

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 772

By: Wilkerson of the Senate

and

Askins of the House

An Act relating to indigent defenders; amending 19 O.S. 2001, Section 138.7, which relates to conflicts of interest and reassignment of case; deleting provision authorizing reassignment of death penalty case to the Oklahoma Indigent Defense System; and declaring an emergency.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to indigent defense; amending 19 O.S. 2001, Sections 138.7 and 138.9, which relate to county indigent defenders; eliminating assignment of certain death penalty cases to the Indigent Defense System; providing for assignment of certain appellate death penalty cases to the Indigent Defense System; and declaring an emergency.

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

SECTION 1. AMENDATORY 19 O.S. 2001, Section 138.7, is amended to read as follows:

Section 138.7 In those counties subject to the provisions of Section 138.1a of this title, if the court determines that a conflict of interest exists between a defendant and the county indigent defender, the case may be reassigned by the court to another county indigent defender, an attorney who represents indigents pursuant to contract, or a private attorney who has agreed to accept such appointments. ~~In addition, in every case where the defendant is subject to the death penalty and a conflict of interest exists between the defendant and the county indigent defender, the~~

~~court may appoint the Indigent Defense System to represent the defendant. However, in every case where multiple defendants exist in the case and more than one defendant is subject to the death penalty and a conflict of interest exists between one or more of the defendants that are subject to the death penalty and the county indigent defender, the court may appoint the Indigent Defense System to represent not more than one of the defendants in the case.~~

SECTION 2. AMENDATORY 19 O.S. 2001, Section 138.9, is amended to read as follows:

Section 138.9 In those counties with a population in excess of three hundred thousand (300,000) under the latest Federal Decennial Census, the county indigent defenders, for those counties subject to the provisions of Section 138.1a of this title, shall perfect appeals for those defendants which they represented in the trial court unless an appellate conflict exists between two or more such defendants, in which case the county indigent defender shall represent one defendant, the Oklahoma Indigent Defense System shall represent one defendant, and the court may assign the appeal of the case for any other defendants in the same manner as provided for conflict at the trial level in Section 138.7 of this title. If an appellate conflict of interest exists between the defendant and the county indigent defender in a case in which the defendant has received the death penalty, the district court may appoint the Indigent Defense System to represent the defendant on appeal. The Oklahoma Indigent Defense System shall also represent all indigent defendants from such counties who were not represented at trial by the county public defenders unless a conflict of interest on appeal exists between defendants, in which case the Oklahoma Indigent Defense System shall represent one defendant, the county indigent defender shall represent one defendant and the court may assign the appeal of the case for any other defendants in the same manner as

provided for conflict at the trial level in Section 138.7 of this title.

SECTION 3. 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 House of Representatives the 10th day of April, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2003.

Presiding Officer of the Senate