GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

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HOUSE BILL 1305

Short Title: Compensate Attorneys for Certain Filings.	(Public)	
Sponsors: Representatives Glazier; and Harrison.		
Referred to: Judiciary II, if favorable, Appropriations.		
April 5, 2007		
A BILL TO BE ENTITLED		
AN ACT TO AUTHORIZE THE OFFICE OF INDIGENT DEFENSE S	SERVICES TO	
COMPENSATE ATTORNEYS FOR FILING CERTIORARI PET	TITIONS AND	
OPPOSITIONS IN THE UNITED STATES SUPREME COURT IN CAPITAL		
CASES AND WHEN IMPORTANT FEDERAL ISSUES	ARISE IN	
NONCAPITAL CASES.		
The General Assembly of North Carolina enacts:		
SECTION 1. G.S. 7A-451(b) reads as rewritten:		
"(b) In each of the actions and proceedings enumerated in subsec	tion (a) of this	
section, entitlement to the services of counsel begins as soon as fea	asible after the	
indigent is taken into custody or service is made upon him of the charge,	petition, notice	
or other initiating process. Entitlement continues through any critical stag	ge of the action	
or proceeding, including, if applicable:	-	
(1) An in-custody interrogation;		
(2) A pretrial identification procedure which occurs after	formal charges	

- 15 A pretrial identification procedure which occurs after formal charges (2)have been preferred and at which the presence of the indigent is 16 17 required; 18
 - A hearing for the reduction of bail, or to fix bail if bail has been earlier (3) denied;
 - A probable cause hearing; (4)
 - Trial and sentencing; and (5)
- Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), 22 (6) 7A-30(2), and Subchapter XIV of Chapter 15A of the General 23 24 Statutes. Statutes;
- 25 In a capital case in which a defendant is under a sentence of death, (7)review of any judgment or decree rendered on direct appeal by the 26 Supreme Court of North Carolina pursuant to the certiorari jurisdiction 27 of the United States Supreme Court; and 28

General Assembly of North Carolina

1	<u>(8)</u>	In a noncapital case, subject to rules adopted by the Office of Indigent
2	<u>(0)</u>	Defense Services, review of any judgment or decree rendered on direct
3		appeal by court of the North Carolina Appellate Division pursuant to
3 4		
4 5		the certiorari jurisdiction of the United States Supremes Court, when
5 6		the judgment or decree:
0 7		a. Decides an important question of federal law in a way that
		conflicts with relevant decisions of the United States Supreme
8		Court, a federal Court of Appeals, or the court of last resort of
9		another state;
10		b. Decides an important question of federal law that has not been,
11		but should be, settled by the United States Supreme Court; or
12		c. Decides a question of federal law in the indigent's favor and the
13		judgment or decree is challenged by opposing counsel through
14		an attempt to invoke the certiorari jurisdiction of the United
15		States Supreme Court."
16		CTION 2. G.S. 7A-498.8(b) reads as rewritten:
17		appellate defender shall perform such duties as may be directed by the
18	•	ent Defense Services, including:
19	(1)	Representing indigent persons subsequent to conviction in trial courts.
20		The Office of Indigent Defense Services may, following consultation
21		with the appellate defender and consistent with the resources available
22		to the appellate defender to ensure quality criminal defense services by
23		the appellate defender's office, assign appeals, or authorize the
24		appellate defender to assign appeals, to a local public defender's office
25		or to private assigned counsel.
26	(2)	Maintaining a clearinghouse of materials and a repository of briefs
27		prepared by the appellate defender to be made available to private
28		counsel representing indigents in criminal cases.
29	(3)	Providing continuing legal education training to assistant appellate
30		defenders and to private counsel representing indigents in criminal
31		cases, including capital cases, as resources are available.
32	(4)	Providing consulting services to attorneys representing defendants in
33		capital cases.
34	(5)	Recruiting qualified members of the private bar who are willing to
35		provide representation in State and federal death penalty
36		postconviction proceedings.
37	(6)	In the appellate defender's discretion, serving as counsel of record for
38		indigent defendants in capital cases in State court.
39	<u>(6a)</u>	
40		indigent defendants in the United States Supreme Court pursuant to a
41		petition for writ of certiorari of the decision on direct appeal by a court
42		of the North Carolina Appellate Division.

1	(7) Undertaking other direct representation and consultation in capital
2	cases pending in federal court only to the extent that such work is fully
3	federally funded."
4	SECTION 3. This act becomes effective July 1, 2007.