House Bill 1EX (COMMITTEE SUBSTITUTE)

By: Representatives Coleman of the 118th, Porter of the 119th, Jenkins of the 93rd, Mangham of the 62nd, O`Neal of the 117th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 15, Title 17, Title 35, and Title 42 of the Official Code of Georgia Annotated, relating respectively to courts, criminal procedure, law enforcement officers and agencies, and penal institutions, so as to change provisions relating to funding for various programs including local victim assistance programs and indigent defense; to provide for the collection and remittance of fees and funds; to change the membership of the Georgia Superior Court Clerks´ Cooperative Authority; to change provisions relating to priorities of distributions of fines, forfeitures, surcharges, additional fees, and costs in cases of partial payments into superior courts; to provide that the Criminal Justice Coordinating Council shall certify victim assistance programs; to require that victim assistance funds be paid only to certified programs; to provide for certain reports; to provide for certain disbursements; to provide for certain reserve funds; to provide that the Georgia Superior Court Clerks´ Cooperative Authority shall act as the collecting and remitting agent for the centralized collection and remittance of certain court costs and fees and certain additional penalties and bonds in criminal cases; to prescribe certain new additional court costs and fees and penalties and bond surcharges in criminal cases and provide for the disposition thereof; to provide for application fees for persons applying for indigent defense services and provide for the disposition thereof; to provide for intent with respect to availability of certain funds for appropriation for indigent defense purposes; to state legislative findings; to define terms; to provide for court clerks and other officials to remit funds to the authority and provide measures for accountability therefor; to authorize the authority to prescribe forms and procedures for reporting in connection with collections by the authority; to provide for remittances by the authority and certain reporting with respect thereto; to change provisions relating to the qualifications of members of the Georgia Public Defender Standards Council; to change provisions relating to the Georgia Public Defender Standards Council´s standards; to create a General Oversight Committee for the Georgia Public Defender Standards Council and provide for members, duties, annual reporting, allowances, and performance audits; to provide for immunity for certain persons for certain matters; to provide for changes relating to the council assuming the responsibilities of the former Georgia Indigent Defense Council,

funding, and personnel; to provide for matters for certain counties that were operating under "The Georgia Criminal Justice Act"; to provide for requirements as to actions by superior courts where there are more than two judges in a county or circuit; to provide for arrangements for indigents in criminal proceedings; to provide for compensation of assigned counsel generally; to provide for compensation of nonprofit legal aid agencies; to provide for the office of public defender and the appointment, term, and qualifications thereof; to provide for matters related to competence of attorneys assigned as counsel to defend indigent persons; to provide for assignment and duties of substitute attorneys; to provide for standards for determination of indigency; to provide for recovery of payment or reimbursement from defendants receiving legal assistance or benefits; to provide for maintenance of records and reports by public defenders and legal aid agencies; to provide for financing of costs of indigent defense programs by counties and private contributions; to provide for applicability; to provide for a specific repealer; to change provisions relating to the qualifications of members of the public defender selection panel; to change provisions relating to the salary of the circuit public defender; to change provisions relating to the Georgia Public Defender Standards Council´s budget and support from the Administrative Office of the Courts; to change provisions relating to appointment of assistant public defenders and their salary; to change provisions relating to appointment of an investigator; to change provisions relating to employment of supplemental personnel and compensation; to change provisions relating to classification of personnel; to change certain provisions regarding requirements of such alternate delivery systems; to create the State Victim Services Commission; to provide for its composition, membership, filling of vacancies, powers, duties, and responsibilities; to provide for meetings; to provide for the obtaining of certain information; to provide for certain reviews and investigations; to provide for the commission to make certain recommendations; to make numerous conforming amendments; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by striking subsection (a) of Code Section 15-6-77.4, relating to additional filing fees in divorce cases, and inserting in its place a new subsection to read as follows:

"(a) In addition to any fees required in Code Sections 15-6-77, 15-6-77.2, 15-6-77.3, and 47-14-51, for filing each divorce case, the clerk of superior court shall charge an additional fee of $5.00. Each clerk of the superior court shall collect the additional fees for divorce cases as provided in this Code section and shall pay such moneys over to the ~~commissioner~~

~~of revenue~~ Georgia Superior Court Clerks´ Cooperative Authority by the last day of the month there following, to be deposited by ~~him~~ the authority into the general treasury. The ~~commissioner of revenue~~ authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this Code section and shall submit such report and accounting to the Office of Planning and Budget, ~~and~~ the Legislative Budget Office, and the Senate Budget Office no later than ~~30~~ 60 days after the last day of the preceding quarter.″

SECTION 2.

Said Title 15 is further amended by striking paragraph (1) of subsection (b) of Code Section 15-6-94, relating to the Georgia Superior Court Clerks´ Cooperative Authority, and inserting in its place a new paragraph to read as follows:

″(b)(1) The authority shall consist of ~~seven~~ ten members as follows:

(A) The two members who are not required to be superior clerks appointed by the executive board of The Council of Superior Court Clerks of Georgia ~~to serve for a term of one year each and until their respective successors are~~ appointed as provided by prior law shall continue to serve out the terms for which they were appointed. Upon the expiration of the terms of these members one such position shall cease to exist and the successors to the other such position shall be appointed by the executive board of The Council of Superior Court Clerks of Georgia;

(B) The two members appointed by the executive board of The Council of Superior Court Clerks of Georgia~~,~~ who are and shall ~~currently~~ be superior court clerks~~, to serve for a term of two years each and until their respective successors are~~ appointed as provided by prior law shall continue to serve and their successors shall likewise be superior court clerks appointed by the executive board of The Council of Superior Court Clerks of Georgia;

(C) The one member appointed by the Governor~~,~~ who is and shall ~~currently~~ be a county commissioner~~, to serve for a term of three years and until such member´s respective successor is~~ appointed as provided by prior law shall continue to serve and his or her successors shall likewise be county commissioners appointed by the Governor;

(D) The ~~and~~ two members appointed by the Governor ~~to serve for a term of three years each and until their respective successors are appointed~~ who are not required to be county commissioners appointed as provided by prior law shall serve out the terms for which they were appointed; and upon the expiration of such terms and thereafter a successor to one such member shall be a superior court clerk appointed by the Governor and a successor to the other such member shall be appointed by the Governor;

(E) One member who shall be a superior court clerk appointed by the Senate Committee on Assignments or such person or entity as established by Senate rule;

(F) One member who shall be a superior court clerk appointed by the Speaker of the House of Representatives;

(G) One member who shall be a superior court judge appointed by the Chief Justice of the Supreme Court of Georgia; and

(H) One member appointed by the Governor.

