

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE
5 BILL NO. 899

By: Weaver and Boren of the
Senate

6 and

7 Worthen of the House

8
9 An Act relating to the Indigent Defense Act; amending
10 22 O.S. 2021, Sections 1355.7, 1355.13, and 1358,
11 which relate to appointment of private attorneys,
12 death penalty cases, and reassignment of cases;
13 authorizing reassignment of certain cases for
14 conflict of interest; expanding authorization for
15 payment at certain rate for certain cases; increasing
16 limit on compensation for certain attorneys in
17 capital cases; authorizing reassignment of cases for
18 certain purposes; and providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2021, Section 1355.7, is
18 amended to read as follows:

19 Section 1355.7. A. If the Executive Director determines that a
20 conflict of interest exists ~~at the trial level~~ between a ~~defendant~~
21 client of the Oklahoma Indigent Defense System and an attorney
22 employed or contracted by the System, or that efficient management
23 of System resources justify reassignment, the case may be reassigned
24 by the Executive Director to another attorney employed by the

1 System, or to a private attorney with whom the System has a contract
2 for indigent defense or who is included on a list of attorneys as
3 provided in subsection ~~E~~ B of this section.

4 ~~B. If the Executive Director determines that a conflict of~~
5 ~~interest exists at the trial level between a defendant and an~~
6 ~~attorney who represents indigents either pursuant to a contract with~~
7 ~~the System or as assigned by the System, the case may be reassigned~~
8 ~~by the Executive Director to an attorney employed by the System,~~
9 ~~another attorney who represents indigents pursuant to a contract~~
10 ~~with the System, or another private attorney who has agreed to~~
11 ~~accept such assignments pursuant to subsection C of this section.~~

12 ~~E.~~ Assignment of a case by the System to a private attorney in
13 all counties of this state served by the System shall be from a list
14 of attorneys willing to accept ~~such~~ assignments and who meet the
15 qualifications established by the System for ~~such~~ the assignments.

16 ~~D.~~ C. Payment to ~~such~~ private attorneys shall be made by the
17 System and shall be at rates approved by the System, subject to the
18 statutory limits established in Sections 1355.8 and 1355.13 of this
19 title ~~for cases at the trial level.~~

20 SECTION 2. AMENDATORY 22 O.S. 2021, Section 1355.13, is
21 amended to read as follows:

22 Section 1355.13. A. In every case in which the defendant is
23 subject to the death penalty and an attorney or attorneys other than
24 an attorney or attorneys employed by the Indigent Defense System are

1 assigned to the case by the System to provide representation, an
2 attorney or attorneys must submit a claim or claims in accordance
3 with the provisions of the Indigent Defense Act in such detail as
4 required by the System. Except as provided in subsection B of this
5 section, total compensation for non-System attorneys who serve as
6 ~~lead~~ counsel in capital cases shall not exceed ~~Twenty Thousand~~
7 ~~Dollars (\$20,000.00) per case. Total compensation for a non-System~~
8 ~~attorney who is co-counsel with a System or non-System attorney in a~~
9 ~~capital case shall not exceed Five Thousand Dollars (\$5,000.00)~~
10 Twenty-five Thousand Dollars (\$25,000.00) per case.

11 B. The maximum statutory fee established in this section may be
12 exceeded only upon a determination made by the Executive Director
13 and approved by the Board that the case is an exceptional one which
14 requires an extraordinary amount of time to litigate, and that the
15 request for extraordinary attorney fees is reasonable.

16 SECTION 3. AMENDATORY 22 O.S. 2021, Section 1358, is
17 amended to read as follows:

18 Section 1358. If the Executive Director determines that a
19 conflict exists after evaluating a case assigned pursuant to Section
20 1356 of this title or that the efficient management of System
21 resources justify reassignment, the Executive Director shall
22 reassign the case in the same manner as is provided for ~~conflicts~~
23 case reassignments at the trial level in Section 1355.7 of this
24 title, unless the case is from a county subject to the provisions of

1 Section 138.1a of Title 19 of the Oklahoma Statutes and the indigent
2 defendant was not represented at trial by the county indigent
3 defender. If the Executive Director determines a conflict exists in
4 a case from a county subject to the provisions of Section 138.1a of
5 Title 19 of the Oklahoma Statutes and the indigent defendant was not
6 represented at trial by the county indigent defender, the county
7 indigent defender shall be appointed to represent the indigent
8 defendant. The appointment of the county indigent defender shall be
9 made by the district court at the time the appeal is initiated or by
10 the Court of Criminal Appeals after the appeal is initiated. If the
11 district court, at the time the appeal is initiated, or the Court of
12 Criminal Appeals, after the appeal has been initiated, determines
13 that the county indigent defender also has a conflict of interest in
14 the case, the district court, initially or on remand from the Court
15 of Criminal Appeals, shall appoint counsel in the same manner as is
16 provided for conflicts at the trial level in Section 138.7 of Title
17 19 of the Oklahoma Statutes, by reassigning the case to another
18 county indigent defender, an attorney who represents indigents
19 pursuant to contract, or a private attorney has agreed to accept
20 such appointments.

21 SECTION 4. This act shall become effective November 1, 2023.

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
04/12/2023 - DO PASS.

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