

OKLAHOMA INDIGENT DEFENSE ACT

22 O.S.2001, § 1355

A. Sections 1355 through 1369 of this title shall be known and may be cited as the "Indigent Defense Act".

B. The Oklahoma Indigent Defense System is hereby created, to provide counsel in cases, as provided in the Indigent Defense Act, in which the defendant is indigent and unable to employ counsel.

C. Unless otherwise provided, the provisions of the Indigent Defense Act shall not be applicable in counties subject to the provisions of Section 138. 1a of Title 19 of the Oklahoma Statutes.

22 O.S.Supp.2002, § 1355A

A. When an indigent requests representation by the Oklahoma Indigent Defense System, 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 the indigent has been released on bond. In addition, if the indigent has been released on bond, the application shall include a written statement from the applicant that the applicant has contacted three named attorneys, licensed to practice law in this state, and the applicant has been unable to obtain legal counsel. A nonrefundable application fee of Forty Dollars (\$40.00) shall be paid to the court clerk at the time the application is submitted, and no application shall be accepted without payment of the fee; except that the court may, based upon the financial information submitted, defer all or part of the fee if the court determines that the person does not have the financial resources to pay the fee at time of application, to attach as a court fee upon conviction. Any fees collected pursuant to this subsection shall be retained by the court clerk, deposited in the Court Clerk's Revolving Fund, and reported quarterly to the Administrative Office of the Courts.

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

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

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

D. If the defendant is admitted to bail and the defendant or another person on behalf of the defendant posts a bond, other than by personal recognizance, this fact shall constitute a rebuttable presumption that the defendant is not indigent.

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

22 O.S.Supp.2002, § 1355.1

There is hereby created the Oklahoma Indigent Defense System Board. The Board shall govern the Oklahoma Indigent Defense System. The Board shall be composed of five (5) members appointed for five-year terms by the Governor with the advice and consent of the Senate. At least three members shall be attorneys licensed to practice law in the State of Oklahoma who have experience through the practice of law in the defense of persons accused of crimes. The Governor shall designate one Board member to serve as chair. No congressional district shall be represented by more than one member on the Board. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. No county shall be represented by more than one member. The Board shall meet at least every other month upon the call of the chair. Board members shall serve without compensation, but shall be reimbursed for their necessary travel expenses as provided by the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. The terms of office for the initial appointees to the Board shall be as follows:

1. The term for Position One shall expire on July 1, 1989;
2. The term for Position Two shall expire on July 1, 1990;
3. The term for Position Three shall expire on July 1, 1991;
4. The term for Position Four shall expire on July 1, 1992; and
5. The term for Position Five shall expire on July 1, 1993.

A Board member shall be eligible for reappointment and shall continue in office until his successor has been appointed, qualified and confirmed by the Senate.

22 O.S.2001, § 1355.2

A. As used in the Indigent Defense Act:

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

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

22 O.S.2001, § 1355.3

A. The Board shall have the following powers and duties:

1. To appoint the Executive Director and to set the salary of the Executive Director;
2. To adopt salary schedules for the System;

3. To establish policies for the System as provided by law;
4. To require reports from the Executive Director as the Board deems necessary;
5. To approve an annual budget for the System, prepared and administered by the Executive Director;
6. To authorize the acceptance of monies, gifts, grants, or services from any public or private source;
7. To review claims for expenditures of monies;
8. To authorize contracts with individuals, educational institutions, or state or federal agencies;
9. To allocate and distribute funds or gifts received from public or private sources for indigent defense; and
10. To consult with indigent defenders and defense lawyers who represent indigents pursuant to contract or who agree to accept indigent defense cases assigned by the System to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to conducting Oklahoma criminal defense in a professional manner.

B. The Board shall make an annual report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Oklahoma Supreme Court, and the Presiding Judge of the Oklahoma Court of Criminal Appeals regarding the efforts of the Board to implement the purposes of the Indigent Defense Act.

C. If there is a vacancy or extended absence in the office of Executive Director, the Board shall perform the duties or appoint an interim director to perform such duties until a new Executive Director is appointed.

