it, at an earlier  
23 stage. "

24 Section 2. EFFECTIVE DATE. --The effective date of the  
25 provisions of this act is July 1, 1999.

1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 January 25, 1999  
7

8 Mr. Speaker:  
9

10 Your JUDICIARY COMMITTEE, to whom has been referred  
11

12 HOUSE BILL 43  
13

14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, and thence referred to the  
16 APPROPRIATIONS & FINANCE COMMITTEE.

17 Respectfully submitted,  
18

19  
20  
21 \_\_\_\_\_  
22 R. David Pederson, Chairman  
23  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HJC/HB 43

Page 4

4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

6 (Chief Clerk)

(Chief Clerk)

8 Date \_\_\_\_\_

10 The roll call vote was 11 For 1 Against

11 Yes: 11

12 No: Mallory

13 Excused: None

14 Absent: None

16 G:\BILLTEXT\BILLW\_99\H0043

underscored material = new  
[bracketed material] = delete

1 FORTY- FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3

4 February 16, 1999  
5

6  
7 Mr. Speaker:  
8

9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to  
10 whom has been referred

11 HOUSE BILL 43  
12

13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, amended as follows:  
15

- 16 1. On page 2, line 4, strike "from the general fund".  
17

18 Respectfully submitted,  
19

20  
21 \_\_\_\_\_  
22  
23 Max Coll, Chairman  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

Page 6

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 1 Against

Yes: 10

No: Pearce

Excused: Abeyta, Garcia, M H. , Larrañaga, Picraux, Salazar, Watchman

Absent: None

G:\BILLTEXT\BILLW\_99\H0043

underscored material = new  
[bracketed material] = delete

1  
2  
3 FORTY- FOURTH LEGI SLATURE  
4 FIRST SESSI ON, 1999

HB 43/a

5  
6 March 8, 1999

7  
8 Mr. Presi dent:

9  
10 Your JUDI CI ARY COMMI TTEE, to whom has been referred

11 HOUSE BILL 43, as amended

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, amended as follows:

- 15  
16 1. On page 1, line 23, strike "effective".

17  
18 Respectfully submit ted,

19  
20  
21  
22  
23 Mi chael S. Sanchez,

24 Chai rman

25  
. 124815. 1

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

Page 8

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 4 For 2 Against

Yes: 4

No: Payne, Stockard

Excused: Aragon, Davis

Absent: None

H0043JU1

underscored material = new  
[bracketed material] = delete