

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Senator Malone**

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO ENACT A STATEWIDE PUBLIC DEFENDER SYSTEM; AND  
9 FOR OTHER PURPOSES."

### Subtitle

12 "TO ENACT A STATEWIDE PUBLIC DEFENDER SYSTEM."

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

16 SECTION 1. Title. This chapter may be cited as "The Public  
17 Defender Act."

19 SECTION 2. Purpose. It is declared to be the policy of this state to  
20 provide for the realization of the constitutional guarantees of counsel for  
21 indigent persons accused of serious crimes by means of a program established  
22 by this chapter to the end that no innocent person shall be convicted, that  
23 the guilty shall be convicted, and when convicted and if imprisonment is  
24 warranted, shall be incarcerated only after a fair trial and in compliance  
25 with the Arkansas Constitution and the United States Constitution.

27 SECTION 3. Definitions. As used in this Chapter, unless the context  
28 otherwise requires:

29 (1) "Counsel" means any attorney used to serve as counsel pursuant to  
30 the provisions of this chapter;

31 (2) "Detain" means to have in custody or otherwise deprive of freedom  
32 of action;

33 (3) "Expenses" include the cost of investigation, other preparation,  
34 and trial;

35 (4) "Indigent person" means a person who, at the time his need is

1 determined, is unable to employ an attorney or afford other necessary expenses  
2 incidental thereto;

3 (5) "Serious crime" includes any felony, misdemeanor, or offense the  
4 penalty for which includes the possibility of the death penalty, of  
5 confinement or the prolongation of confinement.

6 (6) "Commission" means the Arkansas Public Defender System Commission.

7 (7) "System" means the Arkansas Public Defender System.

8

9 SECTION 4. Creation of Public Defender System. The Arkansas Public  
10 Defender System is hereby created, to be comprised as follows:

11 (a) Effective January 1, 1992, the Arkansas Public Defender System  
12 shall include the Trial Public Defender Division; and

13 (b) the Capital Conflicts Litigation Division; and

14 (c) the Appellate Public Defender Division.

15

16 SECTION 5. Creation of Public Defender Commission. The Arkansas Public  
17 Defender Commission is hereby created, to be comprised as follows:

18 (a) Effective January 1, 1992, the Arkansas Public Defender Commission  
19 shall govern the Arkansas Public Defender System.

20 (b) The Commission shall be composed of seven (7) members, three (3) of  
21 which shall be appointed by the Governor for five-year terms, except that one  
22 of the initial appointees shall serve a term of three years, one shall serve  
23 a term of four years, and the other shall serve the full five year term; and  
24 four (4) of whom shall be appointed by the Arkansas Judicial Council for five  
25 year terms, except that one of the initial appointees shall serve a term of  
26 two years, one shall serve a term of three years, one shall serve a term of  
27 four years, and the other shall serve the full five year term. The  
28 appointees shall be subject to confirmation by the Senate. The appointees of  
29 the Arkansas Judicial Council shall all be attorneys licensed to practice law  
30 in the State of Arkansas who have experience through the practice of law in  
31 the defense of persons accused of crimes. No Commission member may hold other  
32 public office, or be a candidate for public office, during his time of  
33 service on the Commission. The Governor shall designate one Commission member  
34 to serve as chair. No congressional district shall have more than two members  
35 on the Commission. No county shall have more than one member. The

1 Commission shall meet at least once each quarter upon the call of the chair.  
2 The Chief Justice of the Supreme Court of Arkansas may also call meetings of  
3 the Commission. Commission members shall serve without compensation, but  
4 shall be reimbursed for their necessary travel expenses. A Commission member  
5 shall be eligible for reappointment and shall continue in office until his  
6 successor has been appointed, qualified and confirmed by the Senate.