22 O.S.2001, § 1355.4

A. The chief executive officer of the Oklahoma Indigent Defense System shall be the Executive Director, who shall be appointed by the Board and serve at the pleasure of the Board. The Executive Director shall be an attorney who has practiced law for at least four (4) years preceding the appointment and who is licensed to practice law in this state or is eligible to become so licensed within one (1) year of the appointment. The Executive Director shall have experience in the representation of persons accused or convicted of crimes.

B. The Executive Director shall perform administrative functions which serve the Board.

C. The Executive Director shall have the following powers and duties:

1. To prepare and administer an annual budget approved by the Board and to process claims for the System;
2. To enter into contracts to provide counsel in cases in which the defendant is indigent and unable to employ counsel, to enter into contracts with individuals, educational institutions, or state or federal agencies for other purposes, and to approve or disapprove the provisions of any such contract;
3. To review and approve or disapprove claims for expenditures of monies;
4. To take such actions as shall strengthen the criminal justice system in this state;
5. To promote the education and training of all attorneys representing indigent criminal defendants;
6. To maintain and improve effective representation for the indigent criminal defendant;
7. To employ personnel as necessary to carry out the duties imposed upon the System by law and to set the salaries of such personnel, subject to the salary schedules adopted by the Board;

8. To solicit and maintain a current list of attorneys licensed to practice law in this state who are willing to accept case assignments from the System and who meet any other qualifications as set by the Board;

9. To solicit and maintain a separate list of persons eligible for appointment to capital cases, who meet the qualifications set by the System;

10. To establish reasonable hourly rates of compensation for attorneys appointed in accordance with the Indigent Defense Act, subject to approval by the Board;

11. To establish maximum caseloads for attorneys employed by the System, subject to approval by the Board;

12. To reduce caseloads through reassignment of cases to private attorneys, as necessary;

13. To approve the sharing of office space, equipment, or personnel among the separate indigent defense programs within the System;

14. To prepare and submit to the Board an annual report for the preceding fiscal year regarding the efforts of the System to implement the purposes of the Indigent Defense Act, and to file that report with the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Oklahoma Supreme Court, and the Presiding Judge of the Oklahoma Court of Criminal Appeals;

15. To conduct regional or statewide conferences and training seminars for the purpose of implementing the provisions of the Indigent Defense Act;

16. To provide System personnel who serve in an advisory capacity to the indigent defenders and defense attorneys who represent indigents pursuant to contract or who agree to accept cases assigned by the System to represent indigents of this state;

17. To gather and disseminate information to indigent defenders, including, but not limited to, changes in the law;

18. To recommend additional legislation necessary to upgrade the Oklahoma Indigent Defense System or to improve the justice system; and

19. To operate a cost-effective system by:

a. implementing procedures to track System expenditures to show costs by case and client and to track time and expenses by attorney if the attorney is employed by the System,

b. adopting written policies regarding when employees are to be in travel status and making efforts to reduce travel costs, and

c. reviewing assignment of indigency status to identify clients who have available resources, and collecting costs of representation when feasible.

D. 1. The Executive Director is hereby authorized to develop, establish, and maintain lists of approved contractors who have agreed to provide expert services to the System. The lists shall include any expert who desires to furnish services to the System and who has filed a schedule of fees for services with, and on a form approved by, the Executive Director. Any deviation in excess of the published schedule of fees shall require the prior written approval of the Executive Director. Any attorney appointed or assigned cases in accordance with the Indigent Defense Act may request expert services from the list of experts maintained by the Executive Director. The Executive Director or designee may, in said person's sole discretion, approve requests for expert services; provided, however, that nothing contained in the Indigent Defense Act shall be construed to render the Executive Director a member of the defense team in any System client's case for strategic purposes.

2. Attorneys appointed or assigned cases in accordance with the Indigent Defense Act may request investigative or other nonexpert witness services from the Executive Director on a form provided by the Executive Director. The Executive Director or designee may, in said person's sole discretion, approve requests for such services at a reasonable hourly rate of compensation; provided, however, that nothing contained in the Indigent Defense Act shall be construed to render the Executive Director a member of the defense team in any System client's case for strategic purposes.

