

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3614 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Brian Hill

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 3614

By: Hill

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to criminal procedure; amending 22 O.S. 2021, Section 1355A, which relates to the Indigent Defense Act; modifying eligibility procedures for indigent representation by the Oklahoma Indigent Defense System; deleting factor considered by the court when determining eligibility; providing rebuttable presumption for determining eligibility; waiving application and application fee under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 22 O.S. 2021, Section 1355A, is amended to read as follows:

Section 1355A. A. When an indigent requests representation by the Oklahoma Indigent Defense System, except those presumed eligible for appointment of the System as established in subsection D of this section, such person shall submit an appropriate application to the court clerk, which shall state that the application is signed under oath and under the penalty of perjury and that a false statement may

1 be prosecuted as such. The application shall state whether or not
2 the indigent has been released on bond. ~~In addition, if the~~
3 ~~indigent has been released on bond, the application shall include a~~
4 ~~written statement from the applicant that the applicant has~~
5 ~~contacted three named attorneys, licensed to practice law in this~~
6 ~~state, and the applicant has been unable to obtain legal counsel.~~
7 Release on bond shall not disqualify a person from receiving
8 representation by the System. A nonrefundable application fee of
9 Forty Dollars (\$40.00) shall be paid to the court clerk at the time
10 the application is submitted, and no application shall be accepted
11 without payment of the fee; except that the court may, based upon
12 the financial information submitted, defer all or part of the fee if
13 the court determines that the person does not have the financial
14 resources to pay the fee at time of application, to attach as a
15 court fee upon conviction. Any fees collected pursuant to this
16 subsection shall be retained by the court clerk, deposited in the
17 Court Clerk's Revolving Fund, and reported quarterly to the
18 Administrative Office of the Courts.

19 B. 1. The Court of Criminal Appeals shall promulgate rules
20 governing the determination of indigency pursuant to the provisions
21 of Section 55 of Title 20 of the Oklahoma Statutes. The initial
22 determination of indigency shall be made by the Chief Judge of the
23 Judicial District or a designee thereof, based on the defendant's
24 application and the rules provided herein.

1 2. Upon promulgation of the rules required by law, the
2 determination of indigency shall be subject to review by the
3 Presiding Judge of the Judicial Administrative District. Until such
4 rules become effective, the determination of indigency shall be
5 subject to review by the Court of Criminal Appeals.

6 C. Before the court appoints the System based on the
7 application, the court shall advise the indigent or, if applicable,
8 a parent or legal guardian, that the application is signed under
9 oath and under the penalty of perjury and that a false statement may
10 be prosecuted as such. A copy of the application shall be sent to
11 the prosecuting attorney or the Office of the Attorney General,
12 whichever is appropriate, for review. Upon request by any party
13 including, but not limited to, the attorney appointed to represent
14 the indigent, the court shall hold a hearing on the issue of
15 eligibility for appointment of the System.

16 D. If the defendant is admitted to bail and the defendant or
17 another person on behalf of the defendant ~~posts a bond, other than~~
18 ~~by personal recognizance, the court may consider such fact in~~
19 ~~determining the eligibility of the defendant~~ is unable to post the
20 bail, there shall be a rebuttable presumption that the defendant is
21 eligible for appointment of the System; ~~provided, however, such~~
22 ~~consideration shall not be the sole factor in the determination of~~
23 ~~eligibility.~~ If the defendant qualifies for this presumption, the
24 application and application fee provided for in subsection A of this

1 section shall be waived. Factors that rebut such presumption shall
2 include an income above the poverty threshold of the state.

3 E. The System shall be prohibited from accepting an appointment
4 unless a completed application for court-appointed counsel as
5 provided by Form 13.3 of Section XIII of the Rules of the Court of
6 Criminal Appeals, 22 O.S. 2001, Ch. 18, App., has been filed of
7 record in the case.

8 SECTION 2. This act shall become effective November 1, 2024.

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10 59-2-10039 GRS 02/08/24
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