

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 3159

By: Steidley

AS INTRODUCED

An Act relating to civil and criminal procedure; amending 22 O.S. 1991, Sections 1355.1, as last amended by Section 1, Chapter 328, O.S.L. 1994, 1355.8, as last amended by Section 4, Chapter 326, O.S.L. 1997, 1355.13, as last amended by Section 6, Chapter 357, O.S.L. 1992 and 1360, as last amended by Section 11, Chapter 301, O.S.L. 1996 (22 O.S. Supp. 1997, Sections 1355.1, 1355.8, 1355.13 and 1360), which relate to the Indigent Defense Act; changing frequency of regular meetings of the Oklahoma Indigent Defense Board; authorizing the Board to make more than one counter-offer during certain contracting process; providing that maximum compensation for non-System attorney in capital case applies if attorney is co-counsel with a non-System attorney; authorizing the Executive Director and the Board to declare a case to be exceptional before the case is concluded; modifying circumstances in which the Indigent Defense System may provide representation for post-conviction relief; amending 22 O.S. 1991, Section 1089, as amended by Section 4, Chapter 256, O.S.L. 1995 (22 O.S. Supp. 1997, Section 1089), which relates to grounds for appeal in capital post-conviction

cases; modifying time for filing of post-conviction application; amending Section 1, Chapter 361, O.S.L. 1996 (12 O.S. Supp. 1997, Section 921.1), which relates to the Legal Services Revolving Fund; providing that certain limitation on use of Fund shall be continuing; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1355.1, as last amended by Section 1, Chapter 328, O.S.L. 1994 (22 O.S. Supp. 1997, Section 1355.1), is amended to read as follows:

Section 1355.1 There is hereby created the Oklahoma Indigent Defense System Board. The Board shall govern the Oklahoma Indigent Defense System. The Board shall be composed of five (5) members appointed for five-year terms by the Governor with the advice and consent of the Senate. At least three members shall be attorneys licensed to practice law in the State of Oklahoma who have experience through the practice of law in the defense of persons accused of crimes. The Governor shall designate one Board member to serve as chair. No congressional district shall be represented by more than one member on the Board. No county shall be represented by more than one member. The Board shall meet ~~bimonthly~~ every other month upon the call of the chair. Board members shall serve without compensation, but shall be reimbursed for their necessary travel expenses as provided by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. The terms of office for the initial appointees to the Board shall be as follows:

1. The term for Position One shall expire on July 1, 1989;

2. The term for Position Two shall expire on July 1, 1990;
3. The term for Position Three shall expire on July 1, 1991;
4. The term for Position Four shall expire on July 1, 1992; and
5. The term for Position Five shall expire on July 1, 1993.

A Board member shall be eligible for reappointment and shall continue in office until his successor has been appointed, qualified and confirmed by the Senate.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 1355.8, as last amended by Section 4, Chapter 326, O.S.L. 1997 (22 O.S. Supp. 1997, Section 1355.8), is amended to read as follows:

Section 1355.8 A. The Executive Director of the Indigent Defense System may select attorneys to handle noncapital indigent criminal cases from a list of attorneys who have volunteered to accept appointments, who provide proof of professional liability insurance coverage, and who meet the qualifications established by the Board for such appointments. Payment to such attorneys shall be made from the budget of the System.

B. The Board shall have the authority to provide for representation for indigent criminal defendants and others for whom representation is required by either the Constitution or laws of this state by attorneys employed by the System.

C. The Board shall have the authority to award contracts to provide legal representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation, including, but not limited to, renewing any existing contract or contracts for the next fiscal year or soliciting new offers to contract, whichever the Board determines to be in the best interests of the state, the System and the clients represented by the System. Any such contract shall be awarded at such time as the Board may deem necessary.

D. For those counties in which a prior fiscal year contract is not renewed for the succeeding fiscal year or in which the Board

elects to solicit new offers to contract, the Executive Director shall cause notice to be published in the Oklahoma Bar Journal that offers to contract will be accepted to provide indigent legal services. The notice required by this subsection shall include the following:

1. The date, time and place where offers to contract will be opened;

2. The qualifications required of those desiring to make an offer to contract;

3. The period covered by the contract; and

4. A general description of the services required.

E. Only members in good standing of the Oklahoma Bar Association shall be eligible to submit offers to contract pursuant to this section. In addition, all offers to contract must be accompanied by a written statement of the manner in which representation shall be made available as needed.