All members ~~After the initial appointments, all members thereafter~~ shall serve for terms of three years each and until their successors are appointed and qualified. All acts performed by the authority prior to April 1, 1994, shall have the same force and effect as if this paragraph had been in effect since the creation of the authority.″

SECTION 3.

Said Title 15 is further amended by striking Code Section 15-6-95, relating to priorities of distribution of fines, forfeitures, surcharges, additional fees, and costs in cases of partial payments into superior court, and inserting in lieu thereof the following:

″15-6-95.

Notwithstanding any law to the contrary, a clerk of any superior court of this state who receives partial payments, as ordered by the court, of criminal fines, forfeitures, or costs shall distribute said sums in the order of priority set forth below:

(1) The amount provided for in Chapter 17 of Title 47 for the Peace Officers´ Annuity and Benefit Fund;

(2) The amount provided for in Chapter 14 of Title 47 for the Superior Court Clerks´ Retirement Fund of Georgia;

(3) The amount provided for in Chapter 16 of Title 47 for the Sheriffs´ Retirement Fund of Georgia;

~~(5)~~(4) The ~~surcharge provided for in Chapter 21 of this title for the Peace Officer and Prosecutor Training Fund~~ amounts provided under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section 15-21-73;

(5) The amounts provided for under subparagraphs (a)(1)(B) and (a)(2)(B) of Code Section 15-21-73;

~~(4)~~(6) The amount as may be provided in Chapter 15 of Title 36 for county law libraries;

~~(6)~~(7) The surcharge provided for in Chapter 21 of this title for jail construction and staffing;

~~(7)~~(8) The surcharge provided for in cases of driving under the influence for purposes of state crime victim compensation under Code Section 15-21-112 ~~for compensation of victims of violations of Code Section 40-6-391~~;

~~(8)~~(9) The balance of the fine shall be paid to the county;

~~(9)~~(10) After the final partial or installment payment, the surcharge provided for in Code Sections 15-21-100 and 15-21-101 for the Drug Abuse Treatment and Education Fund.″

SECTION 4.

Said Title 15 is further amended by striking Code Section 15-9-60.1, relating to additional marriage license fees, and inserting in its place a new Code section to read as follows:

″15-9-60.1.

~~(a)~~ In addition to any fees required in Code Section 15-9-60 for receiving marriage applications, issuing marriage licenses, and recording relative thereto, the judge of the probate court shall charge an additional fee of $15.00 for issuing a marriage license. No amount of this additional fee shall be paid into the Judges of the Probate Courts Retirement Fund of Georgia provided for in Chapter 11 of Title 47 ~~nor~~ or be used for the purpose of calculating retirement benefits for judges of the probate courts. Each judge of the probate court shall collect the additional fees for issuing marriage licenses as provided in this Code section and shall pay such moneys over to the ~~commissioner of revenue~~ Georgia Superior Court Clerks´ Cooperative Authority by the last day of the month there following, to be deposited by ~~him~~ the authority into the general treasury. The ~~commissioner of revenue~~ authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this Code section and shall submit such report and accounting to the Office of Planning and Budget, ~~and~~ the Legislative Budget Office, and the Senate Budget Office no later than ~~30~~ 60 days after the last day of the preceding quarter.

~~(b) When any such person whose duty it is to collect and pay over such moneys fails to remit the sums within 60 days of the date they are required to be paid over, the same shall be delinquent and there may be imposed, in addition to the principal amount due, a specific penalty in the amount of 5 percent of said principal amount per month for each month during which the money is continued to be delinquent, not to exceed a total of 25 percent of the principal amount.″~~

SECTION 5.

Said Title 15 is further amended by striking Article 4 of Chapter 21, the "Peace Officer and Prosecutor Training Fund Act of 1983," and inserting in its place a new article to read as follows:

"ARTICLE 4

15-21-70.

This article shall be known as and may be cited as the 'Peace Officer, ~~and~~ Prosecutor, and Indigent Defense Funding ~~Training Fund~~ Act ~~of 1983~~.'

15-21-71.

This article is enacted in part pursuant to the authority of Article III, Section IX, Paragraph VI, subparagraph (d) of the Constitution of Georgia, which provision authorizes additional penalty assessments in criminal and traffic cases and provides that the proceeds derived therefrom may be used for the purpose of providing training to law enforcement officers and prosecuting officials.

15-21-72.

It is the intent of this article to provide funding for the training of law enforcement and prosecutorial officers and to make funds available for funding state indigent defense programs.

15-21-73.

(a)(1) In every case in which any state court, probate court, juvenile court, police, recorder´s, or mayor´s court, municipal court, magistrate court, or superior court in this state shall impose a fine, which shall be construed to include costs, for any criminal or quasi-criminal offense against a criminal or traffic law, including civil traffic violations and violations of local criminal ordinances, of this state or political subdivision thereof, there shall be imposed as an additional penalty a sum equal to ~~the~~:

(A) The lesser of $50.00 or 10 percent of the original fine; plus

(B) An additional 10 percent of the original fine.

