

ASSEMBLY BILL NO. 17—COMMITTEE ON JUDICIARY

(ON BEHALF OF LEGISLATIVE COMMITTEE TO STUDY
DEATH PENALTY AND RELATED DNA TESTING
(A.C.R. 3 OF THE 17TH SPECIAL SESSION))

PREFILED JANUARY 27, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning defense in cases involving first degree murder. (BDR 1-201)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§§ 1, 2, 3)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; increasing the presumptive limits for attorneys' fees in first degree murder cases; increasing the presumptive limits for ancillary expenses in criminal proceedings; requiring the court to appoint certain persons to assist in the defense of a person in certain cases involving murder of the first degree; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 7.125 is hereby amended to read as follows:
2 7.125 1. Except as limited by subsections 2, 3 and 4, an
3 attorney , other than a public defender , *who is* appointed by a
4 magistrate or a district court to represent or defend a defendant at
5 any stage of the criminal proceedings from the defendant's initial
6 appearance before the magistrate or the district court through the
7 appeal, if any, is entitled to receive a fee for court appearances and
8 other time reasonably spent on the matter to which the appointment
9 is made ~~of~~ *of \$125 per hour in cases in which the death penalty is*



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1 *sought and* \$75 per hour ~~in~~ *in all other cases*. Except for cases in
2 which the most serious crime is a felony punishable by death or by
3 imprisonment for life with or without possibility of parole, this
4 subsection does not preclude a governmental entity from contracting
5 with a private attorney who agrees to provide such services for a
6 lesser rate of compensation.

7 2. ~~The~~ *Except as otherwise provided in subsection 4, the*
8 total fee for each attorney in any matter regardless of the number of
9 offenses charged or ancillary matters pursued must not exceed:

10 (a) If the most serious crime is a felony punishable by death or
11 by imprisonment for life with or without possibility of parole,
12 ~~[\$12,000;]~~ *\$20,000;*

13 (b) If the most serious crime is a felony other than a felony
14 included in paragraph (a) or is a gross misdemeanor, \$2,500;

15 (c) If the most serious crime is a misdemeanor, \$750;

16 (d) For an appeal of one or more misdemeanor convictions,
17 \$750; or

18 (e) For an appeal of one or more gross misdemeanor or felony
19 convictions, \$2,500.

20 3. ~~An~~ *Except as otherwise provided in subsection 4, an*
21 attorney appointed by a district court to represent an indigent
22 petitioner for a writ of habeas corpus or other postconviction relief,
23 if the petitioner is imprisoned pursuant to a judgment of conviction
24 of a gross misdemeanor or felony, is entitled to be paid a fee not to
25 exceed \$750.

26 4. If the appointing court because of:

27 (a) The complexity of a case or the number of its factual or legal
28 issues;

29 (b) The severity of the offense;

30 (c) The time necessary to provide an adequate defense; or

31 (d) Other special circumstances,

32 deems it appropriate to grant a fee in excess of the applicable
33 maximum, the payment must be made, but only if the court in which
34 the representation was rendered certifies that the amount of the
35 excess payment is both reasonable and necessary and the payment is
36 approved by the presiding judge of the judicial district in which the
37 attorney was appointed, or if there is no such presiding judge or if
38 he presided over the court in which the representation was rendered,
39 then by the district judge who holds seniority in years of service in
40 office.

41 5. The magistrate, the district court or the Supreme Court may,
42 in the interests of justice, substitute one appointed attorney for
43 another at any stage of the proceedings, but the total amount of fees
44 granted *to* all appointed attorneys must not exceed those allowable if



1 but one attorney represented or defended the defendant at all stages
2 of the criminal proceeding.

3 **Sec. 2.** NRS 7.135 is hereby amended to read as follows:

4 7.135 The attorney appointed by a magistrate or district court
5 to represent a defendant is entitled, in addition to the fee provided
6 by NRS 7.125 for his services, to be reimbursed for expenses
7 reasonably incurred by him in representing the defendant and may
8 employ, subject to the prior approval of the magistrate or the district
9 court in an ex parte application, such investigative, expert or other
10 services as may be necessary for an adequate defense.
11 Compensation to any person furnishing such investigative, expert or
12 other services must not exceed ~~[\$300,]~~ \$500, exclusive of
13 reimbursement for expenses reasonably incurred, unless payment in
14 excess of that limit is:

15 1. Certified by the trial judge of the court, or by the magistrate
16 if the services were rendered in connection with a case disposed of
17 entirely before him, as necessary to provide fair compensation for
18 services of an unusual character or duration; and

19 2. Approved by the presiding judge of the judicial district in
20 which the attorney was appointed ~~§~~ or , if there is no presiding
21 judge, by the district judge who holds seniority in years of service in
22 office.

23 **Sec. 3.** Chapter 178 of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 *If a magistrate or district court appoints an attorney, other than*
26 *a public defender, to represent a defendant accused of murder of*
27 *the first degree in a case in which the death penalty is sought, the*
28 *magistrate or court must appoint a team to defend the accused*
29 *person that includes:*

30 1. *Two attorneys; and*

31 2. *Any other person as deemed necessary by the court, upon*
32 *motion of an attorney representing the defendant.*

33 **Sec. 4.** The provisions of subsection 1 of NRS 354.599 do not
34 apply to any additional expenses of a local government that are
35 related to the provisions of this act.

