

The House Committee on Judiciary offers the following substitute to HB 1318:

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal
2 defense of indigents, so as to change provisions relating to the qualifications of members of
3 the Georgia Public Defender Standards Council; to change provisions relating to the Georgia
4 Public Defender Standards Council's standards; to create a Georgia Public Defender
5 Standards Council Oversight Committee and provide for members, duties, annual reporting,
6 allowances, and performance audits; to provide for immunity for certain persons for certain
7 matters; to provide for changes relating to the council assuming the responsibilities of the
8 former Georgia Indigent Defense Council, funding, and personnel; to provide for matters for
9 certain counties that were operating under "The Georgia Criminal Justice Act"; to provide
10 for definitions; to provide for requirements as to actions by superior courts where there are
11 more than two judges in a county or circuit; to provide for arrangements for indigents in
12 criminal proceedings; to provide for compensation of assigned counsel generally; to provide
13 for compensation of nonprofit legal aid agencies; to provide for the office of public defender
14 and the appointment, term, and qualifications thereof; to provide for matters related to
15 competence of attorneys assigned as counsel to defend indigent persons; to provide for
16 assignment and duties of substitute attorneys; to provide for standards for determination of
17 indigency; to provide for recovery of payment or reimbursement from defendants receiving
18 legal assistance or benefits; to provide for maintenance of records and reports by public
19 defenders and legal aid agencies; to provide for financing of costs of indigent defense
20 programs by counties and private contributions; to provide for applicability; to provide for
21 a specific repealer; to change provisions relating to the qualifications of members of the
22 public defender selection panel; to change provisions relating to qualifications for the
23 position of circuit public defender; to change provisions relating to the salary of the circuit
24 public defender; to change provisions relating to the Georgia Public Defender Standards
25 Council's budget and support from the Administrative Office of the Courts; to change
26 provisions relating to appointment of assistant public defenders and their salary; to change
27 provisions relating to appointment of an investigator; to change provisions relating to

1 classification of personnel; to provide for effective dates; to repeal conflicting laws; and for
 2 other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense
 6 of indigents, is amended by striking subsection (c) of Code Section 17-12-3, relating to the
 7 membership of the Georgia Public Defender Standards Council, and inserting in lieu thereof
 8 the following:

9 "(c) In making these appointments, the appointing authorities shall seek to identify and
 10 appoint persons who represent a diversity of backgrounds and experience; and shall solicit
 11 suggestions from the State Bar of Georgia, state and local bar associations, the Georgia
 12 Association of Criminal Defense Lawyers, the councils representing the various categories
 13 of state court judges in Georgia, and the Prosecuting Attorneys' Council of the State of
 14 Georgia, as well as from the public and other interested organizations and individuals
 15 within the state. The appointing authorities shall not appoint a prosecuting attorney as
 16 defined in paragraph (6) of Code Section 19-13-51, any employee of a prosecuting
 17 attorney's office, or an employee of the Prosecuting Attorneys' Council of the State of
 18 Georgia to serve on the council."

19 **SECTION 2.**

20 Said chapter is further amended by adding a new subsection to Code Section 17-12-8,
 21 relating to approval of the Georgia Public Defender Standards Council of programs for
 22 representation of indigents and development of standards, to read as follows:

23 "(c) The initial minimum standards promulgated by the council pursuant to this Code
 24 section shall be submitted by the council to the General Assembly at the regular session for
 25 2005 and shall become effective only when ratified by joint resolution of the General
 26 Assembly. The power of the council to promulgate such initial minimum standards shall
 27 be deemed to be dependent upon such ratification; provided, however, the minimum
 28 standards promulgated by the council shall be utilized as a guideline prior to ratification.
 29 Any subsequent amendments or additions to the initial minimum standards promulgated
 30 by the council pursuant to this Code section shall be ratified at the next regular session of
 31 the General Assembly and shall become effective only when ratified by joint resolution of
 32 the General Assembly."

SECTION 3.

Said chapter is further amended by inserting a new Code section to read as follows:

"17-12-10.1.

(a) There is created the General Oversight Committee for the Georgia Public Defender Standards Council which shall be composed of three members of the House of Representatives appointed by the Speaker of the House of Representatives and three members of the Senate appointed by the Lieutenant Governor. The members of such committee shall be selected within ten days after the convening of the General Assembly in each odd-numbered year and shall serve until their successors are appointed.

(b) The Speaker of the House of Representatives shall appoint a member of the committee to serve as chairperson and the Lieutenant Governor shall appoint one member of the committee to serve as vice chairperson during each even-numbered year. The Lieutenant Governor shall appoint a member of the committee to serve as chairperson and the Speaker of the House of Representatives shall appoint one member to serve as vice chairperson during each odd-numbered year. Such committee shall meet at least six times each year and, upon the call of the chairperson, at such additional times as deemed necessary by the chairperson.

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

- (1) Information on new programs submitted by the council;
- (2) Information on standards proposed by the council;
- (3) The strategic plans for the council;
- (4) Program evaluation reports and budget recommendations of the council; and
- (5) Such other information or reports as deemed necessary by such committee.

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

(e) The committee shall make an annual report of its activities and findings to the membership of the General Assembly and the Governor within one week of the convening of each regular session of the General Assembly. The chairperson of the committee shall deliver written executive summaries of such report to the members of the General Assembly prior to the adoption of the General Appropriations Act each year.

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

(g) The committee shall be authorized to request that a performance audit of the council be conducted."

1 (4) 'Defending attorney' means an assigned attorney, an attorney attached to the staff of
2 a nonprofit legal aid agency, a public defender, or an attorney attached to the staff of a
3 public defender.

4 (5) 'Indigent person' means a person who is unable, without undue hardship, to employ
5 the legal services of an attorney or to defray the necessary expenses of legal
6 representation, determined as provided for in this article.

7 17-12-19.2.

8 When there are more than two judges of the superior court in a county or circuit, any action
9 required under this article, in the form of a rule of the court, must be taken by at least a
10 majority of the judges of that court. Where there are only two judges, the action must be
11 concurred in by both judges.

12 17-12-19.3.

13 (a) All courts of this state having jurisdiction of proceedings of a criminal nature shall, by
14 rule of court, provide for the representation of indigent persons in criminal proceedings in
15 such court. After ascertaining that the defendant is in fact indigent, it shall provide this
16 representation by:

17 (1) An arrangement whereby a judge of the court concerned will assign attorneys on an
18 equitable basis through a systematic, coordinated defender plan under delegation to and
19 supervision of the clerk or deputy clerk of the superior court, the clerk or deputy clerk of
20 the court concerned, or of an administrator appointed by the superior court for such
21 purpose;

22 (2) An arrangement whereby a nonprofit legal aid agency or agencies will be assigned
23 to provide the representation; or

24 (3) An arrangement whereby a combination of the above arrangements indicated in
25 paragraphs (1) and (2) of this subsection will provide the representation.

26 (b) Until the superior court in a county has by rule prescribed an appropriate arrangement,
27 any court concerned may assign attorneys to provide the representation. In this event, any
28 court concerned may, by its own rule, prescribe an arrangement whereby attorneys will be
29 assigned on an equitable basis through a systematic, coordinated plan under delegation to
30 and supervision of the clerk or deputy clerk of that court.

31 (c) Any arrangement under subsection (a) of this Code section may be made applicable to
32 one, or more, or all counties within the same superior court circuit when promulgated by
33 a rule of the superior court of the circuit.

1 (d) If the superior court in a county for any reason does not provide for an arrangement
2 prescribed in subsection (a) of this Code section, the county governing authority may
3 perform the functions ascribed to the superior court in this Code section.

4 17-12-19.4.

5 (a) When a superior court prescribes an arrangement under Code Section 17-12-19.3
6 which involves the assignment of attorneys, it shall prescribe the compensation of the
7 defending attorneys whom it assigns as provided for in this article and approve the
8 expenses necessarily incurred by them in the defense of indigents under this article. The
9 county governing authority shall recommend the limits for attorney fees for the several
10 courts in the county that may be prescribed by the courts for the defense of indigents and
11 such investigation expenses as may be necessary and approved by the court.

12 (b) Notwithstanding subsection (a) of this Code section, in extraordinary circumstances
13 the trial court may approve the payment of such additional compensation in excess of the
14 limits prescribed in subsection (a) of this Code section as the trial court may determine and
15 find to be necessary to provide for compensation for protracted representation.

16 (c) The county governing authority shall pay assigned attorneys the amounts prescribed
17 in this Code section from public funds available for the operation of the courts in the
18 county.

19 17-12-19.5.

20 (a) When a nonprofit legal aid agency is involved in providing legal services to an indigent
21 person under this article, the court concerned may allow to the legal aid agency an amount
22 equivalent to the compensation and direct expenses otherwise allowable to an assigned
23 attorney. In this event the county governing authority shall pay to the legal aid agency the
24 amount so determined from public funds available for the operation of the courts in the
25 county.

26 (b) The county governing authority may, in lieu of compensation allowable under
27 subsection (a) of this Code section, contract with a nonprofit legal aid agency on an annual
28 basis for rendering all or part of the legal services contemplated under this article.

29 17-12-19.6.

30 (a) In addition to the arrangements authorized under Code Section 17-12-19.3, the superior
31 court of a county, with the concurrence of the county governing authority, may establish
32 and maintain an office of public defender to provide indigent persons with the
33 representation contemplated under this article.

1 (b) If an office of public defender is established for a county, the superior court of that
2 county shall appoint a person to serve as public defender for a term of two years. The
3 public defender must be licensed to practice law in this state and must be competent to
4 counsel and defend a person charged with a crime. During his or her incumbency the
5 public defender may not engage in the practice of criminal law other than in the discharge
6 of the duties of his or her office unless he or she is approved in writing to practice criminal
7 law by the senior judge of the superior court of his or her judicial circuit. The superior
8 court, with the concurrence of the county governing authority, shall determine whether the
9 public defender is to be employed on a full-time or a part-time basis and shall determine
10 his or her compensation.

11 (c) If an office of public defender is established, the public defender may employ, in the
12 manner and at the compensation prescribed by the superior court and concurred in by the
13 county governing authority, as many assistant public defenders, clerks, investigators,
14 stenographers, and other persons as may be necessary for carrying out his or her
15 responsibilities under this article. A person employed under this subsection serves at the
16 pleasure of the public defender, unless his or her position is under a civil service system
17 in which he or she may be removed only for cause.

18 (d) If an office of public defender is established, the county governing authority shall
19 provide appropriate facilities, including office space, furniture, equipment, books, postage,
20 supplies, and interviewing facilities in the jail, necessary for carrying out the public
21 defender's responsibilities under this article or shall grant the public defender an allowance
22 in place of such facilities.

23 (e) If an office of public defender is established, his or her compensation, expenses and
24 allowances, and the expense necessary to establish, maintain, and support his or her office
25 shall be paid by the county governing authority out of public funds available for the
26 operation of the courts in the county.

27 (f) The superior court of a circuit, with the concurrence of the county governing authority
28 of two or more counties within the same circuit, may establish and maintain a joint office
29 of public defender under this Code section; or a single governing authority may contract
30 with a public defender of another county within the same circuit for the services of his or
31 her office to serve as the public defender, provided the superior court of the circuit and the
32 governing authority of the county concur in the contract.

33 17-12-19.7.

34 No person may be assigned the primary responsibility of representing an indigent person
35 unless he or she is authorized to practice law in this state and is otherwise competent to
36 counsel and defend a person charged with a crime. Competence shall be determined by the

1 court concerned at the first court proceeding after the assignment of counsel. A person
2 authorized to practice legal aid under Chapter 20 of Title 15 is competent to represent an
3 indigent person, provided that in any trial a person authorized to practice law in this state
4 is also present.

5 17-12-19.8.

6 At any stage of the criminal proceedings, including appeal or other post-conviction
7 proceedings, the court concerned may for good cause assign a substitute attorney. The
8 substitute attorney shall have the same functions with respect to the indigent person as the
9 attorney for whom he or she is substituted. If the substitute attorney is not employed in the
10 office of the public defender or in a nonprofit legal aid agency serving under this article,
11 the court shall prescribe reasonable compensation for him or her and approve the expenses
12 necessarily incurred by him or her in the defense of the indigent person, as provided in
13 Code Section 17-12-4.

14 17-12-19.9.

15 (a) When a superior court prescribes an arrangement for providing representation under
16 this article, it may also prescribe a standard to govern the determination of indigency by
17 all courts concerned within the county. The superior court may prescribe the requirements
18 for a proper showing of material factors relating to ability to pay for legal services and the
19 proper form and authentication thereof. In establishing an indigency standard, the superior
20 court shall consider such factors as income, property owned, expenses, outstanding
21 obligations, and the number and ages of dependents. Release on bail shall not necessarily
22 preclude a person from being considered indigent, nor shall it be necessary that a person
23 be destitute or a pauper to be considered indigent.

24 (b) In a proceeding to determine indigency under this Code section, any person who makes
25 a false statement, under oath, concerning any material factor related to his, her, or another's
26 ability to pay for legal services commits the crime of perjury.

