

The House Committee on Judiciary Non-civil offers the following substitute to HB 328:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 15 of Chapter 1 of Title 10, Code Sections 17-10-7 and 42-9-45,
2 Chapter 1 of Title 43, and Code Section 49-4-15 of the Official Code of Georgia Annotated,
3 relating to the "Fair Business Practices Act of 1975," repeat offenders and the State Board
4 of Pardons and Paroles general rule-making authority, general provisions for professions and
5 businesses, and fraud in obtaining public assistance, food stamps, or Medicaid, respectively,
6 so as to enact reforms recommended by the Georgia Council on Criminal Justice Reform
7 involving adult offenders; to provide greater employment opportunities for individuals who
8 have had interaction with the criminal justice system; to provide protection to consumers
9 relating to consumer reports in connection with employment and licensing; to provide for
10 definitions; to change provisions relating to certain inmates' parole eligibility; to provide for
11 probationary licenses under certain conditions; to change provisions relating to the
12 misdemeanor and felony threshold in certain fraud cases; to amend Chapter 12 of Title 17
13 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to
14 change the name of the Georgia Public Defender Standards Council; to remove all references
15 to standards within the chapter; to remove mandatory provisions and make them
16 discretionary; to change provisions relating to the qualifications of the director; to revise the
17 director's powers and authority; to require fewer council and legislative oversight meetings;
18 to limit disclosure of information only upon request; to repeal provisions requiring the
19 council to approve programs for the representation of indigent persons; to clarify
20 representation of juveniles; to change provisions relating to appeals in alternative delivery
21 systems; to amend Title 15 and Code Sections 35-6A-3 and 36-32-1 of the Official Code of
22 Georgia Annotated, relating to courts, membership on the Criminal Justice Coordinating
23 Council, and establishment of municipal courts, respectively, so as to correct
24 cross-references; to provide for related matters; to provide for an effective date and
25 applicability; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 328 (SUB)

27 **PART I**

28 **SECTION 1-1.**

29 Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the
30 "Fair Business Practices Act of 1975," is amended by adding a new Code section to read as
31 follows:

32 "10-1-393.14.

33 (a) As used in this Code section, the term:

34 (1) 'Adverse action' means:

35 (A) A denial of employment;

36 (B) Any other decision for employment purposes that negatively affects any current
37 or prospective employee; or

38 (C) A denial or cancellation of, an increase in any charge for, or any other adverse or
39 unfavorable change in the terms of any license.

40 (2) 'Consumer report' means any written, oral, or other communication of any
41 information bearing on a consumer's credit worthiness, credit standing, credit capacity,
42 character, general reputation, personal characteristics, or mode of living which is used or
43 expected to be used or collected in whole or in part for the purpose of serving as a factor
44 in establishing the consumer's eligibility for purposes of credit, insurance, or
45 employment.

46 (3) 'Consumer reporting agency' means any person or entity which, for monetary fees or
47 dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the
48 practice of assembling or evaluating consumer credit information or other information
49 on consumers for the purpose of furnishing consumer reports to third parties.

50 (4) 'Employment purposes' means used for the purpose of evaluating a consumer for
51 employment, promotion, reassignment, retention as an employee, or licensing.

52 (b) A consumer reporting agency which furnishes a consumer report for employment
53 purposes and which for that purpose compiles and reports items of information on
54 consumers which are matters of public record and are likely to have an adverse action upon
55 a consumer's ability to obtain employment shall:

56 (1) At the time such public record information is reported to the user of such consumer
57 report, notify the consumer of the fact that public record information is being reported by
58 the consumer reporting agency, together with the name and address of the person to
59 whom such information is being reported; or

60 (2) Maintain strict procedures designed to ensure that whenever public record
61 information which is likely to have an adverse action on a consumer's ability to obtain
62 employment is reported it is complete and up to date. For purposes of this paragraph,

63 items of public record relating to arrests, indictments, and convictions shall be considered
 64 up to date if the current public record status of the item at the time of the report is
 65 reported.

66 (c) A consumer reporting agency shall be considered to be conducting business in this state
 67 if it provides information to any individual, partnership, corporation, association, or any
 68 other group however organized that is domiciled within this state or whose principal place
 69 of business is within this state."

70 **PART II**

71 **SECTION 2-1.**

72 Code Section 17-10-7 of the Official Code of Georgia Annotated, relating to punishment of
 73 repeat offenders, is amended by revising subsection (c) as follows:

74 "(c) Except as otherwise provided in subsection (b) or (b.1) of this Code section and
 75 subsection (b) of Code Section 42-9-45, any person who, after having been convicted under
 76 the laws of this state for three felonies or having been convicted under the laws of any other
 77 state or of the United States of three crimes which if committed within this state would be
 78 felonies, commits a felony within this state shall, upon conviction for such fourth offense
 79 or for subsequent offenses, serve the maximum time provided in the sentence of the judge
 80 based upon such conviction and shall not be eligible for parole until the maximum sentence
 81 has been served."

