

House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 94

HOUSE BILL 2307

AN ACT

AMENDING SECTION 13-4041, ARIZONA REVISED STATUTES; RELATING TO APPEALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-4041, Arizona Revised Statutes, is amended to
3 read:

4 13-4041. Fee of counsel assigned in criminal proceeding or
5 insanity hearing on appeal or in postconviction
6 relief proceedings; reimbursement

7 A. Except pursuant to subsection G of this section, if counsel is
8 appointed by the court to represent the defendant in either a criminal
9 proceeding or insanity hearing on appeal, the county in which the court from
10 which the appeal is taken presides shall pay counsel, except that in those
11 appeals where the defendant is represented by a public defender or other
12 publicly funded office, compensation shall not be set or paid. Compensation
13 for services rendered on appeal shall be in an amount as the supreme court in
14 its discretion deems reasonable, considering the services performed.

15 B. After the supreme court has affirmed a defendant's conviction and
16 sentence in a capital case, the supreme court or, if authorized by the
17 supreme court, the presiding judge of the county from which the case
18 originated shall appoint counsel to represent the capital defendant in the
19 state postconviction relief proceeding.

20 C. The supreme court shall establish and maintain a list of persons
21 who are qualified to represent capital defendants in postconviction
22 proceedings. The supreme court may establish by rule more stringent
23 standards of competency for the appointment of postconviction counsel in
24 capital cases than are provided by this subsection. The supreme court may
25 refuse to certify an attorney on the list who meets the qualifications
26 established under this subsection or may remove an attorney from the list who
27 meets the qualifications established under this subsection if the supreme
28 court determines that the attorney is incapable or unable to adequately
29 represent a capital defendant. The court shall appoint counsel from the
30 list. Counsel who are appointed from the list shall meet the following
31 qualifications:

32 1. Be a member in good standing of the state bar of Arizona for at
33 least five years immediately preceding the appointment.

34 2. Have practiced in the area of state criminal appeals or
35 postconviction proceedings for at least three years immediately preceding the
36 appointment.

37 3. Not previously have represented the capital defendant in the case
38 either in the trial court or in the direct appeal, unless the defendant and
39 counsel expressly request continued representation and waive all potential
40 issues that are foreclosed by continued representation.

41 D. Before filing a petition, the capital defendant may personally
42 appear before the trial court and waive counsel. If the trial court finds
43 that the waiver is knowing and voluntary, appointed counsel may withdraw.
44 The time limits in which to file a petition shall not be extended due solely
45 to the change from appointed counsel to self-representation.

1 E. If at any time the trial court determines that the capital
2 defendant is not indigent, appointed counsel shall no longer be compensated
3 by public monies and may withdraw.

4 F. Unless counsel is employed by a publicly funded office, counsel
5 appointed to represent a capital defendant in state postconviction relief
6 proceedings shall be paid an hourly rate of not to exceed one hundred dollars
7 per hour ~~for up to two hundred hours of work, whether or not a petition is~~
8 ~~filed.~~ Monies shall not be paid to court appointed counsel unless either:

9 1. A petition is timely filed.

10 2. If a petition is not filed, a notice is timely filed stating that
11 counsel has reviewed the record and found no meritorious claim.

12 G. ~~On a showing of good cause,~~ The trial court shall compensate
13 appointed counsel from county funds ~~in addition to the amount of compensation~~
14 ~~prescribed by subsection F of this section by paying an hourly rate in an~~
15 ~~amount that does not exceed one hundred dollars per hour. The attorney may~~
16 ~~establish good cause for additional fees by demonstrating that the attorney~~
17 ~~spent over two hundred hours representing the defendant in the proceedings.~~
18 The court OR THE COURT'S DESIGNEE shall review and approve additional ALL
19 reasonable fees and costs. If the attorney believes that the court has set
20 an unreasonably low hourly rate or if the court finds that the hours the
21 attorney spent ~~over the two hundred hour threshold~~ are unreasonable, the
22 attorney may file a special action with the Arizona supreme court. If
23 counsel is appointed in successive postconviction relief proceedings,
24 compensation shall be paid pursuant to section 13-4013, subsection A.

25 H. The county shall request reimbursement for fees it incurs pursuant
26 to subsections F, G and I of this section arising out of the appointment of
27 counsel to represent an indigent capital defendant in a state postconviction
28 relief proceeding. The state shall pay fifty per cent of the fees incurred
29 by the county out of monies appropriated to the supreme court for these
30 purposes. The supreme court shall approve county requests for reimbursement
31 after certification that the amount requested is owed.

32 I. The trial court may authorize additional monies to pay for
33 investigative and expert services that are reasonably necessary to adequately
34 litigate those claims that are not precluded by section 13-4232.

APPROVED BY THE GOVERNOR APRIL 11, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2013.

Passed the House February 25, 2013

Passed the Senate April 9, 2013

by the following vote: 56 Ayes,

by the following vote: 30 Ayes,

4 Nays, 0 Not Voting

0 Nays, 0 Not Voting



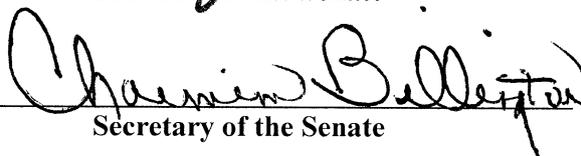
Speaker of the House



President of the Senate



Chief Clerk of the House



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

10 day of April, 2013

at 3:20 o'clock P M.



Secretary to the Governor

Approved this 11th day of

April

at 12:26 o'clock P. M.



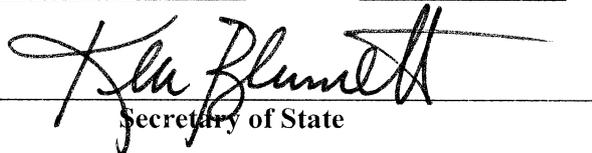
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 11th day of April, 2013

at 4:34 o'clock P M.



Secretary of State