

2012 Kansas Statutes

22-4505. Appeals; record; capital murder cases; appointment of counsel; assignment, standards and compensation. (a) When a defendant has been convicted in the district court of any felony, the court shall inform the defendant of such defendant's right to appeal the conviction to the appellate court having jurisdiction and that if the defendant is financially unable to pay the costs of such appeal such defendant may request the court to appoint an attorney to represent the defendant on appeal and to direct that the defendant be supplied with a transcript of the trial record.

(b) If the defendant files an affidavit stating that the defendant intends to take an appeal in the case and if the court determines, as provided in K.S.A. 22-4504 and amendments thereto, that the defendant is not financially able to employ counsel, the court shall appoint counsel from the panel for indigents' defense services or otherwise in accordance with the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services, to represent the defendant and to perfect and handle the appeal. If the defendant files a verified motion for transcript stating that a transcript of the trial record is necessary to enable the defendant to prosecute the appeal and that the defendant is not financially able to pay the cost of procuring such transcript, and if the court finds that the statements contained therein are true, the court shall order that such transcript be supplied to the defendant as provided in K.S.A. 22-4509 and amendments thereto and paid for by the state board of indigents' defense services pursuant to claims submitted therefor.

(c) Upon an appeal or petition for certiorari addressed to the supreme court of the United States, if the defendant is without means to pay the cost of making and forwarding the necessary records, the supreme court of Kansas may by order provide for the furnishing of necessary records.

(d) (1) The state board of indigents' defense services shall provide by rule and regulation for: (A) The assignment of attorneys to the panel for indigents' defense services to represent indigent persons who have been convicted of capital murder and are under sentence of death, in the direct review of the judgment;

(B) standards of competency and qualification for the appointment of counsel in capital cases under this section; and

(C) the reasonable compensation of counsel appointed to represent individuals convicted of capital murder and under a sentence of death in the appeal of such cases and for reasonable and necessary litigation expense associated with such appeals.

(2) If a defendant has been convicted of capital murder and is under a sentence of death, the district court shall make a determination on the record whether the defendant is indigent. Upon a finding that the defendant is indigent and accepts the offer of representation or is unable competently to decide whether to accept or reject the offer, the court shall appoint one or more counsel, in accordance with subsection (d)(1), to represent the defendant. If the defendant rejects the offer of representation, the court shall find on the record, after a hearing if necessary, whether the defendant rejected the offer of representation with the understanding of its legal consequences. The court shall deny the appointment of counsel upon a finding that the defendant is competent and not indigent.

(3) Counsel appointed to represent the defendant, under this section, shall not have represented the defendant at trial unless the defendant and counsel expressly request continued representation.

History: L. 1969, ch. 291, § 5; L. 1976, ch. 163, § 24; L. 1982, ch. 142, § 15; L. 1997, ch. 181, § 5; July 1.