(2) At the time of posting bail or bond in any case involving a violation of a criminal or traffic law of this state or political subdivision thereof, an additional sum equal to ~~the~~:

(A) The lesser of $50.00 or 10 percent of the original amount of bail or bond; plus

(B) The lesser of an additional $50.00 or 10 percent of the original amount of bail or bond

shall be posted. In every case in which any state court, probate court, municipal court, magistrate court, recorder´s court, mayor´s court, or superior court shall order the forfeiture of bail or bond, the additional ~~sum equal to the lesser of $50.00 or 10 percent of the original bail or bond~~ amounts provided for in this paragraph shall be paid over as provided in Code Section 15-21-74.

(b) Such sums shall be in addition to that amount required by Code Section 47-17-60 to be paid into the Peace Officers´ Annuity and Benefit Fund or Code Section 47-11-51 concerning the Judges of the Probate Courts Retirement Fund of Georgia and any other amounts provided for by law.

15-21-74.

The sums provided for in Code Section 15-21-73 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and forfeited bonds and shall be paid over to the ~~commissioner of revenue~~ Georgia Superior Court Clerks´ Cooperative Authority by the last day of the month there following, to be deposited by ~~him~~ the authority into the general treasury. The ~~commissioner of revenue~~ authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this article and shall submit such report and accounting to the Office of Planning and Budget, ~~and~~ the Legislative Budget Office, and the Senate Budget Office no later than ~~30~~ 60 days after the last day of the preceding quarter.

15-21-75.

~~When any such person, agency, or unit of government whose duty it is to collect and pay over such moneys fails to remit the sums within 60 days of the date they are required to be paid over, the same shall be delinquent and there may be imposed, in addition to the principal amount due, a specific penalty in the amount of 5 percent of said principal amount per month for each month during which the money is continued to be delinquent, not to exceed a total of 25 percent of the principal amount.~~ Reserved.

15-21-76.

~~Any person whose duty it is to collect and remit the sum provided for in this article who fails or refuses to so remit shall be guilty of a misdemeanor.~~ Reserved.

15-21-77.

(a) An amount equal to ~~all funds remitted as provided in Code Section 15-21-74~~ the net proceeds derived under subparagraphs (a)(1)(A) and (a)(2)(A) of Code Section 15-21-73 in the immediately preceding year shall be appropriated to fund law enforcement or prosecutorial officers´ training, or both, and activities incident thereto, including, but not limited to, payment or repayment to the state treasury for capital outlay, general obligation bond debt service, administrative expenses, and any other expense or fund application which the General Assembly may deem appropriate. This ~~Code section~~ subsection shall not preclude the appropriation of a greater amount for this purpose.

(b) It is the intent of the General Assembly that all funds derived under subparagraphs (a)(1)(B) and (a)(2)(B) of Code Section 15-21-73 shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.

(c) Where the Georgia Public Defender Standards Council has approved an alternative delivery system as set forth in Code Section 17-12-36, the council shall pay from funds available to the council an amount of funds equal to the amount that would have been allocated to the circuit for the minimum salary of the circuit public defender, the assistant circuit public defenders, the investigator, and the administrative staff, exclusive of benefits, if the circuit was not operating an alternative delivery system.″

SECTION 6.

Said Title 15 is further amended by striking Code Sections 15-21-113 and 15-21-114, relating to collection and remittance of additional penalties in driving under the influence cases for the Georgia Crime Victims Emergency Fund, and inserting in their place the following:

″15-21-113.

The sums provided for in Code Section 15-21-112 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid over by the last day of the following month to the Georgia Superior Court Clerks´ Cooperative Authority for remittance to the Georgia Crime Victims Compensation Board ~~by the last day of the month there following~~, to be deposited into the Georgia Crime Victims Emergency Fund. The ~~Georgia Crime Victims Compensation Board~~ authority shall, on a quarterly basis, make a report and accounting of all funds collected pursuant to this article and shall submit such report and accounting to the Office of Planning and Budget, ~~and~~ the Legislative Budget Office, and the Senate Budget Office no later than ~~30~~ 60 days after the last day of the preceding quarter.

15-21-114.

~~When any such person, agency, or unit of government whose duty it is to collect and pay over such moneys fails to remit the sums within 60 days of the date they are required to be paid over, the same shall be delinquent and there may be imposed, in addition to the principal amount due, a specific penalty in the amount of 5 percent of said principal amount per month for each month during which the money is continued to be delinquent, not to exceed a total of 25 percent of the principal amount.~~ Reserved.″

SECTION 7.

Said Title 15 is further amended by striking Code Section 15-21-132, relating to assessment and collection of victim assistance funds, and inserting in lieu thereof the following:

"15-21-132.

(a) The sums provided for in Code Section 15-21-131 shall be assessed and collected by the court officer charged with the duty of collecting moneys arising from fines and shall be paid over ~~on a monthly basis~~ to the Georgia Superior Court Clerks´ Cooperative Authority by the end of the month after the collection. The net proceeds shall be distributed by such authority as follows:

(1) If the county where the fine was imposed operates or participates in ~~a~~ any victim assistance program ~~approved~~ certified by the Criminal Justice Coordinating Council, then the moneys shall be paid over to the governing authority of the county for disbursement to those ~~that~~ victim assistance ~~program~~ programs; or

(2) If the county where the fine was imposed does not operate or participate in ~~a~~ any victim assistance program ~~approved~~ certified by the Criminal Justice Coordinating Council, then the moneys shall be paid over to the district attorney of the judicial circuit in which the county is located for the purpose of defraying the costs of victim assistance activities carried out by the district attorney´s office. Such funds shall be paid over in the same manner as other county funds paid for operations of the district attorney´s office and shall be in addition to rather than in lieu of any other such funds.

All such funds shall be paid to the recipients by the last day of the month in which the funds are received; provided, however, that the governing authority of the county shall be authorized to hold as reserve funds an amount not to exceed 5 percent of the funds received by the governing authority in the preceding calendar year.

