

House Bill 770

By: Representatives Coleman of the 118th, Porter of the 119th, Fleming of the 79th, Smyre of the 111th, Skipper of the 116th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to
2 enact the "Georgia Indigent Defense Act"; to provide a short title; to provide for the election
3 of a circuit public defender in each judicial circuit; to provide for eligibility; to provide for
4 such officers serving on ordered military duty; to provide for the appointment of a public
5 defender pro tempore in the event of disqualification; to provide for the representation of
6 indigents in certain cases; to provide for duties of a circuit public defender; to provide for a
7 salary; to prohibit the practice of law; to provide for compensation; to provide for a budget;
8 to provide for the payment of certain filing fees; to provide for the appointment of assistant
9 public defenders and their salaries; to provide for the appointment of investigators and their
10 salaries; to provide for the appointment of a deputy circuit public defender; to provide for the
11 filling of a vacancy in office; to provide for the employment of staff; to provide for the status
12 of employees as public employees; to provide for additional positions paid for by counties;
13 to provide that no attorney employed full time by the circuit public defender shall engage in
14 the private practice of law; to provide for the provision of offices and facilities by counties;
15 to provide for penalties for failing to attend court; to provide for the procedures in the event
16 of an allegation of malfeasance; to provide for no limitation on the power of courts; to define
17 certain terms; to authorize third-year law students to assist circuit public defenders; to
18 provide qualifications; to create the Georgia Public Defenders Council; to provide for
19 membership, appointment, and terms of office; to provide for duties; to provide for assistance
20 to public defenders in this state; to provide for a report of activities; to provide that such
21 council shall assume all duties, responsibilities, liabilities, assets, and obligations of the
22 Georgia Indigent Defense Council; to provide that the Georgia Indigent Defense Council
23 shall be abolished; to provide for a transition; to provide for the office of the multicounty
24 public defender; to provide for legal status; to provide that the Georgia Public Defenders
25 Council shall be responsible for such office; to provide for the appointment of multicounty
26 public defenders; to provide for salaries and a budget; to provide for the employment of
27 personnel; to provide for the defense of persons accused of a capital felony; to provide for
28 the office of mental health advocacy; to provide that such office shall be a continuation of

1 the mental health advocacy division of the Georgia Indigent Defense Council; to provide for
 2 a budget; to provide for the employment of personnel; to provide for the representation of
 3 persons adjudged or alleging insanity; to provide that a juvenile court may contract with a
 4 circuit public defender to provide legal counsel for indigent persons; to change certain
 5 references within such title; to amend Chapter 12 of Title 17 of the Official Code of Georgia
 6 Annotated, relating to the legal defense of indigents, so as to provide for the repeal of the
 7 articles of said chapter at various times; to amend Code Section 21-2-502 of the Official
 8 Code of Georgia Annotated, relating to the issuance of certificates of election and
 9 commission and the Governor's proclamation as to constitutional amendments, so as to
 10 provide for the certification of election and commission of circuit public defenders; to amend
 11 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
 12 agencies, so as to change certain references; to amend Code Section 36-23-1 of the Official
 13 Code of Georgia Annotated, relating to the establishment of municipal courts, punishments,
 14 and the selection, election, or appointment of the mayor pro tempore or recorder pro tempore,
 15 so as to provide for certain defense of indigent persons; to provide for contracting with the
 16 circuit public defender; to amend Code Section 45-7-4 of the Official Code of Georgia
 17 Annotated, relating to annual salaries of certain state officials and cost-of-living adjustments,
 18 so as to provide an annual salary for circuit public defenders; to provide for effective dates;
 19 to repeal conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **SECTION 1.**

22 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by
 23 inserting at the end thereof a new chapter to read as follows:

24 "CHAPTER 24
 25 ARTICLE 1

26 15-24-1.

27 This chapter shall be known and may be cited as the 'Georgia Indigent Defense Act of
 28 2003.'

29 15-24-2.

30 At the 2004 general election and every four years thereafter, there shall be elected in each
 31 judicial circuit of this state a circuit public defender. Qualification, nomination, and
 32 election shall be partisan elections held in accordance with Chapter 2 of Title 21, the

1 'Georgia Election Code.' The circuit public defender shall take office on January 1 of the
2 year following his or her election and shall serve a term of four years.

3 15-24-3.

4 (a) To be eligible to fill the office of circuit public defender, a person must:

5 (1) Have been a resident citizen of this state three years just preceding his or her election;

6 (2) Permanently reside in the circuit at the time he or she takes office;

7 (3) Have attained the age of 25 years;

8 (4) Have been duly admitted and licensed to practice law in the superior courts for at
9 least three years; and

10 (5) If previously disbarred from the practice of law, have been reinstated as provided by
11 law.

12 (b) Any person who is serving as a district attorney or assistant district attorney in the
13 same circuit in which he or she seeks election as circuit public defender may not qualify
14 for election to such office unless he or she has resigned as district attorney or assistant
15 district attorney.

16 15-24-4.

17 (a) Any circuit public defender who is performing ordered military duty, as defined in
18 Code Section 38-2-279, shall be eligible for reelection in any election, primary or general,
19 which may be held to elect a successor for the next term of office, and may qualify in
20 absentia as a candidate for reelection to such office.

21 (b) Where the giving of written notice of candidacy is required, any circuit public defender
22 who is performing ordered military duty may deliver such notice by mail or messenger to
23 the proper elections official. Any other act required by law of a candidate for public office
24 may, during the time such official is on ordered military duty, be performed by an agent
25 designated in writing by the absent public official.

26 15-24-5.

27 (a) When a circuit public defender's office is disqualified from interest or relationship to
28 engage in a defense, the chief judge of the judicial circuit shall appoint a competent
29 attorney pro tempore to act as public defender in place of the circuit public defender.

30 (b) A private attorney acting as circuit public defender pro tempore pursuant to
31 subsection (a) of this Code section is subject to all laws and regulations established
32 pursuant to Code Section 15-24-16 governing circuit public defenders. Such private
33 attorney shall receive the same compensation from state funds appropriated for the
34 operations of the circuit public defender at the same rate as the circuit public defender

1 during the term of such appointment and shall incur the same penalties in the discharge of
2 the duties of said office.

3 (c) The appointment of the circuit public defender pro tempore shall specify in writing the
4 court or courts to which the appointment applies, the county or counties where located, the
5 time period covered, and the name of the case or cases to which such appointment shall
6 apply. A copy of the appointment shall be filed with the clerk of court and copies shall be
7 provided to the presiding judge and the Georgia Public Defenders Council and other
8 counsel in any action affected by such order. An order appointing a private attorney
9 pursuant to this Code section shall also specify whether such attorney will serve on a
10 full-time or part-time basis and any restrictions which may apply to such attorney's private
11 practice of law during the term of such appointment. Private attorneys who serve on a
12 part-time basis shall be compensated at an hourly rate determined by the Georgia Public
13 Defenders Council based on the annual salary of circuit public defenders paid from state
14 funds. The Georgia Public Defenders Council shall establish such procedures or guidelines
15 as may be necessary to ensure proper accountability of any funds paid to a private attorney
16 pursuant to this Code section.

17 (d) A circuit public defender or assistant public defender who is designated as a public
18 defender pro tempore, or any assistant designated by such circuit public defender pro
19 tempore to defend such case or cases, shall not receive any additional compensation for
20 such services. The actual expenses incurred by the circuit public defender pro tempore or
21 members of his or her staff shall be reimbursed in the same manner and by the same
22 funding source as is provided by law for such personnel when they are performing official
23 duties; provided, however, that, in the case of nonstate paid personnel, the actual expenses
24 incurred shall be reimbursed by the county in which the said circuit public defender pro
25 tempore is acting at the same rate as provided in Code Section 15-24-9 for circuit public
26 defenders. Any court costs, filing costs, witness fees, costs of reporting and preparing
27 transcripts of records, and any other expenses incurred for such services shall be paid as
28 provided by law.

