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# FJD Raises Rates for Appointed Counsel, but City Sees Funding Hurdle

Max Mitchell, The Legal Intelligencer

June 27, 2017

The First Judicial District has agreed to raise fees for court-appointed attorneys for the first time in nearly 20 years. But an official in the Kenney administration said no funding source has yet been earmarked to fund the increase.

The court [issued an order Monday](#) outlining a new fee schedule and setting rules and procedures for conflict counsel attorneys to recover their fees. The order was issued after the First Judicial District's Administrative Governing Board [convened a special committee](#) to review conflict counsel fees.

The updated fee schedule for lawyers handling criminal, dependency and delinquency matters is a response to an [uproar last year](#) over stagnant rates.

Non-capital homicide and felony cases are set to see some of the largest increases, with rates for trial preparation in first-degree felony cases doubling to \$1,200, and rates for non-capital homicide trial preparation more than doubling from \$1,700 to \$3,500. Capital homicide trial preparation will also increase to \$10,000, and court-appointed attorneys handling misdemeanor trials will be paid \$450, an increase of \$100 from \$350—a level that was set in 1997.

Although some of the increases are set to take place beginning Saturday, other increases aren't scheduled to begin until July 1, 2018.

"This new fee schedule for court-appointed conflict counsel addresses the serious need to ensure that these lawyers are reasonably and fairly compensated and that they are paid in a timelier manner than has recently been the case," President Judge Sheila Woods-Skipper, who convened the committee to review the fee structure, said in a statement.

Benjamin Lerner, the city's deputy managing director for criminal justice, said the order was premature because the city, which is responsible for paying the fees, does not yet have a revenue stream lined up to pay for it.

According to Lerner, who was a member of the FJD's special committee, the new fee schedule would add between \$4.5 million and \$5 million to the nearly \$9 million that the city appropriates annually for counsel fees.

Lerner, who is a former Common Pleas judge, said he has been trying to make "it clear to all the members of the committee that the city would not be able to find anything near that amount of money in the general fund for fiscal year 2018."

Lerner said the city, earlier this year, identified a potential revenue stream, but needs the General Assembly to enact enabling legislation that would allow the FJD to increase civil filing fees by 10 percent, and would allocate 33 to 50 percent of the Philadelphia law library fees toward funding conflict counsel attorneys.

In May, state Rep. John Taylor, R-Philadelphia, introduced a memoranda seeking co-sponsorship of the potential legislation.

"We're still optimistic that eventually we will be able to get that done; however, it hasn't been done yet," he said. "At this point there simply is no money to fund the [fee] increase."

In an interview Tuesday, Woods-Skipper responded that the increase was "long overdue."

"The time is right. It's long overdue, and there's no reason to put it off any further," she said. "I hope the city will prioritize the funding for the lawyers and use available funding to pay them."

Wood-Skipper added that the court is working on providing continuing legal education classes aimed at training more attorneys to handle court-appointed cases, and that the court administration should periodically review the court-appointed fee schedule, although no timeline had been set regarding any future reviews.

Despite the potential funding complications, members of the court-appointed bar hailed the order as an important step forward on a longstanding problem, and a sign that the key stakeholders are working together on the issue.

Greenblatt, Pierce, Funt & Flores attorney Ron Greenblatt said he was concerned about some of the rates, and in particular the decision to cap fees on Post-Conviction Review Act appeals, which he said might de-incentivize attorneys when it comes to pursuing significant issues on appeal. However, he said the order was a "huge step" forward, and he lauded the committee for its work developing the order.

"Overall, the work they did, the courts and the city through Judge Lerner, was very strong work," he said. "We'll see if this is enough to draw some more good people back into taking court appointments. Hopefully it will."

Attorney Mingo Stroeber, who does criminal and juvenile conflict-counsel work and recently settled litigation with the city over conflict counsel fees, agreed that the order is a step in the right direction, and said she hopes the work will continue.

"I'm hoping this is the beginning of a continued effort for the court and the court-appointed bar to collaborate and keep the process moving forward, so 20 years down the road attorneys like me aren't filing lawsuits," she said. "I'm hoping they keep this committee, or something like it, so lawyers will have a place to turn to."

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