F. 1. The Board shall accept the best offer or offers, as determined by the Board, from a qualified attorney or attorneys. In determining whether an offer is the best offer, the Board shall take into consideration, among other factors, the following:

a. whether the attorney or attorneys submitting the offer maintain an office within that county;

b. whether any such office is the attorney's primary office;

c. whether the attorney or attorneys submitting the offer have been awarded a contract in another county;

d. whether sufficient attorneys are included in the offer to competently address the number of cases to be covered under the contract; and

e. the accessibility of the attorney or attorneys to the clients to be served if the Board awards a contract on the basis of the offer.

2. The Board shall maintain an original of each offer to contract.

3. Every contract awarded pursuant to the provisions of this subsection which is signed by more than one attorney shall provide that every attorney signing such contract shall be jointly and severally liable for the full performance of all services to be delivered to such contract.

4. Every contract awarded pursuant to the provisions of this subsection shall provide that every attorney who will be performing services pursuant to the contract shall carry professional liability insurance in an amount satisfactory to the Board. No contract shall be effective until proof of such insurance is provided to the Board.

5. In the event that only one qualified offer is received, the Board may accept the offer, make ~~a counter-offer~~ one or more counter-offers, readvertise or provide representation as otherwise authorized by this section. In the event that more than one qualified offer is received for a county or counties, the Board may accept one or more of the offers, make one or more counter-offers to one or more of the offers received, readvertise if the Board determines that awarding a contract or contracts on the offers received would not be in the best interest of the System or the clients represented by the System, or provide representation as otherwise authorized by this section.

6. In the event that no qualified offers to contract are received, the Board may readvertise or cause to be created a list of qualified volunteer attorneys, who provide proof of professional liability insurance coverage, to provide representation to indigent criminal defendants and indigent juveniles. Compensation for such attorneys shall be as provided in subsection G of this section.

7. In the event that no qualified offers are received, and in lieu of creating a list of qualified volunteer attorneys pursuant to paragraph 6 of this subsection, the Board may, pursuant to

subsection B of this section or Section 1355.9 of this title, provide for representation for indigent criminal defendants and indigent juveniles by attorneys employed by the System.

8. In no event shall an attorney, who has not voluntarily agreed to provide representation to indigent criminal defendants and indigent juveniles, be appointed to represent an indigent person.

G. 1. Except as provided in paragraph 3 of this subsection, total compensation for a case which is not covered by an annual contract awarded pursuant to this section shall not exceed Eight Hundred Dollars (\$800.00) in the following cases:

- a. juvenile delinquency proceedings and appeals, adult certification proceedings and appeals, reverse certification proceedings and appeals, youthful offender proceedings and appeals, and any other proceedings and appeals, pursuant to the Oklahoma Juvenile Code, other than mental health cases and appeals, and in-need-of-supervision proceedings and appeals,
- b. traffic cases punishable by incarceration, and
- c. misdemeanor cases.

2. Except as provided in paragraph 3 of this subsection, total compensation for a case which is not covered by an annual contract awarded pursuant to this section shall not exceed Three Thousand Five Hundred Dollars (\$3,500.00) in felony cases, except capital cases.

3. The maximum statutory fees established in this subsection may be exceeded only upon a determination made by the Executive Director and approved by the Board that the case was an exceptional one which required an extraordinary amount of time to litigate, and that the request for extraordinary attorney fees is reasonable.

H. 1. Attorneys paid for indigent defense on a contractual basis shall be paid an annual fee in twelve monthly installments

each equalling seven and one-half percent (7.5%) of the total value of the contract, or as otherwise provided by contract.