~~(a.1) The court officer charged with the duty of collecting moneys arising from fines pursuant to this Code section and Code Section 15-21-133 is required to submit to the Criminal Justice Coordinating Council a monthly financial report which states the amount collected and the agencies, organizations, or programs which directly received funds in that same period from said officer in order to allow coordination of local, state, and federal funding sources for similar services~~

(b) The Georgia Superior Court Clerks´ Cooperative Authority shall receive and distribute the funds collected pursuant to this Code section to the county governing authorities and shall submit a financial report to the Criminal Justice Coordinating Council each month stating the amount collected and the amount disbursed to each county governing authority no later than the last day of the month following the month in which the funds were collected.

(c) The county governing authority receiving funds shall submit a financial report to the Criminal Justice Coordinating Council semiannually stating the recipients that directly received funds during such reporting period no later than the last day of the month following the reporting period in which the funds were collected in order to allow coordination of local, state, and federal funding sources for similar services. The Criminal Justice Coordinating Council shall report annually to the General Assembly the county governing authorities that failed to submit semiannual reports during the previous calendar year.

(d) All recipients of funds pursuant to this Code section shall submit an annual report to the Criminal Justice Coordinating Council. Such report shall include, but not be limited to, the total amount of funds received from each county governing authority, the purposes for which the funds were expended, and the total number of victims served in each county for which the funds were received. A copy of each recipient´s annual report shall also be submitted to each county governing authority from which funds were received pursuant to this Code section.

~~(b)~~(e) The Criminal Justice Coordinating Council shall promulgate rules governing the ~~approval~~ certification of victim assistance programs. The rules shall provide for the ~~approval~~ certification of programs which are designed to provide substantial assistance to victims of crime in understanding and dealing with the criminal justice system as it relates to the crimes committed against them. It is the intention of the General Assembly that ~~approval~~ certification shall be liberally granted so as to encourage local innovations in the development of victim assistance programs.

(f) The Criminal Justice Coordinating Council shall promulgate rules governing the revocation of certification of victim assistance programs. Such rules shall provide for the decertification of programs previously certified by the Criminal Justice Coordinating Council that are no longer in compliance with the rules promulgated by the Criminal Justice Coordinating Council pursuant to this Code section.

(g) Moneys arising from fines imposed pursuant to Code Section 15-21-131 shall not be paid to any victim assistance program that has not been certified by the Criminal Justice Coordinating Council or to any program that has been decertified by such council.″

SECTION 8.

Said Title 15 is further amended by striking Code Section 15-21-133, relating to payment of additional sums, and inserting in lieu thereof the following:

″15-21-133.

~~Moneys collected as provided for in this article shall be paid over as provided for in this article by the last day of the month following the month in which they are collected. When~~

~~any person, agency, or unit of government whose duty it is to collect and pay over such moneys fails to remit the sums within 60 days of the date they are required to be paid over, the same shall be delinquent and there may be imposed, in addition to the principal amount due, a specific penalty in the amount of 5 percent of said principal amount per month for each month during which the money is continued to be delinquent, not to exceed a total of 25 percent of the principal amount~~ Reserved."

SECTION 9.

Said Title 15 is further amended by striking Code Sections 15-21-150 and 15-21-151, relating to collection and remittance of additional penalties in driving under the influence cases for the Brain and Spinal Injury Trust Fund, and inserting in their place the following:

"15-21-150.

The sums provided for in Code Section 15-21-149 shall be assessed and collected by the clerk or court officer charged with the duty of collecting moneys arising from fines and shall be paid over by the last day of the following month to the Georgia Superior Court Clerks´ Cooperative Authority for remittance to the Brain and Spinal Injury Trust Fund Commission created in Code Section 15-21-143 ~~by the last day of the month there following~~, to be deposited into the Brain and Spinal Injury Trust Fund.

15-21-151.

~~Moneys collected as provided for in this article shall be paid over as provided for in this article by the last day of the month following the month in which they are collected. When any person, agency, or unit of government whose duty it is to collect and pay over such moneys fails to remit the sums within 60 days of the date they are required to be paid over, the same shall be delinquent and there may be imposed, in addition to the principal amount due, a specific penalty in the amount of 10 percent of said principal amount per month for each month during which the money is continued to be delinquent, not to exceed a total of 25 percent of the principal amount.~~ Reserved."

SECTION 10.

Said Title 15 is further amended by adding a new Chapter 21A to read as follows:

"CHAPTER 21A

15-21A-1.

(a) The General Assembly finds that over the years, at various times, there have been enacted into the law and Constitution of this state numerous provisions relating to court

costs, fees, and criminal penalty and bond surcharges for various stated purposes and that additional costs, fees, and surcharges may be added in the future. Because of the seriatim nature of these enactments, little or no consideration has been given to the interaction of the enacting provisions. There exists a lack of fiscal data concerning such fees. State law has in some cases provided insufficient guidance for local officials with respect to the priority and manner of distribution of such costs, fees, and surcharges. There exists a need for a centralized agency to act as the collecting and remitting agent for such costs, fees, and surcharges in order to provide for uniform practices and fiscal accountability with respect to such collection and remittance.

(b) It is the intent of this chapter to meet the needs identified in subsection (a) of this Code section and to provide for certain new fees and surcharges in order that funds may be made available for appropriation and may be appropriated for purposes of indigent defense.

15-21A-2.

As used in this chapter, the term 'authority' means the Georgia Superior Court Clerks´ Cooperative Authority established pursuant to Code Section 15-6-94.

15-21A-3.

(a) As used in this Code section the term 'court' means all trial courts within this state including, but not limited to, superior, juvenile, state, magistrate, probate, municipal, and special courts, whether called mayor´s courts, recorder´s courts, police courts, civil courts, traffic courts, or miscellaneous courts or any other trial court created in this state under any other name.

