

1 ENGROSSED HOUSE  
2 BILL NO. 2175

By: Sears and Martin (Scott) of  
the House

3 and

4 Myers and Jolley of the  
5 Senate

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7  
8 An Act relating to the Oklahoma Indigent Defense  
9 System; amending 22 O.S. 2001, Sections 1355.2 and  
10 1355.6, which relate to the Indigent Defense Act;  
11 providing definition; modifying scope of  
responsibilities of the Oklahoma Indigent Defense  
System; and authorizing court to appoint legal  
representation for persons not in custody.

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

14 SECTION 1. AMENDATORY 22 O.S. 2001, Section 1355.2, is  
15 amended to read as follows:

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

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

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

20 3. "System" means the Oklahoma Indigent Defense System; and

21 4. "Unable to employ counsel" means the inability of a  
22 defendant to obtain legal representation by private counsel in a  
23 case, regardless of whether the defendant is determined by the court  
24 to be indigent. Under no circumstances shall the System be

1 appointed or remain appointed in a case in which the defendant is  
2 represented by private counsel not appearing pursuant to a contract  
3 with the System.

4 B. As used in the Oklahoma Statutes, references to "public  
5 defender" shall mean a county indigent defender for a county subject  
6 to the provisions of Section 138.1a of Title 19 of the Oklahoma  
7 Statutes, an attorney who represents indigents pursuant to a  
8 contract with the System or who agrees to accept assignments of  
9 cases from the System to represent indigents, or an attorney  
10 employed by the System.

11 SECTION 2. AMENDATORY 22 O.S. 2001, Section 1355.6, is  
12 amended to read as follows:

13 Section 1355.6 A. The Indigent Defense System shall have the  
14 responsibility of defending all indigents who are in custody, as  
15 determined in accordance with the provisions of the Indigent Defense  
16 Act in all capital and felony cases and in all misdemeanor and  
17 traffic cases punishable by incarceration. A court may appoint  
18 legal representation for an indigent who is not in custody, in which  
19 case costs for such representation shall be paid from the local  
20 court fund. In addition, the System shall have the responsibility  
21 of defending all indigent juveniles, as determined in accordance  
22 with the provisions of the Indigent Defense Act, in juvenile  
23 delinquency proceedings, adult certification proceedings, reverse  
24 certification proceedings, youthful offender proceedings, and any

1 other cases pursuant to the Oklahoma Juvenile Code, other than  
2 mental health cases, in-need-of-supervision proceedings, and any  
3 other juvenile proceedings that are civil in nature.

4 B. Upon prior approval by the Executive Director, the System  
5 may also represent indigents in other state proceedings, if such  
6 representation is related to the case for which the original  
7 appointment of the System was made and if not otherwise prohibited  
8 by the Indigent Defense Act.

9 C. The Executive Director may select attorneys to handle  
10 indigent criminal cases from a list of attorneys who have agreed to  
11 accept assignments of such cases, who provide proof of professional  
12 liability insurance coverage, and who meet the qualifications  
13 established by the System for such assignments. Payment to such  
14 attorneys shall be made from the budget of the System.

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

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1 Passed the House of Representatives the 13th day of May, 2011.

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4 Presiding Officer of the House of  
Representatives

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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2011.

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9 Presiding Officer of the Senate