2. Attorneys paid for indigent defense pursuant to paragraph 1 of this subsection shall receive the balance of ten percent (10%) of the total value of the contract upon completion of all felony and misdemeanor matters covered by the contract. A matter is completed for purposes of this paragraph when no additional services are required under the contract. The Board, upon recommendation of the Executive Director, may, however, authorize partial payments on a quarterly basis of the amount retained as reasonable compensation for those matters which were completed during the prior quarter. The system may transfer the amount retained from the total value of the contract pursuant to this subsection to the Contract Retention Revolving Fund created by Section 1369 of this title.

I. To receive payment, an attorney must submit a claim in accordance with the provisions of the Indigent Defense Act.

J. Attorneys providing services pursuant to a contract with the System, shall provide periodic status reports on all such cases, as often as deemed necessary by the Board.

K. Any attorney providing services pursuant to a contract with the System shall continue to provide representation for all cases assigned to the attorney during the contract period at the trial level until the trial court ceases to retain jurisdiction; provided, the court shall allow an attorney to withdraw from a case only if the attorney makes proper application to the Executive Director to withdraw from the case and the application is approved by the Director in accordance with policies established by the Board.

L. In any case in which legal representation is not provided by the Oklahoma Indigent Defense System and in which indigents are entitled to legal representation by the Constitution and laws of this state, the court shall appoint legal representation, from a list of qualified volunteer attorneys who provide proof of

professional liability insurance coverage, and direct to be payed from the local court fund a reasonable and just compensation not to exceed Eight Hundred Dollars (\$800.00) to the attorney or attorneys for services as they may render. The compensation limit may be exceeded if the court finds that the case required an extraordinary amount of time to litigate.

M. Beginning July 1, 1996, a pilot program shall be established for representation of indigents. The program shall be established in a District Court Judicial District designated by the Chief Justice of the Supreme Court. In the designated district, the judges of the district shall appoint attorneys from a list of attorneys who have volunteered to represent indigents in the district and who provide proof of professional liability insurance coverage. The attorneys that are appointed shall be compensated from the court fund of each county of the district at an hourly rate established by the chief judge of the district. The total compensation paid for a case shall not exceed the total compensation set out in subsection G of this section.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 1355.13, as last amended by Section 6, Chapter 357, O.S.L. 1992 (22 O.S. Supp. 1997, Section 1355.13), is amended to read as follows:

Section 1355.13 A. In every case in which the defendant is subject to the death penalty and an attorney or attorneys other than an attorney or attorneys employed by the Indigent Defense System are appointed to provide representation, an application for compensation shall be accompanied by an affidavit of each appointed attorney, detailing the hours spent on the case and the services rendered. The application shall also state if any amount awarded by the Executive Director shall be the sole source of compensation for the services provided. If other sources of compensation are also used, the other sources of compensation and amounts shall be specified in the application. Except as provided in subsection B of this

section, total compensation for non-System attorneys who serve as lead counsel in capital cases shall not exceed Twenty Thousand Dollars (\$20,000.00) per case. Total compensation for a non-System attorney who is co-counsel with a System or non-System attorney in a capital case shall not exceed Five Thousand Dollars (\$5,000.00) per case.

B. The maximum statutory fee established in this section may be exceeded only upon a determination made by the Executive Director and approved by the Board that the case ~~was~~ is an exceptional one which ~~required~~ requires an extraordinary amount of time to litigate, and that the request for extraordinary attorney fees is reasonable.

SECTION 4. AMENDATORY 22 O.S. 1991, Section 1360, as last amended by Section 11, Chapter 301, O.S.L. 1996 (22 O.S. Supp. 1997, 1360), is amended to read as follows:

Section 1360. A. The System may represent indigents in post-conviction relief in all capital cases.

B. In noncapital cases, the System may represent indigents for post-conviction relief, if the representation is related to another case in which the System has been appointed, or ~~if representation is authorized by the Executive Director pursuant to policies established and adopted by the Board~~ to obtain an appeal out of time on behalf of a System client in a case to which the System has been properly appointed.

C. No attorney employed by the System or providing legal services for the System pursuant to contract shall be required to appear in the district courts of this state on issues of appellate counsel appointment and requests for exhibits, records and transcripts.

After a mandate has been rendered by the Oklahoma Court of Criminal Appeals in any case on direct appeal, the System is prohibited from appealing that case in any further proceedings in either a state or federal court, except in capital cases and in

cases provided for in subsection B of this section. In such capital cases the System shall perfect all petitions for writ of certiorari to the United States Supreme Court and represent such appellants or appellees, as the case may be, in any appearance before that Court.

