

Assembly Bill No. 541—Committee on Ways and Means

CHAPTER.....

AN ACT relating to postconviction proceedings; revising provisions relating to the payment of necessary costs and expenses associated with certain proceedings based upon a postconviction petition for a writ of habeas corpus; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an offender who is convicted of a crime and under a sentence of death or imprisonment to file a postconviction petition for a writ of habeas corpus to challenge the validity of a judgment of conviction or the computation of time that the person has served pursuant to a judgment of conviction. (NRS 34.724) Such a petition may allege that the petitioner is unable to pay the costs of the proceedings or to employ counsel. Under existing law, if the court determines that the petitioner is unable to pay all necessary costs and expenses incident to the proceedings and certain other requirements are met, the costs must be paid from money appropriated to the Office of State Public Defender for that purpose. After appropriations for that purpose are exhausted, existing law requires that money be allocated to the Office of State Public Defender from the Reserve for Statutory Contingency Account for the payment of the costs, expenses and compensation. (NRS 34.750) **Section 1** of this bill instead requires those costs to be paid from money appropriated to the Department of Indigent Defense Services for that purpose. After those appropriations are exhausted, **section 1** requires that money be allocated to the Department of Indigent Defense Services from the Reserve for Statutory Contingency Account for the payment of the costs, expenses and compensation. **Section 2** of this bill makes the same change in certain generally applicable statutory provisions relating to the payment of compensation and expenses of an attorney appointed to represent an indigent defendant or petitioner.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 34.750 is hereby amended to read as follows:

34.750 1. A petition may allege that the petitioner is unable to pay the costs of the proceedings or to employ counsel. If the court is satisfied that the allegation of indigency is true and the petition is not dismissed summarily, the court may appoint counsel to represent the petitioner. In making its determination, the court may consider, among other things, the severity of the consequences facing the petitioner and whether:

- (a) The issues presented are difficult;
- (b) The petitioner is unable to comprehend the proceedings; or
- (c) Counsel is necessary to proceed with discovery.



2. If the court determines that the petitioner is unable to pay all necessary costs and expenses incident to the proceedings of the trial court and the reviewing court, including court costs, stenographic services, printing and reasonable compensation for legal services, all costs must be paid from money appropriated to the ~~{office of the State Public Defender}~~ *Department of Indigent Defense Services* for that purpose. After appropriations for that purpose are exhausted, money must be allocated to the ~~{office of the State Public Defender}~~ *Department of Indigent Defense Services* from the Reserve for Statutory Contingency Account for the payment of the costs, expenses and compensation.

3. After appointment by the court, counsel for the petitioner may file and serve supplemental pleadings, exhibits, transcripts and documents within 30 days after:

(a) The date the court orders the filing of a response or answer; or

(b) The date of counsel's appointment,

↪ whichever is later. If it has not previously been filed, the response or answer by the respondent must be filed within 15 days after receipt of the supplemental pleadings and include any response to the supplemental pleadings.

4. The petitioner shall respond within 15 days after service to a motion by the State to dismiss the action.

5. No further pleadings may be filed except as ordered by the court.

Sec. 2. NRS 7.155 is hereby amended to read as follows:

7.155 Except as otherwise provided in NRS 180.008, the compensation and expenses of an attorney appointed to represent a defendant must be paid from the county treasury unless the proceedings are based upon a postconviction petition for habeas corpus challenging a judgment of conviction or sentence, in which case the compensation and expenses must be paid from money appropriated to the ~~{Office of State Public Defender,}~~ *Department of Indigent Defense Services*, but after the appropriation for such expenses is exhausted, money must be allocated to the ~~{Office of State Public Defender}~~ *Department of Indigent Defense Services* from the Reserve for Statutory Contingency Account for the payment of such compensation and expenses.

Sec. 3. 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective:



- (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
- (b) On July 1, 2025, for all other purposes.

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