

ACT 44

S. B. NO. 1729-72

A Bill for an Act Relating to Counsel and Other Services for Indigent Criminal Defendants.

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

SECTION 1. Chapter 705C, Hawaii Revised Statutes, is amended in the

following particulars:

(a) By amending section 705C-1 to read:

“Sec. 705C-1 Right to representation by public defender. Subject to court approval any indigent person (1) arrested for, charged with or convicted of an offense or offenses punishable by imprisonment for 30 days or more; (2) arrested for or charged with a law or ordinance violation and who may be or is subject to the provisions of chapter 571, Hawaii Revised Statutes; (3) whose probation or parole may be revoked; or (4) whose liberty is threatened by confinement, against his will, in any psychiatric or other mental institution or facility, shall be entitled to be represented by a public defender.”

(b) By amending section 705C-3 to read:

“Sec. 705C-3 Request for appointment of counsel. Any person entitled to representation by a public defender or other appointed counsel may at any reasonable time request any judge to appoint counsel to represent him.”

(c) By amending section 705C-4 to read:

“Sec. 705C-4 Determination of indigency. Unless otherwise ordered by the court, the determination of indigency shall be made by a public defender, subject to review by the court. Such determination shall be based upon an appropriate inquiry into the financial circumstances of the person seeking legal representation and an affidavit or a certificate signed by such person demonstrating his financial inability to obtain legal counsel. A person shall waive his right to counsel by refusing to furnish any information pertinent to the determination of indigency.”

(d) By amending section 705C-7 to read:

“Sec. 705C-7 Services other than counsel. Counsel, whether or not appointed by the court, for a defendant, who is financially unable to obtain investigatory, expert, or other services necessary for an adequate defense, may make a request for such services in an ex parte application. After appropriate inquiry in an ex parte proceeding, upon the findings of the judge that services are necessary and that the defendant is financially unable to obtain them, the judge shall authorize counsel to obtain the services on behalf of the defendant and the judge may establish a reasonable limitation for the sums of money to be expended. The judge shall determine reasonable compensation for the services so rendered, based on a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and to prove the reasonableness of the charges a claimant may show the compensation received from others for similar services.”

(e) By amending section 705C-12 to read:

“Sec. 705C-12 Organization of office; assistance. Subject to the approval of the defender council, the state public defender may employ assistant state public defenders and such other employees, including investigators, as may be necessary to discharge the function of the office. The assistant public defenders shall be qualified to practice before the supreme court of this State. They shall be appointed without regard to chapters 76 and 77, and shall serve at the pleasure of the state public defender. An assistant State public de-

ACT 44

fender may be employed on a part-time basis and when so employed, he may engage in the general practice of law, other than in the practice of criminal law.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect on July 1, 1972.

(Approved May 15, 1972.)

*Edited accordingly.