82 **SECTION 2-2.**

83 Code Section 42-9-45 of the Official Code of Georgia Annotated, relating to the State Board
 84 of Pardons and Paroles general rule-making authority, is amended by revising subsection (b)
 85 as follows:

86 "(b)(1) An inmate serving a misdemeanor sentence or misdemeanor sentences shall only
 87 be eligible for consideration for parole after the expiration of six months of his or her
 88 sentence or sentences or one-third of the time of his or her sentence or sentences,
 89 whichever is greater.

90 (2) Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and
 91 paragraph (3) of this subsection, an inmate serving a felony sentence or felony sentences
 92 shall only be eligible for consideration for parole after the expiration of nine months of
 93 his or her sentence or one-third of the time of the sentences, whichever is greater. Except
 94 as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and paragraph (3) of this
 95 subsection, inmates serving sentences aggregating 21 years or more shall become eligible
 96 for consideration for parole upon completion of the service of seven years.

97 (3) When an inmate was sentenced pursuant to subsection (d) of Code Section 16-13-30
 98 and subsection (c) of Code Section 17-10-7 to a term of at least 12 years and up to a life
 99 sentence, he or she may become eligible for consideration for parole if he or she:
 100 (A) Has never been convicted of:
 101 (i) A serious violent felony as such term is defined in Code Section 17-10-6.1;
 102 (ii) An offense for which he or she was or could have been required to register
 103 pursuant to Code Section 42-1-12; provided, however, that this paragraph shall not
 104 apply to any felony that became punishable as a misdemeanor on or after July 1,
 105 2006;
 106 (iii) A violation of paragraph (1) or (2) of subsection (b) of Code Section 16-5-21;
 107 (iv) A violation of Code Section 16-11-106; and
 108 (v) A violation of Code Section 16-11-131;
 109 (B) Has completed at least 12 years of his or her sentence;
 110 (C) Has obtained a low-risk for recidivism rating as determined by a validated risk
 111 assessment instrument approved by the Department of Corrections;
 112 (D) Has been classified as a medium or less than medium security risk for institutional
 113 housing classification purposes by the Department of Corrections;
 114 (E) Has completed all criminogenic programming requirements as determined by a
 115 validated risk assessment instrument approved by the Department of Corrections;
 116 (F) In the 12 months preceding consideration, has not been found guilty of any serious
 117 disciplinary infractions; and
 118 (G) Has a high school diploma or general educational development (GED) diploma,
 119 unless he or she is unable to obtain such educational achievement due to a learning
 120 disability or illiteracy. If the inmate is incapable of obtaining such education, he or she
 121 shall have completed a job skills training program, a literacy program, an adult basic
 122 education program, or a faith-based program."

123 **PART III**

124 **SECTION 3-1.**

125 Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
 126 provisions for professions and businesses, is amended by adding a new subsection to Code
 127 Section 43-1-19, relating to grounds for refusing to grant or revoking licenses, to read as
 128 follows:

129 "(p)(1) Notwithstanding any other provision of this Code section or title, when an
 130 applicant submits his or her application for licensure or renewal, together with proof of
 131 completion of a drug court division program, as set forth in Code Section 15-1-15, a

132 board shall issue the applicant a probationary license under the terms and conditions
 133 deemed appropriate by such board.

134 (2) Paragraph (1) of this subsection shall not supersede a board's consideration of an
 135 applicant's other prior criminal history or arrests or convictions that occur subsequent to
 136 completion of a drug court division program."

137 **PART IV**

138 **SECTION 4-1.**

139 Code Section 49-4-15 of the Official Code of Georgia Annotated, relating to fraud in
 140 obtaining public assistance, food stamps, or Medicaid, is amended by revising subsection (a)
 141 as follows:

142 "(a) Any person who by means of a false statement, failure to disclose information, or
 143 impersonation, or by other fraudulent device, obtains or attempts to obtain, or any person
 144 who knowingly or intentionally aids or abets such person in the obtaining or attempting to
 145 obtain:

146 (1) Any grant or payment of public assistance, food stamps, or medical assistance
 147 (Medicaid) to which he or she is not entitled;

148 (2) A larger amount of public assistance, food stamp allotment, or medical assistance
 149 (Medicaid) than that to which he or she is entitled; or

150 (3) Payment of any forfeited grant of public assistance;

151 or any person who, with intent to defraud the department, aids or abets in the buying or in
 152 any way disposing of the real property of a recipient of public assistance shall be guilty of
 153 a misdemeanor unless the total amount of the value of public assistance, food stamps, and
 154 medical assistance (Medicaid) so obtained exceeds ~~\$500.00~~ \$1,500.00, in which event such
 155 person shall be guilty of a felony and, upon conviction thereof, shall be punished by
 156 imprisonment for not less than one nor more than five years. In determining the amount
 157 of value of public assistance, food stamps, and medical assistance (Medicaid) obtained by
 158 false statement, failure to disclose information, or impersonation, or other fraudulent
 159 device, the total amount obtained during any uninterrupted period of time shall be treated
 160 as one continuing offense."

161

PART V

162

SECTION 5-1.

163 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense
 164 for indigents, is amended by revising subsection (b) of Code Section 17-12-1, relating to the
 165 Georgia Public Defender Standards Council, as follows:

166 "(b) The Georgia Public Defender ~~Standards~~ Council shall be an independent agency
 167 within the executive branch of state government."

168

SECTION 5-2.

169 Said chapter is further amended by revising paragraphs (4), (5), and (7) of Code Section
 170 17-12-2, relating to definitions, as follows:

171 "(4) 'Council' means the Georgia Public Defender ~~Standards~~ Council.

172 (5) 'Director' means the director of the Georgia Public Defender ~~Standards~~ Council."

173 "(7) 'Legislative oversight committee' means the Legislative Oversight Committee for
 174 the Georgia Public Defender ~~Standards~~ Council."

175

SECTION 5-3.

176 Said chapter is further amended by revising subsections (a) and (e) of Code Section 17-12-3,
 177 relating to the creation of the council, as follows:

178 "(a) There is created the Georgia Public Defender ~~Standards~~ Council to be composed of
 179 nine members. Other than county commission members, members of the council shall be
 180 individuals with significant experience working in the criminal justice system or who have
 181 demonstrated a strong commitment to the provision of adequate and effective
 182 representation of indigent defendants."

183 "(e) In making the appointments of members of the council who are not county
 184 commissioners, the appointing authorities shall seek to identify and appoint persons who
 185 represent a diversity of backgrounds and experience and ~~shall~~ may solicit suggestions from
 186 the State Bar of Georgia, local bar associations, the Georgia Association of Criminal
 187 Defense Lawyers, the councils representing the various categories of state court judges in
 188 Georgia, and the Prosecuting Attorneys' Council of the State of Georgia, as well as from
 189 the public and other interested organizations and individuals within this state. The
 190 appointing authorities may solicit recommendations for county commissioners from the
 191 Association County Commissioners of Georgia. The appointing authorities shall not
 192 appoint a prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any
 193 employee of a prosecuting attorney's office, or an employee of the Prosecuting Attorneys'
 194 Council of the State of Georgia to serve on the council."

SECTION 5-4.

195

196 Said chapter is further amended by revising Code Section 17-12-5, relating to the director,
197 qualifications, selection, salary, and responsibilities, as follows:

198 "17-12-5.

199 (a) To be eligible for appointment as the director, a candidate shall be a member in good
200 standing of the State Bar of Georgia with at least seven years' experience in the practice of
201 law. ~~The director shall be selected on the basis of training and experience and such other~~
202 ~~qualifications as the council deems appropriate.~~ The director shall be appointed by the
203 Governor and shall serve at the pleasure of the Governor.

204 (b)(1) The director shall work with and provide support services and programs for circuit
205 public defender offices and other attorneys representing indigent persons in criminal or
206 juvenile cases in order to improve the quality and effectiveness of legal representation of
207 such persons and otherwise fulfill the purposes of this chapter. Such services and
208 programs shall include, but shall not be limited to, technical, research, and administrative
209 assistance; educational and training programs for attorneys, investigators, and other staff;
210 assistance with the representation of indigent defendants with mental disabilities;
211 assistance with the representation of juveniles; assistance with death penalty cases; and
212 assistance with appellate advocacy.

213 (2) The director may establish divisions within the office to administer the services and
214 programs as may be necessary to fulfill the purposes of this chapter. The director shall
215 establish a mental health advocacy division and the Georgia capital defender division.

216 (3) The director may hire and supervise such staff employees and may contract with
217 outside consultants on behalf of the office as may be necessary to provide the services
218 contemplated by this chapter.

219 (c) The director shall have and may exercise the following power and authority:

220 (1) The power and authority to take or cause to be taken any or all action necessary to
221 ~~perform any indigent defense services or otherwise necessary to perform any duties,~~
222 ~~responsibilities, or functions which the director is authorized by law to perform and to~~
223 ~~exercise any power or authority which the council is authorized under subsection (a) of~~
224 ~~Code Section 17-12-4 to exercise; and~~

225 ~~(2) The power and authority to enforce or otherwise require compliance with any and all~~
226 ~~rules, regulations, procedures, or directives necessary to perform any indigent defense~~
227 ~~services; to carry into effect the minimum standards and policies promulgated by the~~
228 ~~council; and to perform any duties, responsibilities, or functions which the council is~~
229 ~~authorized under subsection (a) of Code Section 17-12-4 to perform or to exercise; and~~

230 ~~(3)~~(2) The power and authority to assist the council in the performance of its duties,
231 responsibilities, and functions and the exercise of its power and authority.

232 (d) The director shall:

233 (1) Prepare and submit to the council a proposed budget for the council. The director
234 shall also prepare and submit an annual report containing pertinent data on the operations,
235 costs, and needs of the council and such other information as the council may require;

236 (2) Develop such ~~rules, procedures, and regulations~~ as the director determines may be
237 necessary to carry out the provisions of this chapter ~~and submit these to the council for~~
238 ~~approval and comply with all applicable laws, standards, and regulations;~~

239 (3) Administer and coordinate the operations of the council ~~and supervise compliance~~
240 ~~with policies and standards adopted by the council;~~

241 (4) Maintain proper records of all financial transactions related to the operation of the
242 council;

243 (5) At the director's discretion, solicit and accept on behalf of the council any funds that
244 may become available from any source, including government, nonprofit, or private
245 grants, gifts, or bequests;

246 (6) Coordinate the services of the council with any federal, county, or private programs
247 established to provide assistance to indigent persons in cases subject to this chapter ~~and~~
248 ~~consult with professional bodies concerning the implementation and improvement of~~
249 ~~programs for providing indigent services;~~

250 (7) Provide for the training of attorneys and other staff involved in the legal
251 representation of persons subject to this chapter;

252 (8) Attend all council meetings, except those meetings or portions thereof that address
253 the question of appointment or removal of the director;

254 (9) Ensure that the expenditures of the council are not greater than the amounts budgeted
255 or available from other revenue sources;

256 (10) Hire or remove a mental health advocate who shall serve as director of the division
257 of the office of mental health advocacy;

258 (11) Hire or remove the capital defender who shall serve as the director of the division
259 of the office of the Georgia capital defender; and

260 (12) Evaluate each circuit public defender's job performance.

261 (e) The director shall not:

262 (1) Provide direct legal representation to any person entitled to services pursuant to this
263 chapter; and

264 (2) Engage in the private practice of law for profit."

265 **SECTION 5-5.**

266 Said chapter is further amended by revising Code Section 17-12-6, relating to assistance of
267 council to public defenders, as follows:

268 "17-12-6.

269 (a) The council ~~shall~~ may assist the public defenders throughout the state in their efforts
270 to provide adequate legal defense to the indigent. Assistance may include:

271 (1) The preparation and distribution of a basic defense manual and other educational
272 materials;

273 (2) The preparation and distribution of model forms and documents employed in indigent
274 defense;

275 (3) The promotion of and assistance in the training of indigent defense attorneys;

276 (4) The provision of legal research assistance to public defenders; and

277 (5) The provision of such other assistance to public defenders as may be authorized by
278 law.

279 (b) The council:

280 (1) Shall be the fiscal officer for the circuit public defender offices and shall account for
281 all moneys received from each governing authority; and

282 (2) May ~~Shall~~ collect, maintain, review, and publish in print or electronically records and
283 statistics for the purpose of evaluating the delivery of indigent defense representation in
284 Georgia."

285 **SECTION 5-6.**

286 Said chapter is further amended by revising subsection (e) of Code Section 17-12-7, relating
287 to councilmembers and meetings, as follows:

288 "(e) The council shall meet at least ~~quarterly~~ semiannually and at such other times and
289 places as it deems necessary or convenient for the performance of its duties."

290 **SECTION 5-7.**

291 Said chapter is further amended by revising Code Section 17-12-8, relating to the approval
292 by the council of programs for representation of indigent persons, as follows:

293 "17-12-8.

294 Reserved.

295 ~~(a) The council shall approve the development and improvement of programs which
296 provide legal representation to indigent persons and juveniles.~~

297 ~~(b) The council shall approve and implement programs, services, policies, and standards
298 as may be necessary to fulfill the purposes and provisions of this chapter and to comply
299 with all applicable laws governing the rights of indigent persons accused of violations of
300 criminal law.~~

301 ~~(c) All policies and standards that are promulgated by the council shall be publicly~~
 302 ~~available for review and shall be posted on the council's website. Each policy and standard~~
 303 ~~shall identify the date upon which such policy and standard took effect."~~

304

SECTION 5-8.

305 Said chapter is further amended by revising Code Section 17-12-10, relating to annual
 306 reporting, as follows:

307 "17-12-10.

308 (a) Upon request, the ~~The~~ council shall prepare annually a report of its activities in order
 309 to provide the General Assembly, the Governor, and the Supreme Court of Georgia with
 310 an accurate description and accounting of the preceding year's expenditures and revenue,
 311 including moneys received from cities and county governing authorities. ~~Such report shall~~
 312 ~~include a three-year cost projection and anticipated revenues for all programs defined in~~
 313 ~~the General Appropriations Act.~~

314 (b) Upon request, the ~~The~~ council shall provide to the General Assembly, the Governor,
 315 and the Supreme Court of Georgia a detailed analysis of all grants and funds, whether
 316 public or private, applied for or granted, together with how and in what manner the same
 317 are to be utilized and expended.

318 (c) Upon request, the ~~The~~ director shall prepare annually a report in order to provide the
 319 General Assembly, the Supreme Court, and the Governor with information on the council's
 320 assessment of the delivery of indigent defense services, including, but not limited to, the
 321 costs involved in operating each program and each governing authority's indigent person
 322 verification system, methodology used, costs expended, and savings realized."

323

SECTION 5-9.

324 Said chapter is further amended by revising Code Section 17-12-10.1, relating to the creation
 325 of the legislative oversight committee, as follows:

326 "17-12-10.1.

327 (a) There is created the Legislative Oversight Committee for the Georgia Public Defender
 328 ~~Standards~~ Council which shall be composed of eight persons: three members of the House
 329 of Representatives appointed by the Speaker of the House of Representatives, three
 330 members of the Senate appointed by the Senate Committee on Assignments or such person
 331 or entity as established by Senate rule, and one member of the House of Representatives
 332 and one member of the Senate appointed by the Governor. The members of such
 333 committee shall be selected within ten days after the convening of the General Assembly
 334 in each odd-numbered year and shall serve until their successors are appointed.

335 (b) The Speaker of the House of Representatives shall appoint a member of such
 336 committee to serve as chairperson, and the Senate Committee on Assignments or such
 337 person or entity as established by Senate rule shall appoint one member of the committee
 338 to serve as vice chairperson during each even-numbered year. The Senate Committee on
 339 Assignments or such person or entity as established by Senate rule shall appoint a member
 340 of such committee to serve as chairperson, and the Speaker of the House of Representatives
 341 shall appoint one member to serve as vice chairperson during each odd-numbered year.
 342 Such committee shall meet at least ~~three times~~ once each year and, upon the call of the
 343 chairperson, at such additional times as deemed necessary by the chairperson.

344 (c) It shall be the duty of such committee to review and evaluate:

- 345 (1) Information on new programs submitted by the council;
- 346 (2) Information on ~~rules, regulations, policies, and standards~~ proposed by the council;
- 347 (3) The strategic plans for the council;
- 348 (4) Program evaluation reports and budget recommendations of the council;
- 349 (5) The fiscal impact of fees and fines on counties;
- 350 (6) The reports submitted pursuant to Code Section 15-21A-7 in order to identify, among
 351 other things, opportunities to reduce or consolidate fees, fines, and surcharges; and
- 352 (7) Such other information or reports as deemed necessary by such committee.

353 (d) The council and director shall cooperate with such committee and provide such
 354 information or reports as requested by the committee for the performance of its functions.

355 (e) The council shall submit its budget estimate to the director of the Office of Planning
 356 and Budget in accordance with subsection (a) of Code Section 45-12-78.

357 ~~(f) The legislative oversight committee shall make an annual report of its activities and
 358 findings to the membership of the General Assembly, the Chief Justice of the Supreme
 359 Court, and the Governor within one week of the convening of each regular session of the
 360 General Assembly. The chairperson of such committee shall deliver written executive
 361 summaries of such report to the members of the General Assembly prior to the adoption
 362 of the General Appropriations Act each year.~~

363 ~~(g)~~(f) The members of such committee shall receive the allowances authorized for
 364 legislative members of legislative committees. The funds necessary to pay such allowances
 365 shall come from funds appropriated to the House of Representatives and the Senate.

366 ~~(h)~~(g) The legislative oversight committee shall be authorized to request that a
 367 performance audit of the council be conducted."

368 **SECTION 5-10.**

369 Said chapter is further amended by revising subsection (d) of Code Section 17-12-20, relating
 370 to the public defender selection panel, as follows:

H. B. 328 (SUB)

371 "(d) A circuit public defender supervisory panel may convene at any time during its circuit
 372 public defender's term of office and shall convene at least annually for purposes of
 373 reviewing the circuit public defender's job performance and the performance of the circuit
 374 public defender office. The director and circuit public defender shall be notified at least
 375 two weeks in advance of the convening of the circuit public defender supervisory panel.
 376 The circuit public defender shall be given the opportunity to appear before the circuit
 377 public defender supervisory panel and present evidence and testimony. The chairperson
 378 shall determine the agenda for the annual review process, but, at a minimum, such review
 379 shall include ~~information collected pursuant to subsection (c) of Code Section 17-12-24,~~
 380 usage of state and local funding, expenditures, and budgeting matters. The chairperson
 381 shall make an annual report on or before the thirtieth day of September of each year
 382 concerning the circuit public defender supervisory panel's findings regarding the job
 383 performance of the circuit public defender and his or her office to the director on a form
 384 provided to the panel by the director. If at any time the circuit public defender supervisory
 385 panel finds that the circuit public defender is performing in a less than satisfactory manner
 386 or finds information of specific misconduct, the circuit public defender supervisory panel
 387 may by majority vote of its members adopt a resolution seeking review of its findings and
 388 remonstrative action by the director. Such resolution shall specify the reason for such
 389 request. All evidence presented and the findings of the circuit public defender supervisory
 390 panel shall be forwarded to the director within 15 days of the adoption of the resolution.
 391 The director shall initiate action on the circuit public defender supervisory panel's
 392 resolution within 30 days of receiving the resolution. The director shall notify the circuit
 393 public defender supervisory panel, in writing, of any actions taken pursuant to submission
 394 of a resolution under this subsection."

395 **SECTION 5-11.**

396 Said chapter is further amended by revising subsection (a) of Code Section 17-12-23, relating
 397 to cases in which public defender representation is required, as follows:

398 "(a) The circuit public defender shall provide representation in the following actions and
 399 proceedings:

- 400 (1) Any case prosecuted in a superior court under the laws of the State of Georgia in
 401 which there is a possibility that a sentence of imprisonment or probation or a suspended
 402 sentence of imprisonment may be adjudged;
- 403 (2) A hearing on a revocation of probation in a superior court;
- 404 (3) Any delinquency case prosecuted in juvenile court case ~~where the juvenile may face~~
 405 ~~a disposition of confinement, commitment, or probation;~~ and

406 (4) Any direct appeal of any of the proceedings enumerated in paragraphs (1) through (3)
 407 of this subsection."

408 **SECTION 5-12.**

409 Said chapter is further amended by revising Code Section 17-12-36, relating to alternative
 410 delivery systems, as follows:

411 "17-12-36.

412 (a) The council may permit a judicial circuit composed of a single county to continue in
 413 effect an alternative delivery system to the one set forth in this article if:

414 (1) The delivery system:

415 (A) Has a full-time director and staff and had been fully operational for at least two
 416 years on July 1, 2003; or

417 (B) Is administered by the county administrative office of the courts or the office of the
 418 court administrator of the superior court and had been fully operational for at least two
 419 years on July 1, 2003;

420 (2) The council, by majority vote of the entire council, determines that the delivery
 421 system meets or exceeds its policies and standards, ~~including, without limitation, caseload~~
 422 ~~standards~~, as the council adopts;

423 (3) The governing authority of the county comprising the judicial circuit enacts a
 424 resolution expressing its desire to continue its delivery system and transmits a copy of
 425 such resolution to the council not later than September 30, 2004; and

426 (4) The governing authority of the county comprising the judicial circuit enacts a
 427 resolution agreeing to fully fund its delivery system.

428 (b) A judicial circuit composed of a single county may request an alternative delivery
 429 system only one time; provided, however, that if such judicial circuit's request for an
 430 alternative delivery system was disapproved on or before December 31, 2004, such judicial
 431 circuit may make one further request on or before September 1, 2005. The council shall
 432 allow such judicial circuit to have a hearing on such judicial circuit's request.

433 (c) The council shall make a determination with regard to continuation of an alternative
 434 delivery system not later than December 1, 2005, and if the council determines that such
 435 judicial circuit's alternative delivery system does not meet the ~~standards~~ requirements as
 436 established by the council, the council shall notify such judicial circuit of its deficiencies
 437 in writing and shall allow such judicial circuit an opportunity to cure such deficiencies.
 438 The council shall make a final determination with regard to continuation of an alternative
 439 delivery system on or before December 31, 2005. Initial and subsequent approvals of
 440 alternative delivery systems shall be by a majority vote of the entire council.

441 (d) Any circuit whose alternative delivery system is disapproved at any time shall be
 442 governed by the provisions of this article other than this Code section.

443 (e) In the event an alternative delivery system is approved, the council shall annually
 444 review the operation of such system and determine whether such system is meeting the
 445 ~~standards~~ requirements as established by the council and is eligible to continue operating
 446 as an approved alternative delivery system. In the event the council determines that such
 447 system is not meeting the ~~standards~~ requirements as established by the council, the council
 448 shall provide written notice to such system of the deficiencies and shall provide such
 449 system an opportunity to cure such deficiencies.

450 (f) In the event an alternative delivery system is approved, it shall keep and maintain
 451 appropriate records, which shall include the number of persons represented; the offenses
 452 charged; the outcome of each case; the expenditures made in providing services; and any
 453 other information requested by the council.

454 (g) In the event the council disapproves an alternative delivery system either in its initial
 455 application or annual review, such system may appeal such decision to the ~~Supreme Court~~
 456 ~~of Georgia~~ council under such rules and procedures as shall be prescribed by the ~~Supreme~~
 457 ~~Court~~ council.

458 (h) An approved alternative delivery system shall be paid by the council, from funds
 459 available to the council, in an amount equal to the amount that would have been allocated
 460 to the judicial circuit for the minimum salary of the circuit public defender, the assistant
 461 circuit public defenders, the investigator, and the administrative staff, exclusive of benefits,
 462 if the judicial circuit was not operating an alternative delivery system."

463 **SECTION 5-13.**

464 Said chapter is further amended by revising subsection (c) of Code Section 17-12-51, relating
 465 to repayment of attorney's fees as a condition of probation, as follows:

466 "(c) If a defendant who is represented by a public defender, who is paid for entirely by the
 467 state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted,
 468 the court may impose as a condition of probation repayment of all or a portion of the cost
 469 for providing legal representation and other costs of the defense if the payment does not
 470 impose a financial hardship upon such defendant or such defendant's dependent or
 471 dependents. Such defendant shall make such payment through the probation department
 472 to the Georgia Public Defender ~~Standards~~ Council for payment to the general fund of the
 473 state treasury."

474 **SECTION 5-14.**

475 Said chapter is further amended by revising subsection (b) of Code Section 17-12-80, relating
 476 to the requirement for verification of indigency, as follows:

477 "(b) The council shall establish policies ~~and standards~~ to determine approval of an indigent
 478 person verification system and shall annually provide written notification to the Georgia
 479 Superior Court Clerks' Cooperative Authority as to whether or not a governing authority
 480 has an approved indigent person verification system."

481 **PART VI**482 **SECTION 6-1.**

483 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 484 subsections (e) and (g) of Code Section 15-6-76.1, relating to investing or depositing funds,
 485 as follows:

486 "(e) When funds have been paid into the registry of the court and the order of the court
 487 relating to such funds does not state that such funds shall be placed in an interest-bearing
 488 trust account for the benefit of one or more of the parties, the clerk shall deposit such funds
 489 in an interest-bearing trust account, and the financial institution in which such funds are
 490 deposited shall remit, after service charges or fees are deducted, the interest generated by
 491 said funds directly to the Georgia Superior Court Clerks' Cooperative Authority by the last
 492 day of the month following the month in which such funds were received for distribution
 493 to the Georgia Public Defender ~~Standards~~ Council for allotment to the circuit public
 494 defender offices. With each remittance, the financial institution shall send a statement
 495 showing the name of the court, the rate of interest applied, the average monthly balance in
 496 the account against which the interest rate is applied, the service charges or fees of the bank
 497 or other depository, and the net remittance. This subsection shall include, but not be
 498 limited to, cash supersedeas bonds for criminal appeal, other supersedeas bonds, and bonds
 499 or funds paid into the court registry in actions involving interpleader, condemnation, and
 500 requests for injunctive relief."

501 "(g) Any interest earned on funds subject to this Code section or Code Section 15-7-49,
 502 15-9-18, or 15-10-240 while in the custody of the Georgia Superior Court Clerks'
 503 Cooperative Authority shall be remitted to the Georgia Public Defender ~~Standards~~
 504 Council."

505 **SECTION 6-2.**

506 Said title is further amended by revising Code Section 15-7-49, relating to remittance of
 507 interest from interest-bearing trust account, as follows:

508 "15-7-49.

509 When funds are paid into the court registry, the clerk shall deposit such funds in
510 interest-bearing trust accounts, and the interest from those funds shall be remitted to the
511 Georgia Superior Court Clerks' Cooperative Authority in accordance with the provisions
512 of subsections (c) through (i) of Code Section 15-6-76.1 for distribution to the Georgia
513 Public Defender ~~Standards~~ Council."

514 **SECTION 6-3.**

515 Said title is further amended by revising Code Section 15-9-18, relating to remittance of
516 interest from cash bonds, as follows:

517 "15-9-18.

518 Whenever the sheriff transfers cash bonds to the clerk of the court, pursuant to Code
519 Section 15-16-27, the clerk shall deposit such funds into interest-bearing trust accounts,
520 and the interest from those funds shall be remitted to the Georgia Superior Court Clerks'
521 Cooperative Authority in accordance with the provisions of subsections (c) through (i) of
522 Code Section 15-6-76.1 for distribution to the Georgia Public Defender ~~Standards~~ Council."

523 **SECTION 6-4.**

524 Said title is further amended by revising Code Section 15-10-240, relating to remittance of
525 interest from funds, as follows:

526 "15-10-240.

527 When funds are paid into the court registry, the clerk shall deposit such funds in
528 interest-bearing trust accounts, and the interest from those funds shall be remitted to the
529 Georgia Superior Court Clerks' Cooperative Authority in accordance with the provisions
530 of subsections (c) through (i) of Code Section 15-6-76.1 for distribution to the Georgia
531 Public Defender ~~Standards~~ Council."

532 **SECTION 6-5.**

533 Said title is further amended by revising subsection (b) of Code Section 15-16-27, relating
534 to deposit of cash bonds and reserves of professional bondspersons in interest-bearing
535 accounts, as follows:

536 "(b) The financial institution in which the funds are deposited shall remit, after service
537 charges or fees are deducted, the interest generated by such funds directly to the Georgia
538 Superior Court Clerks' Cooperative Authority in accordance with the provisions of
539 subsections (c) through (i) of Code Section 15-6-76.1 for distribution to the Georgia Public
540 Defender ~~Standards~~ Council. With each remittance, the financial institution shall send a
541 statement showing the name of the county, deposits and withdrawals from the account or

542 accounts, interest paid, service charges or fees of the bank or other depository, and the net
543 remittance."

544 **SECTION 6-6.**

545 Said title is further amended by revising subsection (c) of Code Section 15-21A-7, relating
546 to rules, regulations, reporting, and accounting, as follows:

547 "(c) The authority shall, on a quarterly basis, make a detailed report and accounting of all
548 fines and fees collected and remitted by any court and shall submit such report and
549 accounting to the Legislative Oversight Committee for the Georgia Public Defender
550 ~~Standards~~ Council, the Office of Planning and Budget, the Chief Justice of the Supreme
551 Court of Georgia, the House Budget and Research Office, and the Senate Budget and
552 Evaluation Office no later than 60 days after the last day of the preceding quarter."

553 **SECTION 6-7.**

554 Code Section 35-6A-3 of the Official Code of Georgia Annotated, relating to the membership
555 on the Criminal Justice Coordinating Council, is amended by revising paragraph (1) of
556 subsection (a) and subsection (c) as follows:

557 "(1) The chairperson of the Georgia Peace Officer Standards and Training Council, the
558 director of homeland security, the chairperson of the Judicial Council of Georgia, the
559 chairperson of the Prosecuting Attorneys' Council of the State of Georgia, the
560 commissioner of corrections, the chairperson of the Board of Corrections, the vice
561 chairperson of the Board of Public Safety, the chairperson of the State Board of Pardons
562 and Paroles, the State School Superintendent, the commissioner of community affairs, the
563 president of the Council of Juvenile Court Judges, the chairperson of the Georgia Public
564 Defender ~~Standards~~ Council, the chairperson of the Governor's Office for Children and
565 Families, and the commissioner of juvenile justice or their designees shall be ex officio
566 members of the council, as full voting members of the council by reason of their office;
567 and"

568 "(c) The initial terms for all 19 original members shall begin July 1, 1981. The initial term
569 for the member added in 1985 shall begin July 1, 1985. The initial term for the member
570 added in 1988 shall begin July 1, 1988. The initial term for the member added in 1989
571 shall begin July 1, 1989. The State School Superintendent shall be a member effective on
572 July 1, 1989. The chairperson of the Georgia Public Defender ~~Standards~~ Council shall
573 become a member on December 31, 2003."

574

SECTION 6-8.

575 Code Section 36-32-1 of the Official Code of Georgia Annotated, relating to establishment
576 of municipal court, is amended by revising subsections (f) and (g) as follows:

577 "(f) Any municipal court operating within this state and having jurisdiction over the
578 violation of municipal ordinances and over such other matters as are by specific or general
579 law made subject to the jurisdiction of municipal courts shall not impose any punishment
580 of confinement, probation, or other loss of liberty, or impose any fine, fee, or cost
581 enforceable by confinement, probation, or other loss of liberty, as authorized by general
582 law or municipal or county ordinance, unless the court provides to the accused the right to
583 representation by a lawyer, and provides to those accused who are indigent the right to
584 counsel at no cost to the accused. Such representation shall be subject to all applicable
585 standards adopted by the Georgia Public Defender Standards Council for representation of
586 indigent persons in this state.

587 (g) Any municipal court operating within this state that has jurisdiction over the violation
588 of municipal or county ordinances or such other statutes as are by specific or general law
589 made subject to the jurisdiction of municipal courts, and that holds committal hearings in
590 regard to such alleged violations, must provide to the accused the right to representation
591 by a lawyer, and must provide to those accused who are indigent the right to counsel at no
592 cost to the accused. Such representation shall be subject to all applicable standards adopted
593 by the Georgia Public Defender Standards Council for representation of indigent persons
594 in this state."

595

PART VII

596

SECTION 7-1.

597 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
598 July 1, 2015.

599 (b) Part II of this Act shall become effective upon its approval by the Governor or upon its
600 becoming law without such approval. The provisions of Part II of this Act shall be given
601 retroactive effect to those sentences imposed before the effective date of Part II of this Act.

602

SECTION 7-2.

603 All laws and parts of laws in conflict with this Act are repealed.