

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

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense of indigents, is 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 eight persons, three members of the House of Representatives appointed by the Speaker of the House of Representatives, three members of the Senate appointed by the Senate Committee on Assignments, and one member of the House of Representatives and one member of the Senate appointed by the 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 Senate Committee on Assignments shall appoint one member of the committee to serve as vice chairperson during each even-numbered year. The Senate Committee on Assignments 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.

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

### 3 SECTION 2.

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

5 "17-12-10.2.

6 The members of the council as created by this article, the members of the circuit public  
7 defender selection panel created by Article 2 of this chapter, and other policy-making or  
8 administrative personnel acting in a policy-making or administrative capacity shall not be  
9 subject to civil liability resulting from any act or failure to act in the implementation and  
10 carrying out of the purposes of this article and Article 2 of this chapter."

### 11 SECTION 3.

12 Said chapter is further amended by striking subsection (b) of Code Section 17-12-11, relating  
13 to the council assuming the responsibilities of the former Georgia Indigent Defense Council,  
14 funding, and personnel, and inserting in lieu thereof the following:

15 "(b) At least 90 percent of all state appropriated funds to the former Georgia Indigent  
16 Defense Council or the Georgia Public Defender Standards Council for grants to counties  
17 shall be distributed to counties for the January 1, 2004, through December 31, 2004, time  
18 period, based upon previous year expenditures for the provision of defense services at the  
19 local level."

### 20 SECTION 4.

21 Said chapter is further amended by adding a new article to read as follows:

#### 22 "ARTICLE 1A

23 17-12-19.1.

24 As used in this article, the term:

25 (1) 'County governing authority' means the judge of the probate court, board of county  
26 commissioners, or other authority in a county which by law has the duty to levy taxes and  
27 provide funds for the operation of the courts in the county.

28 (2) 'Court concerned' means a court having, or anticipated as having, with respect to  
29 crime, jurisdiction over a proceeding in which an indigent person is a party or over the  
30 detention of an indigent person. When a superior court has prescribed an arrangement  
31 under paragraph (1) of subsection (a) of Code Section 17-12-19.3, it shall also be a 'court  
32 concerned.'

1 (3) 'Criminal proceedings' means any proceedings in which a person is charged with a  
 2 violation of a local ordinance or state law; and, because of the violation, the person may  
 3 be incarcerated in any jail or other penal institution in this state.

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

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

10 17-12-19.2.

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

15 17-12-19.3.

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

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

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

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

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

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

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

7 17-12-19.4.

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

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

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

22 17-12-19.5.

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

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

32 17-12-19.6.

33 (a) In addition to the arrangements authorized under Code Section 17-12-19.3, the superior  
34 court of a county, with the concurrence of the county governing authority, may establish

1 and maintain an office of public defender to provide indigent persons with the  
2 representation contemplated under this article.

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

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

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

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

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

1 17-12-19.7.

2 No person may be assigned the primary responsibility of representing an indigent person  
3 unless he or she is authorized to practice law in this state and is otherwise competent to  
4 counsel and defend a person charged with a crime. Competence shall be determined by the  
5 court concerned at the first court proceeding after the assignment of counsel. A person  
6 authorized to practice legal aid under Chapter 20 of Title 15 is competent to represent an  
7 indigent person, provided that in any trial a person authorized to practice law in this state  
8 is also present.

9 17-12-19.8.

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

18 17-12-19.9.

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

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

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

1 17-12-19.10.

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

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

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

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

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

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

18 17-12-19.11.

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

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

27 17-12-19.12.

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

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



1 17-12-19.13.

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

7 (1) The matter arises out of or is related to an action pending or recently pending in a  
8 court of criminal jurisdiction of this state; or

9 (2) Representation is under an approved plan of the United States District Court as  
10 required by the Criminal Justice Act of 1964 (18 U.S.C. 3006A).

11 17-12-19.14.

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

### 13 SECTION 5.

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

16 "17-12-21.

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

20 (1) Have attained the age of 25 years;

21 (2) Have been duly admitted and licensed to practice law ~~in the superior courts~~ for at  
22 least three years;

23 (3) Be a member in good standing of the State Bar of Georgia; and

24 (4) If previously disbarred from the practice of law, have been reinstated as provided by  
25 law."

### 26 SECTION 6.

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

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

**SECTION 7.**

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

"17-12-26.

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

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

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

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

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

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

(3) In determining the travel budget for each judicial circuit, the council shall consider the budget request submitted by the circuit public defender of each judicial circuit, the geographic size and the caseload of each circuit, and other facts as may be relevant. The council is authorized to establish a contingency reserve of not more than 3 percent of the total amount appropriated by the General Assembly in order to meet any expenses which could not be reasonably anticipated. The council shall submit to each circuit public

1 defender, the state auditor, and the legislative budget analyst a monthly report showing  
 2 the budget amount of expenditures made under the travel budget. The council may  
 3 periodically review and adjust the travel budget as may be necessary to carry out the  
 4 purposes of this subsection.

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

### 12 SECTION 8.

13 Said chapter is further amended by striking subsections (e) through (g) of Code Section  
 14 17-12-27, relating to appointment of assistant public defenders, salary, and promotions, and  
 15 inserting in lieu thereof new subsections (e) through (h) to read as follows:

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

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

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

29 (f) Any assistant public defender appointed pursuant to this Code section may be promoted  
 30 to the next highest class at any time the attorney meets the minimum qualifications for such  
 31 class, but in order to be eligible for promotion, the attorney shall have served not less than  
 32 12 months in the class from which the attorney is to be promoted. When an assistant public  
 33 defender is promoted to the next highest class, the assistant public defender shall enter the  
 34 higher class at ~~the~~ an annual salary step ~~which provides an annual salary nearest to, but~~  
 35 ~~greater than;~~ the annual salary the assistant public defender was receiving immediately  
 36 prior to the promotion.

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

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

#### 16 SECTION 9.

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

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

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

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

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

**SECTION 10.**

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

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

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

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

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

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

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

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

**SECTION 11.**

(a) Sections 1 through 4, this section, and Section 12 of this Act shall become effective upon approval of this Act by the Governor or upon its becoming law without such approval.

(b) Sections 5 through 10 of this Act shall become effective on January 1, 2005.

**SECTION 12.**

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