

HOUSE BILL NO. HB0254

Public defender's office-amendments.

Sponsored by: Representative(s) Simpson and Buchanan and
Senator(s) Nicholas and Ross

A BILL

for

1 AN ACT relating to the state public defender's office;
2 amending budget provisions of the state public defender's
3 office as specified; limiting payment of costs of a
4 defendant who retains outside counsel as specified; making
5 conforming amendments; eliminating a limitation on receipt
6 of federal funds; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 7-6-105(b), 7-6-106(c), 7-6-109(a)
11 and by creating a new (c) and 7-6-113(a) are amended to
12 read:

13

14 **7-6-105. Advisement of rights; appointment of**
15 **attorney.**

16

1 (b) At the person's initial appearance the court
2 shall advise any defendant who is a needy person of his
3 right to be represented by an attorney at public expense.
4 The court shall further explain to the needy person the
5 possibility that he may be ordered to reimburse the state
6 for the costs associated with his legal representation and
7 that, if he retains private counsel not appointed by the
8 court, the state public defender shall not be required to
9 pay any costs associated with his legal representation. If
10 the person charged does not have an attorney and wishes
11 one, the court shall notify an available public defender
12 for the judicial district or shall appoint an attorney to
13 represent the needy person if no public defender is
14 available.

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16 **7-6-106. Determination of need; reimbursement for**
17 **services.**

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19 (c) In every case in which a person has received
20 services under W.S. 7-6-104, the presiding judge shall
21 determine whether the person or, in the case of an
22 unemancipated minor, his custodial parent or any other
23 person who has a legal obligation of support, is able to
24 provide any funds towards payment of part or all of the

1 cost associated with such services. If the person or, in
2 the case of an unemancipated minor, his custodial parent or
3 any other person who has a legal obligation of support, is
4 not able to provide any funds towards payment of costs, the
5 court shall enter a specific finding on the record. If the
6 court determines the person or, in the case of an
7 unemancipated minor, his custodial parent or any other
8 person who has a legal obligation of support, is able to
9 provide any amount as reimbursement, the court shall order
10 the person or, in the case of an unemancipated minor, his
11 custodial parent or any other person who has a legal
12 obligation of support, to reimburse the state for all or
13 part of the costs of the services provided or shall state
14 on the record the reasons why an order for reimbursement
15 was not entered. Where a person is initially provided with
16 counsel pursuant to W.S. 7-6-105(a), but subsequently
17 retains private counsel, the court may order the person to
18 reimburse the state for the services already provided.
19 Where a person retains private counsel not appointed by the
20 court, neither the person nor his attorney may petition the
21 court for an order to require, and the court shall not
22 order, the state public defender to pay the private
23 attorney's fees or other expenses related to the legal

1 representation. All reimbursements under this act shall be
2 made through the clerk of court.

3
4 **7-6-109. Appointment of outside attorney.**

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6 (a) Nothing in this act shall prevent a court on its
7 own motion or upon application by the ~~state public defender~~
8 ~~or by the~~ individual defendant, ~~from appointing an attorney~~
9 ~~other than~~ to order the public defender to ~~represent the~~
10 ~~defendant or to assist in the representation of the~~
11 ~~defendant at any stage of the proceedings or on appeal~~
12 provide alternate state appointed defense counsel, provided
13 that good cause is shown why a state appointed alternate
14 defense counsel is necessary.

15
16 (c) The state shall not pay the costs of a
17 defendant's attorney or supporting services, unless the
18 defendant is to be represented by the public defender, or
19 in the case of a conflict, alternate defense counsel
20 appointed in accordance with this act.

21
22 **7-6-113. Funding.**

(a) The total state ~~and federal~~ funding of the public defender program shall be eighty-five percent (85%) of the state public defender budget.

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5 **Section 2.** W.S. 7-6-109(b) is repealed.

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7 **Section 3.** This act is effective July 1, 2005.

8

9 (END)