

The Senate Judiciary Committee offered the following substitute to SB 203:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 21A of Title 15 of the Official Code of Georgia Annotated, relating to
2 judicial accounting, so as to clarify remittance of the \$50.00 application fee to certain
3 entities; to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating
4 to legal defense for indigents, so as to authorize the recovery of attorney's fees and costs
5 under certain circumstances; to provide for definitions; to provide for clarity regarding which
6 entities may be entitled to collect attorney's fees and the mechanism for such collection; to
7 correct a cross-reference relating to circuit public defender office's contracts with local
8 governments; to provide for related matters; to provide an effective date; to repeal conflicting
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11 Chapter 21A of Title 15 of the Official Code of Georgia Annotated, relating to judicial
12 accounting, is amended by adding a new subsection to the end of Code Section 15-21A-6,
13 relating to application fees for free legal services and remittance of funds, to read as follows:

14 "(f) For the purposes of this Code section, a county or municipality that provides indigent
15 defense services or that contracts with a circuit public defender office for the provision of
16 indigent defense services in courts other than the superior and juvenile court is deemed to
17 be the entity providing the legal defense services and is entitled to impose and collect the
18 application fee authorized by subsection (e) of this Code section."
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SECTION 2.

20 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense
21 for indigents, is amended by striking subsection (d) of Code Section 17-12-23, relating to
22 contracts with local governments, and inserting in lieu thereof the following:

23 "(d) A city; or county; ~~or consolidated government~~ may contract with the circuit public
24 defender office for the provision of criminal defense for indigent persons accused of
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1 violating city; or county, ~~or consolidated government~~ ordinances or state laws. If a city; or
 2 county, ~~or consolidated government~~ does not contract with the circuit public defender
 3 office, the city; or county, ~~or consolidated government~~ shall be subject to all applicable
 4 standards adopted by the council for representation of indigent persons in this state."

5 SECTION 3.

6 Said chapter is further amended by inserting a new Article 2A to the chapter to read as
 7 follows:

8 "ARTICLE 2A

9 17-12-50.

10 As used in this article, the term:

11 (1) 'Paid in part' means payment by a county or municipality for a part of the cost of the
 12 provision of indigent defense services pursuant to a contract with a circuit public
 13 defender office as set forth in subsection (d) of Code Section 17-12-23. The term does not
 14 include payment by a county or municipality for office space and other supplies as set
 15 forth in Code Section 17-12-34.

16 (2) 'Public defender' means an attorney employed by a circuit public defender office, an
 17 attorney who is a conflict defender, or any other attorney who is paid from public funds
 18 to represent an indigent person in a criminal case.

19 17-12-51.

20 (a) When a defendant who is represented by a public defender, who is paid in part or in
 21 whole by a county, enters a plea of nolo contendere, first offender, or guilty or is otherwise
 22 convicted, the court may impose as a condition of probation repayment of all or a portion
 23 of the cost for providing legal representation and other expenses of the defense if the
 24 payment does not impose a financial hardship upon the defendant or the defendant's
 25 dependent or dependents. The defendant shall make the payment through the probation
 26 department to the county.

27 (b) When a defendant who is represented by a public defender, who is paid in part or in
 28 whole by a municipality, enters a plea of nolo contendere, first offender, or guilty or is
 29 otherwise convicted, the court may impose as a condition of probation repayment of all or
 30 a portion of the cost for providing legal representation and other expenses of the defense
 31 if the payment does not impose a financial hardship upon the defendant or the defendant's
 32 dependent or dependents. The defendant shall make the payment through the probation
 33 department to the municipality.

1 (c) If a defendant who is represented by a public defender, who is paid for entirely by the
2 state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted,
3 the court may impose as a condition of probation repayment of all or a portion of the cost
4 for providing legal representation and other costs of the defense if the payment does not
5 impose a financial hardship upon defendant or the defendant's dependent or dependents.
6 The defendant shall make the payment through the probation department to Georgia Public
7 Defender Standards Council for payment to the general fund of the state treasury. It is the
8 intent of the General Assembly that all funds collected under this subsection shall be made
9 available through the general appropriations process and may be appropriated for purposes
10 of funding indigent defense.

11 (d) In determining whether or not a payment imposed under this Code section imposes a
12 financial hardship upon a defendant or defendant's dependent or dependents and in
13 determining the amount of the payment to impose, the court shall consider the factors set
14 forth in Code Section 17-14-10. The public defender may provide the court with an
15 estimate of the cost for providing to the defendant the legal representation and other
16 expenses of the defense. If requested by the defendant, the court shall hold a hearing to
17 determine the amount to be paid.

18 (e) This Code section shall not apply to a disposition involving a child pursuant to Chapter
19 11 of Title 15, relating to juvenile proceedings.

20 17-12-52

21 (a) A county or municipality may recover payment or reimbursement from a person who
22 has received legal assistance from a public defender paid in part or in whole by the county
23 or municipality:

24 (1) If the person was not eligible to receive such legal assistance; or

25 (2) If the person has been ordered to pay for the legal representation and other expenses
26 of the defense pursuant to Code Section 17-12-51 and has not paid for the legal services.

27 (b) An action shall be brought within four years after the date on which the legal services
28 were received.

29 (c) In determining the amount of the payment imposed under this Code section, the court
30 shall consider the factors set forth in Code Section 17-14-10. The public defender may
31 provide the court with an estimate of the cost for providing to the defendant the legal
32 representation and other expenses of the defense.

33 (d) This Code section shall not apply to proceedings involving a child pursuant to Chapter
34 11 of Title 15, relating to juvenile proceedings."

SECTION 4.

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This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

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