**A** **BILL**

TO AMEND SECTIONS 17‑3‑30 AND 17‑3‑45, CODE OF LAWS OF SOUTH CAROLINA, 1976, BOTH RELATING TO APPLICATION FEES FOR PUBLIC DEFENDER SERVICES, AMONG OTHER THINGS, BOTH SO AS TO PROVIDE THAT THE APPLICATION FEE MUST BE COLLECTED BY THE PUBLIC DEFENDER’S OFFICE AND WAIVERS OBTAINED THROUGH THE PUBLIC DEFENDER RATHER THAN THROUGH THE CLERK OF COURT OR OTHER APPROPRIATE OFFICIAL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 17‑3‑30(B) of the 1976 Code is amended to read:

“(B) A forty dollar application fee for public defender services must be collected from every person who executes an affidavit that he is financially unable to employ counsel. The person may apply to the ~~clerk of court or other~~ appropriate ~~official~~ public defender’s office for a waiver or reduction in the application fee. If the ~~clerk or other appropriate official~~ public defender determines that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the ~~clerk or appropriate official~~ public defender shall report the amount waived or reduced to the trial judge upon sentencing and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation. The ~~clerk of court or other appropriate official~~ public defender’s office shall collect the application fee imposed by this section and remit the proceeds to the state fund on a monthly basis. The monies must be deposited in an interest‑bearing account separate from the general fund and used only to provide for indigent defense services. The monies ~~shall~~ must be administered by the Office of Indigent Defense. The ~~clerk of court or other appropriate official~~ public defender shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Office of Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.”

SECTION 2. Section 17‑3‑45(B) of the 1976 Code is amended to read:

“(B) A forty dollar application fee for appointed counsel services must be collected from every person who executes an affidavit that they are financially unable to employ counsel. The person may apply to the ~~court, the clerk of court, or other~~ appropriate ~~official~~ public defender’s office for a waiver or reduction in the application fee. If it is determined that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the ~~clerk or appropriate official~~ public defender shall report the amount waived or reduced to the trial judge and the trial judge shall order the remainder of the fee paid during probation if the person is granted probation or by a time payment method if probation is not granted or appropriate. The ~~clerk of court or other appropriate official~~ public defender’s office shall collect the application fee imposed by this section and remit the proceeds to the Public Defender Application Fund on a monthly basis. The monies must be deposited in an interest‑bearing account separate from the general fund and used only to provide for indigent defense services. The monies ~~shall~~ must be administered by the Office of Indigent Defense. The ~~clerk of court or other appropriate official~~ public defender shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Office of Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.”

SECTION 3. This act takes effect upon approval by the Governor.

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