



STATE OF ALABAMA  
Department of Finance  
Office of the State Comptroller

100 North Union Street, Suite 220  
Montgomery, Alabama 36130-2620  
Telephone (334) 242-7050 Fax (334) 242-7466  
[www.comptroller.alabama.gov](http://www.comptroller.alabama.gov)

Robert Bentley  
Governor

David A. Perry  
Director of Finance

Thomas L. White, Jr.  
State Comptroller

Janice A. Hamm  
Deputy State Comptroller

**MEMORANDUM**

**TO:** All Judges and Attorneys

**FROM:** Thomas L. White, Jr.  
State Comptroller 

**DATE:** June 16, 2011

**RE:** Act 2011-678 – Provisions relating to Appointed Counsel

On June 14, 2011, Governor Robert Bentley signed Act 2011-678 into law. This Act represents a major change to the administration of the program that reimburses attorneys who provide indigent defense services. The Act amends Code of Alabama, 1975; Title 12, Chapter 19 – Court Finances and Title 15, Chapter 12 – Criminal Procedure Defense of Indigents and creates the Office of Indigent Defense Services. A copy of the Act is available for review through the website of the Office of the State Comptroller at [http://comptroller.alabama.gov/pages/indigent\\_defense.aspx](http://comptroller.alabama.gov/pages/indigent_defense.aspx). This memo addresses those provisions, which relate to “Appointed Counsel” and are effective immediately. A summary of other key changes is below.

- Rate changes are effective for all appointments made on or after June 14, 2011. The new billing rate for appointed counsel is \$70.00 per hour for time reasonably expended in-court and out-of-court on criminal and juvenile proceedings in the trial or appellate courts.
  - Previous billing rates were \$60.00 per hour for in-court and \$40.00 per hour for out-of-court time.
- Overhead will no longer be reimbursed.
  - Previously reimbursed office overhead expenses included professional license fees; malpractice, casualty, health, general disability, and workers' compensation insurance; office salaries; ad valorem taxes; supplies; rent; depreciation of equipment and furniture; continuing legal education expenses, including travel and lodging; utilities; bank fees and interest on loans; other professional fees.
- Non-overhead reasonably incurred expenses of \$300.00 or less will be reimbursed without prior approval, provided that they are within the program standards, including being substantiated by original invoice/receipt.

- Examples of reimbursable non-overhead expenses include mileage, postage, and reasonable costs of photocopying.
- Non-overhead reimbursable expenses above \$300.00 must have advance approval of the trial court "as necessary for the indigent defense services and as a reasonable cost or expense." §15-12-21(d)
- Expert fees shall remain reimbursable, if reasonable and approved in advance by the trial court as necessary.
- Statutory per case fee limits increased by \$500.00 for each case type.
  - New per case maximums: Class A Felony - \$4,000; Class B Felony - \$3,000; Class C Felony - \$2,000; Juvenile - \$2,500; Other Cases - \$1,500; Appeals - \$2,500
  - Maximum amounts may be waived by the trial court and the Director for good cause shown in appeals.
- Interim payments for attorney fees and/or expenses may be authorized by the Director of Indigent Defense Services.
- A Judge must certify the fee declaration and submit to the Office of Indigent Defense Services for review and approval.
- Fees for appeals may exceed the statutory limit if "waived by the appropriate appellate court and the Director for good cause shown." §15-12-22(c)(2)
- Fees for post-conviction proceedings may exceed the statutory limit "for good cause shown." §15-12-23(d)

Additional billing and declaration forms, policies and procedures are currently under revision and will be posted once finalized on ALACOURT at <http://eforms.alacourt.gov>. If you have any questions or need additional clarification, please do not hesitate to contact my office at 334-242-7050.

TLWjr/EME/dt

CC: Mr. David Perry, Director, Alabama Department of Finance  
Mr. Clinton Carter, Deputy Finance Director  
Mr. Bill Newton, Assistant Finance Director  
Ms. Janice A. Hamm, Deputy State Comptroller  
Ms. Ellen M. Eggers, Accounting Manager  
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