

House Bill 1267

By: Representatives Hill of the 16th, Knox of the 14th, Post 1, Brown of the 89th, Ehrhart of the 28th, Lunsford of the 85th, Post 2, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to the
2 legal defense of indigents, so as to change the criteria for distribution of certain state
3 appropriated funds for indigent defense; to change certain provisions regarding establishment
4 of alternate delivery systems; to provide for funding; to provide for automatic repeal; to
5 provide for effective dates; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to the legal
9 defense of indigents, is amended by striking subsection (b) of Code Section 17-12-36,
10 relating to the budget of the Georgia Indigent Defense Council, solicitation of funds, and
11 distribution of state appropriated funds, and inserting in lieu thereof the following:

12 "(b) At least 90 percent of all state appropriated funds shall be distributed by the council
13 to participating counties on an equitable basis, based on ~~judicial administrative district and~~
14 ~~judicial circuit population, indigent criminal caseloads, and~~ previous year expenditures for
15 the provision of defense services at the local level."

16 **SECTION 2.**

17 Said chapter is further amended by striking Code Section 17-12-36, relating to establishment
18 of alternate delivery systems, as enacted by Ga. L. 2003, p. 191, and inserting in its place a
19 new Code Section 17-12-36 to read as follows:

20 "17-12-36.

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

23 (1) The delivery system has a full-time director and staff and had been fully operational
24 for at least two years on July 1, 2003;

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

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

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

9 (b) The governing authority of the county comprising the judicial circuit may, but shall not
 10 be required to, enact a resolution agreeing to fully fund its delivery system. In the event
 11 an alternative delivery system is approved and such governing authority elects not to fully
 12 fund such system, the council shall distribute state funds to such county based on the
 13 previous year's expenditures by such county for the provision of indigent defense services,
 14 but only if such funds are appropriated specifically for such purpose.

15 ~~(b)(c)~~ A judicial circuit composed of a single county may request an alternative delivery
 16 system only one time, which request shall be made on or before September 30, 2004.

17 ~~(c)(d)~~ The council shall make a final determination with regard to continuation of an
 18 alternative delivery system not later than December 31, 2004. Initial and subsequent
 19 approvals of alternative delivery systems shall be by a majority vote of the entire council.

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

22 ~~(e)(f)~~ In the event an alternative delivery system is approved, the council shall annually
 23 review the operation of such system and determine whether such system is meeting the
 24 standards as established by the council and is eligible to continue operating as an approved
 25 alternative delivery system.

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

30 SECTION 3.

31 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become
 32 effective upon its approval by the Governor or upon its becoming law without such approval.

33 (b) Section 1 of this Act shall stand repealed in its entirety on January 1, 2005.

34 (c) Section 2 of this Act shall become effective January 1, 2005.

1 **SECTION 4.**

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