

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 88th General Assembly
3 Regular Session, 2011
4

A Bill

HOUSE BILL 1004

5 By: Representative J. Edwards
6

For An Act To Be Entitled

8 AN ACT TO PROHIBIT THE PAYMENT OF PRIVATELY RETAINED
9 ATTORNEYS FOR INDIGENT PERSONS EXCEPT IN CERTAIN
10 CIRCUMSTANCES; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO PROHIBIT THE PAYMENT OF PRIVATELY
13 RETAINED ATTORNEYS FOR INDIGENT PERSONS
14 EXCEPT IN CERTAIN CIRCUMSTANCES.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 16-87-212 is amended to read as follows:
21 16-87-212. Court fees and expenses.

22 (a)(1) The Arkansas Public Defender Commission is authorized to pay
23 for certain expenses regarding the defense of indigents.

24 (2)(A) The expenses shall include, but shall not necessarily be
25 limited to, fees for ~~appointed~~ counsel appointed by the court, expert
26 witnesses, temporary investigators, testing, and travel.

27 (B)(i) Expenses shall not include, except as provided
28 under subdivision (a)(2)(B)(ii) of this section, counsel privately retained
29 for the benefit of an indigent person for that person's defense.

30 (ii) In limited circumstances, the commission may
31 authorize the payment of counsel privately retained for the benefit of an
32 indigent person for that person's defense if counsel meets the standards set
33 by the commission, under this subchapter, that would govern the appointment
34 of counsel in a case with similar facts.

35 (3)(A) Whenever a judge orders an authorized payment in a case
36 involving an indigent person, a copy of the order accompanied by a detailed



1 explanation of services rendered, time spent, and expenses incurred shall be
2 transmitted to the commission, and the commission shall set the amount of
3 compensation.

4 (B) Orders as authorized throughout this chapter shall be
5 paid by the commission provided sufficient funds are available.

6 (b)(1) With the approval of the ~~executive director~~ Executive Director
7 of the Arkansas Public Defender Commission, trial public defenders, appointed
8 private attorneys, and the Capital, Conflicts, and Appellate Office are
9 ~~hereby~~ authorized to utilize the services of the State Crime Laboratory for
10 pathology and biology, toxicology, criminalistics, raw drug analysis, latent
11 fingerprint identification, questioned documents examination, firearms and
12 toolmarks identification, and in other such areas as the trial judge may deem
13 necessary and appropriate.

14 (2) If approved by the executive director, the State Crime
15 Laboratory shall provide the requested services.

16 (c) At the discretion of the commission, capital murder cases and all
17 proceedings under the Arkansas Rules of Criminal Procedure, Rule 37.5, shall
18 be paid entirely by the commission.

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20 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that the proper funding of defense
22 counsel for indigent persons is of manifest importance; that a recent
23 decision by the Arkansas Supreme Court has cast doubt on how privately
24 retained defense attorneys are to be paid, if at all; and that this act is
25 immediately necessary because there is a question how the Arkansas Public
26 Defender Commission should deal with the issue of privately retained
27 attorneys. Therefore, an emergency is declared to exist and this act being
28 immediately necessary for the preservation of the public peace, health, and
29 safety shall become effective on:

30 (1) The date of its approval by the Governor;

31 (2) If the bill is neither approved nor vetoed by the Governor,
32 the expiration of the period of time during which the Governor may veto the
33 bill; or

34 (3) If the bill is vetoed by the Governor and the veto is
35 overridden, the date the last house overrides the veto.

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