

Public Law 88-455

AN ACT

August 20, 1964
[S. 1057]

To promote the cause of criminal justice by providing for the representation of defendants who are financially unable to obtain an adequate defense in criminal cases in the courts of the United States.

Criminal Justice
Act of 1964.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Criminal Justice Act of 1964."

SEC. 2. Title 18 of the United States Code is amended by adding immediately after section 3006 the following new section:

§ 3006A. Adequate representation of defendants

"(a) CHOICE OF PLAN.—Each United States district court, with the approval of the judicial council of the circuit, shall place in operation throughout the district a plan for furnishing representation for defendants charged with felonies or misdemeanors, other than petty offenses as defined in section 1 of this title, who are financially unable to obtain an adequate defense. Representation under each plan shall include counsel and investigative, expert, and other services necessary to an adequate defense. The provision for counsel under each plan shall conform to one of the following:

- "(1) Representation by private attorneys;
- "(2) Representation by attorneys furnished by a bar association or a legal aid agency; or
- "(3) Representation according to a plan containing a combination of the foregoing.

Prior to approving the plan for a district, the judicial council of the circuit shall supplement the plan with provisions for the representation on appeal of defendants financially unable to obtain representation. Consistent with the provisions of this section, the district court may modify a plan at any time with the approval of the judicial council of the circuit; it shall modify the plan when directed by the judicial council of the circuit. The district court shall notify the Administrative Office of the United States Courts of modifications in its plan.

"(b) APPOINTMENT OF COUNSEL.—In every criminal case in which the defendant is charged with a felony or a misdemeanor, other than a petty offense, and appears without counsel, the United States commissioner or the court shall advise the defendant that he has the right to be represented by counsel and that counsel will be appointed to represent him if he is financially unable to obtain counsel. Unless the defendant waives the appointment of counsel, the United States commissioner or the court, if satisfied after appropriate inquiry that the defendant is financially unable to obtain counsel, shall appoint counsel to represent him. The United States commissioner or the court shall appoint separate counsel for defendants who have such conflicting interests that they cannot properly be represented by the same counsel, or when other good cause is shown. Counsel appointed by the United States commissioner or a judge of the district court shall be selected from a panel of attorneys designated or approved by the district court.

"(c) DURATION AND SUBSTITUTION OF APPOINTMENTS.—A defendant for whom counsel is appointed shall be represented at every stage of the proceedings from his initial appearance before the United States commissioner or court through appeal. If at any time after the appointment of counsel the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel or to make partial payment for the representation, he may terminate the appointment of counsel or authorize payment as provided in subsection (f),

62 Stat. 684.

as the interests of justice may dictate. If at any stage of the proceedings, including an appeal, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom he had retained, the court may appoint counsel as provided in subsection (b) and authorize payment as provided in subsection (d), as the interests of justice may dictate. The United States commissioner or the court may, in the interests of justice, substitute one appointed counsel for another at any stage of the proceedings.

Substitution of
counsel.

“(d) **PAYMENT FOR REPRESENTATION.**—An attorney appointed pursuant to this section, or a bar association or legal aid agency which made an attorney available for appointment, shall, at the conclusion of the representation or any segment thereof, be compensated at a rate not exceeding \$15 per hour for time expended in court or before a United States commissioner, and \$10 per hour for time reasonably expended out of court, and shall be reimbursed for expenses reasonably incurred. A separate claim for compensation and reimbursement shall be made to the district court for representation before the United States commissioner or that court, and to each appellate court before which the attorney represented the defendant. Each claim shall be supported by a written statement specifying the time expended, services rendered, and expenses incurred while the case was pending before the United States commissioner or court, and the compensation and reimbursement applied for or received in the same case from any other source. The court shall, in each instance, fix the compensation and reimbursement to be paid to the attorney, bar association or legal aid agency. For representation of a defendant before the United States commissioner and the district court, the compensation to be paid to an attorney, or to a bar association or legal aid agency for the services of an attorney, shall not exceed \$500 in a case in which one or more felonies are charged, and \$300 in a case in which only misdemeanors are charged. In extraordinary circumstances, payment in excess of the limits stated herein may be made if the district court certifies that such payment is necessary to provide fair compensation for protracted representation, and the amount of the excess payment is approved by the chief judge of the circuit. For representation of a defendant in an appellate court, the compensation to be paid to an attorney, or to a bar association or legal aid agency for the services of an attorney, shall in no event exceed \$500 in a felony case and \$300 in a case involving only misdemeanors.

