

The Senate Judiciary Committee offered the following substitute to SB 42:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, the "Georgia  
2 Indigent Defense Act of 2003," so as to extensively revise said Act; to reconstitute the  
3 Georgia Public Standards Council with new membership; to change the powers and duties  
4 of the council and provide that it shall be an advisory body; to provide for the Georgia Public  
5 Standards Agency as an agency of the state; to provide for its director and the powers and  
6 duties and operations of the agency and the director; to provide that the director shall have  
7 the control and management of the agency and shall exercise supervision with respect to  
8 circuit public defenders and carry out other duties formerly vested in the council; to provide  
9 for procedures for the removal of a circuit public defender from office; to provide for other  
10 related matters; to provide for effective dates; to repeal conflicting laws; and for other  
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

13 Chapter 12 of Title 17 of the Official Code of Georgia Annotated, the 'Georgia Indigent  
14 Defense Act of 2003,' is amended by revising Code Sections 17-12-1 through 17-12-10.1,  
15 which Code sections relate to the Georgia Public Standards Council and its director and  
16 operations, as follows:  
17

18 "17-12-1.

19 (a) This chapter shall be known and may be cited as the 'Georgia Indigent Defense Act of  
20 2003.'

21 (b) The Georgia Public Defender Standards Council shall be an ~~independent agency~~  
22 advisory body within the executive branch of state government.

23 (c) The Georgia Public Defender Agency shall be an independent agency within the  
24 executive branch of state government. The ~~council~~ agency shall be responsible for assuring  
25 that adequate and effective legal representation is provided, independently of political

26 considerations or private interests, to indigent persons who are entitled to representation  
27 under this chapter.

28 17-12-2.

29 As used in this chapter, the term:

30 (0.5) 'Agency' means the Georgia Public Defender Agency under the direction of the  
31 director.

32 (1) 'Assistant public defender' means an attorney who is employed by any circuit public  
33 defender.

34 (2) 'Circuit public defender' means the head of a public defender office providing  
35 indigent defense representation within any given judicial circuit of this state.

36 (3) 'Circuit public defender office' means the office of any of the several circuit public  
37 defenders.

38 (4) 'Council' means the Georgia Public Defender Standards Council.

39 (5) 'Director' means the director of the Georgia Public Defender Agency Standards  
40 Council.

41 (6) 'Indigent person' or 'indigent defendant' means:

42 (A) A person charged with a misdemeanor, violation of probation, or a municipal or  
43 county offense punishable by imprisonment who earns less than 100 percent of the  
44 federal poverty guidelines unless there is evidence that the person has other resources  
45 that might reasonably be used to employ a lawyer without undue hardship on the person  
46 or his or her dependents;

47 (B) A juvenile charged with a delinquent act or a violation of probation punishable by  
48 detention whose parents earn less than 125 percent of the federal poverty guidelines  
49 unless there is evidence that the juvenile or his or her parents have other resources that  
50 might reasonably be used to employ a lawyer without undue hardship on the juvenile,  
51 his or her parents, or the parent's dependents; and

52 (C) A person charged with a felony who earns or, in the case of a juvenile, whose  
53 parents earn, less than 150 percent of the federal poverty guidelines unless there is  
54 evidence that the person has other resources that might reasonably be used to employ  
55 a lawyer without undue hardship on the person, his or her dependents, or, in the case  
56 of a juvenile, his or her parents or the parent's dependents.

57 In no case shall a person whose maximum income level exceeds 150 percent of the  
58 federal poverty level or, in the case of a juvenile, whose household income exceeds 150  
59 percent of the federal poverty level be an indigent person or indigent defendant.

60 (7) 'Legislative oversight committee' means the Legislative Oversight Committee for the  
61 Georgia Public Defender ~~Standards Council~~ Agency.

62 (8) 'Public defender' means an attorney who is employed in a circuit public defender  
63 office or who represents an indigent person pursuant to this chapter.

64 17-12-3.

65 (a) There is created the Georgia Public Defender Standards Council to be composed of 15  
66 members.

