

JAC: FAQ Regarding SB 1088

Dear Court Administrator:

We wanted to share with you that we have:

- Emailed the **2007-2008 Agreement for Attorney Services** to all court-appointed attorneys who have a current contract with the JAC; and
- Provided a link to the **2007-2008 Agreement for Attorney Services** on our website to serve those attorneys who could not open the email attachment or whose emails were returned to us.

This contract is located at

<http://www.justiceadmin.com/Notice/rev%20Standard%20Attorney%20Agreement%206-20-07.pdf>

We are certain you are receiving numerous calls from parties affected by SB1088. We are currently producing a Question & Answer document to post on our website within the next two weeks. This document will address many of the questions we have received. Below are some of the more common questions and their answers. We hope these responses will aid your staff in replying to questions they receive.

Q. Should I withdraw from my cases?

A. No. We see no reason within SB 1088 for an attorney to withdraw from his/her case(s).

Q. Will I get paid for cases I am currently working on?

A. Yes. You will be compensated at the rate effective at the time of appointment to each case. For appointments on or after May 24, 2007, through June 30, 2007, the limit on rates in s. 27.5304(12) will apply to any case in which the requested fees exceed statutory limitations and the ISC rate is greater than the rates in s. 27.5304(12).

Q. If an attorney has a current contract with JAC to accept court-appointed cases, but does not sign a new contract for the 2007-2008 fiscal year, what happens on the cases they have at the time the current contract expires?

A. Signing a new contract is not required for payment of pre-existing cases. The attorney will be paid at the rate in effect at the time of his or her appointment for all work completed on the particular case. However, substantive changes in the law will apply.

Q. Will attorneys appointed to cases prior to July 1, 2007, who continue to work on the case after July 1, 2007 be paid the new flat fees if the case reaches disposition after SB 1088 takes effect?

A. No. The bill envisions that court-appointed attorneys will be compensated at the rate in effect at the time of their appointment. This applies to both hourly and flat rate billing structures.

Q. Can I continue to interim bill?

A. JAC will continue to review and process all interim billings for cases appointed prior to May 24, 2007.

Q. When will the new rates become effective?

A. New rates will become effective for dates of appointment on or after July 1, 2007. The signing on the new Agreement for Attorney Services will not impact the compensation rates for cases appointed prior to July 1, 2007.

Q. Do I have to keep hourly records if I am billing under a flat rate?

A. If an attorney has reason to believe that the flat rate is confiscatory, and may seek relief under 27.2753(12) then the attorney must maintain contemporaneous billing records. JAC has no authority to pay an hourly billed invoice if contemporaneous billing records were not kept.

Q. May I seek a court order to have a case declared “unusual and extraordinary” prior to final disposition of a case?

A. Under s. 27.5304(12), an attorney should wait until final disposition before seeking to have a case declared unusual and extraordinary. This section requires an evidentiary hearing at which the court must make specific findings in order to award a fee in excess of the flat fee or statutory limitation.

Q. Can JAC require an appellate attorney to submit briefs along with hourly bills?

A. Yes. Under the new Agreement for Attorney Services, an attorney shall supply a paper or electronic copy of the briefs filed by the attorney in the case.

Q. If I am appointed to a case before I execute the 2007-2008 Agreement for Attorney Services, will I be paid?

A. Even if you do not have an active contract at the time of appointment, you will be paid upon the execution of the contract and completion of the case.

Q. My confusion results from the different dates (May 24, 2007 and July 1, 2007) and what happens on each. Please explain.

A. There are 3 requirements associated with the May 24, 2007, date:

1. The new statutory caps are effective;
2. Cases appointed before this date may continue to bill on an interim basis. Cases appointed on or after May 24, 2007 may not bill on an interim basis; and
3. New rates take effect on July 1, 2007.

To further assist, we will send a weekly, comprehensive list of all attorneys who have executed the **2007-2008 Agreement for Attorney Services** to-date. I hope this helps.

Sincerely,

Victoria Montanaro