

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 797

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dennis J. Kintigh

AN ACT

RELATING TO ATTORNEYS; IMPOSING PENALTIES ON ATTORNEYS SUBJECT TO A RULING OF INEFFECTIVE ASSISTANCE OF COUNSEL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 36, Article 2 NMSA 1978 is enacted to read:

"~~[NEW MATERIAL]~~ INEFFECTIVE ASSISTANCE OF COUNSEL RULING-- PENALTIES.--

A. Upon a court ruling that a party to litigation has received ineffective assistance of counsel, the attorney subject to the ruling who was found to provide ineffective counsel shall, within one hundred eighty days of the ruling, be disbarred from the practice of law for a period of five years.

B. An attorney found to provide ineffective counsel pursuant to Subsection A of this section shall be liable for

underscoring material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

1 all attorney fees and costs of a new trial. Upon notification
2 by the district attorney that a defendant will be subject to a
3 new trial, the county treasurer of the county in which the
4 trial will take place shall appoint a special bookkeeper to be
5 responsible for documentation of all attorney fees and costs of
6 the new trial. Within ninety days of the conclusion of the new
7 trial, the county treasurer shall send a bill to the offending
8 attorney and the attorney's law firm of record, if any, of the
9 attorney fees and costs of the new trial. The offending
10 attorney or the attorney's law firm shall pay the amount
11 specified in the bill within ninety days.

12 C. Any appeal of the amount of attorney fees and
13 costs must be filed in writing with the state treasurer within
14 ninety days of service of the bill issued pursuant to
15 Subsection B of this section. Upon receipt of a notice of
16 appeal, the state treasurer shall form a panel of three county
17 treasurers that will make a final determination of the amount
18 due. The panel shall not include the county treasurer who
19 issued the bill being appealed.

20 D. A person who has been disbarred subject to
21 Subsection A of this section shall only be readmitted to the
22 bar after submitting proof satisfactory to the New Mexico
23 supreme court that the person has:

24 (1) paid the amount due under Subsection B of
25 this section;

.177186.2

underscoring material = new
[bracketed material] = delete

1 (2) received twenty-four credit hours of
2 education from a law school after entry of the ruling pursuant
3 to Subsection A of this section; and

4 (3) passed the New Mexico bar examination
5 after compliance with Paragraphs (1) and (2) of this
6 subsection."