Regular Session, 2003

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HOUSE BILL NO. 1732

BY REPRESENTATIVE DEVILLIER AND SENATOR DARDENNE

INDIGENT DEFENSE: Requires a one-time fee of forty dollars from any criminal defendant seeking representation by an indigent defender board

AN ACT

2	To enact R.S. 15:147(A)(1)(d), (e), (f), and (g), relative to right to counsel in
3	criminal cases; to provide with respect to the defense of indigents; to
4	provide for the collection of a one-time forty dollar fee from criminal
5	defendants seeking representation by the indigent defender board; to
6	provide for collection and distribution of fees; and to provide for
7	related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 15:147(A)(1)(d), (e), (f), and (g) are hereby enacted to
10	read as follows:
11	§147. Proceedings to determine indigency
12	A.(1)
13	* * *
14	(d) An accused person, or if applicable a parent or legal
15	guardian of an accused minor or an accused adult person who is
16	claimed as a dependent on the federal income tax submission of his

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	parent or legal guardian, who makes application to the judicial district
2	indigent defender board, certifying that he is financially unable to
3	employ counsel and requesting representation by indigent defense
4	counsel or conflict counsel, shall pay a nonrefundable application fee
5	of forty dollars to the clerk of court, which fee shall be in addition to all
6	other fees or costs lawfully imposed. If the clerk or other appropriate
7	official determines that the person does not have the financial resources
8	to pay the application fee based upon the financial information
9	submitted, the fee may be waived or reduced. An accused who is found
10	to be indigent may not be refused counsel for failure to pay the
11	application fee.
12	(e)(i) The clerk of court shall collect the application fee
13	imposed by this Section. The clerk of court shall remit the proceeds to
14	the judicial district indigent defender fund in the judicial district in
15	which the application was made monthly by the tenth day of the
16	succeeding month. The clerk may retain two percent of the funds
17	collected in order to defray the costs associated with collecting the
18	application fee.
19	(ii) The Indigent Defense Assistance Board shall develop and
20	promulgate rules pursuant to the Administrative Procedure Act to
21	provide uniform guidelines to be used by the clerks of court of each
22	parish in making a determination as to the indigency of a defendant.
23	(f) The funds collected pursuant to this Section and all interest
24	or other income earned from the investment of such funds shall be used

and administered by each judicial district indigent defender board.

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1 (g) The judicial district indigent defender board or other
2 appropriate official shall maintain a record of all persons applying for
3 representation and the disposition of the application and shall provide
4 this information to the Indigent Defense Assistance Board on a monthly
5 basis as well as reporting the amount of funds collected or waived.
6 * * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Devillier, Sen. Dardenne

HB No. 1732

Abstract: Requires the clerk of court to collect a \$40 fee from each accused person applying for indigent defense.

<u>Present law</u> provides that a preliminary inquiry and determination as to whether or not an accused person in a criminal proceeding is indigent is made not later than the time of arraignment and it provides factors for the judge to consider in determining indigency.

<u>Present law</u> provides that the accused is responsible for applying for indigent defense counsel and for establishing his indigency and entitlement to counsel. The accused is also required to make application to the local indigent defender office, who then must inquire further into the defendant's economic status in order to file a certification with the court as to the indigency of the accused or to enroll as counsel.

<u>Proposed law</u> retains <u>present law</u> but also requires that the clerk of court collect a \$40 non-refundable application fee from each accused applying for indigent defense.

<u>Proposed law</u> also requires the clerk of court to remit the proceeds to the judicial district indigent defender fund for each judicial district by the tenth day of the succeeding month. Authorizes clerk to retain two percent of the funds collected in order to defray the costs associated with collection.

<u>Proposed law</u> requires the Indigent Defense Assistance Board to develop and promulgate rules pursuant to the APA to provide uniform guidelines to be used by the clerks of court of each parish in making a determination as to the indigency of a defendant.

<u>Proposed law</u> authorizes the waiver or reduction of the fee if the person lacks the financial resources to pay at the time of application. An accused may not be refused counsel for failure to pay the application fee.

<u>Proposed law</u> gives the local judicial district indigent defender boards authority to use and administer all interest and other income earned from the investment of such funds.

<u>Proposed law</u> requires the district boards or other appropriate official to maintain a record of all persons applying for representation and the disposition of each application, such information to be provided to the Indigent Defense Assistance Board on a monthly basis, as well as reporting the amount of funds collected or waived.

(Adds R.S. 15:147(A)(1)(d), (e), (f) and (g))