

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 1552

5 By: Representatives Jeffrey, Ledbetter, Lamoureux
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For An Act To Be Entitled

9 AN ACT TO FURTHER DEFINE THE DUTIES OF THE
10 CAPITAL, CONFLICTS, AND APPELLATE OFFICE OF THE
11 ARKANSAS PUBLIC DEFENDER COMMISSION; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14 AN ACT TO FURTHER DEFINE THE DUTIES OF
15 THE CAPITAL, CONFLICTS, AND APPELLATE
16 OFFICE OF THE ARKANSAS PUBLIC DEFENDER
17 COMMISSION.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 16-87-205 is amended to read as follows:
24 16-87-205. Capital, Conflicts, and Appellate Office.

25 (a) There is hereby created the Capital, Conflicts, and Appellate
26 Office to represent indigent defendants when the death penalty is sought and
27 the trial public defender's office is unable to represent the defendant for
28 the reasons set forth in (c)(1)(A).

29 (b) The Capital, Conflicts, and Appellate Office shall operate under
30 the supervision of the Executive Director of the Arkansas Public Defender
31 Commission.

32 (c) The Arkansas Public Defender Commission shall be appointed by the
33 trial court in the following situation:

34 (1)(A) In capital murder cases in which the death penalty is
35 sought, if a conflict of interest is determined by the court to exist between
36 the trial public defender's office and the indigent person, or if for any



1 other reason the court determines that the trial public defender cannot or
 2 should not represent the indigent person.

3 (B) Such representation may be in conjunction with
 4 appointed private attorneys.

5 (C) In capital murder cases, unless the prosecuting
 6 attorney informs the circuit court at the arraignment of the defendant that
 7 the death penalty will not be sought, it shall be presumed for purposes of
 8 this section that the death penalty will be sought.

9 (D)(i) The executive director may assign the Capital,
 10 Conflicts, and Appellate Office, a trial public defender from another area, a
 11 private attorney whose name appears on a list of attorneys maintained by the
 12 commission, or a combination of private and public defender attorneys to
 13 represent the indigent person.

14 (ii) The executive director shall notify the trial
 15 court of the assignment and an order reflecting the assignment shall be
 16 entered. ~~to~~

17 (2)(A) In noncapital cases, if a conflict of interest is
 18 determined by the court to exist between the trial public defender's office
 19 and the indigent person or if for any other reason the court determines that
 20 the trial public defender cannot or should not represent the indigent person,
 21 then the court, if time permits, shall contact the Arkansas Public Defender
 22 Commission to determine if a public defender from an adjacent area is
 23 available for appointment.

24 (B) If time does not permit, or if there is not a trial
 25 public defender from an adjacent area available, then the court may appoint a
 26 private attorney, and within twenty (20) days of the appointment the trial
 27 judge shall in writing notify the Arkansas Public Defender Commission of the
 28 appointment, the type of case, and the reason for the appointment.

29 (d) To the extent money is appropriated therefor, the executive
 30 director of the commission may hire attorneys, investigators, research
 31 assistants, and other staff as necessary to properly represent indigent
 32 persons.

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