

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 1018

BY: SMITH

AS INTRODUCED

AN ACT RELATING TO INDIGENT CRIMINAL DEFENDANTS;
AMENDING 22 O.S. 1991, SECTIONS 1355, 1355.2,
1355.3 AND 1355.4, WHICH RELATE TO THE INDIGENT
DEFENSE SYSTEM, DESIGNATING DIVISIONS; ELIMINATING
CERTAIN POSITION; MODIFYING POWERS AND DUTIES OF
BOARD; DELEGATING DUTIES TO CERTAIN PERSONS; AND
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1355, is amended to read as follows:

Section 1355. A. Sections 1355 through 1368 of this title and Sections ~~3~~ 1355.2 through ~~15~~ 1355.14 of this ~~act~~ title shall be known and may be cited as the "Indigent Defense Act".

B. The Oklahoma Indigent Defense System is hereby created, to be comprised as follows:

1. Effective July 1, 1991, the Oklahoma Indigent Defense System shall include the ~~Oklahoma Appellate Indigent Defender Post Conviction/Collateral Appeal~~ Division created pursuant to Section 1356 of this title, and the ~~Capital Litigation~~ Direct Appeals Division created pursuant to Section ~~11~~ 1355.10 of this ~~act~~ title; and

2. Effective July 1, 1992, the Oklahoma Indigent Defense System shall include the divisions provided for in paragraph 1 of this subsection, the Indigent Defense Division and the indigent defense programs established pursuant to Sections ~~6~~ 1355.5 through ~~10~~ 1355.9 of this ~~act~~ title, and any other defender divisions or programs authorized by law after July 1, 1992.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 1355.2, is amended to read as follows:

Section 1355.2 A. As used in the Indigent Defense Act:

1. "Board" means the Oklahoma Indigent Defense System Board;

~~2. "Executive Director" means the chief executive officer of the Oklahoma Indigent Defense System; and~~

~~3.~~ 2. "System" means the Oklahoma Indigent Defense System.

B. As used in the Oklahoma Statutes, references to "public defender" shall mean the appellate indigent defender, an attorney employed by the ~~Capital Litigation~~ Direct Appeals Division, the county indigent defender, an attorney who represents indigents pursuant to contract or who volunteers to represent indigents, or beginning July 1, 1992, the trial indigent defender.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 1355.3, is amended to read as follows:

Section 1355.3 A. The Board shall have the following powers and duties:

1. To establish policies and rules for the indigent defense programs as provided by law;

2. To require annual reports of expenditures of funds, cases involved in, and status of such cases for the preceding fiscal year from each of the chief administrative officers of the respective indigent defense programs;

3. To approve a master budget for the System, which will be prepared and administered by the ~~Executive~~ Division Director;

4. To establish through written policies maximum caseloads for the programs assigned to the Board;

5. To require reduction of caseloads through reassignment of cases to private attorneys, as necessary;

6. To approve the sharing of office space, equipment, or personnel among the separate indigent defense programs;

7. To authorize the acceptance and expenditure of monies, gifts, grants, or services from any public or private source;

8. To authorize entering into contracts with individuals, educational institutions, or state or federal agencies;

9. To establish an equitable distribution plan for allocation of any funds or gifts received from public or private sources for indigent defense and distribute such funds in accordance with such plan; and

10. To appoint an advisory council made up of indigent defenders and defense lawyers who represent indigents pursuant to contract or who volunteer to represent indigents to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to conducting Oklahoma criminal defense in a professional manner.

B. The Board shall make an annual report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Oklahoma Supreme Court, and the Presiding Judge of the Oklahoma Court of Criminal Appeals regarding the efforts of the Board to implement the purposes of the Indigent Defense Act.

SECTION 4. AMENDATORY 22 O.S. 1991, Section 1355.4, is amended to read as follows:

Section 1355.4 A. ~~The chief executive officer of the Oklahoma Indigent Defense System shall be the Executive Director, who shall be appointed by the Board and serve at the pleasure of the Board. The Executive Director shall be an attorney who has been licensed to~~

~~practice law in this state for at least five (5) years preceding the appointment, with experience in the representation of persons accused or convicted of crimes.~~

B. The Executive Director of each Division shall perform administrative functions which serve the Board, and each of the divisions assigned to the Board.

~~C.~~ B. The ~~Executive Director~~ Division Directors shall have the following powers and duties:

1. To prepare and administer a master budget and to process claims for the System;

2. To take such actions as shall strengthen the criminal justice system in this state;

3. To provide a professional organization for the education, training, and coordination of technical efforts of all attorneys representing indigent criminal defendants;

4. To maintain and improve defense efficiency and effectiveness in guaranteeing effective representation for the indigent criminal defendant;

5. To employ such personnel as necessary to carry out the duties imposed upon the System by law;

6. To solicit and maintain a current list of attorneys licensed to practice law in this state who are willing to accept court appointments and who meet any other qualifications as set by the Board;

7. To solicit and maintain a separate list of persons eligible for appointment to capital cases, who meet the qualifications set by the Board;

8. To determine when appointment of counsel is needed in pro se applications for post-conviction relief, subject to the approval of the Board;

9. To establish policies and rules for the appointment of counsel in post-conviction cases, subject to approval by the Board;

10. To convene regional or statewide conferences and training seminars for the purpose of implementing the provisions of the Indigent Defense Act;

11. To serve in an advisory capacity to the indigent defenders and defense attorneys who represent indigents pursuant to contract or who volunteer to represent indigents of the state;

12. To gather and disseminate information to indigent defenders relative to their official duties, including, but not limited to, changes in the law relative to their office; and

13. To recommend additional legislation necessary to upgrade the Oklahoma Indigent Defense System or to improve the justice system.

~~D.~~ C. When an attorney has been appointed in accordance with the Indigent Defense Act, in any county, and needs investigative, expert, or other services, a request ~~for compensation~~ for such services shall be made to the ~~Executive~~ Division Director on a form provided by the ~~Executive~~ Division Director. The ~~Executive~~ Division Director may authorize compensation at a reasonable hourly rate or by contract.

~~E.~~ D. Each individual performing the services provided for in subsection ~~D~~ C of this section shall be reimbursed for their necessary travel expenses as provided by the State Travel Reimbursement Act.

~~F.~~ E. Requests for expenses not included in subsections C and D ~~and E~~ of this section shall require pre-approval by the ~~Executive~~ Division Director.

~~G.~~ F. Any ~~claim~~ contract for services in excess of Three Thousand Dollars (\$3,000.00) shall require the approval of the ~~Board~~ Division Director.

SECTION 5. This act shall become effective September 1, 1992.

43-2-1514 KS