67 (b) Upon the effective date of this Act, the council shall be reconstituted as a new advisory  
68 body with new members appointed in 2009. The members serving on the council  
69 immediately prior to the effective date of this Act shall cease to serve on that date, but  
70 such prior members shall be eligible for reappointment in 2009 to succeed themselves or  
71 to fill another position on the council. Ten members of the council shall be appointed as  
72 follows:

73 (1) Two members shall be appointed by the Governor; and four members shall be  
74 appointed by the Lieutenant Governor; and the Speaker of the House of Representatives;  
75 the Chief Justice of the Supreme Court of Georgia, and the Chief Judge of the Georgia  
76 Court of Appeals as further set forth in paragraph (2) of this subsection. Except as  
77 provided in paragraph (3.1) of this subsection, the members of the council shall be  
78 individuals with significant experience working in the criminal justice system or who  
79 have demonstrated a strong commitment to the provision of adequate and effective  
80 representation of indigent defendants. The members shall serve terms of four years;  
81 ~~provided, however, that the members appointed from the even-numbered judicial~~  
82 ~~administration circuits shall serve initial terms of six years and thereafter shall serve~~  
83 ~~terms of four years;~~

84 (2) The members appointed pursuant to paragraph (1) of this subsection shall be chosen  
85 so that each of the ten judicial administration districts in this state is represented and so  
86 that each appointing authority shall rotate the particular judicial administration district  
87 for which he or she is responsible for appointing. The appointments shall be as follows:

88 (A) For the initial appointments in 2009:

89 (i) The Governor shall appoint one person who resides in judicial administration  
90 district 1 and one person who resides in judicial administration district 2;

91 (ii) The Lieutenant Governor shall appoint one person who resides in judicial  
92 administration district 3 ~~and~~, one person who resides in judicial administration district  
93 4, one person who resides in judicial administration district 7, and one person who  
94 resides in judicial administration district 8; and

95 (iii) The Speaker of the House of Representatives shall appoint one person who  
96 resides in judicial administration district 5, ~~and~~ one person who resides in judicial

97 administration district 6; one person who resides in judicial administration district 9,  
 98 and one person who resides in judicial administration district 10;

99 ~~(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who~~  
 100 ~~resides in judicial administration district 7 and one person who resides in judicial~~  
 101 ~~administration district 8, except that on and after July 1, 2008, the Lieutenant~~  
 102 ~~Governor shall make such appointments; and~~

103 ~~(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who~~  
 104 ~~resides in judicial administration district 9 and one person who resides in judicial~~  
 105 ~~administration district 10, except that on and after July 1, 2008, the Speaker of the~~  
 106 ~~House of Representatives shall make such appointments;~~

107 (B) For the first subsequent council appointments:

108 (i) The Governor shall appoint one person who resides in judicial administration  
 109 district 3 and one person who resides in judicial administration district 4;

110 (ii) The Lieutenant Governor shall appoint one person who resides in judicial  
 111 administration district 5, and one person who resides in judicial administration district  
 112 6, one person who resides in judicial administration district 9, and one person who  
 113 resides in judicial administration district 10; and

114 (iii) The Speaker of the House of Representatives shall appoint one person who  
 115 resides in judicial administration district 1, one person who resides in judicial  
 116 administration district 2, one person who resides in judicial administration district 7,  
 117 and one person who resides in judicial administration district 8;

118 ~~(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who~~  
 119 ~~resides in judicial administration district 9 and one person who resides in judicial~~  
 120 ~~administration district 10, except that on and after July 1, 2008, the Lieutenant~~  
 121 ~~Governor shall make such appointments; and~~

122 ~~(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who~~  
 123 ~~resides in judicial administration district 1 and one person who resides in judicial~~  
 124 ~~administration district 2, except that on and after July 1, 2008, the Speaker of the~~  
 125 ~~House of Representatives shall make such appointments;~~

126 (C) For the second subsequent council appointments:

127 (i) The Governor shall appoint one person who resides in judicial administration  
 128 district 5 and one person who resides in judicial administration district 6;

129 (ii) The Lieutenant Governor shall appoint one person who resides in judicial  
 130 administration district 1, one person who resides in judicial administration district 2,  
 131 one person who resides in judicial administration district 7, and one person who  
 132 resides in judicial administration district 8; and

133 (iii) The Speaker of the House of Representatives shall appoint one person who  
 134 resides in judicial administration district 3, one person who resides in judicial  
 135 administration district 4, one person who resides in judicial administration district 9,  
 136 and one person who resides in judicial administration district 10;

137 ~~(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who~~  
 138 ~~resides in judicial administration district 1 and one person who resides in judicial~~  
 139 ~~administration district 2, except that on and after July 1, 2008, the Lieutenant~~  
 140 ~~Governor shall make such appointments; and~~

141 ~~(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who~~  
 142 ~~resides in judicial administration district 3 and one person who resides in judicial~~  
 143 ~~administration district 4, except that on and after July 1, 2008, the Speaker of the~~  
 144 ~~House of Representatives shall make such appointments;~~

