

CHAPTER 259

STATE PUBLIC DEFENDER

HOUSE BILL 95-1360

BY REPRESENTATIVES Romero, Grampas, and Owen;
also SENATORS Blickensderfer, Lacy, and Rizzuto.

AN ACT

CONCERNING APPOINTMENTS IN CONFLICT OF INTEREST SITUATIONS INVOLVING THE PUBLIC DEFENDER, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 21-1-105, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

21-1-105. Appointment of other attorney in place of public defender - contracts for services. (1) For cause, the court may, on its own motion or upon the application of the state public defender or the indigent person, appoint an attorney other than the state public defender to represent the indigent person at any stage of the proceedings or on appeal. The attorney shall be awarded reasonable compensation and reimbursement for expenses necessarily incurred, to be fixed and paid ~~by the court~~ from state funds appropriated therefor.

(2) NO LATER THAN JULY 1, 1996, THE STATE PUBLIC DEFENDER SHALL CONTRACT, WHERE FEASIBLE, WITHOUT PRIOR APPROVAL OF THE COURT, FOR THE PROVISION OF ATTORNEY SERVICES AND INVESTIGATIVE SERVICES IN SITUATIONS WHERE THERE IS A CONFLICT OF INTEREST IN REPRESENTING AN INDIGENT PERSON. THE STATE PUBLIC DEFENDER SHALL ESTABLISH, WHERE FEASIBLE, A LIST OF APPROVED CONTRACT ATTORNEYS TO SERVE AS CONFLICTS COUNSEL AND A LIST OF APPROVED INVESTIGATORS TO PROVIDE INVESTIGATIVE SERVICES IN CONFLICT OF INTEREST SITUATIONS. AS A CONDITION OF PLACEMENT ON THE APPROVED LIST, THE CONTRACTING ATTORNEY OR INVESTIGATOR SHALL AGREE TO PROVIDE SERVICES BASED ON THE TERMS ESTABLISHED IN ANY CONTRACT, SUBJECT TO THE RULES ON REIMBURSEMENT NEGOTIATED BETWEEN THE STATE PUBLIC DEFENDER AND THE CONTRACT ATTORNEY OR INVESTIGATOR AND, IN THE CASE OF A CONTRACT ATTORNEY, SUBJECT ALSO TO THE COLORADO RULES OF PROFESSIONAL CONDUCT.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

WHEN MAKING APPOINTMENTS FOR CONFLICTS COUNSEL, JUDGES SHALL APPOINT ATTORNEYS FROM SUCH APPROVED CONTRACT ATTORNEY LIST. HOWEVER, IF IN A PARTICULAR JUDICIAL DISTRICT THE COURT AND THE OFFICE OF THE STATE PUBLIC DEFENDER AGREE THAT THE APPROVED CONTRACT ATTORNEY LIST DOES NOT INCLUDE ANY SUITABLE ATTORNEYS, THE JUDGE HAS THE AUTHORITY TO APPOINT ATTORNEYS WHO ARE NOT ON THE APPROVED CONTRACT LIST TO SERVE AS CONFLICTS COUNSEL, SUBJECT TO THE SAME RULES ON REIMBURSEMENT NEGOTIATED WITH CONTRACT ATTORNEYS AND SUBJECT TO THE COLORADO RULES OF PROFESSIONAL CONDUCT. THE COURT AND THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL COOPERATE IN DEVELOPING A PROCEDURE TO ENSURE THAT THE OFFICE OF THE STATE PUBLIC DEFENDER IS TIMELY NOTIFIED OF EACH CONFLICTS APPOINTMENT THAT IS MADE AND THAT THE JUDICIAL BRANCH IS TIMELY NOTIFIED OF THE PUBLIC DEFENDER'S POSITION IN REGARD TO WHETHER THERE IS A CONFLICT OF INTEREST IN ANY PARTICULAR CASE.

(3) THE STATE PUBLIC DEFENDER SHALL REVIEW THE BILLS SUBMITTED FOR REIMBURSEMENT BY ANY CONTRACT ATTORNEY OR INVESTIGATOR AND MAY APPROVE OR DENY THE PAYMENT OF SUCH BILLS IN WHOLE OR IN PART BASED UPON THE TERMS SET FORTH IN THE CONTRACT RULES NEGOTIATED BETWEEN THE STATE PUBLIC DEFENDER AND THE CONTRACT ATTORNEY OR INVESTIGATOR.

SECTION 2. Adjustments to the 1995 long bill. For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the judicial department, for allocation to the public defender, for conflict of interest costs, for the fiscal year beginning July 1, 1995, shall be reduced by thirteen thousand three hundred ten dollars (\$13,310).

SECTION 3. Future appropriation reductions. It appears that this act will require a reduction in appropriations from the general fund, to the judicial department, for allocation to the public defender, for conflict of interest costs, for subsequent fiscal years in an annual amount estimated to be six hundred thirty-six thousand three hundred seventy-three dollars (\$636,373).

SECTION 4. Effective date - applicability. This act shall take effect July 1, 1995, and shall apply to appointments made on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 5, 1995