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HOUSE BILL 539

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

CISCO MCSORLEY

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

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

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1 investigation and other preparation. The attorney, services and
2 facilities and expenses and court costs shall be provided at
3 public expense for needy persons, and those services shall be
4 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 the
8 matter beginning with the earliest time when a person providing
9 his own counsel would be entitled to be represented by an
10 attorney;

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

13 (3) represented in any other postconviction
14 proceeding, ~~[that]~~ including a habeas corpus petition filed in a
15 state court of New Mexico, when the attorney or the needy person
16 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 to
19 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, 1996.