

Senate Bill 139

By: Senators Wiles of the 37th and Smith of the 52nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal
2 defense for indigents, so as to transfer the Georgia Public Defender Standards Council from
3 the judicial branch of government to the executive branch; to provide for related matters; to
4 provide an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense
8 for indigents, is amended by revising Code Section 17-12-1, relating to the Georgia Public
9 Defender Standards Council, as follows:

10 "17-12-1.

11 (a) This chapter shall be known and may be cited as the 'Georgia Indigent Defense Act of
12 2003.'

13 (b) The Georgia Public Defender Standards Council shall be an independent agency within
14 the ~~judicial~~ executive branch of state government.

15 (c) The council shall be responsible for assuring that adequate and effective legal
16 representation is provided, independently of political considerations or private interests, to
17 indigent persons who are entitled to representation under this chapter."

18 style="text-align:center">**SECTION 2.**

19 Said chapter is further amended by revising subsection (e) of Code Section 17-12-10.1,
20 relating to the general oversight committee, as follows:

21 "~~(e) Notwithstanding subsection (c) of Code Section 45-12-78, the~~ The council shall
22 submit its budget estimate to the director of the Office of Planning and Budget ~~prior to~~
23 ~~submitting its budget estimate to the Judicial Council of Georgia~~ in accordance with
24 subsection (a) of Code Section 45-12-78. ~~The council's budget estimate included in the~~
25 ~~Governor's budget report as provided in subsection (d) of Code Section 45-12-78 shall be~~

1 ~~as submitted by the Judicial Council of Georgia; provided, however, that the Governor~~
 2 ~~shall be authorized to analyze the council's budget estimate and include such analysis as~~
 3 ~~a part of the Governor's budget report."~~

4 **SECTION 3.**

5 Said chapter is further amended by revising subsection (a) of Code Section 17-12-26, relating
 6 to the budget of the council, as follows:

7 "(a) The council shall prepare and submit to the ~~Judicial Council of Georgia~~ Office of
 8 Planning and Budget an annual proposed budget necessary for fulfilling the purposes of
 9 this article in accordance with Code Section 45-12-78. The budget request shall be based
 10 on the previous year's expenditures and budget requests submitted by each circuit public
 11 defender, the Office of the Georgia Capital Defender, and the office of the mental health
 12 advocate. The council's total budget request for funding for the operations of the circuit
 13 public defender offices and the council's programs shall not exceed the amount of funds
 14 collected for indigent defense pursuant to Code Sections 15-21-73 and 15-21A-6;
 15 provided, however, that the General Assembly shall not be obligated to appropriate such
 16 amount for indigent defense. ~~For fiscal years beginning prior to July 1, 2006, such funds~~
 17 ~~collected for indigent defense may be estimated by the council based on actual monthly~~
 18 ~~collections received prior to the council's budget request submission.~~ The council is also
 19 authorized to seek, solicit, apply for, and utilize funds from any public or private source
 20 to use in fulfilling the purposes of this article."

21 **SECTION 4.**

22 Said chapter is further amended by revising Code Section 17-12-30, relating to classification
 23 of personnel, responsibilities, compensation, and local supplements, as follows:

24 "17-12-30.

25 (a) All state paid personnel employed by the circuit public defenders pursuant to this
 26 article shall be employees of the ~~judicial~~ executive branch of state government ~~in~~
 27 ~~accordance with Article VI, Section VIII of the Constitution of Georgia~~ and shall be in the
 28 unclassified service of the State Merit System of Personnel Administration.

29 (b) Personnel employed by the circuit public defenders pursuant to this article shall have
 30 the authority, duties, powers, and responsibilities as are authorized by law or as assigned
 31 by the circuit public defender and shall serve at the pleasure of the circuit public defender.

32 (c)(1) The council shall establish salary ranges for each state paid position authorized by
 33 this article or any other provision of law. Salary ranges shall be similar to the state-wide
 34 and senior executive ranges adopted by the State Merit System of Personnel
 35 Administration and shall provide for minimum, midpoint, and maximum salaries not to

1 exceed the maximum allowable salary. In establishing the salary ranges, all amounts will
 2 be rounded off to the nearest whole dollar. The council may, from time to time, revise
 3 the salary ranges to include across-the-board increases which the General Assembly may
 4 from time to time authorize in the General Appropriations Act.

5 (2) The circuit public defender shall fix the compensation of each state paid employee
 6 appointed pursuant to this article in accordance with the job to which the person is
 7 appointed and the appropriate salary range.

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

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

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

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

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

28 SECTION 5.

29 This Act shall become effective on July 1, 2007.

30 SECTION 6.

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