

**663.44 Costs.**

1. If the plaintiff is discharged, the costs shall be assessed to the defendant, unless the defendant is an officer holding the plaintiff in custody under a commitment, or under other legal process, in which case the costs shall be assessed to the county. If the plaintiff's application is refused, the costs shall be assessed against the plaintiff, and, in the discretion of the court, against the person who filed the petition in the plaintiff's behalf.

2. Notwithstanding subsection 1, if the plaintiff is confined in any state institution and is discharged in habeas corpus proceedings, or if the habeas corpus proceedings fail, and costs and fees cannot be collected from the person liable to pay costs and fees, the costs and fees shall be paid by the county in which such state institution is located. The facts of such payment and the proceedings on which it is based, with a statement of the amount of fees or costs incurred, with approval in writing by the presiding judge appended to the statement or endorsed on the statement, shall be certified by the clerk of the district court under the seal of office to the state executive council. The executive council shall review the proceedings and authorize reimbursement for all such fees and costs or such part of the fees and costs as the executive council finds justified, and shall notify the director of the department of administrative services to draw a warrant to such county treasurer for the amount authorized. There is appropriated from moneys in the general fund not otherwise appropriated an amount necessary to pay the reimbursement authorized by the executive council. The costs and fees referred to above shall include any award of fees made to a court appointed attorney representing an indigent party bringing the habeas corpus action.

[C97, §4459; C24, 27, 31, 35, 39, §12511; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §663.44]

[86 Acts, ch 1237, §40](#); [2003 Acts, ch 145, §286](#); [2011 Acts, ch 131, §39, 158](#)

Referred to in [§602.8102\(114\)](#), [822.1](#)