29 (e) Any order entered by a court disqualifying a circuit public defender office from
30 engaging in the defense shall specify the legal basis for such order. The circuit public
31 defender may, on behalf of the state and prior to the defendant in a criminal case being put
32 in jeopardy, apply for a certificate of immediate review as provided in Code Section 5-7-2,
33 and such order shall be subject to appellate review as provided in Chapter 7 of Title 5.

34 15-24-6.

35 (a) The circuit public defender shall provide representation in the following actions and
36 proceedings:

1 (1) Any case prosecuted under the laws of the State of Georgia in which there is a
2 possibility that a sentence of imprisonment or probation or a suspended sentence of
3 imprisonment may be adjudged;

4 (2) A hearing on a revocation of probation;

5 (3) Any juvenile court case where the juvenile may face a disposition of confinement,
6 commitment, or probation; and

7 (4) Any direct appeal of any of the proceedings enumerated in paragraphs (1) through (3)
8 of this subsection.

9 (b) In each of the actions and proceedings enumerated in subsection (a) of this Code
10 section, entitlement to the services of counsel begins as soon as is feasible after the indigent
11 person is taken into custody or service is made upon him or her of the charge, petition,
12 notice, or other initiating process.

13 (c) The provisions of this Code section shall not include proceedings in any state court
14 unless the governing authority of the county in which the state court is located has
15 contracted with the office of the circuit public defender of the judicial circuit in which such
16 court is located for the provision of criminal defense for indigent defendants.

17 15-24-7.

18 (a) Each circuit public defender shall establish guidelines for determining the financial
19 eligibility of persons claiming indigence and shall submit such guidelines to the council for
20 approval. Once such guidelines have been approved by the Georgia Public Defenders
21 Council, the circuit public defender shall use such guidelines to determine the financial
22 eligibility of any person or juvenile arrested, detained, or charged in any manner that would
23 entitle him or her to representation under this article.

24 (b) The circuit public defenders shall administer and coordinate the day-to-day operations
25 of their respective offices and shall supervise the assistant public defenders and other staff
26 serving in the office.

27 (c) The circuit public defender shall keep and maintain appropriate records, which shall
28 include the number of persons represented under this article, including cases assigned to
29 other counsel based on conflict of interest; the offenses charged; the outcome of each case;
30 the expenditures made in carrying out the duties imposed by this article; and any other
31 information requested by the Georgia Public Defenders Council.

32 15-24-8.

33 (a) Each circuit public defender shall receive an annual salary from state funds as
34 prescribed by law. Such salary shall be paid as provided in Code Section 15-24-16.

1 (b) The county or counties comprising the judicial circuit may supplement the salary of
2 the circuit public defender in such amount as is or may be authorized by local Act or in
3 such amount as may be determined by the governing authority of such county or counties,
4 whichever is greater.

5 (c) No circuit public defender shall engage in the private practice of law.

6 15-24-9.

7 (a) The circuit public defender and any personnel compensated by the state pursuant to the
8 provisions of this article shall be entitled to receive, in addition to such other compensation
9 as may be provided by law, reimbursement for actual expenses incurred in the performance
10 of their official duties in accordance with the rules and regulations issued pursuant to Code
11 Section 45-7-28.1 and such supplemental rules as may be adopted by the Georgia Public
12 Defenders Council.

13 (b) Nothing in this Code section shall permit reimbursement of expenses or payment of
14 a per diem allowance to any person designated by subsection (a) of this Code section for
15 travel between such person's residence and the courthouse or other office designated in
16 writing by the circuit public defender as such person's place of employment or any office
17 of the circuit public defender located in the county in which such person resides.

18 (c) The Georgia Public Defenders Council shall be authorized to provide advance travel
19 funds to persons designated by subsection (a) of this Code section as provided by Code
20 Sections 45-7-25 through 45-7-28.

21 (d)(1) The governing authority of the county or counties comprising the judicial circuit
22 may provide a person designated by subsection (a) of this Code section with a
23 government owned vehicle and vehicle expenses, in which event the Georgia Public
24 Defenders Council may reimburse the county for the actual mileage driven at the same
25 rate as is authorized by rules and regulations issued pursuant to Code Section 45-7-28.1,
26 subject to the budget established for the judicial circuit.

27 (2) Subject to the budget established for the judicial circuit, the Georgia Public
28 Defenders Council may pay the actual costs incurred by the office of the circuit public
29 defender for the operation of state owned motor vehicles. The Georgia Public Defenders
30 Council shall adopt rules governing the operation of such vehicles.

31 (e)(1) Subject to the provisions of paragraphs (3) and (4) of this subsection, expenses
32 paid by the Georgia Public Defenders Council pursuant to this Code section shall be paid
33 out of such funds as may be appropriated by the General Assembly.

34 (2) On or before June 1 of each year, the Georgia Public Defenders Council shall
35 establish and furnish to each circuit public defender and the state auditor the travel budget

1 for each judicial circuit based on the amount appropriated by the General Assembly for
2 such purpose.

3 (3) In determining the travel budget for each judicial circuit, the Georgia Public
4 Defenders Council shall consider the budget request submitted by the circuit public
5 defender of each judicial circuit, the geographic size and the caseload of each circuit, and
6 such other facts as may be relevant. The council is authorized to establish a contingency
7 reserve of not more than 3 percent of the total amount appropriated by the General
8 Assembly in order to meet any expenses which could not be reasonably anticipated. The
9 council shall submit to each circuit public defender, the state auditor, and the legislative
10 budget analyst a monthly report showing the budget amount of expenditures made under
11 the travel budget. The council may periodically review and adjust said budget as may be
12 necessary to carry out the purposes of this Code section.

13 (4) No person designated by subsection (a) of this Code section shall be reimbursed from
14 state funds for any expenses for which such person has been reimbursed from funds other
15 than state funds; provided, however, that the governing authority of the county or
16 counties comprising the judicial circuit are authorized to provide travel advances or to
17 reimburse such expenses which may be incurred by such person in the performance of
18 his or her official duties to the extent such expenses are not reimbursed by the state as
19 provided in this Code section.

20 (f) The Georgia Public Defenders Council shall prepare and submit a proposed budget for
21 state funds necessary to provide reimbursement of expenses as provided in this Code
22 section in accordance with the provisions of Code Section 45-12-78. The budget request
23 shall be based on the previous year's expenditures and budget requests submitted by each
24 circuit public defender.

25 15-24-10.

26 The bill of costs and any filing fees in appeals or applications filed in the Supreme Court
27 of Georgia or the Court of Appeals of Georgia on behalf of the state by a circuit public
28 defender shall be paid by the Georgia Public Defenders Council out of such funds as may
29 be appropriated for the operations of the circuit public defenders.

30 15-24-11.

31 (a) Subject to the provisions of this Code section, the circuit public defender in each
32 judicial circuit is authorized to appoint:

33 (1) One assistant public defender for each superior court judge authorized for the circuit,
34 excluding senior judges;

1 (2) Subject to funds being appropriated by the General Assembly or otherwise available
2 for such purpose, such additional assistant public defenders as may be authorized by the
3 Georgia Public Defenders Council. In authorizing additional assistant public defenders,
4 the Georgia Public Defenders Council shall consider the caseload, present staff, and
5 resources available to each circuit public defender, and shall make such authorizations
6 as will contribute to the efficiency of individual circuit public defenders and the
7 effectiveness of providing adequate legal defense for indigent defendants.

8 (b) Each assistant public defender appointed pursuant to subsection (a) of this Code
9 section shall be classified based on education, training, and experience. The classes of
10 assistant public defenders and the minimum qualifications required for appointment or
11 promotion to each class shall be established by the Georgia Public Defenders Council
12 based on education, training, and experience and in accordance with the provisions of Code
13 Sections 15-24-16 and 15-24-18.

