



HOUSE BILL 388: Assigned Counsel/Amend and Clarify.-AB

2013-2014 General Assembly

Committee: Senate Judiciary I
Introduced by: Reps. Jackson, Glazier
Analysis of: First Edition

Date: April 22, 2013
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SUMMARY: *House Bill 388 would amend the law governing payment of costs for legal assistance by partially indigent persons to authorize the docketing of judgments for attorneys' fees upon expiration of the person's probation. The bill would also modify the requirement that the provider of legal services obtain and include in the provider's fee application the person's social security number.*

[As introduced, this bill was identical to S632, as introduced by Sen. Newton, which is currently in Senate Judiciary I.]

CURRENT LAW: G.S. 7A-455 requires that the court order the payment of certain costs by a "partially indigent" person who is financially able to pay a portion, but not all, of the value of the legal services rendered for that person by assigned counsel, the public defender, or the appellate defender, along with other necessary expenses of representation. In such cases, judgment is entered in the office of the clerk of superior court for the money value of services rendered by counsel and any other necessary expenses of representation, and constitutes a lien on the property of the person against whom the judgment is entered. If the person is convicted, the order or judgment becomes effective on the date the order becomes final or the date the person's probation is terminated or revoked, whichever is later.

When the entry of judgment is authorized, the public defender or the appellate defender who rendered the services is required to obtain the defendant's social security number and include it, or a certificate that the person has no social security number, in the fee application. Unless the order for payment includes the social security number of the partially indigent person or certification that the person has no social security number, payment of the fee from the Indigent Persons' Attorney Fee Fund is not authorized.

BILL ANALYSIS: House Bill 388 would amend the law pertaining to the docketing and indexing of a judgment against a partially indigent person to add the probation expiration date as an alternate determining date upon which the order or judgment will become effective.

The bill would also require the assigned attorney, guardian ad litem, public defender, or appellate defender who provided the legal services to *make reasonable efforts to obtain* the person's social security number, and would permit the provider of legal services to state, as a reason for not including the social security number in the fee application, that it cannot be obtained with reasonable efforts.

EFFECTIVE DATE: This bill will be effective when it becomes law.

Brenda Carter, counsel to House Judiciary Subcommittee B, substantially authored this summary.

