

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 1084

By: Gollihare

AS INTRODUCED

An Act relating to the Oklahoma Indigent Defense System; amending 22 O.S. 2021, Section 1355A, which relates to application for representation by the System; modifying eligibility procedures for indigent representation by the Oklahoma Indigent Defense System; deleting factor considered by the court when determining eligibility; removing requirement for payment of certain application fee; 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 be prosecuted as such. The application shall state whether or not

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

18 B. 1. The Court of Criminal Appeals shall promulgate rules
19 governing the determination of indigency pursuant to the provisions
20 of Section 55 of Title 20 of the Oklahoma Statutes. The initial
21 determination of indigency shall be made by the Chief Judge of the
22 Judicial District or a designee thereof, based on the defendant's
23 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.~~ Factors that rebut such presumption shall include an
24 income above the poverty threshold of the state.

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

6 SECTION 2. This act shall become effective November 1, 2025.
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