14 (c) Each assistant public defender appointed pursuant to this Code section shall be
15 compensated based on a salary schedule established in accordance with subsection (e) of
16 Code Section 15-24-16. The salary range for each class established in accordance with
17 subsection (b) of this Code section shall be as follows:

18 (1) Assistant public defender I. Not less than \$27,696.00 nor more than 65 percent of the
19 compensation of the circuit public defender;

20 (2) Assistant public defender II. Not less than \$30,552.00 nor more than 70 percent of
21 the compensation of the circuit public defender;

22 (3) Assistant public defender III. Not less than \$37,140.00 nor more than 80 percent of
23 the compensation of the circuit public defender; and

24 (4) Assistant public defender IV. Not less than \$42,966.00 nor more than 90 percent of
25 the compensation of the circuit public defender.

26 (d) All personnel actions involving attorneys appointed pursuant to this Code section shall
27 be made by the circuit public defender in writing in accordance with the provisions of Code
28 Section 15-24-16.

29 (e)(1) All salary advancements shall be based on quality of work, education, and
30 performance.

31 (2) The salary of an assistant public defender appointed pursuant to this Code section
32 may be advanced one step at the first of the calendar month following the anniversary of
33 his or her appointment.

34 (3) Any assistant public defender who, subsequent to his or her appointment pursuant to
35 this Code section, is awarded an LL.M. or S.J.D. degree by a law school recognized by
36 the State Bar of Georgia from which a graduate of or student enrolled therein is permitted
37 to take the bar examination or by a law school accredited by the American Bar

1 Association or the Association of American Law Schools may be advanced two salary
2 steps effective on the first day of the calendar month following the award of the degree,
3 provided that such advancement does not exceed the maximum of the salary range
4 applicable to the attorney's class.

5 (f) Any assistant public defender appointed pursuant to this Code section may be promoted
6 to the next highest class at any time the attorney meets the minimum qualifications for such
7 class, but in order to be eligible for promotion, the attorney shall have served not less than
8 12 months in the class from which the attorney is to be promoted. When an assistant public
9 defender is promoted to the next highest class, the assistant public defender shall enter the
10 higher class at the salary step which provides an annual salary nearest to, but greater than,
11 the annual salary the assistant public defender was receiving immediately prior to the
12 promotion.

13 (g) All full-time employees of the office of the circuit public defender shall be state
14 employees in the unclassified service of the State Merit System of Personnel
15 Administration with all benefits of such appointed state employees as provided by law.

16 15-24-12.

17 (a) Subject to the provisions of this Code section, the circuit public defender in each
18 judicial circuit is authorized to appoint one investigator to assist the circuit public defender
19 in the performance of his or her official duties in the preparation of cases for trial. Subject
20 to funds being appropriated by the General Assembly or otherwise available for such
21 purpose, the circuit public defender in each judicial circuit may appoint such additional
22 investigators as may be authorized by the Georgia Public Defenders Council. In
23 authorizing additional investigators, the Georgia Public Defenders Council shall consider
24 the caseload, present staff, and resources available to each circuit public defender, and shall
25 make such authorizations as will contribute to the efficiency of individual circuit public
26 defenders and the effectiveness of circuit public defenders throughout the state in providing
27 adequate legal defense for indigent defendants.

28 (b) An investigator appointed pursuant to this Code section shall be not less than 21 years
29 of age and shall serve at the pleasure of the circuit public defender.

30 (c) No person appointed pursuant to this Code section shall exercise any of the powers or
31 authority which are by law vested in the office of sheriff or any other peace officer,
32 including the power of arrest, except as may be authorized by law. An investigator
33 appointed pursuant to this Code section shall:

34 (1) Assist the attorneys within the office of the circuit public defender in the preparation
35 of cases for preliminary hearings, pretrial hearings, and trial; and

36 (2) Perform such other duties as are required by the circuit public defender.

1 (d) Each investigator appointed pursuant to this Code section shall be compensated based
2 on a salary schedule established pursuant to Code Section 15-24-16. The salary range for
3 the investigator appointed pursuant to this Code section shall be not less than \$23,490.00
4 nor more than 70 percent of the compensation of the circuit public defender from state
5 funds.

6 (e)(1) Except as otherwise provided in this subsection, an investigator appointed
7 pursuant to this Code section shall be appointed initially to the entry grade of the general
8 pay schedule.

9 (2) Any person who is employed in a nonstate paid investigator's position within the
10 office of the circuit public defender may be transferred to a state paid position. Such
11 transfer shall be to the salary step which is based on the number of years the person has
12 served in the investigator position as if the person had been initially appointed pursuant
13 to this Code section.

14 (3) Any person who is employed as a peace officer by an agency of the executive branch
15 of state government who is appointed as an investigator pursuant to this Code section
16 without a break in service may be appointed to the salary step which is one step above
17 the annual salary such person received on the last day of employment immediately
18 preceding said appointment.

19 (4) Any person who was a certified peace officer employed on a full-time basis by this
20 state, the United States or any of the several states, or a political subdivision or authority
21 thereof, may be appointed to the salary step above the entry level based on one step for
22 every three years' experience as a full-time certified peace officer.

23 (f) Personnel appointed pursuant to this Code section shall be reimbursed for actual
24 expenses incurred in the performance of their official duties in accordance with the
25 provisions of Code Section 15-24-9.

26 15-24-13.

27 (a) The circuit public defender may designate in writing a deputy circuit public defender.
28 In addition to his or her other duties, the deputy circuit public defender shall have such
29 administrative and supervisory duties as may be assigned by the circuit public defender.

30 (b)(1) If the circuit public defender is unable to perform the duties of the office because
31 of physical or mental disability, the deputy circuit public defender shall have the same
32 power, duties, and responsibilities as the circuit public defender. Said authority shall
33 terminate upon the incumbent circuit public defender resuming the duties of said office.
34 Any question of fact concerning the disability of a circuit public defender shall be
35 presented by either the deputy circuit public defender or the circuit public defender and
36 shall be determined by the superior court sitting without a jury in a manner and under a

1 procedure which is analogous to that provided by rule of the Supreme Court adopted
2 pursuant to Article V, Section IV, Paragraph II of the Constitution of Georgia for elected
3 constitutional executive officers.

4 (2) If the circuit public defender will be temporarily absent from the judicial circuit such
5 that he or she is not available to perform the duties of his or her office, the circuit public
6 defender may authorize, in writing, the deputy circuit public defender to exercise any of
7 the powers, duties, and responsibilities of the circuit public defender during such absence,
8 including but not limited to such powers and duties as the circuit public defender may
9 have pursuant to this article.

10 (3) If the circuit public defender shall be absent for a period of more than 30 days as a
11 result of ordered military duty, as defined in Code Section 38-2-279, or disability as
12 provided in paragraph (1) of this subsection, the deputy circuit public defender shall be
13 designated acting circuit public defender. If no deputy circuit public defender has been
14 designated pursuant to subsection (a) of this Code section, the circuit public defender
15 shall designate a deputy circuit public defender pursuant to subsection (a) of this Code
16 section prior to entering ordered military service. Should the circuit public defender fail
17 to designate a deputy circuit public defender prior to entering ordered military duty, the
18 assistant circuit public defender senior in time of service shall be designated the acting
19 circuit public defender. The designation of an acting circuit public defender shall
20 terminate upon the circuit public defender's release from ordered military duty or the
21 circuit public defender resuming the duties of said office as provided in paragraph (1) of
22 this subsection.

23 (4) An acting circuit public defender, upon assuming the office as provided in
24 paragraph (1) or (3) of this subsection, shall be compensated at the same rate as is
25 authorized by general or local law for the circuit public defender.

