

ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 1250

By: Steidley of the House
and
Mickle of the Senate

(Witness fees - amending 28 O.S., Section 82 - amending 22
O.S., Section 1355.4 - Indigent Defense Act - effective
date -
emergency)

AUTHOR: Remove Mickle as principal Senate Author and substitute
Smith as principal Senate Author

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting
clause and entire bill and insert

An Act relating to fees; amending 28 O.S. 1991,
Section 82, as amended by Section 2, Chapter 282,
O.S.L. 1992 (28 O.S. Supp. 1992, Section 82), which
relates to witness fees, and 22 O.S. 1991, Section
1355.4, as amended by Section 5, Chapter 303,
O.S.L. 1992 (22 O.S. Supp. 1992, Section 1355.4),
which relates to the Indigent Defense System;
clarifying language; providing for payment of
witness fees; providing an effective date; and
declaring an emergency.

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

SECTION 1. AMENDATORY 28 O.S. 1991, Section 82, as amended by Section 2, Chapter 282, O.S.L. 1992 (28 O.S. Supp. 1992, Section 82), is amended to read as follows:

Section 82. ~~All witnesses~~ A. Any witness on behalf of the state appearing in obedience to a subpoena or order at any stage of a criminal case or proceeding and in any civil case or proceeding brought by the State of Oklahoma directly or on relation of the district attorney, or by the board of county commissioners on behalf of the county, shall be paid from any monies available for the operations of the district attorney office in such county the fees and mileage at the rate prescribed by law. Upon conviction, such fees and mileage shall be taxed as costs in the case and collected as other costs in the case. All funds recovered for such fees and mileage shall be deposited in the "District Attorneys Council Revolving Fund." One percent (1%) of any fee collected pursuant to this subsection shall be retained by the court clerk as an administrative fee and deposited in the court fund.

B. Any witness on behalf of an indigent defendant appearing in obedience to a subpoena or order at any stage of a criminal case or proceeding brought by the State of Oklahoma directly or on relation of the district attorney shall be paid from:

1. The court fund, if the case is subject to the provisions of Section 138.1 et seq. of Title 19 of the Oklahoma Statutes; or

2. From funds available for expenditure by the Indigent Defense System, if the case is subject to the Indigent Defense Act; provided, witness fees in cases subject to the Indigent Defense Act due to conflict of interest of a county indigent defender shall be paid from the court fund.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 1355.4, as amended by Section 5, Chapter 303, O.S.L. 1992 (22 O.S. Supp. 1992, 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 four (4) years preceding the appointment, with experience in the representation of persons accused or convicted of crimes.

B. The Executive Director shall perform administrative functions which serve the Board.

C. The Executive Director shall have the following powers and duties:

1. To prepare and administer a master budget to be submitted to the Board and to process claims for the System, subject to approval by the Board;

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 for the appointment of counsel in post-conviction cases, subject to approval by the Board;

10. To establish maximum caseloads for attorneys employed by the System, subject to approval by the Board;

11. To require reduction of caseloads through reassignment of cases to private attorneys, as necessary, subject to approval by the Board;

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

13. To prepare and submit to the Board an annual report of expenditures of funds, cases involved in, and status of such cases for the preceding fiscal year and file such report with 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 implementation of the Indigent Defense Act;

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

15. 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;

16. 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

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

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

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

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

G. If there is a vacancy or extended absence in the Office of Executive Director, the Board shall perform said duties or appoint an interim director to perform such duties until a new Executive Director is appointed.

SECTION 3. This act shall become effective July 1, 1993.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 30th day of March, 1993.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1993.

Speaker

of the House of
Representatives