

PROCEDURE FOR REQUESTING PAYMENT FOR SERVICES FOR
INDIGENT DEFENDANTS UTILIZING RETAINED
PRIVATE COUNSEL

The following procedure will be required for defendants who have hired private counsel and also seek financial assistance from the Arkansas Public Defender Commission:

1. The Court must make a finding that the client is indigent. This should be done as early as practical in the case to avoid unnecessary delay.
2. Following a finding of indigence, the attorney must complete 1) a certification application (if has not already done so), 2) the form outlining requested assistance and 3) the form outlining the fee arrangement.
3. Executive Director of the Arkansas Public Defender Commission will review and approve or approve with conditions such as relinquishment of a portion of the fee if it appears excessive or if the attorney is unqualified to handle such a case necessitating appointment of co-counsel.
4. If the request denied the attorney may appeal via documentation submitted to the full Commission. If the Commission upholds the denial then the case is heard before the trial judge for resolution.

Forms outline above are attached.

ARKANSAS PUBLIC DEFENDER COMMISSION

RETAINED ATTORNEY FEE FORM

All of the information contained in this form is confidential and shall be considered protected under attorney/client privilege. The Executive Director will release none of the information contained herein subject to an appeal to the full Commission.

Please complete the following information for consideration along with your request that the Arkansas Public Defender Commission fund expenses in your case. All information requested must be provided for consideration of payment for services. Should additional space be needed to complete a response, please use a separate page and append it to this document.

ATTORNEY REQUESTING: Name: _____
(Please print clearly)
Bar No: _____
Address: _____
Phone: _____ Fax: _____
E-mail: _____
Certified: Y _____ N _____ What level? _____

DEFENDANT: _____

COUNTY: _____ CASE NO.: _____

CHARGE(S): _____
(Be sure to list all charges)

1. On what date were you retained or appointed? _____

2. The amount that was quoted to your client for:
A) Retainer: _____
B) Fee (flat or hourly) above a retainer: _____
C) Expenses: _____

3. The amount that has been paid to date and by whom:
\$ _____ By: _____

Relationship to Client: _____

4. The manner (i.e., U.S. currency, check, property, barter, etc.) in which you were paid and explain if not U.S. currency):

5. The remaining amount due is \$ _____, and the expected manner (as defined above) of payment is:

Monthly amount: \$ _____

Other: _____

6. Does your fee include any liens on property - real or personal? _____ If so, describe:

7. Does your fee include real or personal property? _____ If so, describe: _____

8. Does your fee include any assignments? _____ If so, describe: _____

9. Does your fee include any future deals in books or movies, etc.? _____ If so, describe:

Signature of Client

(Printed name)

Date: _____

STATE OF ARKANSAS)
) SS.
COUNTY OF _____)

SUBSCRIBED and sworn to, before me, a Notary Public, this _____ day of
_____, 20_____.

Notary Public

My Commission Expires:

ARKANSAS PUBLIC DEFENDER COMMISSION

EXPENDITURE REQUEST FORM

All of the information contained in this form is confidential and shall be considered protected under attorney/client privilege. The Executive Director will release none of the information contained herein subject to an appeal to the full Commission.

Please supply the following information so the Arkansas Public Defender Commission ("APDC") can accurately assess the reasonableness of your request for funds from APDC. The Executive Director will have the discretion to determine what funds are reasonable for the crime(s) charged. All information requested must be provided for consideration of payment of services. Should additional space be needed to complete a response, please use a separate page and append it to this document.

**ATTORNEY
REQUESTING:**

Name: _____
(Please print clearly)
Bar No: _____
Address: _____
Phone: _____ Fax: _____
E-mail: _____
Certified: Y _____ N _____ What level? _____

DEFENDANT: _____

COUNTY: _____ CASE NO.: _____

CHARGE(S): _____
(Be sure to list all charges)

SECTION I

1. On what date were you retained or appointed? _____

2. A) What plea offers, if any, have you received from the State? _____

B) Have those plea offers been conveyed to the client and rejected? Y _____ N _____

3. List all pre-trial and trial dates: _____

4. List any/all co-defendants whether or not charged in the same Information: _____

5. Provide a brief synopsis of the case listing all relevant facts: _____

6. List possible or proposed defenses (need not to have been formally pled at this time):

7. Describe the State's forensic evidence, if applicable. If the reports are available, attach copies.

8. If there is an assertion of mental disease or defect, provide any reasons for pursuing this to include but not be limited to, for example: interaction with client; lack of ability to communicate, history of mental illness, commitment to mental institution, special ed, known head injury, etc., with any supporting documentation.

9. If you are seeking specific forensic testing, provide:

(A) What testing needs to be done? _____

(B) Why is testing necessary? _____

(C) Who is the proposed expert? _____ Provide a Curriculum Vitae.

(D) Cost estimate (including who was consulted and his/her hourly rate): \$ _____

(E) Provide names and locations of other cases in which the expert has testified:

(F) Has the Arkansas State Crime Lab or the Arkansas State Hospital or other agency done any testing? _____ If so, what?

SECTION II

The following requirements must also be satisfied to receive approval for payment of services:

1. The court has found the defendant indigent by order dated _____.

Attach a copy of the order.

2. The requesting attorney must be certified through the Arkansas Public Defender Commission's applicable certification process for the class of felony involved in the case in which funds are sought; or, be seeking immediate certification for the class of felony involved in the case in which funds are sought.

3. If retained, the requesting attorney must submit with this request documentation on his or her retention. Additionally:

(A) The client must waive attorney/client privilege for the limited purpose of disclosure to the Commission of his/her fee agreement for retention and for examination of expert testing results.

(B) The requesting attorney/defendant must pay a user fee pursuant to Ark. Code Ann. § 16-87-213 (D)(2) and Ark. Code Ann. § 5-4-303(g).

4. If the attorney fee is excessive for the type of case, the Commission reserves the right to require that a portion be paid or assigned to the Commission to assist in funding the request.

5. If the retained attorney's level of experience falls far short of the Arkansas Public Defender Commission's Minimum Standards for certification, then the Commission may require the attorney to relinquish a portion of the fee in order to assign a qualified co-counsel.

6. The Executive Director may request, and review, interim reports to assess whether additional testing is warranted.

It is mandatory that the Retained Attorney Fee Form shall also be submitted at the same time that the Expenditure Request Form is submitted for consideration.

The Executive Director will have a reasonable time to respond to a request. Denial of a request may be appealed to the Commission based upon written record.

CERTIFICATION

I certify that the above information is correct to the best of my knowledge.

Signature of Requesting Attorney

(Printed name)

Date: _____

STATE OF ARKANSAS)
) SS.
COUNTY OF _____)

SUBSCRIBED and sworn to, before me, a Notary Public, this _____ day of _____, 20____.

Notary Public

My Commission Expires:
