

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1445 - SB 2195

January 27, 2016

SUMMARY OF BILL: Requires a minimum hourly rate of \$75 per hour for attorneys, other than public defenders and post-conviction defenders, appointed to represent indigent defendants.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$20,935,600/Indigent Defense Fund

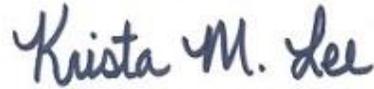
Assumptions:

- Currently, appointed counsel in all cases except capital murder cases receives \$50 per hour for in court work and \$40 per hour for out-of-court work. The Supreme Court is of the opinion that all legal work is equal, except for capital murder cases, and sets the hourly rate the same for all appointed work. This includes cases other than criminal cases—e.g., judicial hospitalization, guardian ad litem, and others.
- The bill would require the minimum rate for appointed counsel to be \$75 per hour. The Administrative Office of the Courts (AOC) reports that the Supreme Court would set the rate for all appointed work, except for capital murder cases, at \$75 per hour.
- In FY14-15, the total in-court hours billed to the Indigent Defense Fund for non-capital cases were 51,725. These were billed at \$50 per hour for a total of \$2,586,250 (\$50 x 51,725 hours). The total out-of-court hours billed to the Indigent Defense Fund for non-capital cases were 560,446.36. These are billed at \$40 per hour for a total of \$22,417,854.40 (\$40 x 560,446.36 hours).
- In capital cases, a defendant is appointed two attorneys, a lead attorney and a co-counsel. The lead attorney is compensated \$100 per hour for in-court time and \$75 per hour for out-of-court time. A co-counsel is compensated \$80 per hour for in-court time and \$60 per hour for out-of-court time. Only the co-counsel out-of-court hourly rate would be increased.
- The AOC does not have data on the out-of-court hours billed by a co-counsel in a capital case. The AOC has the total out-of-court hours billed by lead counsel and co-counsel. It is assumed that a lead attorney performs most of the out-of-court work, and that the average cost per hour is \$70 per hour, which is weighted toward the lead attorney's out-of-court rate to reflect the increased work done by the lead attorney out of court.
- The rate for out-of-court work by a co-counsel would be increased to \$75 per hour, which is the same as the out-of-court rate for lead counsels.

- The total out-of-court hours billed to the Indigent Defense Fund for capital cases were 5,362.5. It is assumed that these are billed at \$70 per hour for a total of \$375,375 ($\$70 \times 5,362.5$ hours).
- The total expenditures in FY14-15 from the Indigent Defense Fund for these hours were \$25,379,479.40 ($\$2,586,250 + \$22,417,854.40 + \$375,375$).
- The bill would require expenditures of \$46,315,039.50 [$(51,725 \text{ hours} + 560,446.36 \text{ hours} + 5,362.5 \text{ hours}) \times \75 per hour] for these hours.
- The bill will increase recurring expenditures from the Indigent Defense Fund by \$20,935,560.10 ($\$46,315,039.50 - \$25,379,479.40$).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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