

ble of understanding criminal charge lodged against him and of making his defense, court should be assisted by opinion of an independent, disinterested psychiatrist pursuant to former section 32. *People ex rel. Sweeting v. Johnston*, 1966, 26 A.D.2d 685, 272 N.Y.S.2d 437.

Where record did not provide adequate basis upon which to make determination as to relator's ability to understand the charge against him and to make his defense, Attorney General would be directed to submit order on notice to attorney for relator providing for appointment of psychiatrist to be selected by court, ordering that relator be examined by such psychiatrist, that hospital records and briefs of counsel be made available to him, and that he make a written report to court. *Id.*

Issuance of blanket order granting each client of petitioner the privileges afforded to indigents under this section governing petitions for appointment of psychiatrist, certified psychologist and physicians in certain proceedings would not be appropriate. *Application of Southern Tier Legal Services*, 1979, 100 Misc.2d 1068, 420 N.Y.S.2d 591.

Court was not required by former section 32 to appoint independent psychiatrist to examine Matteawan State Hospital inmate seeking habeas corpus relief. *People ex rel. Hernandez v. Johnston*, 1965, 47 Misc.2d 145, 262 N.Y.S.2d 49.

7. Transcripts

Payment for transcripts, in the types of proceedings enumerated in this section pertaining to assignment of counsel to indigent persons, can be made available pursuant to its provisions. *Application of Southern Tier Legal Services*, 1979, 100 Misc.2d 1068, 420 N.Y.S.2d 591.

Courts are not in appropriate position to determine whether transcript should be made available, pursuant to this section pertaining to assignment of counsel to indigent persons, until after a particular hearing or trial has been held. *Id.*

Award of "blanket" relief, in regard to making stenographic transcripts available pursuant to provisions of this section pertaining to assignment of counsel to indigent persons, would be inappropriate. *Id.*

§ 35-a. Statements to be filed by judges or justices fixing or approving fees, commissions, or other compensation for persons appointed by courts to perform services in actions and proceedings

1. (a) On the first business day of each week any judge or justice who has during the preceding week fixed or approved one or more fees or allowances of more than two hundred dollars for services performed by any person appointed by the court in any capacity, including but not limited to appraiser, special guardian, guardian ad litem, general guardian, referee, counsel, special referee, auctioneer, special examiner, conservator, committee of incompetent or receiver, shall file a statement with the office of court administration on a form to be prescribed by the state administrator. The statement shall show the name and address of the appointee, the county and the title of the court in

which the services of the appointee were performed, the court docket index or file number assigned to the action or proceeding, if any, the title of the action or proceeding, the nature of the action or proceeding, the name of the judge or justice who appointed the person, the person or interest which the appointee represented, whether or not the proceeding was contested, the fee fixed or approved by the judge or justice, the gross value of the subject matter of the proceeding, the number of hours spent by the appointee in performing the service, the nature of the services performed and such other information relating to the appointment as the state administrator shall require. The judge or justice shall certify that the fee, commission, allowance or other compensation fixed or approved is a reasonable award for the services rendered by the appointee, or is fixed by statute. If the fee, commission, allowance or other compensation for services performed pursuant to an appointment described in this section is either specified as to amount by statute or fixed by statute as a percentage of the value of the subject matter of the action or proceeding, the judge or justice shall specify the statutory fee, commission or allowance and shall specify the section of the statute authorizing the payment of the fee, commission, allowance or other compensation.

(b) Paragraph (a) shall not apply to any compensation awarded to appointees assigned to represent indigent persons pursuant to Article 18-B of the county law, counsel assigned pursuant to section thirty-five of the judiciary law, law guardians or counsel appointed pursuant to the family court act, or referees appointed pursuant to section 78.25 of the mental hygiene law.

(c) Any judge or justice who fixes or approves compensation for services performed by persons appointed as referees to examine accounts of incompetents pursuant to section 78.25 of the mental hygiene law shall file, annually, with the office of court administration a statement containing such information regarding such appointments as the state administrator shall require.

2. The office of court administration shall annually submit to the appellate division of the supreme court in each of the judicial departments of the state a report containing a summary of the information contained in the statements filed with it pursuant to this section by the judges and justices sitting in courts in that department during the preceding year. Each appellate

division of the supreme court shall keep and file such reports and shall have power to make such rules respecting the supervision of all such court appointees within its judicial department as it may deem necessary.