7

8 SECTION 6. Public Defender Commission - Powers and Duties.

9 (a) The Commission shall have the following powers and duties:

10 (1) To establish policies for the indigent defense programs as  
11 provided by law;

12 (2) To require annual reports of expenditures of funds, cases  
13 involved in, and status of such cases for the preceding fiscal year from each  
14 of the directors of the respective public defender programs;

15 (3) To approve a master budget for the System, including  
16 expenses for trial preparation, litigation and expert witnesses;

17 (4) To establish through written policies maximum caseloads for  
18 the programs assigned to the System and standards of experience for counsel  
19 assigned to particular cases;

20 (5) To require reduction of caseloads through reassignment of  
21 cases to private attorneys, as necessary;

22 (6) To approve the sharing of office space, equipment, or  
23 personnel among the separate public defender programs;

24 (7) To establish personnel policies for employment, retention  
25 and discharge;

26 (8) To authorize the acceptance and expenditure of monies, gifts,  
27 grants, or services from any public or private source;

28 (9) To authorize entering into contracts with individuals,  
29 educational institutions, or state or federal agencies;

30 (10) To establish an equitable distribution plan for  
31 allocation of any funds or gifts received from public or private sources for  
32 indigent defense and distribute such funds in accordance with such plan;

33 (11) To appoint an advisory counsel made up of public  
34 defenders and defense lawyers who volunteer to represent indigents to discuss  
35 problems and hear recommendations concerning necessary research, minimum

1 standards, educational needs, and other matters imperative to conducting  
2 Arkansas criminal defense in a professional manner;

3 (12) To solicit and maintain a current list of attorneys licensed  
4 to practice law in this state who are willing to accept court appointments and  
5 who meet any other qualifications as set by the Commission;

6 (13) To solicit and maintain a separate list of persons eligible  
7 for appointment to capital cases, who meet the  
8 qualifications set by the Commission;

9 (14) To determine when appointment of counsel is needed to pro se  
10 applications for post-conviction relief, subject to the approval of the  
11 Supreme Court of Arkansas; and

12 (15) To establish policies for the appointment of counsel in  
13 post-conviction cases, subject to approval by the Supreme Court of Arkansas.

14 (b) The Commission shall operate the Trial Public Defender,  
15 Appellate Public Defender and Capital Conflicts Litigation Division  
16 sufficiently autonomously that they shall not be deemed  
17 to be part of the same office for purposes of appointment of counsel in  
18 conflict of interest situations.

19 (c) Whenever an attorney is appointed to represent an indigent charged  
20 with an offense, the attorney may also represent the indigent in any civil  
21 forfeiture commitment or other penalty proceeding involving matters related  
22 to the charged criminal offense.

23 (d) The Commission shall make an annual report to the  
24 Governor, the President Pro Tempore of the Senate, the Speaker  
25 of the House of Representatives, the Chief Justice of the Arkansas Supreme  
26 Court, and the Presiding Judge of the Arkansas  
27 Court of Appeals regarding the efforts of the Commission to  
28 implement the purposes of the Public Defender Act.

29

30 SECTION 7. Public Defender Commission - Judicial Districts.  
31 Effective January 1, 1992, the Commission shall provide for indigent defense  
32 in one or more of the following manners:

33 (a) By creation of a District Trial Public Defender pursuant to Section  
34 109 of this Act; or

35 (b) By providing for court appointment from a list of attorneys in

1 private practice who have informed the Commission that they are volunteering  
2 to represent indigents, pursuant to Section 111 of this Act. The list for each  
3 Judicial District shall be compiled by the Commission and provided to the  
4 courts in each District.

5

6 SECTION 8. Creation of Office of Defense Services. There is hereby  
7 created the Office of Defense Services, to be comprised as follows:

8 (a) The Office of Defense Services shall supervise the development and  
9 operations of each of the components of the Arkansas Public Defender System  
10 pursuant to the rules, regulations and standards for governing the System  
11 adopted by the Commission.

