

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

As Engrossed: H1/19/11
A Bill

HOUSE BILL 1004

5 By: Representative J. Edwards
6

7 **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

12 **Subtitle**

13 TO PROHIBIT THE PAYMENT OF PRIVATELY
14 RETAINED ATTORNEYS FOR INDIGENT PERSONS
15 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, attorney's fees for
28 counsel privately retained for the benefit of an indigent person for that
29 person's defense.

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

36 (3)(A) Whenever a judge orders an authorized payment in a case



1 involving an indigent person, a copy of the order accompanied by a detailed
2 explanation of services rendered, time spent, and expenses incurred shall be
3 transmitted to the commission, and the commission shall set the amount of
4 compensation.

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

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

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

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

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

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

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

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

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/s/J. Edwards