3. Services obtained under this section may be obtained as sole source contracts and are specifically exempt from the requirements of soliciting no less than three quotations found in paragraph 7 of subsection A of Section 85.45j of Title 74 of the Oklahoma Statutes.

E. Each individual performing the services provided for in subsection D of this section may, with the approval of the Executive Director, be reimbursed for necessary travel expenses up to the amount permitted by the State Travel Reimbursement Act.

F. Requests for expenses not included in subsections D and E of this section shall require pre-approval by the Executive Director.

22 O.S. § 1355.5

Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

22 O.S.2001, § 1355.6

A. The Indigent Defense System shall have the responsibility of defending all indigents, as determined in accordance with the provisions of the Indigent Defense Act in all capital and felony cases and in all misdemeanor and traffic cases punishable by incarceration. In addition, the System shall have the responsibility of defending all indigent juveniles, as determined in accordance with the provisions of the Indigent Defense Act, in juvenile delinquency proceedings, adult certification proceedings, reverse certification proceedings, youthful offender proceedings, and any other cases pursuant to the Oklahoma Juvenile Code, other than mental health cases, in-need-of-supervision proceedings, and any other juvenile proceedings that are civil in nature.

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

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

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

22 O.S.2001, § 1355.7

A. If the Executive Director determines that a conflict of interest exists at the trial level between a defendant and an attorney employed by the System, the case may be reassigned by the Executive Director to another attorney employed by the System, or to a private attorney with whom the System has a contract for indigent defense or who is included on a list of attorneys as provided in subsection C of this section.

B. If the Executive Director determines that a conflict of interest exists at the trial level between a defendant and an attorney who represents indigents either pursuant to a contract with the System or as assigned by the System,

the case may be reassigned by the Executive Director to an attorney employed by the System, another attorney who represents indigents pursuant to a contract with the System, or another private attorney who has agreed to accept such assignments pursuant to subsection C of this section.

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

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

22 O.S.2001, § 1355.8

A. In addition to the methods of providing counsel set out in subsections C and D of Section 1355.6 of this title, the Board shall have the authority to award contracts to provide noncapital trial representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation, including, but not limited to, renewing any existing contract or contracts for the next fiscal year or soliciting new offers to contract, whichever the Board determines to be in the best interests of the state, the System and the clients represented by the System. Any such contract shall be awarded at such time as the Board may deem necessary.

B. For those counties in which a prior fiscal year contract is not renewed for the succeeding fiscal year or in which the Board elects to solicit new offers to contract, the Executive Director shall cause notice to be published in the Oklahoma Bar Journal that offers to contract will be accepted to provide indigent noncapital trial services. The notice required by this subsection shall include the following:

1. The date, time and place where offers to contract will be opened;
2. The qualifications required of those desiring to make an offer to contract;
3. The period covered by the contract; and
4. A general description of the services required.

C. Only members in good standing of the Oklahoma Bar Association shall be eligible to submit offers to contract pursuant to this section. In addition, all offers to contract must be accompanied by a written statement of the manner in which representation shall be made available as needed.

D. 1. The Board shall accept the best offer or offers, as determined by the Board, from a qualified attorney or attorneys. In determining whether an offer is the best offer, the Board shall take into consideration, among other factors, the following:

- a. whether the attorney or attorneys submitting the offer maintain an office within that county,
- b. whether any such office is the attorney's primary office,
- c. whether the attorney or attorneys submitting the offer have been awarded a contract in another county,
- d. whether sufficient attorneys are included in the offer to competently address the number of cases to be covered under the contract, and
- e. the accessibility of the attorney or attorneys to the clients to be served if the Board awards a contract on the basis of the offer.

2. The System shall maintain an original of each offer to contract.

3. Every contract awarded pursuant to the provisions of this subsection which is signed by more than one attorney shall provide that every attorney signing such contract shall be jointly and severally liable for the full performance of all services to be delivered pursuant to such contract.