26 (5) The acting circuit public defender shall be authorized to appoint an additional deputy
27 circuit public defender who shall be compensated in the same manner and from the same
28 source or sources as the acting circuit public defender was compensated prior to being
29 designated acting circuit public defender. Said appointment shall be temporary and shall
30 terminate upon the circuit public defender resuming the duties of his or her office.

31 (c) In addition to any other compensation which the deputy circuit public defender may
32 receive from state or county funds, the circuit public defender may authorize the deputy
33 circuit public defender to be paid an amount based on the salary schedule developed by the
34 Georgia Public Defenders Council pursuant to Code Section 15-24-16.

1 15-24-14.

2 Upon the death or resignation of a circuit public defender, the deputy circuit public
3 defender or, if there is no deputy circuit public defender, the assistant circuit public
4 defender senior in time of service shall perform the duties of the deceased or resigned
5 circuit public defender in his or her name until his or her successor is appointed or elected
6 and qualified.

7 15-24-15.

8 (a) Each circuit public defender is authorized to employ such administrative, clerical, and
9 paraprofessional personnel as may be authorized by the Georgia Public Defenders Council
10 based on funds appropriated by the General Assembly or otherwise available for such
11 purposes; provided, however, that each circuit public defender shall be authorized not less
12 than two such personnel. In authorizing administrative, clerical, and paraprofessional
13 personnel, the Georgia Public Defenders Council shall consider the caseload, present staff,
14 and resources available to each circuit public defender, and shall make such authorizations
15 as will contribute to the efficiency of individual circuit public defenders in providing
16 effective criminal defense for the indigent.

17 (b) Personnel appointed pursuant to this Code section shall be compensated based on a
18 salary schedule developed in accordance with Code Section 15-24-16.

19 (c) All personnel actions involving personnel appointed pursuant to this Code section shall
20 be in accordance with the provisions of Code Section 15-24-16.

21 15-24-16.

22 (a) All state paid personnel employed by the circuit public defenders pursuant to this
23 article shall be employees of the judicial branch of state government in accordance with
24 Article VI, Section VIII of the Constitution of Georgia and shall be in the unclassified
25 service of the State Merit System of Personnel Administration.

26 (b) Personnel employed by the circuit public defenders pursuant to this article shall have
27 such authority, duties, powers, and responsibilities as are authorized by law or as assigned
28 by the circuit public defender and shall serve at the pleasure of the circuit public defender.

29 (c) Subject to the provisions of this chapter, the Georgia Public Defenders Council shall,
30 with the advice and consent of a majority of the circuit public defenders, adopt and amend
31 uniform policies, rules, and regulations which shall apply to all state paid personnel
32 employed by the circuit public defenders. Such policies, rules, and regulations may include
33 provisions for the appointment, classification, promotion, transfer, demotion, leave, travel,
34 records, reports, and training of personnel. Such policies, rules, and regulations shall be
35 consistent with the duties, responsibilities, and powers of the circuit public defenders under

1 the Constitution and laws of this state and the rules of the trial and appellate courts. Not less
2 than 30 days prior to taking final action on any proposed policy, rule, or regulation adopted
3 pursuant to this Code section, or any amendment thereto, the council shall transmit a copy
4 of said policy, rule, regulation, or amendment to all circuit public defenders and the presiding
5 officers of the Judiciary Committee of the House of Representatives and the Senate Judiciary
6 Committee.

7 (d) Circuit public defenders and state paid personnel employed by the circuit public
8 defender shall be entitled to annual, sick, and other leave authorized by the policies, rules,
9 or regulations adopted by the Georgia Public Defenders Council pursuant to subsection (g)
10 of Code Section 15-24-11.

11 (e)(1) The Georgia Public Defenders Council shall establish salary schedules for each
12 such state paid position authorized by this article or any other provision of law. Said
13 salary schedules shall be similar to the general and special schedules adopted by the State
14 Merit System of Personnel Administration and shall provide for a minimum entry step
15 and not less than ten additional steps, not to exceed the maximum allowable salary. In
16 establishing the salary schedule, all amounts will be rounded off to the nearest whole
17 dollar. The council may, from time to time, revise the salary schedule to include
18 across-the-board increases which the General Assembly may from time to time authorize
19 in the General Appropriations Act.

20 (2) The circuit public defender shall fix the compensation of each state paid employee
21 appointed pursuant to this article in accordance with the class to which such person is
22 appointed and the appropriate step of the salary schedule.

23 (3) All salary advancements shall be based on quality of work, training, and
24 performance. The salary of state paid personnel appointed pursuant to this article may
25 be advanced one step at the first of the calendar month following the annual anniversary
26 of such person's appointment. No employee's salary shall be advanced beyond the
27 maximum established in the applicable pay schedule.

28 (4) Any reduction in salary shall be made in accordance with the salary schedule for such
29 position and the policies, rules, or regulations adopted by the council.

30 (5) The compensation of state paid personnel appointed pursuant to this article shall be
31 paid in equal installments by the Department of Administrative Services as provided by
32 this subsection from funds appropriated for such purpose. The council may, with the
33 consent of the Department of Administrative Services, authorize employees compensated
34 pursuant to this Code section to participate in voluntary salary deductions as provided by
35 Article 3 of Chapter 7 of Title 45.

1 (6) The governing authority of the county or counties comprising a judicial circuit may
2 supplement the salary or fringe benefits of any state paid position appointed pursuant to
3 this article.

4 (7) The governing authority of any municipality within the judicial circuit may, with the
5 approval of the circuit public defender, supplement the salary or fringe benefits of any
6 state paid position appointed pursuant to this article.

7 15-24-17.

8 (a) The circuit public defender in each judicial circuit may employ such additional
9 assistant circuit public defenders, deputy circuit public defenders, or other attorneys,
10 investigators, paraprofessionals, clerical assistants, and other employees or independent
11 contractors as may be provided for by local law or as may be authorized by the governing
12 authority of the county or counties comprising the judicial circuit. The circuit public
13 defender shall define the duties and fix the title of any attorney or other employee of the
14 office of the circuit public defender.

15 (b) Personnel employed by the circuit public defender pursuant to this Code section shall
16 serve at the pleasure of the circuit public defender and shall be compensated by the county
17 or counties comprising the judicial circuit, the manner and amount of compensation to be
18 paid to be fixed either by local Act or by the circuit public defender with the approval of
19 the county or counties comprising the judicial circuit.

20 15-24-18.

21 Notwithstanding any other provision of law, the governing authority of any county or
22 municipality within the judicial circuit which provides additional personnel for the office
23 of circuit public defender may contract with the Department of Administrative Services to
24 provide such additional personnel in the same manner as is provided for state paid
25 personnel in this article. Any such personnel shall be considered state employees and shall
26 be entitled to the same fringe benefits as other state paid personnel employed by the circuit
27 public defender pursuant to this article. The governing authority of such county or
28 municipality shall transfer to the department such funds as may be necessary to cover the
29 compensation, benefits, travel, and other expenses for such personnel.

30 15-24-19.

31 (a) Any assistant public defender or other attorney at law employed full time by the circuit
32 public defender who is compensated in whole or in part by state funds shall not engage in
33 the private practice of law.

1 (b) Any assistant public defender or any other attorney at law employed by the circuit
2 public defender shall be a member of the State Bar of Georgia, shall be admitted to practice
3 before the appellate courts of this state, shall serve at the pleasure of the circuit public
4 defender, and shall have such authority, powers, and duties as may be assigned by the
5 circuit public defender.

6 15-24-20.

7 The governing authority of the county or counties comprising each judicial circuit shall
8 provide all offices, utilities, telephone expenses, materials, and supplies as may be
9 necessary to equip, maintain, and furnish the office or offices of the circuit public defender
10 in an orderly and efficient manner.