27 (c) To the extent that a person covered under this Code section is able to provide for the
28 employment of an attorney, the other necessary services and facilities of representation,
29 and court costs, the court concerned may order him or her to provide for this payment or
30 reimbursement.

31 17-12-19.10.

32 (a) The county may recover payment or reimbursement, as the case may be, from each
33 person who has received legal assistance or another benefit under this article:

34 (1) To which he or she was not entitled;

1 (2) With respect to which he or she was not an indigent person when he or she received
2 it; or

3 (3) With respect to which he or she has failed to make payment or reimbursement
4 ordered under subsection (c) of Code Section 17-12-19.9 and for which he or she refuses
5 to pay or reimburse.

6 (b) An action must be brought within four years after the date on which the aid was
7 received.

8 (c) The county may recover payment or reimbursement, as the case may be, from each
9 person, other than a person covered by subsection (a) of this Code section, who has
10 received legal assistance under this article and who, on the date on which the action is
11 brought, is financially able but refuses to pay or reimburse the county for the assistance
12 according to the standards of ability to pay applicable under this article. The action must
13 be brought within four years after the date on which the benefit was received.

14 17-12-19.11.

15 (a) A defending attorney shall keep appropriate records respecting each indigent person
16 whom he or she represents under this article.

17 (b) The public defender, legal aid agency, or person administering a court prescribed
18 defender plan shall submit an annual report to the county governing authority, which report
19 shall show the number of persons represented under this article, the crimes involved, the
20 outcome of each case, and the expenditures (totaled by kind) made in carrying out the
21 responsibilities imposed by this article. A copy of the report shall also be submitted to each
22 court having criminal jurisdiction in the county or counties which the program serves.

23 17-12-19.12.

24 (a) For each fiscal year, the county governing authority in each county shall include in its
25 annual budget for the operations of the courts in the county an additional amount to finance
26 the costs and expenses necessary for the implementation of this article.

27 (b) The county governing authority in each county may accept private contributions for
28 the support of the administration of this article.

29 17-12-19.13.

30 This article applies only to counties that were operating local indigent defense programs
31 under former Article 1 of this chapter, the 'Georgia Criminal Justice Act,' as it existed
32 immediately prior to December 31, 2003, for representation in the courts of this state,
33 except that it does not prohibit a defending attorney from representing an indigent person
34 in a federal court of the United States if:

- 1 (1) The matter arises out of or is related to an action pending or recently pending in a
 2 court of criminal jurisdiction of this state; or
 3 (2) Representation is under an approved plan of the United States District Court as
 4 required by the Criminal Justice Act of 1964 (18 U.S.C. 3006A).

5 17-12-19.14.

6 This article shall be repealed in its entirety on December 31, 2004."

7 SECTION 7.

8 Said chapter is further amended by striking subsection (a) of Code Section 17-12-20, relating
 9 to the public defender selection panel for each judicial circuit, and inserting in lieu thereof
 10 the following:

11 "(a) There is created in each judicial circuit in the state a circuit public defender selection
 12 panel to be composed of five members. The membership shall be composed of one
 13 member each appointed by the Governor, the Lieutenant Governor, the Speaker of the
 14 House of Representatives, the Chief Justice of the Supreme Court of Georgia, and the chief
 15 judge of the superior court of the circuit. Members of the circuit public defender selection
 16 panel shall be individuals with significant experience working in the criminal justice
 17 system or who have demonstrated a strong commitment to the provision of adequate and
 18 effective representation of indigent defendants. A prosecuting attorney as defined in
 19 paragraph (6) of Code Section 19-13-51, any employee of a prosecuting attorney's office,
 20 or an employee of the Prosecuting Attorneys' Council of the State of Georgia shall not
 21 serve as a member of the circuit public defender selection panel. Members of the circuit
 22 public defender selection panel shall reside in the judicial circuit in which ~~he or she~~ serves
 23 they serve. The circuit public defender selection panel members shall serve for a term of
 24 five years. Any vacancy for an appointed member shall be filled by the appointing
 25 authority."

26 SECTION 8.

27 Said chapter is further amended by striking Code Section 17-12-21, relating to qualification
 28 for the position of circuit public defender, and inserting in lieu thereof the following:

29 "17-12-21.