D. All state and federal constitutional issues affecting guilt and/or sentence shall be raised and decided on the merits in the first post-conviction application. Any issue not so raised and decided shall be dismissed from any subsequent application for post-conviction relief, unless the accused shows good cause why the issue was not raised previously.

SECTION 5. AMENDATORY 22 O.S. 1991, Section 1089, as amended by Section 4, Chapter 256, O.S.L. 1995 (22 O.S. Supp. 1997, Section 1089), is amended to read as follows:

Section 1089. A. The application for post-conviction relief of a defendant who is under the sentence of death in one or more counts and whose death sentence has been affirmed or is being reviewed by the Court of Criminal Appeals in accordance with the provisions of Section 701.13 of Title 21 of the Oklahoma Statutes shall be expedited as provided in this section. The provisions of this section also apply to noncapital sentences in a case in which the defendant has received one or more sentences of death.

B. The Oklahoma Indigent Defense System shall represent all indigent defendants in capital cases seeking post-conviction relief upon appointment by the appropriate district court after a hearing determining the indigency of any such defendant. When the Oklahoma Indigent Defense System or another attorney has been appointed to represent an indigent defendant in an application for post-conviction relief, the Clerk of the Court of Criminal Appeals shall include in its notice to the district court clerk, as required by Section 1054 of this title, that an additional certified copy of the appeal record is to be transmitted to the Oklahoma Indigent Defense System or the other attorney.

C. The only issues that may be raised in an application for post-conviction relief are those that:

1. Were not and could not have been raised in a direct appeal; and

2. Support a conclusion either that the outcome of the trial would have been different but for the errors or that the defendant is factually innocent.

The applicant shall state in the application specific facts explaining as to each claim why it was not or could not have been raised in a direct appeal and how it supports a conclusion that the outcome of the trial would have been different but for the errors or that the defendant is factually innocent.

D. 1. The application for post-conviction relief shall be filed in the Court of Criminal Appeals within ninety (90) days from the date ~~the appellee's brief on direct appeal is filed or, if a reply brief is filed, ninety (90) days from the filing of that reply brief with~~ the Court of Criminal Appeals ~~on the direct appeal~~ files its decision affirming the judgment and sentence imposed in the district court. Where the appellant's original brief on direct appeal has been filed prior to November 1, 1995, and no application for post-conviction relief has been filed, any application for post-conviction relief must be filed in the Court of Criminal Appeals within one hundred eighty (180) days of November 1, 1995. The Court of Criminal Appeals may issue orders establishing briefing schedules or enter any other orders necessary to extend the time limits under this section in cases where the original brief on direct appeal has been filed prior to November 1, 1995.

2. All grounds for relief that were available to the applicant before the last date on which an application could be timely filed not included in a timely application shall be deemed waived.

No application may be amended or supplemented after the time specified under this section. Any amended or supplemental

application filed after the time specified under this section shall be treated by the Court of Criminal Appeals as a subsequent application.

3. Subject to the specific limitations of this section, the Court of Criminal Appeals may issue any orders as to discovery or any other orders necessary to facilitate post-conviction review.

4. a. The Court of Criminal Appeals shall review the application to determine:

- (1) whether controverted, previously unresolved factual issues material to the legality of the applicant's confinement exist,
- (2) whether the applicant's grounds were or could have been previously raised, and
- (3) whether relief may be granted under this act.

b. For purposes of this subsection, a ground could not have been previously raised if:

- (1) it is a claim of ineffective assistance of trial counsel which requires factfinding outside the direct appeal record, or
- (2) it is a claim contained in an original timely application for post-conviction relief relating to ineffective assistance of appellate counsel and the Court of Criminal Appeals first finds that if the allegations in the application were true, the performance of appellate counsel constitutes the denial of reasonably competent assistance of appellate counsel under prevailing professional norms. If the court makes this finding the court may consider the claim during the post-conviction proceeding or, if appropriate, during the direct appeal.