Payment in
excess.

Representation
in appellate
cases.

“(e) **SERVICES OTHER THAN COUNSEL.**—Counsel for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in his case may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the services on behalf of the defendant. The court may, in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained. The court shall determine reasonable compensation for the services and direct payment to the organization or person who rendered them upon the filing of a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source. The compensation to be paid to a person for such service rendered by him to a defendant under this subsection, or to be paid to an organization for such services rendered by an employee thereof, shall not exceed \$300, exclusive of reimbursement for expenses reasonably incurred.

“(f) RECEIPT OF OTHER PAYMENTS.—Whenever the court finds that funds are available for payment from or on behalf of a defendant, the court may authorize or direct that such funds be paid to the appointed attorney, to the bar association or legal aid agency which made the attorney available for appointment, to any person or organization authorized pursuant to subsection (e) to render investigative, expert, or other services, or to the court for deposit in the Treasury as a reimbursement to the appropriation, current at the time of payment, to carry out the provisions of this section. Except as so authorized or directed, no such person or organization may request or accept any payment or promise of payment for assisting in the representation of a defendant.

Reports.

“(g) RULES AND REPORTS.—Each district court and judicial council of a circuit shall submit a report on the appointment of counsel within its jurisdiction to the Administrative Office of the United States Courts in such form and at such times as the Judicial Conference of the United States may specify. The Judicial Conference of the United States may, from time to time, issue rules and regulations governing the operation of plans formulated under this section.

“(h) APPROPRIATIONS.—There are authorized to be appropriated to the United States courts, out of any money in the Treasury not otherwise appropriated, sums necessary to carry out the provisions of this section. When so specified in appropriation acts, such appropriations shall remain available until expended. Payments from such appropriations shall be made under the supervision of the Director of the Administrative Office of the United States Courts.

“District court.”

“(i) DISTRICTS INCLUDED.—The term ‘district court’ as used in this section includes the District Court of the Virgin Islands, the District Court of Guam, and the district courts of the United States created by chapter 5 of title 28, United States Code.”

28 USC 81-144.
Submission of plans.

SEC. 3. Each district court shall within six months from the date of this enactment submit to the judicial council of the circuit a plan formulated in accordance with section 2 and any rules and regulations issued thereunder by the Judicial Conference of the United States. Each judicial council shall within nine months from the date of this enactment approve and transmit to the Administrative Office of the United States Courts a plan for each district in its circuit. Each district court and court of appeals shall place its approved plan in operation within one year from the date of this enactment.

SEC. 4. The table of sections at the head of chapter 201 of title 18 of the United States Code is amended by adding immediately after item 3006 the following:

“3006A. Adequate representation of defendants.”

Approved August 20, 1964.

Public Law 88-456

AN ACT

August 20, 1964
[H. R. 1713]

To approve an order of the Secretary of the Interior canceling irrigation charges against non-Indian-owned lands under the Klamath Indian irrigation project, Oregon, and for other purposes.

Irrigation charges.
Approval of cancellation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with the Act of June 22, 1936 (49 Stat. 1803, 25 U.S.C. 389), the order of the Secretary of the Interior canceling \$401,440.55 of reimbursable irrigation costs and any accrued interest thereon chargeable to lands in the Klamath Indian irrigation project is approved.

Approved August 20, 1964.