11 15-24-21.

12 If a circuit public defender fails to comply with Code Section 15-24-7, he or she is liable
13 to rule as are attorneys at law, with all the penalties and remedies applicable thereto.
14 Failure to comply with the terms of a rule absolute within 20 days from the time it becomes
15 final shall be a ground for impeachment.

16 15-24-22.

17 If a circuit public defender fails to attend on the courts of his or her circuit as required,
18 without just cause, he or she is liable to be fined \$50.00 for each failure, to be retained out
19 of his or her salary.

20 15-24-23.

21 An allegation that the circuit public defender or a member of the staff of the circuit public
22 defender has committed an indictable offense shall proceed as provided in Code Sections
23 45-5-6.1, 45-11-4, and 45-15-11.

24 15-24-24.

25 Nothing in this article shall be construed to limit the power of the court in which an action
26 is brought to order the state to pay expenses for the legal representation of an indigent
27 person in a criminal case as may be required by the Constitution or laws of the State of
28 Georgia or of the United States in order to ensure the person is afforded the right to
29 effective assistance of counsel and a fair trial.

ARTICLE 2

15-24-40.

As used in this article, the term:

(1) 'Criminal proceeding' means any investigation, trial, juvenile proceeding, adjudicatory hearing, or other legal proceeding by which a person's liability for a crime is investigated or determined, commencing with the investigation and including the final disposition of the case.

(2) 'Circuit public defender' means any circuit public defender of this state or assistants of such officer.

(3) 'Law school' means a law school within or outside this state which is approved by the American Bar Association or which is authorized to operate under Code Section 20-3-250.8.

(4) 'Staff instructor' means a full-time professional staff instructor of a law school in this state who has been admitted to the bar of another state but who has not yet been admitted to the bar of this state.

(5) 'Third-year law student' means a student regularly enrolled and in good standing in a law school within or outside this state who has satisfactorily completed at least two-thirds of the requirements for the first professional degree in law (J.D. or its equivalent) in not less than four semesters or six quarters of residence.

15-24-41.

An authorized third-year law student or staff instructor, when under the supervision of a circuit public defender, may assist in criminal proceedings within this state as if admitted and licensed to practice law in this state except that all pleadings and other entries of record must be signed by a circuit public defender or by his or her duly appointed assistant and that, in the conduct of a trial or other criminal proceeding, a circuit public defender or his or her duly appointed assistant must be physically present.

15-24-42.

A third-year law student or staff instructor may be authorized to assist a circuit public defender in such form and manner as the judge of the superior court may prescribe, taking care that the requirements of this article and the good moral character of the third-year law student or staff instructor are properly certified by the dean of the law school.

1 15-24-43.

2 As to each third-year law student or staff instructor authorized to assist a circuit public
3 defender, there shall be kept on file in the office of the clerk of the superior court in the
4 county where such authority is to be exercised the dean's certificate, the student's and
5 instructor's oaths, and the judge's order as contemplated under Code Section 15-24-42.
6 The authority to assist a circuit public defender as allowed under this Code section shall
7 extend for no longer than 18 months. If during this period any change occurs in the status
8 of the student or instructor at the law school in which he or she was enrolled or employed,
9 that is, if the student ceases his or her enrollment, is suspended, or is expelled or if the
10 instructor ceases his or her employment or is released by the school, any such authority
11 shall terminate and be revoked.

12 15-24-44.

13 Any third-year law student or staff instructor authorized to assist a circuit public defender
14 under this Code section is not required to possess the qualifications for election to the
15 office of circuit public defender or appointment as an assistant circuit public defender as
16 provided in Article 1 of this chapter.

17 ARTICLE 3

18 15-24-60.

19 (a) There is created the Georgia Public Defenders Council to be composed of ten
20 members. Except as provided in subsection (b) of this Code section, five of the members
21 shall be circuit public defenders.

22 (b) The initial members of the council shall be appointed by the Supreme Court of Georgia
23 to take office on July 1, 2003. Each position of membership shall be given a numerical
24 designation from one through ten. Membership positions one through five of the initial
25 appointments shall be public employees engaged on a full-time basis in the provision of
26 criminal defense to the indigent; provided, however, that the successors of such members
27 shall be circuit public defenders. Of the initial ten appointments, three shall be appointed
28 for terms of four years, three shall be appointed for terms of three years, and four shall be
29 appointed for terms of two years.

30 (c) Following the terms of the initial members who take office on July 1, 2003, the term
31 of office of each member of the council shall be for a period of four years. Successors shall
32 be appointed as follows:

1 (1) Upon the expiration of the term of office of each membership position one through
 2 five, the council shall appoint a new member, who shall be a circuit public defender, to
 3 succeed the member whose term is expiring;

4 (2) The Governor shall appoint the successors to membership positions six and seven;

5 (3) The Speaker of the House of Representatives shall appoint the successors to
 6 membership position eight;

7 (4) The Lieutenant Governor shall appoint the successors to membership position nine;
 8 and

9 (5) The Chief Justice of the Supreme Court of Georgia shall appoint the successors to
 10 membership position ten.

11 Members of the council shall take office on the first day of July following their
 12 appointment. No member of the council shall be eligible to succeed himself or herself for
 13 a consecutive term as a member.

14 (d) In the event a vacancy occurs in the membership of the council as a result of death,
 15 resignation, removal, or failure of reelection as a circuit public defender, the appointing
 16 authority provided in subsection (c) of this Code section shall appoint a qualified person
 17 to serve for the remainder of the unexpired term of the member whose seat is vacant. The
 18 person appointed to fill such vacancy shall take office immediately upon his or her
 19 appointment.

20 15-24-61.

21 (a) The council shall meet at such times and places as it shall determine necessary or
 22 convenient to perform its duties.

23 (b) The council shall annually elect a chairperson and such other officers as it shall deem
 24 necessary and shall adopt such rules for the transaction of its business as it shall desire.

25 (c) The members of the council shall receive no compensation for their services but shall
 26 be reimbursed for their actual expenses incurred in the performance of their duties as
 27 members of the council.

28 15-24-62.

29 (a) The Georgia Public Defenders Council:

30 (1) Shall be a legal entity;

31 (2) Shall have perpetual existence;

32 (3) May contract;

33 (4) May own property;

34 (5) May accept funds, grants, and gifts from any public or private source, which shall be
 35 used to defray the expenses incident to implementing its purposes;

- 1 (6) May adopt and use an official seal;
- 2 (7) May establish a principal office;
- 3 (8) May hire such administrative and clerical personnel as may be necessary and
4 appropriate to fulfill its purposes; and
- 5 (9) Shall have such other powers, privileges, and duties as may be reasonable and
6 necessary for the proper fulfillment of its purposes.
- 7 (b) The council shall require a sufficient bond, signed by some surety or guaranty
8 company authorized to do business in this state, of any administrative or clerical personnel
9 employed by the council and empowered by the council to handle its funds. The premiums
10 due on all such bonds may be paid by the council from funds available to it.
- 11 (c) The council shall establish such auditing procedures as may be required in connection
12 with the handling of public funds. The state auditor is authorized and directed to make an
13 annual audit of the transactions of the council and to make a complete report of the same
14 to the General Assembly. The report shall disclose all moneys received by the council and
15 all expenditures made by the council, including administrative expense. The state auditor
16 shall also make an audit of the affairs of the council at any time when requested to do so
17 by a majority of the council or by the Chief Justice of the Supreme Court of Georgia.
- 18 (d) The council may not provide compensation from its funds to any administrative or
19 clerical personnel employed by the council if the personnel are then receiving retirement
20 compensation from any retirement or pension fund created by Title 47 to provide
21 compensation for past services as a judicial officer, prosecuting attorney, indigent defense
22 attorney, court officer, or law enforcement officer except for county or municipal
23 retirement funds.