30 Except for a person who has served as the head of a public defender office which existed
 31 prior to January 1, 2006, in order to ~~To~~ be eligible to fill the position of circuit public
 32 defender, a person must:

- 33 (1) Have attained the age of 25 years;

- 1 (2) Have been duly admitted and licensed to practice law ~~in the superior courts~~ for at
 2 least three years;
- 3 (3) Have practiced law in a private practice for at least 12 months;
- 4 ~~(3)~~(4) Be a member in good standing of the State Bar of Georgia; and
- 5 ~~(4)~~(5) If previously disbarred from the practice of law, have been reinstated as provided
 6 by law.

7 **SECTION 9.**

8 Said chapter is further amended by striking subsection (a) of Code Section 17-12-25, relating
 9 to the salary of the circuit public defender, and inserting in lieu thereof the following:

10 "(a) Each circuit public defender shall receive an annual salary of \$87,593.58 and
 11 cost-of-living adjustments as may from time to time be granted to employees of the
 12 executive, judicial, and legislative branches of government from state funds ~~as prescribed~~
 13 ~~by the council."~~

14 **SECTION 10.**

15 Said chapter is further amended by striking Code Section 17-12-26, relating to the budget of
 16 the council and support from the Administrative Office of the Courts, and inserting in lieu
 17 thereof the following:

18 "17-12-26.

19 (a) The council shall prepare and submit to the Judicial Council of Georgia an annual
 20 proposed budget necessary for fulfilling the purposes of this article in accordance with
 21 Code Section 45-12-78. The budget request shall be based on the previous year's
 22 expenditures and budget requests submitted by each circuit public defender, the
 23 multicounty public defender office or its successor, and the office of the mental health
 24 advocate. The council's budget shall not contain any request for funding for the operation
 25 of the circuit public defender offices nor any other funding related to funding for this article
 26 until the budget submission for Fiscal Year 2005. The council is also authorized to seek,
 27 solicit, apply for, and utilize funds from any public or private source to use in fulfilling the
 28 purposes of this article.

29 (b) The budget of the council shall include the budget of all circuit public defenders and
 30 other offices and entities, including conflict defender offices and appointed attorneys
 31 providing indigent defense representation under the authority of this article and the
 32 multicounty public defender office and the office of the mental health advocate.

33 ~~(c) The director of the Administrative Office of the Courts shall provide general~~
 34 ~~administrative support, which shall include purchasing, payroll, and similar administrative~~
 35 ~~services, to the council.~~

1 ~~(d) The director of the Administrative Office of the Courts shall not reduce or modify the~~
 2 ~~budget of the council and may not in any manner use funds appropriated to or otherwise~~
 3 ~~designated for the council.~~

4 ~~(e)~~(c)(1) Subject to the provisions of paragraphs (3) and (4) of this subsection, expenses
 5 paid by the council pursuant to this Code section shall be paid out of funds as may be
 6 appropriated by the General Assembly.

7 (2) On or before June 1 of each year, the council shall establish and furnish to each
 8 circuit public defender and the state auditor the travel budget for each judicial circuit
 9 based on the amount appropriated by the General Assembly for travel.

10 (3) In determining the travel budget for each judicial circuit, the council shall consider
 11 the budget request submitted by the circuit public defender of each judicial circuit, the
 12 geographic size and the caseload of each circuit, and other facts as may be relevant. The
 13 council is authorized to establish a contingency reserve of not more than 3 percent of the
 14 total amount appropriated by the General Assembly in order to meet any expenses which
 15 could not be reasonably anticipated. The council shall submit to each circuit public
 16 defender, the state auditor, and the legislative budget analyst a monthly report showing
 17 the budget amount of expenditures made under the travel budget. The council may
 18 periodically review and adjust the travel budget as may be necessary to carry out the
 19 purposes of this subsection.

20 (4) Neither the circuit public defender nor any personnel compensated by the state
 21 pursuant to the provisions of this article shall be reimbursed from state funds for any
 22 expenses for which the person has been reimbursed from funds other than state funds;
 23 provided, however, that the governing authority of the county or counties comprising the
 24 judicial circuit are authorized to provide travel advances or to reimburse expenses which
 25 may be incurred by the person in the performance of his or her official duties to the extent
 26 the expenses are not reimbursed by the state as provided in this Code section."

27 **SECTION 11.**

28 Said chapter is further amended by striking subsections (e) through (g) of Code Section
 29 17-12-27, relating to appointment of assistant public defenders, salary, and promotions, and
 30 inserting in lieu thereof new subsections (e) through (h) to read as follows:

31 "(e)(1) All salary advancements shall be based on quality of work, education, and
 32 performance.