4. Every contract awarded pursuant to the provisions of this subsection shall provide that every attorney who will be performing services pursuant to the contract shall carry professional liability insurance in an amount satisfactory to the Board. No contract shall be effective until proof of such insurance is provided to the System.

5. In the event that only one qualified offer is received, the Board may accept the offer, make one or more counteroffers, readvertise or provide representation as otherwise authorized by the Indigent Defense Act. In the event that more than one qualified offer is received for a county or counties, the Board may accept one or more of the offers, make one or more counteroffers to one or more of the offers received, readvertise if the Board determines that awarding a contract or contracts on the offers received would not be in the best interest of the System or the clients represented by the System, or provide representation as otherwise authorized by the Indigent Defense Act. For purposes of discussing negotiating strategies in connection with making one or more counteroffers to one or more offers received, the Board may hold one or more executive sessions as necessary; provided, that any vote or action on offers received and counteroffers made, if any, shall be taken in public meeting with the vote of each member publicly cast and recorded.

6. In the event that no qualified offers to contract are received, the Board may readvertise or direct the Executive Director to assign cases from the relevant counties to private attorneys selected from a list of qualified attorneys who have agreed to accept assignments of such cases, who have provided proof of professional liability insurance coverage, and who meet the qualifications established by the System for such assignments. Compensation for such attorneys shall be as provided in subsection F of this section.

7. In the event that no qualified offers are received, and in lieu of assigning cases to private attorneys whose names are on a list of qualified attorneys pursuant to paragraph 6 of this subsection, the Board may, pursuant to subsection D of Section 1355.6 or Section 1355.9 of this title, provide for representation for indigent criminal defendants and indigent juveniles by attorneys employed by the System.

8. In no event shall an attorney, who has not voluntarily agreed to provide representation to indigent criminal defendants and indigent juveniles, be appointed to represent an indigent person.

E. If a fiscal year contract is terminated before the end of the fiscal year, the Executive Director shall not be required to solicit offers to contract, but may instead award one or more replacement contracts for the affected county or counties to a qualified attorney or attorneys to represent persons in cases for which the System is obligated to provide counsel, provided that such replacement contract or contracts shall not be renewable for the next fiscal year.

F. 1. Except as provided in paragraph 3 of this subsection, total compensation for a case which is not covered by a fiscal year noncapital trial contract awarded or renewed pursuant to subsection A of this section shall not exceed Eight Hundred Dollars (\$800.00) in the following cases:

a. juvenile delinquency proceedings, adult certification proceedings, reverse certification proceedings and appeals, youthful offender proceedings, and any other proceedings and appeals, pursuant to the Oklahoma Juvenile Code in which the System is required to provide representation pursuant to subsection A of Section 1355.6 of this title,

b. traffic cases punishable by incarceration, and

c. misdemeanor cases.

2. Except as provided in paragraph 3 of this subsection, total compensation for a case which is not covered by a fiscal year noncapital trial contract awarded pursuant to this section shall not exceed Three Thousand Five Hundred Dollars (\$3,500.00) in felony cases.

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

G. 1. Attorneys paid for indigent defense pursuant to a fiscal year noncapital trial contract awarded or renewed pursuant to this section shall be paid an annual fee in twelve monthly installments each equaling seven and one-half percent (7.5%) of the total value of the contract, or as otherwise provided by contract.

2. Attorneys paid for indigent defense pursuant to paragraph 1 of this subsection shall receive the balance of ten percent (10%) of the total value of the contract upon completion of all felony and misdemeanor matters covered by the contract. A matter is completed for purposes of this paragraph when no additional services are required under the contract. The Board, upon recommendation of the Executive Director, may, however, authorize partial payments on a quarterly basis of the amount retained as reasonable compensation for those matters which were completed during the prior quarter. The system may transfer the amount retained from the total value of the contract pursuant to this subsection to the Contract Retention Revolving Fund created by Section 1369 of this title.

H. To receive payment in a case assigned pursuant to subsection C of Section 1355.6 of this title, an attorney must submit a claim in accordance with the provisions of the Indigent Defense Act.

