

ACT 86

H.B. NO. 384

A Bill for an Act Relating to Attorneys' Fees for Court Appointed Counsel.

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

SECTION 1. Section 802-5, Hawaii Revised Statutes, is amended to read as follows:

“§802-5 Appointment of counsel; compensation. (a) When it shall appear to a judge that a person requesting the appointment of counsel satisfies the requirements of this chapter, the judge shall appoint counsel to represent the person at all stages of the proceedings, including appeal, if any. If conflicting interests exist, or if the interests of justice require, the court may appoint private counsel, who shall receive reasonable compensation for necessary expenses, including travel, the amount of which shall be determined by the court, and reasonable fees pursuant to subsection (b). All [such] expenses and fees shall be [certified] ordered by the court. Duly [certified claims for] ordered payment shall be [paid] made upon vouchers approved by the director of finance and warrants drawn by the comptroller.

(b) The court shall determine the amount of reasonable compensation to appointed counsel, based on the rate of [~~\$40~~] \$90 an hour [~~for out-of-court services, and \$60 an hour for in-court services and with a~~]; provided that the maximum allowable fee [in accordance with] shall not exceed the following schedule:

- | | | |
|--|------------------------|----------------|
| (1) Any felony case | [\$3,000] | <u>\$6,000</u> |
| (2) Misdemeanor case - jury trial | [1,500] | <u>3,000</u> |
| (3) Misdemeanor case - jury waived | [750] | <u>1,500</u> |
| (4) Appeals to the [supreme court or]
intermediate appellate court | [2,500] | <u>5,000</u> |
| (5) Petty misdemeanor case | [450] | <u>900</u> |
| (6) Any other type of administrative or
judicial proceeding, including cases
arising under [chapter 571 ¹] section
<u>571-11(1), 571-14(a)(1), or 571-14(a)(2).</u> | [1,500] | <u>3,000</u> |

Payment in excess of any maximum provided for under paragraphs (1) to (6) may be made whenever the court in which the representation was rendered certifies that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the administrative judge of [such] that court.

(c) The public defender and the judiciary shall submit to the department of budget and finance for inclusion in the department’s budget request for each fiscal biennium, the amount required for each fiscal year for the payment of fees and expenses pursuant to [~~subsection (a).] this section.”~~

SECTION 2. Act 202, Session Laws of Hawaii 2004, is amended by repealing section 78.

[“SECTION 78. Section 802-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) ~~The court shall determine the amount of reasonable compensation to appointed counsel, based on the rate of \$40 an hour for out-of-court services and \$60 an hour for in-court services and with a maximum fee in accordance with the following schedule:~~

- | | |
|---|--------------------|
| (1) Any felony case | \$3,000 |
| (2) Misdemeanor case - jury trial | 1,500 |
| (3) Misdemeanor case - jury waived | 750 |
| (4) Appeals to the intermediate
appellate court | 2,500 |
| (5) Petty misdemeanor case | 450 |
| (6) Any other type of administrative or
judicial proceeding including cases
arising under chapter 571 | 1,500 |

~~Payment in excess of any maximum provided for under paragraphs (1) to (6) may be made whenever the court in which the representation was rendered certifies~~

~~that the amount of the excess payment is necessary to provide fair compensation and the payment is approved by the administrative judge of such court.’’]~~

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2006.

(Approved May 31, 2005.)

Note

1. Prior to amendment, a period appeared here.