24 15-24-63.

- 25 (a) The purpose of the council shall be to assist the public defenders throughout the state
26 in their efforts to provide adequate legal defense to the indigent. Such assistance may
27 include:
- 28 (1) The obtaining, preparation, supplementation, and dissemination of indexes to and
29 digests of the decisions of the Supreme Court of Georgia and the Court of Appeals of
30 Georgia and other courts, statutes, and legal authorities relating to criminal matters;
- 31 (2) The preparation and distribution of a basic defense manual and other educational
32 materials;
- 33 (3) The preparation and distribution of model common and appropriate documents
34 employed in indigent defense at the trial level;
- 35 (4) The promotion of and assistance in the training of indigent defense attorneys;
- 36 (5) The provision of legal research assistance to public defenders; and

1 (6) The provision of such other assistance to public defenders as may be authorized by
2 law.

3 (b) The council shall establish caseload standards for assistant public defenders and
4 appointed counsel.

5 (c) The council:

6 (1) Shall be the fiscal officer for the circuit public defenders and shall prepare and submit
7 budget estimates of state appropriations necessary for the maintenance and operation of
8 the circuit public defender offices;

9 (2) From such funds as may be appropriated or otherwise available may provide such
10 administrative functions, services, supplies, equipment, or operating expenses as may be
11 necessary for the fulfillment of the duties and responsibilities of such circuit public
12 defenders and may contract with the Department of Administrative Services or any other
13 department, bureau, agency, commission, institution, or authority of this state or any
14 other entity for such purpose; and

15 (3) The council shall collect, maintain, review, and publish records and statistics for the
16 purpose of evaluating the delivery of indigent defense representation in Georgia. All
17 records must be released to the legal organ of each county in the circuit at least 90 days
18 prior to the election of a circuit public defender.

19 15-24-64.

20 The council shall be authorized to conduct or approve for credit or reimbursement, or both,
21 basic and continuing legal education courses or other appropriate training programs for the
22 circuit public defenders and the members of the staffs of such officials. The council, in
23 accordance with such rules as it shall adopt, shall be authorized to provide reimbursement,
24 in whole or in part, for the actual expenses incurred by any circuit public defender or any
25 member of the staffs of such officials in attending any such approved course or training
26 program from such funds as may be appropriated or otherwise made available to the
27 council. Notwithstanding any other provision of law, such officials and members of their
28 staffs shall be authorized to receive reimbursement for actual expenses incurred in
29 attending approved courses or training programs, provided that no person shall be entitled
30 to claim reimbursement under both this Code section and Code Section 15-24-9. The
31 council shall adopt such rules governing the approval of courses and training programs for
32 credit or reimbursement as may be necessary to administer this Code section properly.

33 15-24-65.

34 (a) The Georgia Public Defenders Council shall prepare annually a report of its activities
35 in order to provide the General Assembly, the Governor, and the Supreme Court of Georgia

1 with an accurate description and accounting of the preceding year's expenditures and
2 accomplishments.

3 (b) The council shall also provide to the General Assembly, the Governor, and the
4 Supreme Court of Georgia a detailed analysis of all grants and funds, whether public or
5 private, applied for or granted, together with how and in what manner the same are to be
6 utilized and expended.

7 15-24-66.

8 On December 31, 2003, the Georgia Public Defenders Council shall assume all powers,
9 duties, and obligations of the Georgia Indigent Defense Council created by Article 2 of
10 Chapter 12 of Title 17, and all references in this Code to the Georgia Indigent Defense
11 Council shall be deemed to be references to the Georgia Public Defenders Council. Such
12 powers shall include, without limitation, making grants and distributions to the counties.
13 On such date, the employees in good standing, assets, and resources of the Georgia
14 Indigent Defense Council shall be transferred to the Georgia Public Defenders Council, and
15 the council shall assume any executory contractual obligations of the Georgia Indigent
16 Defense Council, provided that allocated funding resources for such obligations are also
17 transferred. All full-time employees of the Georgia Public Defenders Council shall be state
18 employees in the unclassified service of the State Merit System of Personnel
19 Administration with all of the benefits of appointed state employees provided by law.

20 15-24-67.

21 From January 1, 2005, through December 31, 2005, the Georgia Public Defenders Council
22 shall coordinate the transition from the procedures for providing criminal defense to
23 indigent persons in effect on December 31, 2004, in each county to the procedures
24 provided in Article 1 of this chapter. On and after January 1, 2005, the provisions of this
25 chapter shall govern the public provision of criminal defense to indigent persons in the
26 courts of this state.

27 ARTICLE 4

28 15-24-80.

29 As used in this article, the term:

30 (1) 'Council' means the Georgia Public Defenders Council created by Article 3 of this
31 chapter.

32 (2) 'Office' means the office of the multicounty public defender created by this article.

1 15-24-81.

2 There is created the office of the multicounty public defender to undertake the defense of
3 all indigent persons charged with a capital felony for which the death penalty is being
4 sought in any court in this state. The office shall serve all counties of this state.

5 15-24-82.

6 The office of the multicounty public defender shall be a legal entity, shall have perpetual
7 existence, may contract, may own property, may accept funds, grants, and gifts from any
8 public or private source, which funds shall be used to defray the expenses incident to
9 implementing its purposes, and may establish a principal office.

10 15-24-83.

11 The Georgia Public Defenders Council shall be responsible for management of the office.
12 Managerial duties shall include, but not be limited to, the following:

13 (1) Appointing the multicounty public defender;

14 (2) Establishing the salaries of the multicounty public defender and the office's staff;

15 (3) Approving the level of staffing and establishing policy consistent with the intent of
16 this article; and

17 (4) Preparing an annual budget for the office, and administering the funds made available
18 to the office, and overseeing the expenditure of such funds.

19 15-24-84.

20 The Georgia Public Defenders Council shall prepare an annual budget showing all
21 anticipated expenses of the office for the following fiscal year, which shall be the same as
22 the fiscal year of this state. Such budget may be submitted by the multicounty public
23 defender.

24 15-24-85.

25 The multicounty public defender shall be appointed by and shall serve at the pleasure of
26 the Georgia Public Defenders Council. The multicounty public defender must have been
27 licensed to practice law in this state for at least five years and must be competent to counsel
28 and defend a person charged with a capital felony. The salary of the multicounty public
29 defender shall be established by the council.

30 15-24-86.

31 (a) The multicounty public defender shall employ, with the advice and consent of the
32 Georgia Public Defenders Council and in the manner and at the compensation prescribed

1 by the council, as many assistant attorneys, clerks, investigators, paraprofessionals,
 2 administrative assistants, and other persons as may be necessary for carrying out his or her
 3 responsibilities under this article. A person employed under this Code section serves at the
 4 pleasure of the multicounty public defender.

5 (b) No person may be assigned the primary responsibility of representing an indigent
 6 person accused of a capital offense for which the death penalty is sought unless such person
 7 is authorized to practice law in this state and is otherwise competent to counsel and defend
 8 a person charged with a capital felony.

9 15-24-87.

10 (a) Whenever any person accused of a capital felony for which the death penalty is being
 11 sought has been determined to be indigent, as provided in Article 1 of this chapter, the
 12 court in which such charges are pending may notify the office, and the office shall assume
 13 the defense of such person if the resources, funding, and staffing of the office allow;
 14 provided, however, that the circuit public defender of any county shall have the option to
 15 assume sole responsibility for the defense of any such person.

16 (b) If for any reason the office is unable to defend any indigent person accused of a capital
 17 felony for which the death penalty is being sought, such defense shall be provided as
 18 otherwise provided by law.

19 (c) The office shall be responsible for the defense of any person referred to it pursuant to
 20 subsection (a) of this Code section if the resources, funding, and staffing of the office
 21 allow. Such defense shall include all proceedings in the trial court and any appeals to the
 22 Supreme Court of Georgia. The office shall not assist with any petition for a writ of habeas
 23 corpus in federal court.

