

ACT 131

S.B. NO. 528

A Bill for an Act Relating to Witnesses, Rights of Accused and Counsel and other Services for Indigent Criminal Defendants.

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

SECTION 1. Section 621-11, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 801-5, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 802-7, Hawaii Revised Statutes, is deleted and replaced in its entirety:

“Sec. 802-7 Litigation expenses. The court may, upon a satisfactory showing that a criminal defendant is unable to pay for transcripts or witness fees and transportation, or for investigatory, expert or other services, or for filing costs, appeal bonds or other payments required to be made into court, and upon a finding that the same are necessary for an adequate defense, direct that such expenses be paid from available court funds or waived, as the case may be; provided, however, that where the defendant is represented by the state public defender or by other counsel appointed by the court except for such other counsel appointed by the court for reasons of conflict of interest on the part of the public defender, the public defender shall pay for or authorize payment for the same, if the public defender determines that the defendant is unable to pay for the same

and that the same are necessary for an adequate defense, and if there is a dispute as to the financial ability of the defendant such dispute shall be resolved by the court. In cases where other counsel have been appointed by the court for reasons of conflict of interest, the court may, upon the requisite showing of inability to pay and a finding that such expenses are necessary for an adequate defense as set forth above, direct that such expenses be paid from available court funds or waived, as the case may be.

SECTION 4. Section 621-9, Hawaii Revised Statutes, is amended to read as follows:

“Section 621-9 Witness expenses. Except as provided for in section 802-7, whenever a witness subpoenaed on behalf of the State in a criminal case or on behalf of a defendant at the expense of the State in a criminal case is discharged, the clerk of the court shall issue to him under seal of the court, a numbered certificate from a book having a stub with like designations, stating the name of the witness, when and where he was summoned or subpoenaed, the date of his discharge, the number of miles necessarily traveled from his place of residence to the place of holding court, the number of day’s service, and the amount due for transportation and for service. The certificate, when correct, must be so certified by the public prosecutor or county attorney for witnesses subpoenaed on behalf of the State, and by the public defender for witnesses subpoenaed on behalf of a defendant, but no certificate shall be so certified unless presented to him within twelve months after the date of issue. On presentation of any duly certified witness’ certificate to the state comptroller, the comptroller shall draw his warrant on the director of finance for the payment of the same out of the general fund of the State.

SECTION 5. Statutory 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 6. This Act shall take effect July 1, 1977.

(Approved May 27, 1976.)

*Edited accordingly.