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Christopher Roberts
OIDS Director

MEMORANDUM

DATE: September 30, 2024

TO: All Indigent Defense Attorneys

FROM: Chris E. Roberts *CR*
Director, Office of Indigent Defense Services

RE: OIDS' Implementation of Act 2024-161

The 2024 Alabama Legislature passed Act 2024-161 which adjusts hourly rates and fee maximums for capital, felony, appellate and "other" offenses for appointments made on or after October 1, 2024. To provide appointed counsel guidance on the statute and assist counsel and the Office of Indigent Defense Services (OIDS) in efficient claim submission and processing, the following information should be reviewed prior to claim submission.

- 1) The Act becomes effective on October 1, 2024, with the new rates and fee maximums applicable to appointments made on or after that date. Appointments received prior to October 1, 2024, will be governed by statutory rates in place at the time of the appointment even if work in that matter continues beyond October 1, 2024.
- 2) The following hourly rates and fee maximum will be applicable for case appointments on or after October 1, 2024:
 - a) Capital Offense charged pursuant to Alabama Code Section 13A-5-40 - \$120/hour with no fee maximum. Counsel must select "CC – Capital Case" from the Case Type selection field when activating the claim in the AIDCC system.
 - b) Class A felony offense with a possible statutory sentence of Life without Parole - \$120/hour with no fee maximum. Clients subject to sentences pursuant to §13A-5-9(c)(3), §13A-5-9(c)(4), §13A-12-233 and §13A-5-6(d) would qualify. If the case qualifies under one of the above code sections, counsel must upload a memo with the

claim verifying the basis for the possible Life without Parole sentence. Additionally, counsel must select “CF - Capital Felony” from the Case Type selection field when activating the claim in the AIDCC system.

- c) Class A Felonies - \$100/hour with \$6000 fee maximum
 - d) Class B Felonies - \$80/hour with \$4000 fee maximum
 - e) Class C and Class D Felonies - \$80/hour with \$3500 fee maximum
 - f) “Other” cases (includes misdemeanors, probation violation matters, contempt proceedings, community correction violation matters and traffic tickets) - \$55/hour with \$2000 fee maximum
 - g) Appeals to the Alabama Supreme Court, Alabama Court of Criminal Appeals and Alabama Court of Civil Appeals - \$85/hour with \$5000 fee maximum
- 3) Counsel must select the charge with the highest classification when picking a primary case for companion matters in the AIDCC system. OIDS has no ability to change the case type selection made by counsel. If counsel selects a lesser-classified charge as the primary case in the system, the claim will be calculated at the hourly rate corresponding to that charge. If the error in selection is discovered by OIDS, counsel will have the option of receiving payment on the claim as submitted at the lesser rate, or having OIDS deny the claim and reactivate the case for counsel to resubmit it under the correct case type.
- 4) Should counsel represent a client on a felony offense in district court which is subsequently indicted after 10/1/2024 and counsel is appointed via an order from circuit court after 10/1/2024, counsel may claim the higher rates under Act 2024-161 for the post-indictment offense. Upon case conclusion, counsel should bill work performed at the district court level under the district court case number and work performed post-indictment under the circuit court case number. Work should be billed under the separate case numbers upon case conclusion and counsel must submit a memo with both claims explaining the separate billing.
- 5) Should counsel be appointed in the district court to a felony offense which is subsequently indicted on a lesser charge, counsel must submit the claim under the original district court case number to receive the rate applicable to the original, greater charge. Counsel should use the district court date of appointment and judge as the appointing authority and the circuit court disposition date and judge as disposing authority.
- 6) Beginning at the conclusion of fiscal year 2025, pursuant to §15-12-21(f)(7)(a), counsel who submits more than 2,000 work hours in a fiscal year will have to provide explanation establishing good cause grounds for the excess hours to his or her local Indigent Defense Advisory Board. Pursuant to §15-12-21(f)(7)(b) the Board shall have the authority to recommend remedial action for excess work, including, but not limited to, suspension of

appointment, reimbursement of funds or referral to the Alabama State Bar or the Office of the Attorney General.

- 7) Pursuant to §15-12-21(f)(1), within a reasonable time after the conclusion of the trial, ruling on a motion for new trial, or after an acquittal or other judgment disposing of the case, not to exceed 120 days, counsel shall submit a claim for services rendered to OIDS.
- 8) This memo is not intended to be an exhaustive list of all possible claim considerations under the new statute but is instead intended to provide general guidance and assistance to appointed counsel in the claim submission process. If counsel has any questions regarding a claim or its submission, he or she should contact OIDS by phone at (334) 242-7059 or by email at oids@oids.alabama.gov prior to activation and submission of the claim.