**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 4072**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Johnson, Tallon, Hixon, Pope, Hardee, Hyde, Bailey, Hewitt and R. Williams

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Introduced in the House on February 26, 2019

Currently residing in the House Committee on **Judiciary**

Summary: Prosecution Coordination Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/26/2019 House Introduced and read first time ([House Journal‑page 33](file:///h:\hj\20190226.docx))

2/26/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 33](file:///h:\hj\20190226.docx))

2/28/2019 House Member(s) request name added as sponsor: Pope, Hardee, Hyde, Bailey, Hewitt

4/2/2019 House Member(s) request name added as sponsor: R.Williams

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**VERSIONS OF THIS BILL**

[2/26/2019](file:///p:\pprever\2019-20\4072_20190226.docx)

**A** **BILL**

TO AMEND SECTION 1‑7‑940, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DUTIES OF THE COMMISSION ON PROSECUTION COORDINATION, SO AS TO PROVIDE THAT THE COMMISSION SHALL PROMULGATE REGULATIONS APPLICABLE TO CIRCUIT SOLICITOR FINANCES; TO AMEND SECTION 17‑3‑50, RELATING TO THE DETERMINATION OF FEES FOR APPOINTED COUNSEL AND PUBLIC DEFENDERS, SO AS TO MAKE CONFORMING CHANGES, AND TO PROVIDE THAT ADDITIONAL FEES OR EXPENSES MAY NOT BE PAID IF PRIOR APPROVAL BY THE COURT IS NOT OBTAINED; TO AMEND SECTION 17‑3‑100, RELATING TO THE DISCRETIONARY AUTHORITY OF A JUDGE TO APPOINT COUNSEL, SO AS TO MAKE CONFORMING CHANGES; TO REPEAL SECTION 17‑3‑80 RELATING TO THE APPROPRIATION FOR EXPENSES OF APPOINTED PRIVATE COUNSEL AND PUBLIC DEFENDERS; TO REPEAL SECTION 17‑3‑85 RELATING TO YEAR‑END DISPOSITIONS OF UNEXPENDED APPROPRIATIONS; AND TO REPEAL SECTION 17‑3‑90 RELATING TO VOUCHERS FOR PAYMENT FOR SERVICES BY PRIVATE APPOINTED COUNSEL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑7‑940(A) of the 1976 Code is amended by adding an appropriately numbered item to read:

“( ) promulgate regulations applicable to circuit solicitor finances. These policies may include, but are not limited to, proof of spending policies and assurances that those with access to funds have passed appropriate background checks. These regulations must include enforcement mechanisms.”

SECTION 2. Section 17‑3‑50(A) and (C) of the 1976 Code is amended to read:

“(A) When private counsel is appointed pursuant to this chapter, he must be paid a reasonable fee to be determined on the basis of forty dollars an hour for time spent out of court and sixty dollars an hour for time spent in court. The same hourly rates apply in post‑conviction proceedings. Compensation may not exceed three thousand five hundred dollars in a case in which one or more felonies is charged and one thousand dollars in a case in which only misdemeanors are charged. Compensation must be paid from funds available to the Office of Indigent Defense for the defense of indigents represented by court‑appointed, private counsel. The same basis must be employed to determine the value of services provided by the office of the public defender for purposes of Section ~~17‑3‑40~~ 17‑3‑45.

(C) Payment in excess of the hourly rates and limits in subsection (A) or (B) is authorized only if the court certifies, in a written order with specific findings of fact, before fees or expenses are incurred, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided ~~were reasonably and necessarily incurred~~ are reasonable and necessary. If prior approval by written order of the court is not obtained, additional fees or expenses may not be paid.”

SECTION 3. Section 17‑3‑100 of the 1976 Code is amended to read:

“Section 17‑3‑100. Nothing herein contained is designed to limit the discretionary authority of a judge to appoint counsel in any case and any such counsel ~~shall~~ must be entitled to remuneration and reimbursement as provided in ~~Sections~~ Section 17‑3‑50 ~~and 17‑3‑80 hereof~~, so long as funds appropriated herein are available therefor.”

SECTION 4. Sections 17‑3‑80, 17‑3‑85, and 17‑3‑90 of the 1976 Code are repealed.

SECTION 5. This act takes effect upon approval by the Governor.

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