I. Attorneys providing services pursuant to a contract with the System, shall provide periodic status reports on all such cases, as often as deemed necessary by the System.

J. Any attorney providing services pursuant to a contract with the System shall continue to provide representation at the trial level in each case assigned to the attorney during the contract period until the trial court ceases to retain jurisdiction; provided, the court shall allow an attorney to withdraw from a case only after the attorney has made proper application to withdraw from the case and the application has been approved by the Executive Director.

K. In all cases in which legal representation by the Oklahoma Indigent Defense System is not authorized by other provisions of the Indigent Defense Act and in which indigents are entitled to legal representation by the Constitution and laws of this state, the court shall appoint legal representation, from a list of qualified volunteer attorneys who provide proof of professional liability insurance coverage, and direct to be paid from the local court fund a reasonable and just compensation not to exceed Eight Hundred Dollars (\$800.00) to the attorney or attorneys for services as they may render. The compensation limit may be exceeded if the court finds that the case required an extraordinary amount of time to litigate.

22 O.S.2001, § 1355.9

The Board shall establish one main office and as many satellite offices as necessary for the proper representation of the System's clients.

22 O.S. §§ 1355.10 to 1355.12

Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

22 O.S.2001, § 1355.13

A. In every case in which the defendant is subject to the death penalty and an attorney or attorneys other than an attorney or attorneys employed by the Indigent Defense System are assigned to the case by the System to provide representation, an attorney must submit a claim in accordance with the provisions of the Indigent Defense Act in such detail as required by the System. Except as provided in subsection B of this section, total compensation for non-System attorneys who serve as lead counsel in capital cases shall not exceed Twenty Thousand Dollars (\$20,000.00) per case. Total compensation for a non-System attorney who is co-counsel with a System or non-System attorney in a capital case shall not exceed Five Thousand Dollars (\$5,000.00) per case.

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

22 O.S.2001, § 1355.13A

In any case wherein a defendant was subject to the death penalty and counsel was appointed and assigned, prior to July 1, 1991, to represent such defendant in the case because the defendant had no means and was unable to employ counsel, the court shall allow and direct to be paid from the Supreme Court Revolving Fund, unless otherwise provided by law, reasonable and just compensation to the counsel so assigned for such services as counsel may render, to include expert and investigative services, as approved by the Chief Justice of the Supreme Court. This section shall not apply to cases assigned for trial to the Indigent Defense System.

In any case subject to the provisions of this section, wherein the case is reversed and remanded for new trial on appeal, the case shall be assigned pursuant to the Indigent Defense Act, Section 1355.1 et seq. of Title 22 of the Oklahoma Statutes, or pursuant to Section 138.1 et seq. of Title 19 of the Oklahoma Statutes.

22 O.S.Supp.2004, § 1355.14

A. At the time of pronouncing the judgment and sentence or other final order, the court shall order any person represented by an attorney employed by the Oklahoma Indigent Defense System or a defense attorney who contracts or volunteers to represent indigents pursuant to the provisions of the Indigent Defense Act to pay the costs for representation in total or in installments and, in the case of installment payments, set the amount and due date of each installment.

B. Costs assessed pursuant to this section shall be collected by the court clerk and when collected paid monthly to the Oklahoma Indigent Defense System for deposit to the Indigent Defense System Revolving Fund.

C. Costs of representation shall be a debt against the person represented until paid and shall be subject to any method provided by law for the collection of debts.

D. Any order directing the defendant to pay costs of representation shall be a lien against all real and personal property of the defendant and may be filed against such property and foreclosed as provided by law for civil liens.