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

1 (3) Any assistant public defender who, subsequent to his or her appointment pursuant to
 2 this Code section, is awarded an LL.M. or S.J.D. degree by a law school recognized by
 3 the State Bar of Georgia from which a graduate of or student enrolled therein is permitted
 4 to take the bar examination or by a law school accredited by the American Bar
 5 Association or the Association of American Law Schools may be advanced ~~two~~ in salary
 6 ~~steps~~ effective on the first day of the calendar month following the award of the degree,
 7 provided that such advancement does not exceed the maximum of the salary range
 8 applicable to the attorney's class.

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

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

20 (h) Notwithstanding the provisions of subsection (g) of this Code section, an employee of
 21 a local public defender office who was an employee of the office on June 30, 2004, and
 22 who becomes a circuit public defender or an employee of a circuit public defender office
 23 before July 1, 2005, may elect, with the consent of the former employer and the consent
 24 of the council, to remain an employee of the entity for which the employee worked as a
 25 local public defender; and such entity shall be his or her employer for all purposes,
 26 including, without limitation, compensation and employee benefits. The right to make an
 27 election pursuant to this subsection shall expire on July 1, 2005. The council shall
 28 reimburse the appropriate entity for compensation, benefits, and employer contributions
 29 under the federal Social Security Act, but the total payment from the council to the entity
 30 on behalf of the employee shall not exceed the amount otherwise payable to or for the
 31 employee under the circumstance where the employee had become a state employee."

32 SECTION 12.

33 Said title is further amended by striking subsection (e) of Code Section 17-12-28, relating
 34 to appointment of investigator, and inserting in lieu thereof the following:

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

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

9 (3) Any person who is employed as a peace officer by an agency of the executive branch
 10 of state government who is appointed as an investigator pursuant to this Code section
 11 without a break in service may be appointed to ~~the~~ an annual salary ~~step which is one step~~
 12 ~~above the~~ at least equal to the annual salary the person received on the last day of
 13 employment immediately preceding said appointment.

14 (4) Any person who was a certified peace officer employed on a full-time basis by this
 15 state, the United States or any of the several states, or a political subdivision or authority
 16 thereof; may be appointed to the salary ~~step above the entry level based on one step for~~
 17 ~~every three years' that gives the officer credit for~~ experience as a full-time certified peace
 18 officer."

19 SECTION 13.

20 Said chapter is further amended by striking subsection (c) of Code Section 17-12-30, relating
 21 to classification of personnel, and inserting in lieu thereof the following:

22 "(c)(1) The council shall establish salary schedules for each state paid position authorized
 23 by this article or any other provision of law. Salary schedules shall be similar to the
 24 general and special schedules adopted by the State Merit System of Personnel
 25 Administration ~~and shall provide for a minimum entry step and not less than ten~~
 26 ~~additional steps, not to exceed the maximum allowable salary.~~ In establishing the salary
 27 schedule, all amounts will be rounded off to the nearest whole dollar. The council may,
 28 from time to time, revise the salary schedule to include across-the-board increases which
 29 the General Assembly may from time to time authorize in the General Appropriations
 30 Act.

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

34 (3) All salary advancements shall be based on quality of work, training, and
 35 performance. The salary of state paid personnel appointed pursuant to this article may
 36 be advanced ~~one step~~ at the first of the calendar month following the annual anniversary

1 of the person's appointment. No employee's salary shall be advanced beyond the
2 maximum established in the applicable pay schedule.

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

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

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

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

17 **SECTION 14.**

18 (a) Sections 1 through 6, this section, and Section 15 of this Act shall become effective upon
19 approval of this Act by the Governor or upon its becoming law without such approval.

20 (b) Section 7 of this Act shall become effective on January 1, 2005; provided, however, that
21 for purposes of the appointment of the members of the circuit public defender selection
22 panels in conformity with Section 7 of this Act as may be necessary or appropriate to prepare
23 for and phase in full implementation of Article 2 of Chapter 12 of Title 17 of the Official
24 Code of Georgia Annotated as enacted by Ga. L. 2003, p. 191, Section 7 of this Act shall
25 become effective upon approval of this Act by the Governor or upon its becoming law
26 without such approval.

27 (c) Sections 8 through 13 of this Act shall become effective on January 1, 2005.

28 **SECTION 15.**

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