

The House Committee on Judiciary Non-civil offers the following substitute to HB 940:

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 1 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated,
 2 relating to the Georgia Public Defender Standards Council, so as to change certain provisions
 3 relating to payment of attorney in event of conflict of interest in capital cases, number of
 4 attorneys appointed, county governing authority's financial responsibility, and expenses; to
 5 repeal conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Article 1 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to the
 9 Georgia Public Defender Standards Council, is amended by revising Code Section
 10 17-12-12.1, relating to payment of attorney in event of conflict of interest in capital cases,
 11 number of attorneys appointed, county governing authority's financial responsibility, and
 12 expenses, as follows:

13 "17-12-12.1.

14 (a) If there is a conflict of interest such that the Georgia capital defender division is unable
 15 to defend any indigent person accused of a capital felony for which the death penalty is
 16 being sought, the director shall determine and appoint counsel to represent the defendant.
 17 The director shall establish the contractual agreement with the defendant's counsel for
 18 payment of representing the defendant, and, when feasible and prudent, a flat fee structure
 19 shall be utilized.

20 (b) A maximum of two attorneys shall be paid by the council pursuant to a contractual
 21 agreement or at an hourly rate established by the council with state funds appropriated to
 22 the council. State funds shall be appropriated to the council for use by the Georgia capital
 23 defender division for the first \$150,000.00 paid for each death penalty case. Funding for
 24 attorney's fees and expenses between \$150,000.01 and \$250,000.00 for each death penalty
 25 case shall be paid through state appropriations for 75 percent of such attorney's fees and
 26 expenses, and the county governing authority where the indictment was returned shall pay

27 25 percent of such attorney's fees and expenses. Funding for all attorney's fees and
28 expenses in excess of \$250,000.00 for each death penalty case shall be paid through state
29 appropriations for 50 percent of such attorney's fees and expenses, and the county
30 governing authority where the indictment was returned shall pay 50 percent of such
31 attorney's fees and expenses. The council shall not pay any state funds for the defendant's
32 attorney's fees or expenses except upon an invoice that was, prior to submission to the
33 council, reviewed and approved in writing by the judge to whom the case is assigned. Such
34 judge may, in his or her discretion, require the periodic submission of interim invoices.

35 (c) The council, with the assistance of the Georgia capital defender division, shall establish
36 guidelines for all expense requests for cases in which the death penalty is sought, including,
37 but not limited to, attorney's fees, expert witness fees, investigative fees, travel and
38 accommodation expenses, and copy and transcription costs.

39 (d) A county governing authority may provide supplemental compensation to counsel
40 appointed pursuant to this Code section."

41 **SECTION 2.**

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