

House Bill 861

By: Representatives Mills of the 25th, Rogers of the 26th, Collins of the 27th, and Benton of the 31st

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 15-21-77 and Chapter 12 of Title 17 of the Official Code of Georgia
2 Annotated, relating to funding for indigent defense and legal defense of indigents,
3 respectively, so as to allow certain judicial circuits to have alternative delivery systems which
4 opt out from having a public defender system under certain circumstances; to provide for
5 procedure; to change provisions relating to alternative delivery systems; to provide for
6 related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 15-21-77 of the Official Code of Georgia Annotated, relating to funding for
10 indigent defense, is amended by revising subsection (c) as follows:

11 "(c) Where the Georgia Public Defender Standards Council has approved an alternative
12 delivery system as set forth in Code Section 17-12-36 or 17-12-37, the council shall pay
13 from funds available to the council an amount of funds equal to the amount that would
14 have been allocated to the circuit for the minimum salary of the circuit public defender, the
15 assistant circuit public defenders, the investigator, and the administrative staff, exclusive
16 of benefits, if the circuit was not operating an alternative delivery system."

17 **SECTION 2.**

18 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense
19 of indigents, is amended in Code Section 17-12-7, relating to councilmembers,
20 responsibilities, voting, removal, quorum, meetings, officers, and expenses, by revising
21 subsection (d) as follows:

22 "(d) Unless otherwise provided in this article, a quorum shall be a majority of the members
23 of the council who are then in office, and decisions of the council shall be by majority vote
24 of the members present, except that a majority of the entire council must approve the
25 appointment or removal of the chairperson or removal of a circuit public defender for cause

1 pursuant to Code Section 17-12-20 and an alternative delivery system pursuant to Code
2 Section 17-12-36 or 17-12-37 and other matters as set forth in Code Section 17-12-36 or
3 17-12-37."

4 **SECTION 3.**

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

6 "17-12-37.

7 (a) Notwithstanding the provisions of Code Section 17-12-36, the council shall permit a
8 judicial circuit composed of a single county or two counties to have an alternative delivery
9 system to the one set forth in this article if the governing authority of the county or counties
10 comprising the judicial circuit enacts a resolution agreeing to fund its delivery system and
11 expressing its desire to have an alternative delivery system. A copy of such resolution shall
12 be transmitted by registered or certified mail or statutory overnight delivery to the council
13 with notice of the judicial circuit's intention to establish an alternative delivery system not
14 later than November 30 of the fiscal year immediately preceding the beginning of the fiscal
15 year in which the judicial circuit intends to begin the alternative delivery system. Notices
16 to the council received after November 30 shall not be effective until the beginning of the
17 second fiscal year following the receipt of the notice. The approval of such alternative
18 delivery system by the council shall not be required.

19 (b) In the event an alternative delivery system is established, the council shall annually
20 review the operation of such system and determine whether such system is meeting the
21 standards as established by the council and is eligible to continue operating as an
22 alternative delivery system. In the event the council determines that such system is not
23 meeting the standards as established by the council, the council shall provide written notice
24 to such system of the deficiencies and shall provide such system an opportunity to cure
25 such deficiencies.

26 (c) In the event an alternative delivery system is established, it shall keep and maintain
27 appropriate records, which shall include the number of persons represented; the offenses
28 charged; the outcome of each case; the expenditures made in providing services; and any
29 other information requested by the council."

30 **SECTION 4.**

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