

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**D**

**HOUSE DRH80258-LL-214 (3/15)**

Short Title:   Compensate Attorneys for Certain Filings. (Public)

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Sponsors:    Representative Glazier.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE OFFICE OF INDIGENT DEFENSE SERVICES TO COMPENSATE ATTORNEYS FOR FILING CERTIORARI PETITIONS AND OPPOSITIONS IN THE UNITED STATES SUPREME COURT IN CAPITAL CASES AND WHEN IMPORTANT FEDERAL ISSUES ARISE IN NONCAPITAL CASES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 7A-451(b) reads as rewritten:

"(b) In each of the actions and proceedings enumerated in subsection (a) of this section, entitlement to the services of counsel begins as soon as feasible after the indigent is taken into custody or service is made upon him of the charge, petition, notice or other initiating process. Entitlement continues through any critical stage of the action or proceeding, including, if applicable:

- (1) An in-custody interrogation;
- (2) A pretrial identification procedure which occurs after formal charges have been preferred and at which the presence of the indigent is required;
- (3) A hearing for the reduction of bail, or to fix bail if bail has been earlier denied;
- (4) A probable cause hearing;
- (5) Trial and sentencing; ~~and~~
- (6) Review of any judgment or decree pursuant to G.S. 7A-27, 7A-30(1), 7A-30(2), and Subchapter XIV of Chapter 15A of the General ~~Statutes. Statutes;~~
- (7) In a capital case in which a defendant is under a sentence of death, review of any judgment or decree rendered on direct appeal by the

- 1 Supreme Court of North Carolina pursuant to the certiorari jurisdiction  
2 of 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  
5 appeal by court of the North Carolina Appellate Division pursuant to  
6 the certiorari jurisdiction of the United States Supreme Court, when  
7 the judgment or decree:  
8 a. Decides an important question of federal law in a way that  
9 conflicts with relevant decisions of the United States Supreme  
10 Court, a federal Court of Appeals, or the court of last resort of  
11 another state;  
12 b. Decides an important question of federal law that has not been,  
13 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  
15 judgment or decree is challenged by opposing counsel through  
16 an attempt to invoke the certiorari jurisdiction of the United  
17 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  
20 Office of Indigent Defense Services, including:

- 21 (1) Representing indigent persons subsequent to conviction in trial courts.  
22 The Office of Indigent Defense Services may, following consultation  
23 with the appellate defender and consistent with the resources available  
24 to the appellate defender to ensure quality criminal defense services by  
25 the appellate defender's office, assign appeals, or authorize the  
26 appellate defender to assign appeals, to a local public defender's office  
27 or to private assigned counsel.  
28 (2) Maintaining a clearinghouse of materials and a repository of briefs  
29 prepared by the appellate defender to be made available to private  
30 counsel representing indigents in criminal cases.  
31 (3) Providing continuing legal education training to assistant appellate  
32 defenders and to private counsel representing indigents in criminal  
33 cases, including capital cases, as resources are available.  
34 (4) Providing consulting services to attorneys representing defendants in  
35 capital cases.  
36 (5) Recruiting qualified members of the private bar who are willing to  
37 provide representation in State and federal death penalty  
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  
42 indigent defendants in the United States Supreme Court pursuant to a  
43 petition for writ of certiorari of the decision on direct appeal by a court  
44 of the North Carolina Appellate Division.

1           (7)   Undertaking other direct representation and consultation in capital  
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.