24 15-24-88.

25 This article shall become effective on December 31, 2003.

26 ARTICLE 5

27 15-24-100.

28 There is created the office of mental health advocacy for the purpose of undertaking the
 29 representation of indigent persons found not guilty by reason of insanity at the time of the
 30 crime in any court in this state. The office shall serve all counties of this state. The office
 31 of mental health advocacy shall be a direct successor of the mental health advocacy
 32 division of the Georgia Indigent Defense Council created by Code Section 17-12-45 and
 33 all powers, duties, and obligations of such division shall become the powers, duties, and

1 obligations of the office. The employees, assets, and resources of the mental health
2 advocacy division of the Georgia Indigent Defense Council shall be transferred to the
3 office of mental health advocacy. All references in this Code to the mental health
4 advocacy division of the Georgia Indigent Defense Council shall be deemed to be
5 references to the office of mental health advocacy.

6 15-24-101.

7 The office of mental health advocacy shall be a legal entity; shall have perpetual existence;
8 may contract; may own property; may accept funds, grants, and gifts from any public or
9 private source, which funds shall be used to defray the expenses incident to implementing
10 its purposes; and may establish a principal office.

11 15-24-102.

12 The Georgia Public Defenders Council shall be responsible for management of the office.
13 Managerial duties shall include, but are not limited to, the following:

- 14 (1) Appointment of the mental health advocate;
- 15 (2) Establishing the salaries of the mental health advocate and the office's staff;
- 16 (3) Approving the level of staffing and establishing policy consistent with the intent of
17 this chapter; and
- 18 (4) Preparing an annual budget for the office, administering the funds made available to
19 the office, and overseeing the expenditure of such funds.

20 15-24-103.

21 The Georgia Public Defenders Council shall prepare an annual budget showing all
22 anticipated expenses of the office for the following fiscal year, which shall be the same as
23 the fiscal year of this state. Such budget may be submitted by the mental health advocate.

24 15-24-104.

25 The mental health advocate shall be appointed by and shall serve at the pleasure of the
26 council. The mental health advocate must be a member in good standing of the State Bar
27 of Georgia with at least three years' experience in the practice of law and must be
28 competent to counsel and represent a person found not guilty by reason of insanity at the
29 time of the crime. The salary of the mental health advocate shall be established by the
30 council.

1 15-24-105.

2 The mental health advocate shall employ, with the advice and consent of the council and
3 in the manner and at the compensation prescribed by the council, as many assistant
4 attorneys, clerks, investigators, paraprofessionals, administrative assistants, and any other
5 persons as may be necessary for carrying out the responsibilities assigned to the office by
6 law. A person employed under this Code section serves at the pleasure of the mental health
7 advocate.

8 15-24-106.

9 (a) Whenever any person has been found not guilty by reason of insanity at the time of the
10 crime pursuant to Code Section 17-7-131 and has been determined to be indigent, as
11 provided in Article 1 of this chapter, the court in which such charges are pending shall
12 notify the office of mental health advocacy and the office may assume the defense and
13 representation of such persons in all matters pursuant to Code Section 17-7-131 if the
14 resources, funding, and staffing of the office allow; provided, however, that the circuit
15 public defender or other attorney who represented the indigent at the time of the finding
16 of not guilty by reason of insanity at the time of the crime shall have the option to retain
17 responsibility for the representation of any such person.

18 (b) Nothing in this Code section shall prevent the circuit public defender, the court, or the
19 court appointed attorney from requesting the participation of the office prior to a finding
20 of not guilty by reason of insanity at the time of the crime. The circuit public defender, the
21 court, or the court appointed attorney may request that the office assist in the case prior to
22 a plea being entered and accepted by the court.

23 (c) If for any reason the office of mental health advocacy is unable to represent any
24 indigent person found not guilty by reason of insanity at the time of the crime, such
25 representation shall be provided as otherwise provided by law.

26 15-24-107.

27 This article shall become effective on December 31, 2003."

28 **SECTION 2.**

29 Said title is further amended by striking Code Section 15-6-76.1, relating to election by
30 clerks as to investing or depositing funds and the manner of depositing funds paid into the
31 court registry, and inserting in lieu thereof the following:

32 "15-6-76.1.

33 (a) In counties where the clerk of the superior court exercised discretion to invest funds
34 pursuant to Code Section 15-6-75 or to deposit funds in one or more interest-bearing

1 accounts pursuant to Code Section 15-6-76, and such funds were invested or on deposit on
2 January 1, 1993, the clerk may continue to invest such funds pursuant to Code Section
3 15-6-75 or deposit such funds pursuant to Code Section 15-6-76 until July 1, 1994. In such
4 counties, clerks who do not elect to continue investing or depositing funds pursuant to such
5 Code sections, or who cease depositing or investing such funds pursuant to such Code
6 sections, shall be subject to the provisions of subsections (c) through (g) of this Code
7 section. In such counties, clerks shall provide a written notice to the Georgia ~~Indigent~~
8 ~~Defense Council~~ Public Defenders Council within 30 days following July 1, 1993, stating
9 that funds were invested or on deposit pursuant to Code Section 15-6-75 or 15-6-76 on
10 January 1, 1993, and stating whether they have elected to continue investing or depositing
11 funds pursuant to Code Sections 15-6-75 and 15-6-76 or to comply with the provisions of
12 subsections (c) through (g) of this Code section. In such counties, clerks may change their
13 election by written notice to the Georgia ~~Indigent Defense Council~~ Public Defenders
14 Council.

15 (b) In counties where no funds were invested or on deposit pursuant to Code Section
16 15-6-75 or 15-6-76 on January 1, 1993, clerks shall be subject to the provisions of
17 subsections (c) through (g) of this Code section, effective July 1, 1993.

18 (c) When funds are paid into the registry of the court, the clerk shall deposit such funds
19 in one or more interest-bearing trust accounts in investments authorized by Code Section
20 36-80-3 or by Chapter 83 of Title 36.

21 (d) When funds have been paid into the registry of the court pursuant to a court order
22 directing that such funds be deposited in an interest-bearing trust account for the benefit
23 of one or more of the parties, the interest received from such funds after service charges
24 or fees imposed by the bank or depository shall be paid to one or more of the parties as the
25 order of the court directs.

26 (e) When funds have been paid into the registry of the court and the order of the court
27 relating to such funds does not state that such funds shall be placed in an interest-bearing
28 trust account for the benefit of one or more of the parties, the clerk shall deposit such funds
29 in an interest-bearing trust account and the financial institution in which such funds are
30 deposited shall remit, after service charges or fees are deducted, the interest generated by
31 said funds directly, at least quarterly and within 30 days of receipt, to the Georgia ~~Indigent~~
32 ~~Defense Council~~ Public Defenders Council for distribution to the counties pursuant to
33 Article 2 of Chapter 12 of Title 17. With each remittance the financial institution shall
34 send a statement showing the name of the court, the rate of interest applied, the average
35 monthly balance in the account against which the interest rate is applied, the service
36 charges or fees of the bank or other depository, and the net remittance. This subsection
37 shall include but not be limited to cash supersedeas bonds for criminal appeal, other

1 supersedeas bonds, and bonds or funds paid into the court registry in actions involving
 2 interpleader, condemnation, and requests for injunctive relief. The Georgia ~~Indigent~~
 3 ~~Defense Council~~ Public Defenders Council shall allocate all interest received from such
 4 funds deposited in interest-bearing trust accounts to the counties pursuant to Article 2 of
 5 Chapter 12 of Title 17.

6 (f) In its discretion, the court may at any time amend its order to require that the funds be
 7 deposited into an interest-bearing account for the benefit of one or more of the parties to
 8 the action, and the clerk shall comply with such amended order.

