

No. 180

AN ACT

HB 359

Providing for the assignment of counsel in murder cases in counties of the first class, setting forth a schedule of fees for counsel assigned in all cases and establishing the responsibility for the payment of such fees.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Whenever any person charged with murder in any county of the first class shall make and file with the clerk of the court of quarter sessions an affidavit setting forth that he or she is wholly destitute of means to employ counsel and prepare for his or her defense, the judge sitting in the common pleas court, trial division, criminal section to whom such affidavit is presented, shall assign to such person counsel, not exceeding one, except that where the judge deems the case sufficiently complex, he may appoint two counsel, but only after consultation with, and consent of, the president judge, to represent and defend such person through all stages of the proceedings, including an appeal, if any, unless he is permitted by the court to withdraw for cause shown. Such appointed counsel may petition the court after his or their appointments and his or their examination of the matters of issue, to secure a rule to show cause why the court should not permit a special investigator or investigators to assist him or them in the preparation of the case, or such specialists as justice of the case may require for the proper defense of the persons charged, and following a hearing at which time such appointed counsel shall sustain his or their request by evidence satisfactory to the court, the court shall grant such special investigator or investigators or expert witness or witnesses; and such expert assistance to such appointed counsel shall be paid by the county in which the persons charged upon approval by the court of such charges. When services are rendered by counsel, in pursuance of such assignment are concluded, the judge sitting at the trial of the case, if there is a trial, otherwise any judge sitting in the common pleas court, trial division, criminal section shall, within thirty days of the filing of the claim and sworn statement, allow such counsel all personal and incidental expenses, upon a sworn statement thereof being filed with the clerk of the court of quarter sessions and also compensation for services rendered at a rate not exceeding thirty-five dollars (\$35) per hour for time reasonably expended in court, or before a magistrate, and twenty-five dollars (\$25) per hour for time reasonably expended out of court. Such compensation shall not exceed two thousand dollars (\$2,000) where one counsel has been assigned, and shall not exceed a total of two thousand five hundred dollars (\$2,500) where two counsel have been assigned. In extraordinary circumstances the president judge may provide for

compensation in excess of the foregoing limits. When two counsel have been assigned, their claims for compensation and reimbursement shall be stated separately. Each claim for compensation and reimbursement shall be supported by a sworn statement from each counsel specifying in detail the time expended, the nature of the services rendered and expenses incurred which allowance of expenses and compensation shall be a charge upon the county in which the persons charged, to be paid by the county treasurer, or, where the city and county are coextensive, by the city treasurer, upon the certification of the judge: Provided, That in order to be entitled to such expenses and compensation, counsel so assigned must file with the judge an affidavit that he has not, directly or indirectly, received, nor entered into a contract to receive, any compensation for such services from any source other than that herein provided. A detailed statement shall not be required for claims of five hundred dollars (\$500), or less.

The defendant or the spouse, child, except as hereinafter provided, father and mother of every indigent person, whether a public charge or not, shall, to the extent of his, her or their financial ability, reimburse the county for compensation and expenses incurred and paid to court-assigned counsel at such rate as the court shall order and direct. No child shall be liable for the support of any parent who abandoned the child and persisted in the abandonment for a period of ten years during the child's minority.

The common pleas court, trial division, criminal section shall have the power to hear, determine and make orders and decrees in such cases upon the petition of the county which paid the compensation and expenses to the court-appointed counsel. Such order shall have the force and effect of a judgment for the payment of money and shall be entered in the judgment index of the office of the clerk of quarter sessions.

In all cases where an order has been made by the court for reimbursement to the county for compensation and expenses paid to court-assigned counsel and the said order has not been complied with, the court, or any judge thereof, upon affidavit or petition filed setting forth that the person on whom the said order has been made has not complied with the said order, shall issue an attachment directed to the sheriff or other proper officer of the county, directing and commanding that the person named as having failed to comply with said order be brought before the court at such time as the court may direct. If it shall appear to the court, after hearing, that the person on whom the said order was made has wilfully neglected or refused to comply with said order, the court may adjudge said person in contempt of court and, in its discretion, may commit said person to the county jail for a period not exceeding six months.

Section 2. This act shall apply to cases now pending.

Section 3. All acts or parts of acts are hereby repealed in so far as they are inconsistent herewith.

Section 4. This act shall take effect immediately.

APPROVED—The 22nd day of July, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 180.



Joseph P. Kelly II
Secretary of the Commonwealth.