12 (b) The Commission shall appoint a Defense Services Administrator. The  
13 Administrator shall be appointed for a term of two (2) years to begin July 1,  
14 1992, and the Administrator shall be removed by the Commission only for just  
15 cause. The appointment of the Administrator shall be subject to confirmation  
16 by the Senate. The Administrator shall be chosen solely on the basis of  
17 training, experience, and other qualifications. The Administrator need not  
18 be licensed to practice law.

19 (c) The Commission shall authorize the Administrator to hire support  
20 staff and other personnel as necessary to properly discharge the duties  
21 assigned to the Office of Defense Services. Any discharges from employment  
22 shall be with the approval of the Public Defender Commission and under such  
23 regulations as the Commission may provide.

24 (d) The duties of the Administrator shall include:

25 (1) Maintaining records of the operation of the System,  
26 including, but not limited to the following:

27 (A) detailed descriptions of each of the defense  
28 components of the System in each circuit;

29 (B) caseloads of the various defense components, including  
30 private assigned counsel;

31 (C) budgets and actual expenditures of each defense  
32 component; and

33 (D) the rotation of assigned counsel lists in  
34 accordance with Commission regulations.

35 (2) Presenting to the Commission within ninety (90) days after

1 the end of the fiscal year an annual report on the operation of the System,  
2 which shall include an accounting of all funds received and disbursed, an  
3 evaluation of the cost-effectiveness of the System, and recommendations for  
4 improvement.

5 (3) Allocating and disbursing funds appropriated for the defense  
6 of indigents to the local defense components, pursuant to a caseload formula  
7 to be established by the Commission.

8 (4) Processing and paying fee vouchers of private assigned  
9 counsel, pursuant to guidelines established by the Commission.

10 (5) Establishing procedures to monitor and evaluate the  
11 performance of counsel periodically, pursuant to criteria  
12 developed by the Commission, in order to determine their continuing  
13 eligibility to provide indigent representation. Such monitoring and evaluation  
14 should also take place, as necessary, in response to complaints received.

15 (6) Appearing before and providing assistance to the  
16 Legislature and other relevant bodies regarding matters affecting the  
17 delivery of indigent defense services, issues of substantive criminal law and  
18 criminal procedure, methods of preventing crime, and the treatment of  
19 convicted defendants.

20 (7) Convening regional or statewide conferences and  
21 training seminars for the purpose of implementing the provisions of the  
22 Public Defender Act;

23 (8) Gathering and disseminating information to public defenders  
24 relative to their official duties, including, but not  
25 limited to, changes in the law relative to their office; and

26 (9) Performing other duties in connection with the administration  
27 of the System as the Commission shall direct.

28 (e) In no event shall the Office of Defense Services or the  
29 Administrator interfere with the discretion, judgment, or advocacy of the  
30 Trial Public Defender, Capital Conflicts Litigation Director, Chief Appellate  
31 Public Defender or private assigned attorneys in their handling of individual  
32 cases.

33

34 SECTION 9. Creation of Trial Public Defender Division.

35 There is hereby created the Trial Public Defender Division, to be comprised as

1 follows: There shall be a Trial Public Defender Office in each Judicial  
2 District.

3

4 SECTION 10. Trial Public Defenders - Qualifications -  
5 Appointment.

6 (a) The Director of each Trial Public Defender Office shall be:

- 7 (1) Licensed to practice law in the State of Arkansas;
- 8 (2) Experienced in the defence of criminal cases; and
- 9 (3) Licensed to practice law for at least four (4) years prior  
10 to the appointment.

11 (b) The Commission shall appoint a Trial Public Defender from a list of  
12 qualified applicants.

13 (1) The Director of the Trial Public Defender Office in each  
14 Judicial District shall be appointed for a term of two (2) years to begin July  
15 1, 1992, and he shall be removed by the Commission before the expiration of  
16 his term only for just cause.

17 (A) Just cause for removal shall consist of permanent  
18 physical or mental disability seriously interfering with the performance of  
19 duties, willful misconduct in office, willful and persistent failure to  
20 perform public defender duties, habitual intemperance, or conduct prejudicial  
21 to the administration of justice.

