

SENATE BILL No. 457

By Committee on Judiciary

1-26

9 AN ACT concerning compensation of attorneys of indigent defendants;
10 amending K.S.A. 22-4507 and 22-4508 and repealing the existing
11 sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 22-4507 is hereby amended to read as follows: 22-
15 4507. (a) *Subject to the limitations provided in K.S.A. 22-4508, and*
16 *amendments thereto*, an attorney, other than a public defender or assistant
17 public defender or contract counsel, who is appointed by the court to
18 perform services for an indigent person, as provided by article 45 of chap-
19 ter 22 of the Kansas Statutes Annotated, and amendments thereto, shall
20 at the conclusion of such service or any part thereof be entitled to com-
21 pensation for such services and to be reimbursed for expenses reasonably
22 incurred by such person in performing such services. Compensation for
23 services shall be paid in accordance with standards and guidelines con-
24 tained in rules and regulations adopted by the state board of indigents'
25 defense services under this section.

26 (b) Claims for compensation and reimbursement shall be certified by
27 the claimant and shall be presented to the court at sentencing. A supple-
28 mental claim may be filed at such later time as the court may in the
29 interest of justice determine if good cause is shown why the claim was
30 not presented at sentencing. In accordance with standards and guidelines
31 adopted by the state board of indigents' defense services under this sec-
32 tion, all such claims shall be reviewed and approved by one or more judges
33 of the district court before whom the service was performed, or, in the
34 case of proceedings in the court of appeals, by the chief judge of the court
35 of appeals and in the case of proceedings in the supreme court, by the
36 departmental justice for the department in which the appeal originated.
37 Each claim shall be supported by a written statement, specifying in detail
38 the time expended, the services rendered, the expenses incurred in con-
39 nection with the case and any other compensation or reimbursement
40 received. When properly certified and reviewed and approved, each claim
41 for compensation and reimbursement shall be filed in the office of the
42 state board of indigents' defense services. If the claims meet the standards
43 established by the board, the board shall authorize payment of the claim.

1 (c) Such attorney shall be compensated at the rate of \$80 per hour,
2 except that:

3 (1) The chief judge of any judicial district may negotiate an hourly
4 rate less than \$80 per hour for attorneys who voluntarily accept appoint-
5 ments in that district; or

6 (2) contract counsel shall be compensated at the rate or rates speci-
7 fied in the contract between the board and the assigned counsel.

8 If the state board of indigents' defense services determines that the
9 appropriations for indigents' defense services or the moneys allocated by
10 the board for a county or judicial district will be insufficient in any fiscal
11 year to pay in full claims filed and reasonably anticipated to be filed in
12 such year under this section, the board may adopt a formula for prorating
13 the payment of pending and anticipated claims under this section.

14 (d) The state board of indigents' defense services may make expend-
15 itures for payment of claims filed under this section from appropriations
16 for the current fiscal year regardless of when the services were rendered.

17 (e) The state board of indigents' defense services shall adopt rules
18 and regulations prescribing standards and guidelines governing the filing,
19 processing and payment of claims under this section.

20 (f) An attorney, other than a public defender, assistant public de-
21 fender or contract counsel, who is appointed by the court to perform
22 services for an indigent person and who accesses electronic court records
23 for an indigent person, as provided by this act, shall be exempt from
24 paying fees to access electronic court records.

25 Sec. 2. K.S.A. 22-4508 is hereby amended to read as follows: 22-
26 4508. (a) An attorney, other than a public defender, who *is assigned from*
27 *the panel for indigents' defense services and* acts as counsel for a defend-
28 ant who is financially unable to obtain investigative, expert or other serv-
29 ices necessary to an adequate defense in the defendant's case may request
30 them in an *ex parte* application addressed to the district court where the
31 action is pending. Upon finding, after appropriate inquiry in the *ex parte*
32 proceeding, that the services are necessary and that the defendant is fi-
33 nancially unable to obtain them, the district court shall authorize counsel
34 to obtain the services on behalf of the defendant. The district court may,
35 in the interests of justice, and upon a finding that timely procurement of
36 necessary services could not await prior authorization, ratify such services
37 after they have been obtained. Within the standards and guidelines
38 adopted by the state board of indigents' defense services, the district court
39 shall determine reasonable compensation for the services and approve
40 payment to the organization or person who rendered them upon the filing
41 of a certified claim for compensation supported by a written statement
42 specifying the time expended, services rendered, expenses incurred on
43 behalf of the defendant, and the compensation received in the same case

1 or for the same services from any other source. Payment shall be made
2 in the manner provided in K.S.A. 22-4507, and amendments thereto.

3 *(b) A defendant represented by a privately retained attorney shall not*
4 *be eligible to obtain investigative, expert or other services at state expense*
5 *unless such defendant has been charged with capital murder as defined*
6 *in K.S.A. 21-3439, and amendments thereto.*

7 *(c) As used in this section “privately retained attorney” means an*
8 *attorney who accepts funds or compensation to act as counsel for a de-*
9 *fendant from any source other than the board of indigents’ defense serv-*
10 *ices.*

11 Sec. 3. K.S.A. 22-4507 and 22-4508 are hereby repealed.

12 Sec. 4. This act shall take effect and be in force from and after its
13 publication in the statute book.