

Act 349 of the 1989 Regular Session.

Act 349

HB1467

By: Representatives J. Roberts and O. Miller

"AN ACT TO ESTABLISH AN OFFICE OF PUBLIC DEFENDER IN ANY COUNTY IN THIS STATE HAVING A POPULATION OF NOT LESS THAN 27,000 NOR MORE THAN 27,400 ACCORDING TO THE 1980 DECENNIAL FEDERAL CENSUS; TO CREATE A PUBLIC DEFENDER COMMITTEE IN ANY COUNTY SUBJECT TO THE PROVISIONS OF THIS ACT; TO PRESCRIBE THE FUNCTIONS AND DUTIES OF EACH OFFICE OF PUBLIC DEFENDER AND EACH PUBLIC DEFENDER COMMITTEE CREATED BY THIS ACT; TO AUTHORIZE THE LEVY OF ADDITIONAL COURT COSTS IN CIVIL AND CRIMINAL CASES TO PROVIDE FUNDS TO SUPPORT THE OFFICE OF PUBLIC DEFENDER; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. An office of Public Defender is hereby created in any county in the state having a population of not less than 27,000 nor more than 27,400 according to the 1980 federal decennial census. It shall be the responsibility of an office of Public Defender created pursuant to this act to provide legal representation without charge before the circuit courts, municipal courts, juvenile courts and in appeals to the Arkansas Supreme Court or the Arkansas Court of Appeals, for indigent persons charged with crimes for which the penalty includes incarceration, and before the probate court in proceedings involving involuntary commitments.

SECTION 2. The public defender for any county in which the Public Defender office is established by this act shall be appointed by the county Public Defender Committee hereafter created and shall be a person licensed to practice law in Arkansas and a practicing attorney in the county.

SECTION 3. The quorum court of any county in which a Public Defender office is created by this act is hereby authorized to levy an additional court cost not to exceed five dollars (\$5.00) in each civil or criminal case filed in the circuit, chancery, probate or municipal courts in such county, except that such additional cost shall not be applicable to actions filed in small claims division of the municipal court. All funds derived from such additional court costs shall be deposited in the treasury to the credit of a special fund to be known as The Public Defender Fund and shall be used solely and exclusively for support of the office of Public Defender in the county.

SECTION 4. The quorum court of any county in which the office of Public Defender is created by this act shall appropriate the necessary funds for the operation of the office of Public Defender and shall prescribe the salary and other allowances to be paid to the public defender and any other employees of the office of Public Defender.

SECTION 5. The person selected to serve as public defender shall be permitted to maintain a private law practice so long as such practice does not interfere with the performance of his or her duties as public defender.

SECTION 6. There is hereby created a three-member Public Defender Committee in any county subject to the provisions of this act which committee shall consist of the county judge of the county, a judge of the municipal courts of the county, and one member of the county bar association of such county. All complaints regarding the office of Public Defender shall be investigated by the County Public Defender Committee and the findings of that committee shall be conveyed to the judge of the circuit court of the county, together with the committee's recommended action. A recommendation of dismissal of the public defender shall be made only for good cause and with approval of a majority vote of the County Public Defender Committee. Any such recommendation shall be filed with the circuit court of the county and shall become final only upon order of the circuit court.

SECTION 7. The public defender shall make and file a written quarterly report with the office of county clerk with copies to the County Public Defender Committee showing the number of cases handled each month, the type of cases, and their disposition. Individual files shall be maintained in the office of Public Defender on all cases handled by the office.

SECTION 8. The Public Defender Committee with the assistance of the public defender, shall establish guidelines for determining who shall be qualified to receive public defender representation. Any guidelines so established shall be subject to approval of the judge of the circuit court of the county. Each applicant for representation by the public defender shall complete and execute such documents pertaining to the applicant's financial condition as may be prescribed by the circuit court.

SECTION 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 10. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 11. EMERGENCY. It is hereby found and determined by the General Assembly that in certain counties of the state, there has been a substantial increase in the number of cases in the circuit court, municipal court and juvenile court in which it has been necessary for the court to appoint attorneys to represent defendants who are not financially able to pay for such representation; that the appointment of attorneys to represent indigent defendants has resulted in inequities in the administration of justice, overcrowding in the county jail, crowded court dockets, all of which could be alleviated by a more orderly handling of cases in which indigent defendants are charged with crimes; that a more orderly handling of such cases can be accomplished by the establishment of an office of Public Defender in those counties and that it is in the best interest of all parties involved, including the general public, that such office be created to alleviate these conditions and to secure to indigent defendants their constitutional rights to effective assistance by counsel; that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 6, 1989

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