

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 170

Short Title: Reform Indigent Representation.

(Public)

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Sponsors: Representatives Wood; Ives, Bowman, and Edwards.

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Referred to: Courts and Justice.

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February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR GREATER SCRUTINY OF PERSONS REQUESTING  
COURT-APPOINTED COUNSEL ON THE BASIS OF INDIGENCY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-450 reads as rewritten:

**"§ 7A-450. Indigency; definition; entitlement; determination; change of status.**

(a) An indigent person is a person who is financially unable to secure legal representation and to provide all other necessary expenses of representation in an action or proceeding enumerated in this Subchapter. In the final determination of indigency made by the court pursuant to G.S. 7A-453, the fact that the person has not received food stamps, Aid to Families with Dependent Children (AFDC), or Supplemental Security Income (SSI) in the 12 months preceding the determination creates a rebuttable presumption that the person is not indigent. The presumption may be overcome only by a finding by the court that special circumstances exist that nevertheless render the person indigent. An interpreter is a necessary expense as defined in Chapter 8A of the General Statutes for a deaf person who is entitled to counsel under this subsection.

(b) Whenever a person, under the standards and procedures set out in this Subchapter, is determined to be an indigent person entitled to counsel, it is the responsibility of the State to provide him with counsel and the other necessary expenses of representation. The professional relationship of counsel so provided to the indigent person he represents is the same as if counsel had been privately retained by the indigent person.

(b1) An indigent person indicted for murder may not be tried where the State is seeking the death penalty without an assistant counsel being appointed in a timely

1 manner. If the indigent person is represented by the public defender's office, the  
2 requirement of an assistant counsel may be satisfied by the assignment to the case of an  
3 additional attorney from the public defender's staff.

4 (c) The question of indigency may be determined or redetermined by the court at  
5 any stage of the action or proceeding at which an indigent is entitled to representation.

6 (d) If, at any stage in the action or proceeding, a person previously determined to  
7 be indigent becomes financially able to secure legal representation and provide other  
8 necessary expenses of representation, he must inform the counsel appointed by the court  
9 to represent him of that fact. In such a case, that information is not included in the  
10 attorney client privilege, and counsel must promptly inform the court of that  
11 information."

12 Sec. 2. This act is effective 30 days after ratification, and applies to actions  
13 filed on or after that date.