E. The court shall assess the following fees as the cost of representation:

1. For any misdemeanor case in which a plea of guilty or stipulation to revocation or imposition of sentence has been entered . . . \$150.00
2. For any felony case in which a plea of guilty or stipulation to revocation or imposition of sentence has been entered . . . \$250.00
3. For any misdemeanor case tried to a jury . . . \$500.00
4. For any felony case tried to a jury . . . \$1,000.00
5. For any merit hearing on an application to revoke a suspended sentence or accelerate a deferred sentence in a misdemeanor case . . . \$200.00
6. For any merit hearing on an application to revoke a suspended sentence or accelerate a deferred sentence in a felony case . . . \$300.00

The fees shall be assessed unless ordered waived upon good cause shown by the indigent person, or unless another amount is specifically requested by counsel for the indigent person and is approved by the court. In cases or proceedings other than those set forth in paragraphs 1 through 6 of this subsection, the court shall assess the cost of

representation not to exceed Two Hundred Fifty Dollars (\$250.00), except upon a showing by counsel of the actual costs or representation in excess of said amount.

22 O.S.2001, § 1355.15

The System shall not approve payment of any claims for fines resulting from contempt citations issued to attorneys defending indigent clients. The Indigent Defense Board may, upon recommendation of the Executive Director, approve payment of reasonable court costs resulting from contempt citations issued to attorneys appointed in accordance with the Indigent Defense Act.

22 OS.2001, § 1356

A. The System shall perfect all direct appeals and capital post-conviction proceedings for all cases to which the System is appointed by Oklahoma district courts at the time the appeal is initiated, except as otherwise provided in this section and Section 1358 of this title. In counties subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes, the System shall perfect direct appeals for indigent defendants who were not represented at trial by the county indigent defender. The System shall not be appointed to perfect direct appeals for indigents represented at trial by the county indigent defender, unless a conflict of interest on appeal exists between defendants, in which case the System may be appointed to represent not more than one defendant.

B. Judges of the district courts shall appoint the System, at the time the appeal is initiated, in cases in which the defendant is subject to incarceration or the death penalty, and to perfect all indigent criminal appeals which are felony or misdemeanor appeals, appeals by petition for writ of certiorari, juvenile criminal appeals and youthful offender appeals pursuant to the Oklahoma Juvenile Code, appeals from revocation of a suspended sentence and appeals from acceleration of deferred judgments.

22 O.S. § 1357

Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

22 O.S.2001, § 1358

If the Executive Director determines that a conflict exists after evaluating a case assigned pursuant to Section 1356 of this title, the Executive Director shall reassign the case in the same manner as is provided for conflicts at the trial level in Section 1355.7 of this title, unless the case is from a county subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes and the indigent defendant was not represented at trial by the county indigent defender. If the Executive Director determines a conflict exists in a case from a county subject to the provisions of Section 138.1a of Title 19 of the Oklahoma Statutes and the indigent defendant was not represented at trial by the county indigent defender, the county indigent defender shall be appointed to represent the indigent defendant. The appointment of the county indigent defender shall be made by the district court at the time the appeal is initiated or by the Court of Criminal Appeals after the appeal is initiated. If the district court, at the time the appeal is initiated, or the Court of Criminal Appeals, after the appeal has been initiated, determines that the county indigent defender also has a conflict of interest in the case, the district court, initially or on remand from the Court of Criminal Appeals, shall appoint counsel in the same manner as is provided for conflicts at the trial level in Section 138.7 of Title 19 of the Oklahoma Statutes, by reassigning the case to another county indigent defender, an attorney who represents indigents pursuant to contract, or a private attorney has agreed to accept such appointments.

22 O.S. § 1359

Renumbered as § 138.9 of Title 19 by Laws 1992, c. 303, § 32, eff. July 1, 1992.

22 O.S.2001, § 1360

A. The System shall represent indigents in proceedings for postconviction relief in all capital cases.

B. In noncapital cases, the System shall not be appointed to represent indigents in proceedings for postconviction relief; provided, however, the System may represent indigents in postconviction proceedings if the representation is related to another pending case in which the System has been appointed, or the proceeding is necessary to obtain an appeal out of time on behalf of a System client in a case to which the System has been properly appointed.

C. No attorney employed by the System or providing legal services for the System pursuant to contract shall be required to appear in the district courts of this state on issues of appellate counsel appointment and requests for exhibits, records and transcripts.