22 (2) The Director of the Trial Public Defender Office is eligible  
23 for reappointment.

24 (3) Vacancies in the office of the Director shall be filled by the  
25 Commission for the unexpired term.

26 (c) Each Trial Public Defender shall have as many deputy public  
27 defenders, investigators, research assistants, and support staff as necessary  
28 to represent indigent persons, as determined by the Commission. The Trial  
29 Public Defender shall have the responsibility of hiring assistants,  
30 investigators and support staff within the budget prescribed by the  
31 Commission. The salaries of all personnel shall be determined from time to  
32 time by the Commission within the limits of the appropriation made therefor  
33 by the General Assembly. Any discharges from employment shall be with the  
34 approval of the Public Defender Commission and under such regulations as the  
35 Commission may provide.

1 (1) A deputy trial public defender shall be a qualified attorney,  
2 licensed to practice in the State of Arkansas.

3 (2) A deputy trial public defender may be employed on a full  
4 time or a part time basis; provided that when a deputy Trial Public  
5 Defender is employed on a part time basis, he or she may engage in the  
6 general practice of law. No person shall serve as a part time public defender  
7 who also serves as a part time municipal court judge, police court judge,  
8 prosecuting attorney, city attorney or county attorney in any Judicial  
9 District.

10

11 SECTION 11. Trial Public Defender - Duties. The Trial Public Defender  
12 Office in each of the Judicial Districts shall have the following duties:

13 (a) Defend indigents within the District as determined by the circuit,  
14 municipal, juvenile, probate or chancery courts in the District in all felony,  
15 misdemeanor, juvenile, guardianship, mental health cases, traffic cases  
16 punishable by incarceration, and all contempt proceedings punishable by  
17 incarceration; provided further that in all capital cases where the death  
18 penalty is sought two attorneys shall be appointed; unless the prosecuting  
19 attorney informs the circuit court at the arraignment of the defendant that  
20 the death penalty will not be sought, it shall be presumed for purposes of  
21 this section that the death penalty will be sought.

22

23 SECTION 12. Conflicts of Interest.

24 (a) If the court determines that a conflict of interest exists between  
25 a defendant and the office of Trial Public Defender, the case may be  
26 reassigned by the court to another Trial Public Defender in an adjacent  
27 District, upon approval by the Commission, or to a private attorney who is  
28 included in a list of volunteers who have agreed to accept such appointments  
29 pursuant to subsection 111(a)(1) of this Act.

30 (1) The trial court shall select attorneys to handle indigent  
31 cases, from the list of attorneys who have volunteered to accept appointments  
32 and who meet the qualifications established by the Commission for such  
33 appointments.

34 (2) All attorneys in a Judicial District shall be notified in  
35 writing by the Commission that a list is being prepared of attorneys willing



1 to represent indigent defendants.

2           (3) Attorneys notified under subsection (b)(2) shall have a  
3 reasonable time to submit their names for inclusion on the list. Attorneys  
4 shall, in submitting their names, set forth their legal education and  
5 experience which qualifies them to provide indigent representation.

6           (4) A final list for each Judicial District shall be  
7 prepared, certified and updated quarterly by the Commission. Attorneys may  
8 not be excluded from any list unless the Commission states in writing the  
9 reasons for such action under such existing rules as adopted by the  
10 Commission. Any attorney thus excluded may appeal the decision to the Supreme  
11 Court of Arkansas. The Commission may not exclude attorneys from the list  
12 solely as a result of inexperience. The Commission is authorized to create a  
13 second list of attorneys who may be appointed to assist lead counsel, and the  
14 appointing courts are authorized to appoint attorneys to assist lead counsel.

15           (5) The appointing court shall make appropriate efforts to  
16 equalize the appointments for all attorneys on the list, provided, however,  
17 that nothing in this Act shall be construed to deprive a court of the power to  
18 appoint particularly qualified and willing attorneys in capital or other  
19 complex litigation.

20           (6) At the conclusion of each case, the appointed attorney shall  
21 submit a copy of his bill to the appointing court which shall issue an order  
22 for appropriate compensation as described in section 111(1)(7) of this Act.  
23 An attorney dissatisfied with the decision of the appointing court may appeal  
24 to the Supreme Court of Arkansas. The State also has the right of appeal. The  
25 Courts may authorize the disbursement of interim fees in complex cases.

26           (7) Appointed private attorneys shall be paid reasonable fees and  
27 compensation for expenses by the Office of Defense Services. The courts  
28 shall presume, subject to rebuttal, that the fees established and paid under  
29 the Federal Criminal Justice Act are reasonable.

30           (8) The Supreme Court may establish presumptive maximum fees  
31 that may be exceeded upon a determination by the trial court or the Supreme  
32 Court of Arkansas, that the case was an exceptional one which required an  
33 extraordinary amount of time to prepare or litigate, and that the request for  
34 extraordinary attorney fees is reasonable under the circumstances.

35           (b) In no event shall an attorney, who has not voluntarily

1 agreed to accept appointments be appointed to represent an indigent person.

2

3 SECTION 13. Creation of Capital Conflicts Litigation Division. There  
4 is hereby created the Capital Conflicts Litigation Division, which may be  
5 appointed in the following situations:

6 (a) In capital murder cases in which the death penalty is sought, if a  
7 conflict of interest is determined by the court to exist between the Trial  
8 Public Defender Office and the defendant, the Capital Conflicts Litigation  
9 Division may be appointed to represent the defendant. Such representation may  
10 be in conjunction with private appointed counsel, whose name appears on the  
11 list for capital litigation referred to in subsection 11(a) of this section.  
12 The circuit court shall appoint two (2) attorneys to represent indigents in  
13 all capital murder trials in which the death penalty is sought. Unless the  
14 prosecuting attorney informs the circuit court at the arraignment of the  
15 defendant that the death penalty will not be sought, it shall be presumed for  
16 purposes of this section that the death penalty will be sought.

17 (1) Should the Capital Conflicts Litigation Division also have a  
18 conflict, any indigent defendant not represented by the Capital Conflicts  
19 Litigation Division or the Trial Public Defender, shall be represented by  
20 Trial Public Defenders from another District, or by persons whose names appear  
21 on the list of attorneys for capital litigation referred to in subsection  
22 11(a) of this Act, or by both a Trial Public Defender from another District  
23 and a person whose name appears on the list referred to in subsection 11(a) of  
24 this Act. Subject to such caseload restrictions as may be established by the  
25 Commission and subject to conflict of interest considerations, the circuit  
26 courts shall give preference to the appointment of the Capital Conflicts  
27 Litigation Division in the appointment of counsel in capital cases where the  
28 Trial Public Defender for that District cannot represent the defendant.

29 (2) The Commission shall appoint a licensed attorney as the  
30 Director of the Capital Conflicts Litigation Division. The Director shall be  
31 appointed for a term of two (2) years to begin July 1, 1992, and the Director  
32 shall be removed by the Commission only for just cause. The appointment of  
33 the Director shall be subject to confirmation by the Senate. This Director  
34 shall have prior experience in defending capital cases, be licensed to  
35 practice law in this state, and have been licensed to practice law for a

1 period of not less than four (4) years prior to appointment.

2 (3) The Commission shall authorize the Director to hire as many  
3 attorneys, investigators, research assistants, secretaries, and other  
4 personnel as necessary to properly represent those persons it has been  
5 appointed to represent. Any discharges from employment shall be with the  
6 approval of the Public Defender Commission and under such regulations as the  
7 Commission may provide.

8 (4) When private attorneys are appointed to represent a capital  
9 defendant, the attorneys shall be paid by the Office of Defense Services at  
10 the rate generally established by federal courts in Arkansas for appointments  
11 for attorneys in federal capital litigation. The courts may authorize the  
12 disbursement of interim fees in complex cases. The attorneys shall also be  
13 reimbursed for reasonable expenses.

14 (5) At the conclusion of each case, the appointed attorney shall  
15 submit his bill to the appointing court which shall issue an order for  
16 appropriate compensation as described in Section 112(a)(4) of this Act. An  
17 application for compensation shall be accompanied by the affidavit of the  
18 appointed attorney, detailing the hours spent on the case and the services  
19 rendered and whether compensation was received or has been applied for  
20 from any other source. There shall be no maximum amount of compensation in  
21 capital cases. Any attorney dissatisfied with the decision of the appointing  
22 court may appeal to the Supreme Court of Arkansas. The State also has the  
23 right of appeal.

24

25 SECTION 14. Creation of Appellate Public Defender Division.  
26 There is hereby created the Appellate Public Defender Division, to be directed  
27 by a Chief Appellate Public Defender as follows:

28 (a) The Appellate Public Defender Division shall consist of two  
29 Sections.

30 (1) The first Section shall be designated as the Capital Section.  
31 The Capital Section shall perfect all direct appeals, and petition for writs  
32 of certiorari to the United States Supreme Court for capital cases assigned to  
33 it by the Arkansas courts. The section may also represent capital defendants  
34 in post-conviction proceedings as authorized or permitted by the courts.

35 (2) The second Section shall be designated as the General

1 Appellate Section. The General Appellate Section shall perfect all other  
2 direct appeals to the Arkansas Court of Appeals and Arkansas Supreme Court for  
3 the non-capital cases assigned to the Appellate Public Defender Division. It  
4 may, at the discretion of the Chief Appellate Public Defender file petitions  
5 for writs of certiorari to the United States Supreme Court.

6 (3) The Chief Appellate Public Defender shall assign personnel to  
7 each of these Sections subject to the approval of the Commission.

8 (4) Unless a conflict of interest exists or for other good cause,  
9 the Appellate Public Defender Division shall represent on appeal all persons  
10 who were represented at trial by the Trial Public Defender. The Supreme Court  
11 of Arkansas shall by rule provide for the appointment of appellate counsel  
12 for persons represented by retained counsel at trial, but who later became  
13 indigent. All private attorneys appointed for appellate representation  
14 shall receive reasonable compensation, including reimbursement for necessary  
15 expenses, as determined by the appellate court hearing the case. Unless a  
16 conflict of interest develops or for other good cause, the Capital Conflicts  
17 Litigation Division shall represent on appeal those persons it represented at  
18 trial. The Capital Conflicts Litigation Division may also be appointed to  
19 represent on post-conviction matters that it did not represent at trial.

20 (5) Subject to the approval of the Commission the Appellate Public  
21 Defender Division may represent in post-conviction proceedings persons whom  
22 the Division represented on appeal.

23 (6) The Chief of the Appellate Public Defender Division shall be  
24 the Appellate Public Defender. The Appellate Public Defender shall be  
25 appointed by the Commission for a term of two (2) years to begin July 1, 1992,  
26 and the Appellate Public Defender shall be removed by the Commission only for  
27 just cause. The appointment of the Appellate Public Defender shall be subject  
28 to confirmation by the Senate. The Appellate Public Defender shall be an  
29 attorney licensed to practice law in the State of Arkansas, have had prior  
30 experience in defending criminal cases, and have been licensed to practice  
31 law for at least four (4) years.

32 (7) The Commission shall authorize the Chief Appellate  
33 Public Defender to appoint an appropriate number of deputy appellate public  
34 defenders, secretaries, investigators, administrators, research assistants,  
35 and other personnel.

1 (d) The Supreme Court of Arkansas shall establish by rule the proper  
2 method for the appointment of the Appellate Public Defender Office as  
3 attorneys on appeal. The court shall prescribe by rule the various duties  
4 of judges, attorneys, court clerks and court reporters in filing notices of  
5 appeal, preparation of the records, and lodging the records in the appellate  
6 courts.