9 (g) In counties where the service charges or fees of the bank or depository would exceed
 10 the interest received from funds subject to this Code section, the clerk shall be exempt from
 11 subsections (a) through (f) of this Code section. In such counties, the clerk shall send a
 12 written notice to the Georgia ~~Indigent Defense Council~~ Public Defenders Council."

13 SECTION 3.

14 Said title is further amended by striking Code Section 15-7-49, relating to remittance of
 15 interest from interest-bearing trust accounts to the Georgia Indigent Defense Council, and
 16 inserting in lieu thereof the following:

17 "15-7-49.

18 When funds are paid into the court registry, the clerk shall deposit such funds in
 19 interest-bearing trust accounts and the interest from those funds shall be remitted to the
 20 Georgia ~~Indigent Defense Council~~ Public Defenders Council in accordance with the
 21 provisions of subsections (c) through (g) of Code Section 15-6-76.1. The Georgia ~~Indigent~~
 22 ~~Defense Council~~ Public Defenders Council shall allocate all interest received from such
 23 funds in accordance with subsection (e) of Code Section 15-6-76.1."

24 SECTION 4.

25 Said title is further amended by striking Code Section 15-9-18, relating to remittance of
 26 interest from cash bonds to the Georgia Indigent Defense Council, and inserting in lieu
 27 thereof the following:

28 "15-9-18.

29 Whenever the sheriff transfers cash bonds to the clerk of the court, pursuant to Code
 30 Section 15-16-27, the clerk shall deposit such funds into interest-bearing trust accounts and
 31 the interest from those funds shall be remitted to the Georgia ~~Indigent Defense Council~~
 32 Public Defenders Council in accordance with the provisions of subsections (c) through (g)
 33 of Code Section 15-6-76.1. The Georgia ~~Indigent Defense Council~~ Public Defenders
 34 Council shall allocate all interest received from such funds in accordance with subsection
 35 (e) of Code Section 15-6-76.1."

1 (c) In counties where the service charges or fees of the bank or depository would exceed
 2 the interest received from funds subject to this Code section, the sheriff shall be exempt
 3 from subsections (a) and (b) of this Code section. In such counties, the sheriff shall send
 4 a written notice to the Georgia ~~Indigent Defense Council~~ Public Defenders Council."

5 **SECTION 8.**

6 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to the legal
 7 defense of indigents, is amended by striking in their entirety Articles 1, 2, and 4.

8 **SECTION 9.**

9 Said chapter is further amended by striking in their entirety Articles 3 and 5.

10 **SECTION 10.**

11 Code Section 21-2-502 of the Official Code of Georgia Annotated, relating to the issuance
 12 of certificates of election and commission and the Governor's proclamation as to
 13 constitutional amendments, is amended by striking in its entirety subsection (c) and inserting
 14 in lieu thereof the following:

15 "*(c) Justices of the Supreme Court, Judges of the Court of Appeals, Commissioners of the*
 16 *Georgia Public Service Commission, judges of the superior court, judges of the juvenile*
 17 *court, circuit public defenders, and district attorneys. Upon completion of the tabulation*
 18 *the Secretary of State shall certify the result of each election of Justices of the Supreme*
 19 *Court, of Judges of the Court of Appeals, of Commissioners of the Georgia Public Service*
 20 *Commission, of judges of the superior court, of judges of the juvenile court where elected,*
 21 *of circuit public defenders, and of district attorneys to the Governor and shall issue a*
 22 *certificate of election to each person so elected. The Governor shall, upon each such person*
 23 *taking the oath of office, immediately issue a commission under the great seal of the State*
 24 *of Georgia, signed by the Governor and countersigned by the Secretary of State, to each*
 25 *such person.*"

26 **SECTION 11.**

27 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and
 28 agencies, is amended by striking Code Section 35-6A-3, relating to membership on the
 29 Criminal Justice Coordinating Council, and inserting in lieu thereof the following:

30 "35-6A-3.

31 (a) The Criminal Justice Coordinating Council shall consist of 24 members and shall be
 32 composed as follows:

1 (1) The ~~chairman~~ chairperson of the Georgia Peace Officer Standards and Training
 2 Council, the ~~chairman~~ chairperson of the Georgia Organized Crime Prevention Council,
 3 the ~~chairman~~ chairperson of the Judicial Council of Georgia, the ~~chairman~~ chairperson
 4 of the Prosecuting Attorneys' Council of the State of Georgia, the commissioner of
 5 corrections, the ~~chairman~~ chairperson of the Board of Corrections, the ~~vice-chairman~~ vice
 6 chairperson of the Board of Public Safety, the chairman of the State Board of Pardons and
 7 Paroles, the State School Superintendent, the commissioner of community affairs, the
 8 president of the Council of Juvenile Court Judges, the ~~director of the Georgia Indigent~~
 9 ~~Defense Council~~ chairperson of the Georgia Public Defenders Council, the ~~chairman~~
 10 chairperson of the Children and Youth Coordinating Council, and the commissioner of
 11 juvenile justice or their designees shall be ex officio members of the council, as full
 12 voting members of the council by reason of their office; and

13 (2) Ten members shall be appointed by the Governor for terms of four years, their initial
 14 appointments, however, being four for four-year terms, two for three-year terms, and four
 15 for two-year terms. Appointments shall be made so that there are always on the council
 16 the following persons: one county sheriff, one chief of police, one mayor, one county
 17 commissioner, one superior court judge, four individuals who shall be, by virtue of their
 18 training or experience, knowledgeable in the operations of the criminal justice system of
 19 this state, and one individual who shall be, by virtue of his or her training and experience,
 20 knowledgeable in the operations of the entire spectrum of crime victim assistance
 21 programs delivering services to victims of crime. No person shall serve beyond the time
 22 he or she holds the office or employment by reason of which he or she was initially
 23 eligible for appointment.

24 (b) In the event of death, resignation, disqualification, or removal for any reason of any
 25 member of the council, vacancies shall be filled in the same manner as the original
 26 appointment and successors shall serve for the unexpired term.

27 (c) The initial terms for all 19 original members shall begin July 1, 1981. The initial term
 28 for the member added in 1985 shall begin July 1, 1985. The initial term for the member
 29 added in 1988 shall begin July 1, 1988. The initial term for the member added in 1989
 30 shall begin July 1, 1989. The State School Superintendent shall be a member effective on
 31 July 1, 1989. The ~~director of the Georgia Indigent Defense Council~~ shall be a member
 32 ~~effective on July 1, 1997~~ chairperson of the Georgia Public Defenders Council shall
 33 become a member on December 31, 2003.

34 (d) Membership on the council does not constitute public office, and no member shall be
 35 disqualified from holding public office by reason of his or her membership."

SECTION 12.

Code Section 36-32-1 of the Official Code of Georgia Annotated, relating to the establishment of municipal courts, punishments, and the selection, election, or appointment of the mayor pro tempore or recorder pro tempore, is amended by inserting at the end thereof new subsections (f), (g), and (h) to read as follows:

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

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

(h) Any municipality or municipal court may contract with the office of the circuit public defender of the judicial circuit in which such municipality is located as a means of complying with the municipality's or municipal court's legal obligation to provide defense counsel at no cost to indigent persons appearing before the court in relation to violations of municipal ordinances, county ordinances, or state laws. The circuit public defender office for the judicial circuit in which the municipality is located shall have the obligation to provide such counsel for any case originating in municipal court that involves a charge of violation of state law and is bound over for prosecution to the state or superior court of the county in which the municipality is located."

SECTION 13.

Code Section 45-7-4 of the Official Code of Georgia Annotated, relating to annual salaries of certain state officials and cost-of-living adjustments, is amended by striking in its entirety paragraph (6) of subsection (a) and inserting in lieu thereof the following:

