

## Opinion No. 63-73

June 24, 1963

**BY:** OPINION of EARL E. HARTLEY, Attorney General

**TO:** Honorable W. T. Scoggin District Judge Third Judicial District Las Cruces, New Mexico

### QUESTION

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Are the probation costs provided for in the Criminal Code, Laws 1963, Chapter 303, Section 29-18 to be credited to the State Court Fund?

#### CONCLUSION

Yes.

### OPINION

#### {\*152} ANALYSIS

Costs in criminal prosecutions are unknown at common law; their recovery in any criminal case depends wholly upon the statutory provisions therefor. 14 Am. Jur., Costs, Section 107.

Turning to the relevant statutory provisions, we find that Section 29-18 of the new Criminal Code, Laws 1963, Chapter 303, provides that the district court may, as a condition of probation, require the defendant to "pay the actual costs of his probation service not exceeding two-hundred dollars."

Senate Bill 37 (Laws 1963, Chapter 214, Section 2) provides that "all costs collected in criminal {\*153} cases" shall be remitted to the state treasurer for credit to the state court fund.

These costs which a Defendant may be required to pay for probation service are "a cost in a criminal case" and the disposition thereof is thus governed by Senate Bill 37. For a discussion of a similar probation cost statute, see **People v. Robinson**, 253 Mich. 507, 235 N.W. 236.

By: Oliver E. Payne

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