

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Office of Indigent Defense Services

Rule No. 355-9-1-.04

Rule Title: Time Limit for Submission of Attorney Fee Declarations to OIDS

X New _____ Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO


Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 9/29/14

(DATE FILED)
(STAMP)

DEPARTMENT OF FINANCE
Office of Indigent Defense Services

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Finance -- Office of Indigent Defense Services

RULE NO. & TITLE:

- (1) 355-9-1-.04 -- Time Limit for Submission of Attorney Fee Declarations to OIDS
- (2) 355-9-1-.05 -- Dispute Resolution Process Regarding Attorney Fee Declaration
- (3) 355-9-1-.06 -- Billing Standards

INTENDED ACTION: New Rules for OIDS

SUBSTANCE OF PROPOSED ACTION: The new rules (1) explain the statutory time limits for submission of fee declarations, (2) set out the process for dispute resolution regarding fee declarations, (3) set out the standards and requirements for billing submitted on fee declarations.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

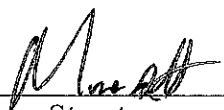
Views on this intended action may be presented by telephone to Mose Stuart at (334) 242-4516. Written views may be submitted to:

Mose Stuart
Department of Finance -- Legal Division
Third Floor, State Capitol Building
Montgomery, Alabama 36130
By email: mose.stuart@finance.alabama.gov

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Monday, December 8, 2014

CONTACT PERSON AT AGENCY: Mose Stuart



Mose Stuart
Senior Associate Counsel

355-9-1-.04 Time Limit for Submission of Attorney Fee Declaration to OIDS. In accordance with § 15-12-21(e) of the Code of Alabama, appointed counsel shall submit a bill for services rendered no more than 90 days after the conclusion of the trial or ruling on a motion for a new trial or after acquittal or other judgment disposing of the case. The 90 day statutory period shall begin to run at the later of the following – (1) acquittal of the defendant or (2) at sentencing of the defendant or subsequent order of the Court that disposes of any remaining issues not addressed at sentencing, ie. probation, restitution, etc. or (3) the trial court’s ruling on any post-judgment motion filed by either the prosecution or the defendant which ruling starts the time for filing a notice of appeal under Alabama law or rules of court.

(a) Attorneys appointed to represent defendants in capital murder cases may submit fee declarations on a semi-annual basis for interim payment of work performed and expenses incurred during the semi-annual period. An attorney seeking interim payment must include a written notice with the fee declaration informing OIDS of the semi-annual billing *and upload a copy of each prior interim billing submitted for that case.*

(b) In juvenile cases, the disposition date for the case shall be date of the judge’s final order of adjudication or the date of the final disposition hearing or the date of the judge’s order disposing of all post-trial motions, whichever date is the latest.

(c) Fee declarations for dependency cases **must** be submitted to OIDS within 90 days of the judge’s final order of adjudication of dependency. OIDS will accept fee declarations for post-adjudication proceedings such as review hearings or permanency determinations annually.

(d) Fee declarations must be submitted within 90 days of the date a judge grants a timely filed motion to withdraw from a case.

(e) Appointed counsel **may** submit a fee declaration before final disposition on any case that is assigned to a court’s administrative docket or 60 days following a defendant’s “Failure to Appear” or if bound over to the Grand Jury without action after one year. The fee declaration must be submitted to OIDS prior to the case being placed on an active docket to receive payment before final disposition. The 90 day requirement does not apply where there has been no final disposition.

(f) The failure of appointed counsel to submit a fee declaration within the 90-day period, as set out above, shall result in the denial of payment by OIDS. An attorney adversely affected by OIDS action with respect to the 90-day period may seek relief, as set out in 355-9-5.

Author: R. McKinney

Authority: Code of Ala. 1975, § 41-4-322(h).

History: Filed September 29, 2014