(b) The authority shall act as collecting and remitting agent with respect to the costs, fees, and surcharges for certain costs, fees, or surcharges by any clerk of court or other officer or agent of any court. The authority in performing this function shall receive and disburse such funds only in the capacity of a custodial trustee, and such funds shall not in the process of receipt and disbursement become funds of the authority. The costs, fees, and surcharges subject to this Code section are:

(1) The additional divorce case filing fee under Code Section 15-6-77.4 and the additional marriage license fee under Code Section 15-9-60.1;

(2) The surcharge on fines and bonds imposed for the training of law enforcement and prosecutorial officers and for indigent defense purposes under Code Section 15-21-73;

(3) The additional penalties imposed in cases of driving under the influence for purposes of state crime victims compensation under Code Section 15-21-112;

(4) The additional penalties imposed in cases of driving under the influence for purposes of the Brain and Spinal Injury Trust Fund under Code Section 15-21-149;

(5) Fees collected by the courts under Code Section 42-8-34; and

(6) Local victim assistance funds collected pursuant to Article 8 of Chapter 21 of this title.

15-21A-4.

(a)(1) Each clerk of any court or any other officer or agent of any court receiving any funds subject to this chapter on or after July 1, 2004, shall remit all such funds to the authority by the end of the month following the month in which such funds are received.

(2) The chief judge of superior court for each county shall have the authority to require compliance with paragraph (1) of this subsection by any court within the county. If any court is more than 60 days delinquent or is habitually delinquent in remitting any funds or reports required under this Code section or Code Section 15-21A-6, the authority shall notify the chief judge of superior court of the county in which the court is located.

(b) The authority shall prescribe uniform procedures and forms for the reporting and remittance of all funds subject to Code Section 15-21A-3; and all clerks or other officers or agents remitting such funds shall use the prescribed procedures and forms in reporting and remitting funds to the authority.

(c) The authority shall prescribe uniform rules, procedures, and forms relative to the partial or installment collection and remittance of funds subject to Code Section 15-21A-3. Any funds held by any court or unit of local government on July 1, 2004, consisting of previously collected partial or installment payments shall be subject to the rules, procedures, and forms so prescribed and shall be remitted to the authority to the extent provided for in such rules and procedures.

(d) The authority shall remit all funds collected to the designated receiving entities or general fund of the state treasury within 60 days of receiving such funds.

15-21A-5.

(a) The authority shall be entitled to retain from the funds received by the authority under Code Section 15-21A-3 and 15-21A-6 an amount equal to 1 percent of such funds, but in no event more than $500,000.00 per fiscal year, to reimburse the authority for its costs in administering this chapter. The net proceeds, after deduction of such administrative costs, from the funds received by the authority under Code Section 15-21A-3 shall be remitted by the authority as follows:

(1) The net proceeds received pursuant to paragraph (1) of subsection (b) of Code Section 15-21A-3 shall be remitted to the general fund of the state treasury;

(2) The net proceeds received pursuant to paragraph (2) of subsection (b) of Code Section 15-21A-3 shall be remitted to the general fund of the state treasury;

(3) The net proceeds received pursuant to paragraph (3) of subsection (b) of Code Section 15-21A-3 shall be remitted to the Georgia Crime Victims Compensation Board to be deposited into the Georgia Crime Victims Emergency Fund;

(4) The net proceeds received pursuant to paragraph (4) of subsection (b) of Code Section 15-21A-3 shall be remitted to the Brain and Spinal Injury Trust Fund Commission for deposit into the Brain and Spinal Injury Trust Fund;

(5) The net proceeds received pursuant to paragraph (5) of subsection (b) of Code Section 15-21A-3 shall be remitted to the general fund of the state treasury; and

(6) The net proceeds received pursuant to paragraph (6) of subsection (b) of Code Section 15-21A-3 shall be remitted pursuant to Code Section 15-21-132 for local victim assistance.

(b) The net proceeds received pursuant to Code Section 15-21A-6 shall be remitted to the general fund of the state treasury.

(c) Any interest earned on funds subject to this chapter while in the custody of the authority shall be remitted to the general fund of the state treasury.

15-21A-6.

(a) In addition to all other legal costs there shall be charged to the filing party and collected by the clerk an additional filing fee of $15.00 in each civil action or case filed in the superior, state, probate, recorder´s, mayor´s, and magistrate courts except that municipalities, counties, and political subdivisions shall be exempt from such fee. Without limiting the generality of the foregoing, such fee shall apply to all adoptions, certiorari, applications by personal representatives for leave to sell or reinvest, trade name registrations, applications for change of name, and all other proceedings of a civil nature. Any matter which is docketed upon the official dockets of the enumerated courts and to which a number is assigned shall be subject to such fee, whether such matter is contested or not.

(b) Any person who applies for or receives legal defense services under Chapter 12 of Title 17 shall pay the entity providing the services a single fee of $50.00 for the application for, receipt of, or application for and receipt of such services. The application fee may not be imposed if the payment of the fee is waived by the court. The court shall waive the fee if it finds that the applicant is unable to pay the fee or that hardship will result if the fee is charged.

(c) Each clerk of court, each indigent defense program, or any other officer or agent of any court receiving any funds subject to this Code section shall collect the additional fees provided in this Code section and shall pay such moneys over to the authority by the last

day of the month after the month of collection, to be deposited by the authority into the general fund of the state treasury.

(d) It is the intent of the General Assembly that all funds derived under this Code section shall be made available through the general appropriations process and may be appropriated for purposes of funding indigent defense.

(e) A public entity other than an entity providing legal defense services under Chapter 12 of Title 17 may charge, in addition to any other fee or surcharge authorized by law, a $50.00 application fee unless waived by the court for inability to pay or hardship. Any such fee shall be retained by the entity providing the services or used as otherwise provided by law and shall not be subject to payment to the authority or deposit into the state treasury.

15-21A-7.

(a) As used in this Code section the term 'court' means all trial courts within this state including, but not limited to, superior, juvenile, state, magistrate, probate, municipal, and special courts, whether called mayor´s courts, recorder´s courts, police courts, civil courts, traffic courts, or miscellaneous courts or any other trial court created in this state under any other name.

