



Supreme Court State of Tennessee

CHIEF JUSTICE
JEFFREY S. BIVINS

JUSTICES
CORNELIA A. CLARK
SHARON G. LEE
HOLLY KIRBY
ROGER A. PAGE

401 SEVENTH AVENUE NORTH
NASHVILLE, TENNESSEE
37219

FOR IMMEDIATE RELEASE
October 3, 2017

CONTACT: Barbara Peck
Office: 615-532-6047
Barbara.peck@tncourts.gov

TENNESSEE SUPREME COURT BACKS CHANGES TO STATE'S INDIGENT REPRESENTATION STRUCTURE

Nashville, Tenn. – The Tennessee Supreme Court, acting on recommendations from its Indigent Representation Task Force, is taking action to reform the state's method for providing legal assistance to individuals who are unable to afford an attorney.

“The task force confirmed what many of us already suspected: The system needs major reforms,” said Chief Justice Jeff Bivins. “While no perfect solution exists, the Court believes the improvements we commit to today will move the state toward a more efficient, effective means of providing this representation that our federal and state constitutions guarantee.”

Some of these changes require legislation that the Court will be supporting in the 2018 legislative session. In addition, the Court intends to make changes to several state court rules that govern how attorneys are compensated, provided the governor and state legislators approve the requested funding.

One key change is an increase in the amount attorneys are paid to work on such cases, a compensation rate that has not changed in 20 years. The Court will seek funding to increase the rates to \$65 per hour, from the current \$40 per hour for work outside court and \$50 hourly for time spent in court. Additionally, current rules “cap” compensation on most cases at \$1,000 or \$1,500. The Court will request an appropriation in next year's budget to raise the caps by \$500 on all felonies and by \$250 on juvenile matters.

Additionally, the Court is endorsing the recommendations to establish an appellate division of the public defenders' offices to handle all appeals involving those offices, as well as to establish

a conflicts division to facilitate representation of more indigent defendants by public defenders in lieu of private attorneys being appointed to the cases.

The Court also expects to support legislation creating a statewide commission to oversee indigent representation issues, including the appellate and conflict divisions. The commission would not impact the state's local public defenders, who are elected officials.

One complaint the task force heard during its work was that the requirement to bill at a case's conclusion sometimes means waiting years to receive payment for work performed. The Court, through its Administrative Office of the Courts, will implement periodic billing to address this problem, first in juvenile dependent and neglect cases, which tend to last the longest.

Finally, in an effort to be better stewards of taxpayer money, the Court will modify indigency forms to require judges to explain and certify the existence of a conflict before appointment of private counsel. This will ensure that public defenders are the primary resource for indigent cases, and appointed private counsel secondary.

The recommendations received by the Court were detailed in a 200-page report, *Liberty and Justice for All: Providing Right to Counsel Services in Tennessee*, issued by the Indigent Representation Task Force, a group of lawyers, judges, and educators from across the state who spent 18 months examining practices, problems, and recommendations concerning Tennessee's system for indigent representation. The task force, which was appointed by the Tennessee Supreme Court, urged sweeping changes to the state's indigent representation structure.

"The State of Tennessee carries the obligation to comply with the requirements of the Sixth Amendment of the United States Constitution and Article I, Section 9 of the Tennessee Constitution. The Court takes seriously our duty to see that the state's programs providing legal assistance to eligible adults and children are providing that service in an organized, professional way that is fair to those represented, as well as to the taxpayers of this state," Chief Justice Bivins said.

###