3. The statements and reports required by this section shall be matters of public record and available for public inspection. Each court may permit the information contained therein to be made available for publication at such times and in such manner as it may deem proper.

Added L.1967, c. 625; amended L.1974, c. 615, § 3; L.1975, c. 834, § 1; L.1978, c. 93, § 1.

Historical Note

1978 Amendment. Subd. 1, par. (a). L.1978, c. 93, § 1, eff. Apr. 25, 1978, in sentence beginning "On the first" substituted "two hundred dollars" for "one hundred dollars."

1975 Amendment. Catchline. L. 1975, c. 834, § 1, eff. Sept. 1, 1975, substituted "filed by judges or justices fixing or approving fees, commissions, or other compensation for persons" for "filed by persons".

Subd. 1. L.1975, c. 834, § 1, eff. Sept. 1, 1975, added subd. 1 and omitted former subd. 1 which related to the filing of statements by certain court appointed persons, now covered by par. (a).

Subd. 2. L.1975, c. 834, § 1, eff. Sept. 1, 1975, redesignated former subd. 3 as 2 and substituted "by the judges and justices sitting in courts in that department during the preceding year" for "by persons appointed by courts or judges or justices there-

of to perform services in actions and proceedings instituted in such judicial department in the year for which the report is made" and omitted former subd. 2, which related to the filing of a statement by certain court appointed persons regarding fees and allowances, now covered by Subd. 1.

Subd. 3. L.1975, c. 834, § 1, eff. Sept. 1, 1975, redesignated former subd. 4 as 3 and former subd. 3 as 2.

Subd. 4. L.1975, c. 834, § 1, eff. Sept. 1, 1975, redesignated former subd. 4 as 3.

1974 Amendment. Subds. 1 to 3. L.1974, c. 615, § 3, eff. May 30, 1974, in each subdivision, substituted "office of court administration" for "judicial conference" and "state administrator" for "judicial conference".

Effective Date. Section effective July 1, 1967 pursuant to L.1967, c. 625, § 2.

New York Codes, Rules and Regulations

Filing of statements pursuant to this section, see 22 NYCRR Part 26, set out in McKinney's Court Rules Pamphlet.

§ 36. Personal assistants to judges and justices

1. Notwithstanding any other provisions of law, each justice of the supreme court may appoint and at pleasure remove one law clerk and one secretary, subject to standards and adminis-

trative policies promulgated pursuant to section twenty-eight of article six of the constitution.

2. Should a judge or justice of the unified court system cease to hold office for any reason other than expiration of his term, his personal assistants shall continue in office until a successor is appointed or elected to fill such vacancy. Until such vacancy is filled, the chief administrator of the courts shall determine the functions to be performed by such personal assistants.

Added L.1978, c. 156, § 8.

Historical Note

Effective Date. Section effective May 19, 1978 pursuant to L.1978, c. 156, § 15.

§ 37. Salary plan for non-judicial employees

1. Salary schedules for nonjudicial officers and employees allocated to salary grades; promulgation; placement thereon. (a) The chief administrator of the courts shall promulgate salary schedules for state-paid positions in the unified court system, allocated to salary grades, in accordance with law.

(b) Except as provided in paragraph (c) of this subdivision, or as otherwise provided by law, where a nonjudicial officer or employee of the unified court system, in a position allocated to a salary grade and paid pursuant to salary schedule (for purposes of this paragraph and paragraph (c), "former salary schedule"), is placed in such grade on another salary schedule (for purposes of this paragraph and paragraph (c) "new salary schedule"), he shall be paid a basic annual salary as follows:

(1) If his basic annual salary under the former salary schedule is identical with the first, second, third, fourth or fifth year rate of compensation of the grade of his position, or a rate of compensation equal to one or two additional increments above the maximum salary of such grade, that basic annual salary shall be increased to the corresponding rate of compensation in such grade as established by the new salary schedule;

(2) If his basic annual salary under the former salary schedule is less than the rate of compensation equal to two additional increments above the maximum salary of the grade of his position and is not identical with the first, second, third, fourth or fifth year rate of compensation of such grade or the rate of com-