(b) The authority shall develop a reporting and accounting system that employs controls necessary to determine the accuracy of the fine and fee collections and disbursement by each clerk of court or other officer or agent of any court receiving any fines and fees. No later than 60 days after the end of the last day of each month, each such clerk or agent shall report to the authority on a reporting system prescribed by the authority. Any entity doing business with such clerk or agents and all agencies of the state shall cooperate in providing on a timely basis any information or data requested by the authority in a format prescribed by the authority by regulation.

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

15-21A-8.

Any clerk of court or any other officer or agent receiving any funds subject to this chapter who knowingly fails to pay over any such funds to the authority as required by this chapter, after receiving notice from the authority that such funds are delinquent, shall be guilty of a misdemeanor, except that if the amount of funds knowingly not paid over is $10,000.00

or more then such person shall be guilty of a felony and punished by imprisonment for not less than one nor more than ten years. The offense created by this Code section shall not merge with any other offense.″

SECTION 11.

Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is amended by striking subsection (c) of Code Section 17-12-3, relating to the membership of the Georgia Public Defender Standards Council, and inserting in lieu thereof the following:

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

SECTION 12.

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

″(c) The initial minimum standards promulgated by the council pursuant to this Code section and which are determined by the General Oversight Committee for the Georgia Public Defender Standards Council to have a fiscal impact shall be submitted by the council to the General Assembly at the regular session for 2005 and shall become effective only when ratified by joint resolution of the General Assembly and upon the approval of the resolution by the Governor or upon its becoming law without such approval. The power of the council to promulgate such initial minimum standards shall be deemed to be dependent upon such ratification; provided, however, the minimum standards promulgated by the council shall be utilized as a guideline prior to ratification. Any subsequent amendments or additions to the initial minimum standards promulgated by the council pursuant to this Code section and which are determined by the General Oversight Committee for the Georgia Public Defender Standards Council to have a fiscal impact shall be ratified at the next regular session of the General Assembly and shall become effective

only when ratified by joint resolution of the General Assembly and upon the approval of the resolution by the Governor or upon its becoming law without such approval.″

SECTION 13.

Said Title 17 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 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 or such person or entity as established by Senate rule, 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 or such person or entity as established by Senate rule shall appoint one member of the committee to serve as vice chairperson during each even-numbered year. The Senate Committee on Assignments or such person or entity as established by Senate rule 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;

(5) The fiscal impact of fees and fines on counties;

(6) The reports submitted pursuant to Code Section 15-21A-7 in order to identify, among other things, opportunities to reduce or consolidate fees, fines, and surcharges; and

(7) 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) Notwithstanding subsection (c) of Code Section 45-12-78, the council shall submit its budget estimate to the director of the Office of Planning and Budget prior to submitting its budget estimate to the Judicial Council of Georgia. The council´s budget estimate included

in the Governor´s budget report as provided in subsection (d) of Code Section 45-12-78 shall be as submitted by the Judicial Council of Georgia; provided, however, that the Governor shall be authorized to analyze the council´s budget estimate and include such analysis as a part of the Governor´s budget report.

(f) 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.

(g) 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.

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

SECTION 14.

Said Title 17 is further amended by adding a new Code section to read as follows:

″17-12-10.2.

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

SECTION 15.

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

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

SECTION 16.

Said Title 17 is further amended by adding a new article to read as follows:

″ARTICLE 1A

17-12-19.1.

As used in this article, the term:

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

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

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

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

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

17-12-19.2.

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

17-12-19.3.

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

(1) An arrangement whereby a judge of the court concerned will assign attorneys on an equitable basis through a systematic, coordinated defender plan under delegation to and supervision of the clerk or deputy clerk of the superior court, the clerk or deputy clerk of

the court concerned, or of an administrator appointed by the superior court for such purpose;

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

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

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

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

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

17-12-19.4.

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

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

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

17-12-19.5.

(a) When a nonprofit legal aid agency is involved in providing legal services to an indigent person under this article, the court concerned may allow to the legal aid agency an amount

equivalent to the compensation and direct expenses otherwise allowable to an assigned attorney. In this event the county governing authority shall pay to the legal aid agency the amount so determined from public funds available for the operation of the courts in the county.

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

17-12-19.6.

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

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

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

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

(e) If an office of public defender is established, his or her compensation, expenses and allowances, and the expense necessary to establish, maintain, and support his or her office

shall be paid by the county governing authority out of public funds available for the operation of the courts in the county.

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

17-12-19.7.

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

17-12-19.8.

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

17-12-19.9.

(a) When a superior court prescribes an arrangement for providing representation under this article, it may also prescribe a standard to govern the determination of indigency by all courts concerned within the county. The superior court may prescribe the requirements for a proper showing of material factors relating to ability to pay for legal services and the proper form and authentication thereof. In establishing an indigency standard, the superior court shall consider such factors as income, property owned, expenses, outstanding obligations, and the number and ages of dependents. Release on bail shall not necessarily

preclude a person from being considered indigent, nor shall it be necessary that a person be destitute or a pauper to be considered indigent.

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

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

17-12-19.10.

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

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

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

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

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

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

17-12-19.11.

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

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

17-12-19.12.

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

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

17-12-19.13.

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

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

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

17-12-19.14.

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

SECTION 17.

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

″(a) There is created in each judicial circuit in the state a circuit public defender selection panel to be composed of five members. The membership shall be composed of one member each appointed by the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court of Georgia, and the chief judge of the superior court of the circuit. Members of the circuit public defender selection panel shall be individuals with significant experience working in the criminal justice system or who have demonstrated a strong commitment to the provision of adequate and effective representation of indigent defendants. <u>A prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any employee of a prosecuting attorney´s office, or an employee of the Prosecuting Attorneys´ Council of the State of Georgia shall not serve as a member of the circuit public defender selection panel after July 1, 2005.</u> Members of the circuit public defender selection panel shall reside in the judicial circuit

in which ~~he or she serves~~ they serve. The circuit public defender selection panel members shall serve for a term of five years. Any vacancy for an appointed member shall be filled by the appointing authority."