If the Court of Criminal Appeals determines that controverted, previously unresolved factual issues material to the legality of the applicant's confinement do not exist, or that the claims were or could have been previously raised, or that relief may not be granted under this act and enters an order to that effect, the Court shall make findings of fact and conclusions of law or may order the parties to file proposed findings of fact and conclusions of law for the Court to consider on or before a date set by the Court that is not later than thirty (30) days after the date the order is issued. The Court of Criminal Appeals shall make appropriate written findings of fact and conclusions of law not later than fifteen (15) days after the date the parties filed proposed findings.

5. If the Court of Criminal Appeals determines that controverted, previously unresolved factual issues material to the legality of the applicant's confinement do exist, and that the application meets the other requirements of paragraph 4 of this subsection, the Court shall enter an order to the district court that imposed the sentence designating the issues of fact to be resolved and the method by which the issues shall be resolved.

The district court shall not permit any amendments or supplements to the issues remanded by the Court of Criminal Appeals except upon motion to and order of the Court of Criminal Appeals subject to the limitations of this section.

The Court of Criminal Appeals shall retain jurisdiction of all cases remanded pursuant to this act.

6. The district attorney's office shall have twenty (20) days after the issues are remanded to the district court within which to file a response. The district court may grant one extension of twenty (20) days for good cause shown and may issue any orders necessary to facilitate post-conviction review pursuant to the remand order of the Court of Criminal Appeals. Any applications for extension beyond the twenty (20) days shall be presented to the

Court of Criminal Appeals. If the district court determines that an evidentiary hearing should be held, that hearing shall be held within thirty (30) days from the date that the state filed its response. The district court shall file its decision together with findings of fact and conclusions of law with the Court of Criminal Appeals within forty-five (45) days from the date that the state filed its response or within forty-five (45) days from the date of the conclusion of the evidentiary hearing.

7. Either party may seek review by the Court of Criminal Appeals of the district court's determination of the issues remanded by the Court of Criminal Appeals within ten (10) days from the entry of judgment. Such party shall file a notice of intent to seek review and a designation of record in the district court within (10) days from the entry of judgment. A copy of the notice of intent to seek review and the designation of the record shall be served on the court reporter, the petitioner, the district attorney, and the Attorney General, and shall be filed with the Court of Criminal Appeals. A petition in error shall be filed with the Court of Criminal Appeals by the party seeking review within thirty (30) days from the entry of judgment. If an evidentiary hearing was held, the court reporter shall prepare and file all transcripts necessary for the appeal within sixty (60) days from the date the notice and designation of record are filed. The petitioner's brief-in-chief shall be filed within forty-five (45) days from the date the transcript is filed in the Court of Criminal Appeals or, if no evidentiary hearing was held, within forty-five (45) days from the date of the filing of the notice. The respondent shall have twenty (20) days thereafter to file a response brief. The district court clerk shall file the records on appeal with the Court of Criminal Appeals on or before the date the petitioner's brief-in-chief is due. The Court of Criminal Appeals shall issue an opinion in the case within one hundred twenty (120) days of the filing of the

response brief or at the time the direct appeal is decided. If no review is sought within the time specified in this section, the Court of Criminal Appeals may adopt the findings of the district court and enter an order within fifteen (15) days of the time specified for seeking review or may order additional briefing by the parties.

8. If an original application for post-conviction relief is untimely or if a subsequent application for post-conviction relief is filed after filing an original application, the Court of Criminal Appeals may not consider the merits of or grant relief based on the subsequent or untimely original application unless the application contains sufficient specific facts establishing that the current claims and issues have not been and could not have been presented previously in a timely original application or in a previously considered application filed under this section, because the factual or legal basis for the claim was unavailable.

9. For purposes of this act, a legal basis of a claim is unavailable on or before a date described by this subsection if the legal basis:

- a. was not recognized by or could not have been reasonably formulated from a final decision of the United States Supreme Court, a court of appeals of the United States, or a court of appellate jurisdiction of this state on or before that date, or
- b. is a new rule of constitutional law that was given retroactive effect by the United States Supreme Court or a court of appellate jurisdiction of this state and had not been announced on or before that date.

