

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 HOUSE BILL 2175

By: Sears and Martin (Scott) of
the House

4 and

5 Myers and Jolley of the
6 Senate

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8
9 AS INTRODUCED

10 An Act relating to the Oklahoma Indigent Defense
11 System; amending 22 O.S. 2001, Sections 1355.2 and
12 1355.6, which relate to the Indigent Defense Act;
13 providing definition; modifying scope of
14 responsibilities of the Oklahoma Indigent Defense
15 System; authorizing court to appoint legal
16 representation for persons not in custody; providing
17 an effective date; and declaring an emergency.

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

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

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

- 22 1. "Board" means the Oklahoma Indigent Defense System Board;
- 23 2. "Executive Director" means the chief executive officer of
the Oklahoma Indigent Defense System; ~~and~~
- 24 3. "System" means the Oklahoma Indigent Defense System; and

1 4. "Unable to employ counsel" means the inability of a
2 defendant to obtain legal representation by private counsel in a
3 case, regardless of whether the defendant is determined by the court
4 to be indigent. Under no circumstances shall the System be
5 appointed or remain appointed in a case in which the defendant is
6 represented by private counsel not appearing pursuant to a contract
7 with the System.

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

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

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

1 of defending all indigent juveniles, as determined in accordance
2 with the provisions of the Indigent Defense Act, in juvenile
3 delinquency proceedings, adult certification proceedings, reverse
4 certification proceedings, youthful offender proceedings, and any
5 other cases pursuant to the Oklahoma Juvenile Code, other than
6 mental health cases, in-need-of-supervision proceedings, and any
7 other juvenile proceedings that are civil in nature.

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

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

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

23 SECTION 3. This act shall become effective July 1, 2011.

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

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