SECTION 18.

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

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

SECTION 19.

Said Title 17 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´s total budget request for funding for the operations of the circuit public defender offices and the council´s programs shall not exceed the amount of funds collected for indigent defense pursuant to Code Sections 15-21-73 and 15-21A-6. For fiscal years beginning prior to July 1, 2006, such funds collected for indigent defense may be estimated by the council based on actual monthly collections received prior to the council´s budget request submission. 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 defender, the state auditor, and the legislative budget analyst a monthly report showing the budget amount of expenditures made under the travel budget. The council may periodically review and adjust the travel budget as may be necessary to carry out the purposes of this subsection.

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

SECTION 20.

Said Title 17 is further amended by striking Code Section 17-12-27, relating to appointment of assistant public defenders, salary, and promotions, and inserting in lieu thereof the following:

″17-12-27.

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

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

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

(b) Each assistant public defender appointed pursuant to subsection (a) of this Code section shall be classified based on education, training, and experience. The ~~classes~~ jobs of assistant public defenders and the minimum qualifications required for appointment or promotion to each ~~class~~ job shall be established by the council based on education, training, and experience and in accordance with the provisions of Code Sections 17-12-30 and 17-12-34.

(c) Each assistant public defender appointed pursuant to this Code section shall be compensated based on a salary ~~schedule~~ range established in accordance with subsection (c) of Code Section 17-12-30. The salary range for each ~~class~~ job established in accordance with subsection (b) of this Code section shall be as follows:

(1) Assistant public defender I. Not less than $38,124.00 nor more than 65 percent of the compensation of the circuit public defender;

(2) Assistant public defender II. Not less than $40,884.00 nor more than 70 percent of the compensation of the circuit public defender;

(3) Assistant public defender III. Not less than $45,108.00 nor more than 80 percent of the compensation of the circuit public defender; and

(4) Assistant public defender IV. Not less than $52,176.00 nor more than 90 percent of the compensation of the circuit public defender.

(d) All personnel actions involving attorneys appointed pursuant to this Code section shall be made by the circuit public defender in writing in accordance with the provisions of Code Section 17-12-30.

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

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

(3) The salary of any ~~Any~~ assistant public defender who, subsequent to his or her appointment pursuant to this Code section, is awarded an LL.M. or S.J.D. degree by a law school recognized by the State Bar of Georgia from which a graduate of or student

enrolled therein is permitted to take the bar examination or by a law school accredited by the American Bar Association or the Association of American Law Schools may be ~~advanced two salary steps~~ increased effective on the first day of the calendar month following the award of the degree, provided that such advancement does not exceed the maximum of the salary range applicable to the attorney´s ~~class~~ job classification.

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

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

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

SECTION 21.

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

″(d) Each investigator appointed pursuant to this Code section shall be compensated based on a salary ~~schedule~~ range established pursuant to Code Section 17-12-30. The salary range for the investigator appointed pursuant to this Code section shall be not less than $30,828.00 nor more than 70 percent of the compensation of the circuit public defender from state funds.

(e)(1) Except as otherwise provided in this subsection, an investigator appointed pursuant to this Code section shall be appointed initially to the entry grade of the ~~general~~ job on the state-wide pay ~~schedule~~ ranges.

(2) Any person who is employed in a nonstate paid investigator´s position within the office of the circuit public defender may be transferred to a state paid position. Such transfer shall be to the job and salary range commensurate with the education and experience of the employee. ~~salary step which is based on the number of years the person has served in the investigator position as if the person had been initially appointed pursuant to this Code section.~~

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

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

SECTION 22.

Said Title 17 is further amended by striking subsection (b) of Code Section 17-12-29, relating to employment of supplemental personnel and compensation, and inserting in lieu thereof the following:

″(b) Personnel appointed pursuant to this Code section shall be compensated based on a salary ~~schedule~~ range developed in accordance with Code Section 17-12-30.″

SECTION 23.

Said Title 17 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~~ ranges for each state paid position authorized by this article or any other provision of law. Salary ~~schedules~~ ranges shall be similar to the ~~general and special schedules~~ state-wide and senior executive ranges adopted by the State Merit System of Personnel Administration and shall provide for ~~a~~ minimum, ~~entry step and not less than ten additional steps,~~ midpoint, and maximum salaries not to exceed the maximum allowable salary. In establishing the salary ~~schedule~~ ranges, all amounts will be rounded off to the nearest whole dollar. The council may,

from time to time, revise the salary ~~schedule~~ ranges 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~~ job to which the person is appointed and the appropriate ~~step of the~~ salary ~~schedule~~ range.

(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~~ increased 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~~ range.

(4) Any reduction in salary shall be made in accordance with the salary ~~schedule~~ range 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 or the Administrative Office of the Courts, as determined by the council, as provided by this subsection from funds appropriated for such purpose. The council may, with the consent of the Department of Administrative Services or the Administrative Office of the Courts, 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 24.

Said Title 17 is further amended by striking paragraph (1) of subsection (a) of Code Section 17-12-36, relating to establishment of alternate indigent defense delivery systems, as enacted by Ga. L. 2003, p. 191, and inserting in lieu thereof the following:

″(1) The delivery system:

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

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

SECTION 25.

Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and agencies, is amended by adding a new Chapter 6 to read as follows:

"CHAPTER 6

35-6-1.

There is created the State Victim Services Commission. Such commission shall be responsible for developing a comprehensive state plan for assisting men, women, and children who are victims of crime through the distribution of the fine surcharges imposed for local victim assistance programs.

35-6-2.

