

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2865

By: Lowe

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5
6 AS INTRODUCED

7 An Act relating to counties and county officers;
8 amending 19 O.S. 2011, Sections 138.2, 138.3 and
9 138.4, which relate to county indigent defenders;
10 transferring appointment and retention decisions from
11 judges to board of county commissioners; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 19 O.S. 2011, Section 138.2, is
15 amended to read as follows:

16 Section 138.2 The office of county indigent defender shall be
17 assumed by such attorneys, authorized to practice law in the State
18 of Oklahoma, as shall be appointed either on a full-time or part-
19 time basis by the ~~judges of the courts of record~~ board of county
20 commissioners of such county and shall continue to serve at the
21 pleasure of said ~~judges~~ county commissioners, and the attorney
22 designated by said ~~judges~~ county commissioners as the person in
23 charge of such office shall be the county indigent defender, and all
24 other attorneys who may be appointed to assist such county indigent

1 defender shall be designated as assistant county indigent defender,
2 of such county.

3 SECTION 2. AMENDATORY 19 O.S. 2011, Section 138.3, is
4 amended to read as follows:

5 Section 138.3 ~~Judges of the courts of record~~ The board of
6 county commissioners of any county subject to the provisions of this
7 act shall determine, at the time the county budget is submitted, the
8 necessity of retaining a county indigent defender or assistants
9 thereto on a full-time or part-time basis at public expense for
10 representation of unfortunate and poverty-stricken persons charged
11 with commission of a crime, which determination shall be made after
12 inquiry into the number of impoverished or destitute defendants
13 which have been brought before such courts during the past term and
14 an estimate of the number that may be charged during the next fiscal
15 year.

16 SECTION 3. AMENDATORY 19 O.S. 2011, Section 138.4, is
17 amended to read as follows:

18 Section 138.4 In counties subject to the provisions of Section
19 138.1a et seq. of this title, wherein the ~~district judges~~ board of
20 county commissioners have determined, in accordance with Section
21 138.3 of this title that the protection of the unfortunate and
22 poverty-stricken defendants subject to criminal action in such
23 county require the employment of a county indigent defender on a
24 full-time basis, such person so appointed shall not engage in any

1 practice of law except in the performance of the duties as county
2 indigent defender, and shall receive a salary commensurate with the
3 salary received by the district attorney in said district, payable
4 monthly, from the court fund of such county, provided such salaries
5 shall not apply to counties of less than three hundred thousand
6 (300,000) population; provided that if additional assistance is
7 required by the county indigent defender to properly fulfill the
8 duties of the office, the indigent defender may authorize the
9 employment of and appoint assistant defenders on a full-time or
10 part-time basis, which assistants shall be under the same
11 restrictions as to the practice of law as the county indigent
12 defender of such county, and each shall receive a salary
13 commensurate with the range of salaries of assistant district
14 attorneys in their districts, payable monthly, out of the court fund
15 of the county as determined by the county indigent defender.

16 SECTION 4. This act shall become effective November 1, 2018.

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18 56-2-8539 GRS 12/11/17

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