

SENATE BILL 682
By McNally

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 14, relative to counsel for indigent criminal defendants.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 14, Part 2, is amended by adding the following as a new section:

Section 40-14-2__.

(a) On an annual basis the comptroller of the treasury shall conduct an audit of the claims for compensation, expert services and litigation expenses paid during the previous year to attorneys appointed to represent indigent criminal defendants in capital cases pursuant to the provisions of this part or Rule 13 of the Rules of the Supreme Court. Such audit shall be for the purpose of determining whether an attorney in a capital case:

(1) Was paid an amount in excess of the amount authorized by the provisions of this part or Rule 13 of the Rules of the Supreme Court;

(2) Was paid for expenses or claims not authorized by the provisions of this part or Rule 13 of the Rules of the Supreme Court;

(3) Paid pursuant to the provisions of this part or Rule 13 of the Rules of the Supreme Court filed the proper application for payment and documents in support of all claims; and

(4) Was paid an amount pursuant to the provisions of this part or Rule 13 of the Rules of the Supreme Court that was in excess of the amount justified by such attorney's application for payment and documents in support of all claims.

(b) On an annual basis the comptroller of the treasury shall conduct an audit of a random number of claims for compensation paid during the previous year to attorneys appointed to represent indigent criminal defendants in non-capital cases pursuant to the provisions of this part or Rule 13 of the Rules of the Supreme Court. Such random number shall be selected by the comptroller but shall be a sufficient number to provide a fair sample of the total claims paid during that year. Such audit shall be for the purpose of making the same determinations required by subsection (a) of this section.

(c) If during the course of or as a result of an audit conducted pursuant to this section, the comptroller finds a method or methods by which, in the comptroller's opinion, the amount of money paid to attorneys to represent indigent defendants in capital and non-capital criminal cases can be constitutionally reduced or limited or the method by which such payments are made or the records required in support of such payments can be improved, the audit shall include such findings.

(d) Within ten (10) days of the completion of an audit conducted pursuant to this section, the comptroller shall transmit a copy of such audit to the chief clerk of the house of representatives and chief clerk of the senate.

SECTION 2. This act shall take effect upon becoming a law the public welfare requiring it and shall apply to compensation claims paid to attorneys for representing indigent defendants in capital and non-capital criminal cases during 1999.