

## ACT 179

H. B. 621.

A Bill for an Act Relating to the Assignment of Counsel and Amending Chapter 235,\* Revised Laws of Hawaii 1955.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 253-5 of the Revised Laws of Hawaii 1955, is amended to read as follows:

**“Sec. 253-5. Assignment of counsel for indigent defendants or appellants; fees, expense of transcript, etc.** Whenever any person charged or convicted of any felony is without sufficient means or resources to obtain counsel, the circuit court, or a magistrate of the district court, may assign counsel for his defense or appeal from among the attorneys licensed to practice in the courts of record of this State. Such person shall make an affidavit in such form and containing such information relating to his financial and income status as may be prescribed by the court or magistrate. A person subjected to the following shall be deemed included within the meaning of “person charged or convicted of a felony” as used in this section: (1) extradition proceedings; (2) proceedings for adverse amendment or revocation of probation where probation was granted upon conviction for a felony; (3) preliminary hearings before a magistrate under section 257-7; (4) proceedings under chapter 333 by which it is sought to waive jurisdiction and order a minor held for criminal proceedings, or to vest legal custody of a minor in the Hawaii Youth Correctional Facility or to commit a minor to a jail under the provisions of section 80-31; and (5) interrogation by law enforcement officers while in their custody.

Upon review of the affidavit and any further examination of such person, the court or magistrate may assign counsel for such person. Upon assigning counsel or any time subsequent thereto but not later than two years after the completion of services by such court-assigned counsel, the court may

\* So in original, should apparently read 253.

require such person to contribute towards or reimburse, at such times and upon such terms as the court or magistrate may deem appropriate, all or part of the counsel fee and expenses on appeal to be paid or paid under this section, such contribution or reimbursement to be made payable to the circuit court.

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is frivolous or not taken in good faith.

The court may, upon filing of a like affidavit, direct that the expense of furnishing the necessary transcript of evidence and records for the consideration of the supreme court on appeal shall be paid.

The fee for such court-assigned counsel shall be a minimum of \$250, but shall not exceed \$1,000 in cases where the penalty prescribed for the offense charged may be imprisonment for life not subject to parole, imprisonment for life or any term exceeding twenty years, and in other felony cases shall be a minimum of \$50, but shall not exceed \$500 as in its discretion the court may allow. Additional similar fees may be allowed in the discretion of the court where as the result of a mistrial, a trial de novo is necessitated, but the foregoing fees shall be in full remuneration for all services, including appeals, performed for the accused person in regard to the offense being investigated or charged. No attorney shall be so paid who shall have received any other compensation for services in the case nor shall any attorney so paid demand or receive any other compensation for his services.

Counsel fees and expenses payable under this section shall be paid out of the appropriation made for the general expense of the circuit court having jurisdiction of the offense being investigated or charged."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 30, 1967.)