7

8 SECTION 15 . Creation of Trial Expense Fund. There is hereby created a  
9 Trial Expense Fund out of which all expenses regarding the defense of  
10 indigents, other than salaries, attorneys fees and regular office expenses  
11 shall be paid. The expenses shall include, but shall not necessarily be  
12 limited to, fees for expert witnesses, investigators, testing, and travel.  
13 The fund shall be administered by the Office of Defense Services. Whenever in  
14 a case involving an indigent defendant, a judge orders the payment of funds  
15 for the aforementioned expenses, the judge shall transmit a copy of the order  
16 to the Office of Defense Services, which shall pay the funds forthwith to the  
17 appropriate payee, provided that the Supreme Court may promulgate rules for  
18 the stay of such orders in the event that they are contested.

19

20 SECTION 16. Application by indigent person for services.

21 (a) (1) Any person desiring to obtain the services of the public  
22 defender shall affirm in writing that he is without funds or assets with which  
23 to employ private counsel. The affirmation shall further provide in bold print  
24 that a false statement as to financial status shall be punishable by a  
25 sentence in the state penitentiary of not less than one (1) year nor more than  
26 five (5) years and a fine of not less than five hundred dollars (\$500) nor  
27 more than five thousand dollars (\$5,000).

28 (2) The affirmation certificate shall be provided by the public  
29 defender to the indigent person. Upon execution of the affirmation  
30 certificate, the affirmation shall be a permanent part of the indigent  
31 person's records.

32 (3) The court concerned may review and redetermine, with respect  
33 to each proceeding, whether the defendant is an indigent person.

34

35 SECTION 17. Recovery for nonpayment or reimbursement for services.

1 The State of Arkansas may file a civil action for recovery of money expended  
2 in representation of a person who is determined by a court not to have been  
3 indigent at the time the expenditures are made. Suit must be brought within  
4 three (3) years; however, no suit may be brought to recover expenditures  
5 on any case where the person was acquitted or charges were dismissed. Nothing  
6 in this section shall be construed to prevent prosecution for  
7 misrepresentation of financial status.

8

9 SECTION 18. Receipt of certain compensation and reference to another  
10 attorney prohibited.

11 (a) (1) It shall be unlawful for the public defender to receive any  
12 funds, services, or other compensation, directly or indirectly, from any  
13 indigent person represented.

14 (2) A public defender shall not refer any person, indigent or  
15 otherwise, who contacts the public defender to any other attorney, for any  
16 purpose without the approval of the appointing court.

17 (b) Violation of this Section and 16-87-115 shall be grounds for  
18 immediate removal of the public defender found to be in violation.

19 (c) Nothing in this chapter shall prohibit the prosecution of an  
20 offending public defender or other disciplinary action.

21

22 SECTION 19. All provisions of this act of a general and permanent  
23 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
24 Code Revision Commission shall incorporate the same in the Code.

25

26 SECTION 20. (a) In the event any title, subtitle, subchapter, section,  
27 subsection, subdivision, paragraph, subparagraph, item, sentence, clause,  
28 phrase, or word of this chapter is declared or adjudged to be invalid or  
29 unconstitutional, such declaration or adjudication shall not affect the  
30 remaining portions of this chapter which shall remain in full force and effect  
31 as if the portion so declared or adjudged invalid or unconstitutional was not  
32 originally a part of this chapter.

33 (b) If any provision of this act or the application thereof to any  
34 person or circumstance is held invalid, such invalidity shall not affect other  
35 provisions or applications of the act which can be given effect without the

1 invalid provision or application, and to this end the provisions of this act  
2 are declared to be severable.

3

4       SECTION 21. (a) All laws and parts of laws in conflict with this act  
5 are hereby repealed.

6       (b) Subchapter 1 of Chapter 87 of Title 16 of the Arkansas Code is  
7 repealed.

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