

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

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

Rule No. 355-9-1-.07

Rule Title: Employment of Experts, Court Reporters, and Investigators

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-.07 – Employment of Experts, Court Reporters, and Investigators
- (2) 355-9-1-.08 – Indigent Defense Advisory Boards; Required Attorney Qualifications
- (3) 355-9-1-.09 – Recoupment of Attorney Fees

INTENDED ACTION: New Rules for OIDS

SUBSTANCE OF PROPOSED ACTION: The new rules (1) set out the process and requirements for the employment of experts, court reporters, and investigators, (2) reiterates the statutory powers and duties of the Indigent Defense Advisory Boards; establishes the minimum qualifications for representation for each level of offense, (3) set out the basis and amount that may be recouped by OIDS if the court finds the indigent defendant has financial resources to cover all or part of the amount paid by the State of Alabama.

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-.07 Employment of Experts, Court Reporters, and Investigators. All requests for experts, court reporters, and investigators (known collectively herein as “providers” or individually as “provider”) must be approved in advance by an order from the trial judge before they perform any work or services. The date at which the provider(s) can begin to perform work or services to be paid by the State of Alabama is the date on which the trial judge signs the order granting the request. In order to effect payment for work and services performed by provider(s), the following procedure must be followed:

- (a) The appointed attorney must have filed a motion requesting the services of a provider and the trial judge must have issued an order approving each request.
- (b) The appointed attorney must complete a certification that the work or service submitted for payment has been performed and completed.
- (c) Each provider must file a *Professional Services Fee Declaration (Form PFD-1)* with a copy of the court order, the attorney certification, and an itemized invoice attached thereto. If the court’s order is not specific as to the nature of the services to be performed or as to payment terms for the provider, the provider must attach a copy of the attorney’s motion requesting the services.
- (d) Fees to providers may be paid on an interim basis. ~~as set out in (e), above.~~
- (e) Payment of expenses related to the employment of Experts, Investigators and Court Reporters will be in accordance with Alabama Law and the State of Alabama Fiscal Policy and Procedure
- (f) Note regarding court reporters – in-court appearance fee for a court reporter is not payable from the Fair Trial Tax fund and should not be submitted to OIDS for payment. Court reporters are paid in accordance with Alabama Rules of Judicial Administration (ARJA) Rule 29(B) and the court reporter must file a *Court Reporter Fee Declaration (Form C-62C)*

Author: R. McKinney

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

History: Filed September 29, 2014