

Senate Bill 140

By: Senators Smith of the 52nd, Wiles of the 37th and Johnson of the 1st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated,
2 relating to public defenders, so as to change the composition of the circuit public defender
3 selection panels; to change certain provisions about the removal of circuit public defenders;
4 to change the term of certain circuit public defenders; to correct a cross-reference; to provide
5 for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to
9 public defenders, is amended in Code Section 17-12-3, relating to creation and membership
10 of the Georgia Public Defender Standards Council, by revising paragraph (6) of subsection
11 (b) as follows:

12 "(6) Any vacancy for a member appointed pursuant to paragraph (3) of this subsection
13 shall be the successor to the circuit public defender as set forth in subsection ~~(d)~~ (e) of
14 Code Section 17-12-20."

15 **SECTION 2.**

16 Said article is further amended by revising Code Section 17-12-20, relating to public
17 defender selection panel for each circuit, appointment and removal of circuit public
18 defenders, and vacancies, as follows:

19 "17-12-20.

20 (a) There is created in each judicial circuit in ~~the~~ this state a circuit public defender
21 selection panel to be composed of ~~five~~ seven members. ~~The membership shall be composed~~
22 ~~of one member each appointed by the Governor, the Lieutenant Governor, the Speaker of~~
23 ~~the House of Representatives, the Chief Justice of the Supreme Court of Georgia, and the~~
24 ~~chief judge of the superior court of the circuit~~ shall each appoint one member. The
25 Governor shall appoint three members, two of which shall be members of the governing

1 authority of the counties within the judicial circuit for which such member is appointed to
2 serve. Members Other than the county commissioner, members of the circuit public
3 defender selection panel shall be individuals with significant experience working in the
4 criminal justice system or who have demonstrated a strong commitment to the provision
5 of adequate and effective representation of indigent defendants. A prosecuting attorney as
6 defined in paragraph (6) of Code Section 19-13-51, any employee of a prosecuting
7 attorney's office, or an employee of the Prosecuting Attorneys' Council of the State of
8 Georgia shall not serve as a member of the circuit public defender selection panel after July
9 1, 2005. Members of the circuit public defender selection panel shall reside in the judicial
10 circuit in which they serve. The circuit public defender selection panel members shall serve
11 for a term of five years. Any vacancy for an appointed member shall be filled by the
12 appointing authority.

13 (b) By majority vote of its membership, the circuit public defender selection panel shall
14 appoint the circuit public defender in the circuit as provided in this article. The first such
15 appointments shall be made to take office on January 1, 2005, for terms of up to four years.
16 The initial appointments shall be for a term of up to four years. Any circuit public defender
17 whose term expires on or after January 1, 2008, and any circuit public defender appointed
18 after January 1, 2008, shall serve for a term not longer than two years. A circuit public
19 defender may be appointed for successive terms, but may not be reappointed if he or she
20 was removed pursuant to subsection (c) of this Code section or if his or her appointment
21 was rescinded pursuant to subsection (d) of this Code section.

22 (c) A circuit public defender may be removed for cause by a majority vote of the council.

23 (d) A circuit public defender selection panel may convene at any time during its circuit
24 public defender's term of office and, by majority vote of its membership, rescind its
25 appointment upon good cause shown. The circuit public defender shall be given
26 reasonable notice of the panel's intention to act and shall be given the opportunity to appear
27 and present evidence and testimony on his or her behalf. All evidence presented to the
28 circuit public defender selection panel and such panel's findings shall be filed in the
29 superior court clerk's office for the circuit.

30 ~~(d)~~(e) If a vacancy occurs for the position of circuit public defender, the chief judge of the
31 superior court of the circuit shall appoint an interim circuit public defender to serve until
32 the circuit public defender selection panel has appointed a replacement to serve out the
33 unexpired term of office. The circuit public defender selection panel shall appoint a
34 replacement circuit public defender, who shall not be a person who was removed pursuant
35 to subsection (c) of this Code section or whose appointment was rescinded pursuant to
36 subsection (d) of this Code section, within three months of the occurring of the vacancy."

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SECTION 3.

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