(a) The State Victim Services Commission shall consist of 15 members as follows:

(1) The executive director of the Prosecuting Attorneys´ Council of Georgia or his or her designee;

(2) The president of the Georgia Sheriffs´ Association or his or her designee;

(3) The executive director of the Criminal Justice Coordinating Council or his or her designee;

(4) The chairperson of the Georgia Commission on Family Violence or his or her designee;

(5) The executive director of the Georgia Coalition Against Domestic Violence or his or her designee;

(6) The executive director of the Association County Commissioners of Georgia or his or her designee;

(7) The executive director of the Children´s Advocacy Centers of Georgia or his or her designee;

(8) The executive director of the Georgia Superior Court Clerks´ Cooperative Authority or his or her designee;

(9) The executive director of the Georgia Association of Homes and Services for Children or his or her designee;

(10) The executive director of the Georgia Municipal Association or his or her designee;

(11) The executive director of the Georgia Network to End Sexual Assault or his or her designee;

(12) A district attorney appointed by the Prosecuting Attorneys´ Council of Georgia;

(13) One member appointed by the Governor;

(14) One member appointed by the Lieutenant Governor; and

(15) One member appointed by the Speaker of the House of Representatives.

(b) The term of appointment shall be three years for initial members appointed in accordance with the provisions of paragraphs (13) and (15) of subsection (a) of this Code section. The term of appointment shall be two years for initial members appointed in accordance with the provisions of paragraphs (12) and (14) of subsection (a) of this Code section. The letter of appointment shall set out the term for which each member is appointed. Thereafter, each member shall be appointed for a term of two years, and no member may serve more than two consecutive terms. All vacancies shall be filled for the unexpired term by an appointee of the original appointing official.

(c) The commission shall elect a chairperson, vice chairperson, and a secretary from among its members for terms of two years, and any member shall be eligible for successive election to such office by the commission.

(d) The commission shall hold regular meetings at such times and such places as it may deem necessary or convenient to enable the commission to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this chapter. Special meetings may be called by the chairperson or a majority of the members of the commission.

(e) A quorum for transacting business shall be determined by the members of the commission.

(f) The members of the commission shall serve without compensation or expense reimbursement.

35-6-3.

(a) The State Victim Services Commission shall have the following powers and duties:

(1) To review the financial reports submitted pursuant to Code Section 15-21-132 concerning local victim assistance programs;

(2) To assess the degree of compliance of the courts in collecting and forwarding funds authorized to be collected pursuant to Article 8 of Chapter 21 of Title 15;

(3) To review and determine the extent to which county governing authorities collect funds from the courts and distribute such funds to victim services programs;

(4) To assess the extent to which such funds are utilized by such victim services programs to provide direct services to victims of crimes;

(5) To recommend changes in legislation that will ensure compliance in the collection, distribution, and use of victim assistance funds as needed; and

(6) To recommend as necessary and advisable rules and regulations for the collection and distribution of funds by court officers pursuant to Article 8 of Chapter 21 of Title 15.

(b) The commission may establish a victim services ombudsman program, provided that funds are appropriated by the General Assembly for such purpose or the commission receives sufficient funds from private grants or donations to fund such program.

35-6-4.

(a) The state auditor is authorized and directed to assist the State Victim Services Commission in the discharge of its duties set forth in this chapter.

(b) Any victim assistance program, including programs operated by public officers, that receives funds pursuant to Article 8 of Chapter 21 of Title 15 shall make available to the State Victim Services Commission, the state auditor, or such other persons as the State Victim Services Commission may designate all books and records of all receipts, income, and expenditures of such funds. The commission and its designees shall be authorized to inspect and make abstracts of records of services provided to victims of crimes by any victim assistance program, including programs operated by public officers, that receives funds pursuant to Article 8 of Chapter 21 of Title 15, provided that the commission and its designees shall not disclose the content of individually identifiable records that contain information that is privileged or confidential under the laws of this state or federal law.″

SECTION 26.

Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended by striking subsection (d) of Code Section 42-8-34, relating to determination and disposition of probation, and inserting in its place a new subsection to read as follows:

″(d)(1) In every case that a court of this state or any other state sentences a defendant to probation or any pretrial release or diversion program under the supervision of the department, in addition to any fine or order of restitution imposed by the court, there shall be imposed a probation fee as a condition of probation, release, or diversion in the amount equivalent to $23.00 per each month under supervision, and in addition, a one-time fee of $50.00 where such defendant was convicted of any felony. The probation fee may be waived or amended after administrative process by the department and approval of the court, or upon determination by the court, as to the undue hardship, inability to pay, or any other extenuating factors which prohibit collection of the fee; provided, however, that the imposition of sanctions for failure to pay fees shall be within the discretion of the court through judicial process or hearings. Probation fees shall be waived on probationers incarcerated or detained in a departmental or other confinement facility which prohibits employment for wages. All probation fees collected by the department shall be paid into the general fund of the state treasury, except as provided in subsection (f) of Code Section 17-15-13, relating to sums to be paid into the Georgia

Crime Victims Emergency Fund. Any fees collected by the court under this paragraph shall be remitted not later than the last day of the month after such fee is collected to the Superior Court Clerks´ Cooperative Authority for deposit into the general fund of the state treasury.

(2) In addition to any other provision of law, any person convicted of a violation of Code Section 40-6-391 or subsection (b) of Code Section 16-13-2 who is sentenced to probation or a suspended sentence by a municipal, magistrate, probate, recorder´s, mayor´s, state, or superior court shall also be required by the court to pay a one-time fee of $25.00. The clerk of court, or if there is no clerk the person designated to collect fines, fees, and forfeitures for such court, shall collect such fee and remit the same ~~to the general fund of the state treasury~~ not later than the ~~tenth~~ last day of the month after such fee is collected ~~and shall be subject to rule and attachment in the same manner as clerks of superior court for failure to so collect and remit~~ to the Georgia Superior Court Clerks´ Cooperative Authority for deposit into the general fund of the state treasury."

SECTION 27.

(a) Sections 1 through 16, Sections 25 and 26, this section, and Section 28 of this Act shall become effective upon approval of this Act by the Governor or upon its becoming law without such approval.

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

(c) Sections 18 through 24 of this Act shall become effective on January 1, 2005.

SECTION 28.

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