GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

HOUSE DRH80258-LL-214 (3/15)

Short Title: Compensate Attorneys for Certain Filings.

| Sponsors: | Representative Glazier. |
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| Referred to: | |

| 1 | | A BILL TO BE ENTITLED | | |
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| 2 | AN ACT TO AUTHORIZE THE OFFICE OF INDIGENT DEFENSE SERVICES TO | | | |
| 3 | COMPENSA | TE ATTORNEYS FOR FILING CERTIORARI PETITIONS AND | | |
| 4 | OPPOSITION | IS IN THE UNITED STATES SUPREME COURT IN CAPITAL | | |
| 5 | CASES AN | D WHEN IMPORTANT FEDERAL ISSUES ARISE IN | | |
| 6 | NONCAPITA | AL CASES. | | |
| 7 | The General Asse | embly of North Carolina enacts: | | |
| 8 | SECT | ION 1. G.S. 7A-451(b) reads as rewritten: | | |
| 9 | "(b) In each | n of the actions and proceedings enumerated in subsection (a) of this | | |
| 10 | section, entitlem | ent to the services of counsel begins as soon as feasible after the | | |
| 11 | indigent is taken | into custody or service is made upon him of the charge, petition, notice | | |
| 12 | or other initiating | g process. Entitlement continues through any critical stage of the action | | |
| 13 | or proceeding, ind | cluding, if applicable: | | |
| 14 | | An in-custody interrogation; | | |
| 15 | (2) | A pretrial identification procedure which occurs after formal charges | | |
| 16 | | have been preferred and at which the presence of the indigent is | | |
| 17 | | required; | | |
| 18 | (3) | A hearing for the reduction of bail, or to fix bail if bail has been earlier | | |
| 19 | | denied; | | |
| 20 | (4) | A probable cause hearing; | | |
| 21 | (5) | Trial and sentencing; and | | |
| 22 | (6) | Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), | | |
| 23 | | 7A-30(2), and Subchapter XIV of Chapter 15A of the General | | |
| 24 | | Statutes. <u>Statutes;</u> | | |
| 25 | <u>(7)</u> | In a capital case in which a defendant is under a sentence of death, | | |
| 26 | | review of any judgment or decree rendered on direct appeal by the | | |
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(Public)

General Assembly of North Carolina

| 1 Supreme Court of North Carolina pursuant to the certiorari jurisdiction of the United States Supreme Court; and 2 0f the United States Supreme Court; and 3 (8) In a noncapital case, subject to rules adopted by the Office of Indigent 4 Defense Services, review of any judgment or decree rendered on direct appeal by court of the North Carolina Appellate Division pursuant to the certiorari jurisdiction of the United States Supremes Court, when the judgment or decree: 8 a. Decides an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court, a federal Court of Appeals, or the court of last resort of another state: 10 Court, a federal Court of Appeals, or the court of last resort of another state: 12 b. Decides an important question of federal law that has not been, but should be, settled by the United States Supreme Court; or 14 c. Decides a question of federal law in the indigent's favor and the judgment or decree is challenged by opposing counsel through an attempt to invoke the certiorari jurisdiction of the United States Supreme Court." 18 SECTION 2. G.S. 7A-498.8(b) reads as rewritten: 19 "(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including: 21 (1) Representing indigent persons subsequent to conviction in trial courts. The Office of Indigent Defense |
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| 3 (8) In a noncapital case, subject to rules adopted by the Office of Indigent Defense Services, review of any judgment or decree rendered on direct appeal by court of the North Carolina Appellate Division pursuant to the certiorari jurisdiction of the United States Supremes Court, when the judgment or decree: a. Decides an important question of federal law in a way that conflicts with relevant decisions of the United States Supreme Court, a federal Court of Appeals, or the court of last resort of another state; b. Decides an important question of federal law that has not been, but should be, settled by the United States Supreme Court; or c. Decides a question of federal law in the indigent's favor and the judgment or decree is challenged by opposing counsel through an attempt to invoke the certiorari jurisdiction of the United States Supreme Court." SECTION 2. G.S. 7A-498.8(b) reads as rewritten: "(b) The appellate defender shall perform such duties as may be directed by the Office of Indigent Defense Services, including: (1) |
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| 38 postconviction proceedings. |
| 39 (6) In the appellate defender's discretion, serving as counsel of record for |
| 40 indigent defendants in capital cases in State court. |
| 41 (6a) In the appellate defender's discretion, serving as counsel of record for |
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| 42 <u>indigent defendants in the United States Supreme Court pursuant to a</u> |
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| 1 | (7) Undertaking other direct representation and consultation in capital |
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| 2 | cases pending in federal court only to the extent that such work is fully |
| 3 | federally funded." |
| 4 | SECTION 3. This act becomes effective July 1, 2007. |