

814.11 Indigent's right to counsel.

1. An indigent person is entitled to appointed counsel on the appeal of all cases if the person is entitled to appointment of counsel under section 815.9.

2. *a.* If the appeal involves an indictable offense or denial of postconviction relief, the appointment shall be made to the state appellate defender unless the state appellate defender notifies the court that the state appellate defender is unable to handle the case.

b. If the state appellate defender is unable to handle the case, the state public defender may transfer the case to a local public defender office, nonprofit organization, or private attorney designated by the state public defender to handle such a case. The state appellate defender shall notify the supreme court of the transfer of a case, and upon such notification the responsibility of the state appellate defender in the case terminates.

c. If, after transfer of the case to a local public defender office, nonprofit organization, or private attorney, the local public defender office, nonprofit organization, or private attorney withdraws from the case, the court shall appoint an attorney who has a contract with the state public defender to provide legal services in appellate cases.

3. *a.* In a juvenile case under chapter 232 or a proceeding under chapter 600A, the trial attorney shall continue representation throughout the appeal without an additional appointment order unless the court grants the attorney permission to withdraw from the case.

b. If the court grants the attorney permission to withdraw, the court shall appoint the state public defender's designee pursuant to section 13B.4.

c. If the state public defender has not made a designation pursuant to section 13B.4 to handle the type of case or the state public defender's designee is unable to handle the case, the court shall appoint an attorney who has a contract with the state public defender to provide legal services in appellate cases.

4. *a.* In all other cases not specified in subsection 2 or 3, or except as otherwise provided in this section, the court shall appoint the state public defender's designee pursuant to section 13B.4.

b. If the state public defender has not made a designation pursuant to section 13B.4 to handle these other types of cases or the state public defender's designee is unable to handle the case, the court shall appoint an attorney who has a contract with the state public defender to provide legal services in appellate cases to represent an indigent person.

5. If the court determines that no contract attorney is available to handle the appeal, the court may appoint a noncontract attorney, if the state public defender consents to the appointment of the noncontract attorney. The order of appointment shall include a specific finding that no contract attorney is available and the state public defender consents to the appointment.

6. The appointment of an attorney shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.

7. An attorney who has been retained or has agreed to represent a person on appeal and subsequently applies to the court for appointment to represent that person on appeal because the person is indigent shall notify the state public defender of the application. Upon the filing of the application, the attorney shall provide the state public defender with a copy of any representation agreement, and information on any moneys earned or paid to the attorney prior to the appointment.

8. An attorney appointed under this section is not liable to a person represented by the attorney for damages as a result of a conviction in a criminal case unless the court determines in a postconviction proceeding or on direct appeal that the person's conviction resulted from ineffective assistance of counsel, and the ineffective assistance of counsel is the proximate cause of the damage. In juvenile or civil proceedings, an attorney appointed under this section is not liable to a person represented by the attorney for damages unless it has been determined

that the attorney has provided ineffective assistance of counsel and the ineffective assistance of counsel is the proximate cause of the damage.

[C79, 81, §814.11]

99 Acts, ch 135, §23; 2002 Acts, ch 1067, §14; 2004 Acts, ch 1017, §3; 2005 Acts, ch 19, §119; 2008 Acts, ch 1061, §4 – 6; 2012 Acts, ch 1063, §5; 2013 Acts, ch 90, §210; 2013 Acts, ch 116, §4

Referred to in §13B.4, 22.7, 815.7, 815.11

[T] See Code editor's note on simple harmonization

[T] Subsections 2 – 4 amended