

House Bill 1253

By: Representatives Fleming of the 117<sup>th</sup>, Martin of the 47<sup>th</sup>, and Shaw of the 176<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 17-12-127 of the Official Code of Georgia Annotated, relating to  
2 appointment of alternative attorneys in capital cases, so as to change matters relating to the  
3 appointment of counsel in death penalty cases; to change matters relating to payment of  
4 attorney's fees and expenses in capital cases in which the death penalty is sought; to provide  
5 for related matters; to provide an effective date and applicability; to repeal conflicting laws;  
6 and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 17-12-127 of the Official Code of Georgia Annotated, relating to  
10 representation and appointment of alternative attorneys in capital cases, is amended by  
11 revising subsection (b) as follows:

12 "(b)(1) If for any reason the there is a conflict of interest such that the office is unable to  
13 defend any indigent person accused of a capital felony for which the death penalty is  
14 being sought, the ~~presiding judge of the superior court in which the case is pending~~  
15 council's director shall determine and appoint counsel to represent the defendant. The  
16 council's director shall establish the contractual agreement with the defendant's counsel  
17 for payment of representing the defendant, and, when feasible and prudent, a flat fee  
18 structure shall be utilized.

19 (2) A maximum of two attorneys shall be paid by the council at an hourly rate  
20 established by the council with state funds appropriated to the council for use by the  
21 office. State funds shall be appropriated to the council for use by the office for the first  
22 \$150,000.00 paid for each death penalty case. Funding for attorney's fees and expenses  
23 between \$150,000.01 and \$250,000.00 for each death penalty case shall be paid through  
24 state appropriations for 75 percent of such attorney's fees and expenses, and the county  
25 governing authority shall pay 25 percent of such attorney's fees and expenses. Funding  
26 for all attorney's fees and expenses in excess of \$250,000.00 for each death penalty case

1 shall be paid through state appropriations for 50 percent of such attorney's fees and  
2 expenses, and the county governing authority shall pay 50 percent of such attorney's fees  
3 and expenses. The trial judge may appoint not more than one additional attorney to  
4 represent the defendant; provided, however, that such attorney shall be paid by the county  
5 governing authority with county funds at a rate established by the council. The council  
6 with the assistance of the office shall establish guidelines for payment of attorney's fees  
7 and expense requests.

8 (3) A county governing authority may provide supplemental compensation to appointed  
9 counsel. ~~The presiding judge may appoint not more than one additional attorney to~~  
10 ~~represent the defendant; provided, however, that such attorney shall be paid by the county~~  
11 ~~governing authority with county funds at a rate established by the council."~~

## 12 SECTION 2.

13 This Act shall become effective on July 1, 2008, and shall apply to all cases filed and all  
14 costs and fees incurred for counsel appointed on or after July 1, 2008.

## 15 SECTION 3.

16 All laws and parts of laws in conflict with this Act are repealed.