

1 **SENATE FLOOR VERSION**

2 February 22, 2023

3 **AS AMENDED**

4 SENATE BILL NO. 899

5 By: Weaver and Boren of the  
6 Senate

7 and

8 Worthen of the House

9 **[ Indigent Defense Act - cases - conflict of interest  
10 - payment - effective date ]**

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

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

14 Section 1355.7. A. If the Executive Director determines that a  
15 conflict of interest exists ~~at the trial level~~ between a ~~defendant~~  
16 client of the Oklahoma Indigent Defense System and an attorney  
17 employed or contracted by the System, or that efficient management  
18 of System resources justify reassignment, the case may be reassigned  
19 by the Executive Director to another attorney employed by the  
20 System, or to a private attorney with whom the System has a contract  
21 for indigent defense or who is included on a list of attorneys as  
22 provided in subsection ~~C~~ B of this section.

23 B. ~~If the Executive Director determines that a conflict of~~  
24 ~~interest exists at the trial level between a defendant and an~~

1 ~~attorney who represents indigents either pursuant to a contract with~~  
2 ~~the System or as assigned by the System, the case may be reassigned~~  
3 ~~by the Executive Director to an attorney employed by the System,~~  
4 ~~another attorney who represents indigents pursuant to a contract~~  
5 ~~with the System, or another private attorney who has agreed to~~  
6 ~~accept such assignments pursuant to subsection C of this section.~~

7       ~~C.~~ Assignment of a case by the System to a private attorney in  
8 all counties of this state served by the System shall be from a list  
9 of attorneys willing to accept ~~such~~ assignments and who meet the  
10 qualifications established by the System for ~~such~~ the assignments.

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

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

17       Section 1355.13.   A. In every case in which the defendant is  
18 subject to the death penalty and an attorney or attorneys other than  
19 an attorney or attorneys employed by the Indigent Defense System are  
20 assigned to the case by the System to provide representation, an  
21 attorney or attorneys must submit a claim or claims in accordance  
22 with the provisions of the Indigent Defense Act in such detail as  
23 required by the System. Except as provided in subsection B of this  
24 section, total compensation for non-System attorneys who serve as

1 ~~lead~~ counsel in capital cases shall not exceed ~~Twenty Thousand~~  
2 ~~Dollars (\$20,000.00) per case. Total compensation for a non-System~~  
3 ~~attorney who is co-counsel with a System or non-System attorney in a~~  
4 ~~capital case shall not exceed Five Thousand Dollars (\$5,000.00)~~  
5 Twenty-five Thousand Dollars (\$25,000.00) per case.

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

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

13 Section 1358. If the Executive Director determines that a  
14 conflict exists after evaluating a case assigned pursuant to Section  
15 1356 of this title or that the efficient management of System  
16 resources justify reassignment, the Executive Director shall  
17 reassign the case in the same manner as is provided for ~~conflicts~~  
18 case reassignments at the trial level in Section 1355.7 of this  
19 title, unless the case is from a county subject to the provisions of  
20 Section 138.1a of Title 19 of the Oklahoma Statutes and the indigent  
21 defendant was not represented at trial by the county indigent  
22 defender. If the Executive Director determines a conflict exists in  
23 a case from a county subject to the provisions of Section 138.1a of  
24 Title 19 of the Oklahoma Statutes and the indigent defendant was not

1 represented at trial by the county indigent defender, the county  
2 indigent defender shall be appointed to represent the indigent  
3 defendant. The appointment of the county indigent defender shall be  
4 made by the district court at the time the appeal is initiated or by  
5 the Court of Criminal Appeals after the appeal is initiated. If the  
6 district court, at the time the appeal is initiated, or the Court of  
7 Criminal Appeals, after the appeal has been initiated, determines  
8 that the county indigent defender also has a conflict of interest in  
9 the case, the district court, initially or on remand from the Court  
10 of Criminal Appeals, shall appoint counsel in the same manner as is  
11 provided for conflicts at the trial level in Section 138.7 of Title  
12 19 of the Oklahoma Statutes, by reassigning the case to another  
13 county indigent defender, an attorney who represents indigents  
14 pursuant to contract, or a private attorney has agreed to accept  
15 such appointments.

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

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS  
18 February 22, 2023 - DO PASS AS AMENDED  
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