D. After a mandate has been issued by the Oklahoma Court of Criminal Appeals in any case on direct appeal, the System is prohibited from appealing that case in any further proceedings in either a state or federal court, except in capital cases and in cases provided for in subsection B of this section. In capital cases, the System shall perfect all petitions for writ of certiorari to the United States Supreme Court and represent such appellants or appellees, as the case may be, in any appearance before that Court.

22 O.S. § 1361

Repealed by Laws 1992, c. 303, § 31, eff. July 1, 1992.

22 O.S.2001, § 1362

The district court clerks for each county shall transmit one certified copy of the original record for each appeal authorized by the Indigent Defense Act directly to the Oklahoma Indigent Defense System as soon as possible after the filing of the notice of intent to appeal and the order appointing the System, unless additional copies are requested, not to exceed three copies. One certified copy of all transcripts, records and exhibits designated shall be transmitted for each authorized appeal by the district court clerk to the Oklahoma Indigent Defense System within the time limits as established by the Rules of the Court of Criminal Appeals and applicable statutes, unless additional copies are requested, not to exceed three copies. The System attorney is hereby authorized to supplement the designation of record as filed by the trial counsel by filing a written supplemental designation of record. When a written supplemental designation of record is filed by the System attorney, it shall be the duty of the court clerk or the court reporter, as appropriate, to include the supplementary materials as part of the record on appeal.

22 O.S.2001, § 1363

It shall be the responsibility of the trial counsel to file all jurisdictional documents required to be filed in the district court and the Court of Criminal Appeals to initiate the appeal. The System shall be prohibited from accepting any appeal, unless trial counsel has timely filed all necessary documents or has pursued and been granted the authority for an appeal out of time on the defendant's behalf.

22 O.S.2001, § 1364

It shall be the responsibility of the appropriate judge of the district court to notify the Oklahoma Indigent Defense System of any appointment of the System to perfect an appeal pursuant to the Indigent Defense Act within three (3) days after such appointment. The appointment order shall state the nature of the appeal. The appropriate judge of the district court shall send all necessary documents to insure perfection of the appeal to the Oklahoma Indigent Defense System within the time prescribed in the Rules of the Court of Criminal Appeals or under applicable statutes.

22 O.S.2001, § 1365

All necessary transcript costs and court fees required for perfecting appeals for indigents pursuant to the Indigent Defense Act shall be paid by the defendant if the defendant is financially able to do so. Otherwise, the costs shall be paid from the court fund of the county in which the defendant was convicted.

22 O.S.2001, § 1366

The appointment of counsel pursuant to the provisions of the Indigent Defense Act shall commence for indigent criminal defendants on or subsequent to July 1, 1992 for noncapital cases and on July 1, 1991 for capital cases.

22 O.S.2001, § 1367

Any member of the Oklahoma Bar Association who volunteers professional legal services without compensation for purposes of providing trial or appellate legal defense services to an indigent defendant shall not be subject to any liability for volunteered professional services that are performed in conjunction with the representation of said indigent defendant.

22 O.S.2001, § 1368

There is hereby created in the State Treasury a revolving fund for the Oklahoma Indigent Defense System to be designated the "Indigent Defense System Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of federal funds, grants, gifts and such other funds as are provided by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Board to defray expenses relating to the performance of duties imposed upon the Oklahoma Indigent Defense System by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

22 O.S.2001, § 1369

There is hereby created in the State Treasury a revolving fund for the Oklahoma Indigent Defense System, to be designated the "Contract Retention Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies retained by the Indigent Defense System, pursuant to the provisions of Section 1355.8 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Indigent Defense System for the purpose of making contract payments pursuant to paragraph 2 of subsection G of Section 1355.8 of this title. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

22 O.S. § 1370

Repealed by Laws 2001, c. 210, § 19, eff. July 1, 2001.

22 O.S.2001, § 1370.1

There is hereby created in the State Treasury a revolving fund for the Oklahoma Indigent Defense System, to be designated the "Forensic Testing Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations and shall consist of all funds appropriated by the Legislature to the fund or monies received from any political subdivision of the State of Oklahoma as reimbursements or recovery for forensic testing. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Indigent Defense System for the purpose of providing forensic testing. Expenditures shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.