For purposes of this subsection, a factual basis of a claim is unavailable on or before a date described by this subsection if the factual basis was not ascertainable through the exercise of reasonable diligence on or before that date.

E. All matters not specifically governed by the provisions of this section shall be subject to the provisions of the Post-Conviction Procedure Act. If the provisions of this act conflict with the provisions of the Post-Conviction Procedure Act, the provisions of this act shall govern.

SECTION 6. AMENDATORY Section 1, Chapter 361, O.S.L. 1996 (12 O.S. Supp. 1997, Section 921.1), is amended to read as follows:

Section 921.1 A. The Supreme Court shall allocate funds from the Legal Services Revolving Fund to provide legal representation to indigent persons in this state in civil legal matters to the extent that funds are available from the Legal Services Revolving Fund. The Administrative Director of the Courts shall be responsible for allocating these funds pursuant to contract with eligible regional or statewide organizations which ordinarily render legal services to indigent persons. The funds shall be allocated for the benefit of indigent clients in all seventy-seven (77) counties of Oklahoma on a pro rata basis, utilizing an allocation formula that distributes funds according to the number of residents whose incomes are less than the official United States federal poverty guidelines, based on the United States census data, as a percentage of the total number of these residents in this state and which reserves funds for services for specialized areas of law.

B. As used in this section, "eligible organization" means an entity that:

1. Is organized as a not-for-profit corporation that is tax exempt pursuant to the provisions of paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended;

2. Has as its primary purpose the furnishing of legal assistance to eligible clients;

3. Has a board of directors or other governing body the majority of which is comprised of attorneys who are admitted to practice in this state and who are approved to serve on such body by the governing bodies of the state or county bar associations and has at least one-third of the membership who, when selected, are eligible clients; and

4. Is incorporated pursuant to any applicable laws of this state.

C. As a condition of the contract, the organization shall be required to determine the eligibility of any person seeking legal services pursuant to this section.

D. The Administrative Director of the Courts shall prepare annually and distribute to the Judiciary committees of the Senate and the House of Representatives, the Legal Services Committee of the Oklahoma Bar Association, and the Supreme Court a report detailing expenditures of funds for representation to indigent persons in civil legal matters.

E. Each organization that contracts to provide legal services pursuant to subsection A of this section shall maintain books and records in accordance with generally accepted accounting principles. The books and records shall account for the receipt and expenditure of all funds paid pursuant to contract. Books and records shall be maintained for a period of five (5) years from the close of the fiscal year of the contract period. The State Auditor and Inspector shall audit each organization annually. The necessary expense of each audit, including, but not limited to, the cost of typing, printing, and binding, shall be paid from funds of the organization. In lieu of the audit by the State Auditor and Inspector, the organization may submit an audit prepared by an independent auditing firm for compliance with federal auditing requirements. A copy of the audit prepared by or submitted to the State Auditor and

Inspector shall be submitted to the Administrative Director of the Courts.

~~G. F.~~ ~~For fiscal years 1997 and 1998, funds~~ Funds for representation of indigent persons in civil legal matters shall be limited to family law legal services with priority given to cases involving domestic and family violence and abuse. In no event shall such funds ever be used for any of the following activities:

1. Provision of legal services in a fee-generating case unless appropriate private representation is not available;
2. Provision of legal services in any criminal proceeding;
3. Provision of legal services collaterally attacking the validity of a criminal conviction;
4. Provision of legal services which seek to procure an abortion;
5. Provision of legal representation relating to the desegregation of any school or school system;
6. Provision of legal services involving any proceeding derived from the Military Selective Service Act;
7. Provision of legal services to advocate for or oppose any altering of a legislative, judicial, or elective district at any level of government; and
8. Provision of legal services to challenge a census of the United States of America.

~~H. G.~~ G. There is hereby created in the State Treasury a revolving fund for the Oklahoma Supreme Court to be designated the "Legal Services Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Supreme Court for indigent legal services from funds appropriated to the fund, federal funds, gifts, donations, and grants. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Administrative Director of the Courts for the purpose of providing

legal services to indigent clients pursuant to the provisions of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 7. This act shall become effective July, 1, 1998.

SECTION 8. 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.

46-2-8536

SD