

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H1/19/11 H1/26/11

# A Bill

HOUSE BILL 1004

5 By: Representative J. Edwards  
6

## For An Act To Be Entitled

8 *AN ACT TO PROHIBIT THE PAYMENT OF ATTORNEY'S FEES OF*  
9 *PRIVATELY RETAINED ATTORNEYS FOR INDIGENT PERSONS;*  
10 *AND FOR OTHER PURPOSES.*

## Subtitle

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14 *TO PROHIBIT THE PAYMENT OF ATTORNEY'S*  
15 *FEES OF PRIVATELY RETAINED ATTORNEYS FOR*  
16 *INDIGENT PERSONS.*

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 16-87-212 is amended to read as follows:  
22 16-87-212. Court fees and expenses.

23 (a)(1) The Arkansas Public Defender Commission is authorized to pay  
24 for certain expenses regarding the defense of indigents.

25 (2)(A) The expenses shall include, but shall not necessarily be  
26 limited to, fees for ~~appointed~~ counsel appointed by the court, expert  
27 witnesses, temporary investigators, testing, and travel.

28 (B)(i) Expenses shall not include attorney's fees for  
29 counsel privately retained for the benefit of an indigent defendant for that  
30 defendant's defense.

31 (ii) The commission may authorize the payment of  
32 expenses of counsel privately retained for the benefit of an indigent  
33 defendant, provided counsel complies with the standards set by the commission  
34 under this subchapter governing counsel appointed by the court or employed or  
35 contracted by the commission.

36 (3)(A) Whenever a judge orders an authorized payment in a case



1 involving an indigent person, a copy of the order accompanied by a detailed  
2 explanation of services rendered, time spent, and expenses incurred shall be  
3 transmitted to the commission, and the commission shall set the amount of  
4 compensation.

5 (B) Orders as authorized throughout this chapter shall be  
6 paid by the commission provided sufficient funds are available.

7 (b)(1) With the approval of the ~~executive director~~ Executive Director  
8 of the Arkansas Public Defender Commission, trial public defenders, appointed  
9 private attorneys, and the Capital, Conflicts, and Appellate Office are  
10 ~~hereby~~ authorized to utilize the services of the State Crime Laboratory for  
11 pathology and biology, toxicology, criminalistics, raw drug analysis, latent  
12 fingerprint identification, questioned documents examination, firearms and  
13 toolmarks identification, and in other such areas as the trial judge may deem  
14 necessary and appropriate.

15 (2) If approved by the executive director, the State Crime  
16 Laboratory shall provide the requested services.

17 (c) At the discretion of the commission, capital murder cases and all  
18 proceedings under the Arkansas Rules of Criminal Procedure, Rule 37.5, shall  
19 be paid entirely by the commission.

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21 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
22 General Assembly of the State of Arkansas that the proper funding of defense  
23 counsel for indigent persons is of manifest importance; that a recent  
24 decision by the Arkansas Supreme Court has cast doubt on how the expenses of  
25 privately retained defense attorneys are to be paid, if at all; and that this  
26 act is immediately necessary because there is a question how the Arkansas  
27 Public Defender Commission should deal with the issue of privately retained  
28 attorneys. Therefore, an emergency is declared to exist and this act being  
29 immediately necessary for the preservation of the public peace, health, and  
30 safety shall become effective on:

31 (1) The date of its approval by the Governor;

32 (2) If the bill is neither approved nor vetoed by the Governor,  
33 the expiration of the period of time during which the Governor may veto the  
34 bill; or

35 (3) If the bill is vetoed by the Governor and the veto is  
36 overridden, the date the last house overrides the veto.

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*/s/J. Edwards*