145 (D) For the third subsequent council appointments:

146 (i) The Governor shall appoint one person who resides in judicial administration  
 147 district 7 and one person who resides in judicial administration district 8;

148 (ii) The Lieutenant Governor shall appoint one person who resides in judicial  
 149 administration district 3, one person who resides in judicial administration district 4,  
 150 one person who resides in judicial administration district 9, and one person who  
 151 resides in judicial administration district 10;

152 (iii) The Speaker of the House of Representatives shall appoint one person who  
 153 resides in judicial administration district 1, and one person who resides in judicial  
 154 administration district 2; one person who resides in judicial administration district 5,  
 155 and one person who resides in judicial administration district 6.

156 ~~(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who~~  
 157 ~~resides in judicial administration district 3 and one person who resides in judicial~~  
 158 ~~administration district 4, except that on and after July 1, 2008, the Lieutenant~~  
 159 ~~Governor shall make such appointments; and~~

160 ~~(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who~~  
 161 ~~resides in judicial administration district 5 and one person who resides in judicial~~  
 162 ~~administration district 6, except that on and after July 1, 2008, the Speaker of the~~  
 163 ~~House of Representatives shall make such appointments; and~~

164 (E) For the fourth subsequent council appointments:

165 (i) The Governor shall appoint one person who resides in judicial administration  
 166 district 9 and one person who resides in judicial administration district 10;

167 (ii) The Lieutenant Governor shall appoint one person who resides in judicial  
 168 administration district 1 and one person who resides in judicial administration district

169 2, one person who resides in judicial administration district 5, and one person who  
 170 resides in judicial administration district 6;

171 (iii) The Speaker of the House of Representatives shall appoint one person who  
 172 resides in judicial administration district 3 ~~and~~, one person who resides in judicial  
 173 administration district 4~~;~~, one person who resides in judicial administration district 7,  
 174 and one person who resides in judicial administration district 8.

175 ~~(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who~~  
 176 ~~resides in judicial administration district 5 and one person who resides in judicial~~  
 177 ~~administration district 6, except that on and after July 1, 2008, the Lieutenant~~  
 178 ~~Governor shall make such appointments; and~~

179 ~~(v) The Chief Judge of the Georgia Court of Appeals shall appoint one person who~~  
 180 ~~resides in judicial administration district 7 and one person who resides in judicial~~  
 181 ~~administration district 8, except that on and after July 1, 2008, the Speaker of the~~  
 182 ~~House of Representatives shall make such appointments.~~

183 All subsequent appointments shall continue on, with the entire cycle starting over again  
 184 as specified in subparagraph (A) of this paragraph;

185 (3) The eleventh member shall be one circuit public defender who shall serve on the  
 186 council. After the initial appointments as set forth in paragraph (4) of this subsection, the  
 187 circuit public defender to serve on the council shall be elected by a majority vote of all  
 188 the circuit public defenders. The circuit public defender councilmember shall serve terms  
 189 of two years;

190 (3.1) Four members of the council shall be county commissioners who have been elected  
 191 and are serving as members of a county governing authority in this state. The county  
 192 commissioner councilmembers shall be appointed by the Governor on or before ~~July 1,~~  
 193 ~~2008,~~ the effective date of this Act and shall be from different geographic regions of this  
 194 state. The Governor may solicit recommendations for such appointees from the  
 195 Association County Commissioners of Georgia. Each county commissioner  
 196 councilmember shall serve terms of four years; provided, however, that the initial  
 197 appointments shall be for one, two, three, and four years, respectively, as designated by  
 198 the Governor for each appointment, and thereafter, such members shall serve terms of  
 199 four years. A county commission councilmember shall be eligible to serve so long as he  
 200 or she retains the office by virtue of which he or she is serving on the council;

201 (4) Except as provided in paragraph (3.1) of this subsection, all initial appointments shall  
 202 be made to become members of the council ~~July 1, 2003~~ upon the effective date of this  
 203 Act, and their successors shall become members of the council on July 1 following their  
 204 appointment. ~~The initial appointees from the even-numbered judicial administration~~  
 205 ~~circuits shall serve until June 30, 2009. Notwithstanding the provisions of paragraph (3)~~

206 ~~of this subsection, the initial member representing the circuit public defenders shall be~~  
 207 ~~made by the Supreme Court of Georgia.~~ The person representing the circuit defender  
 208 position on the initial council shall be engaged on a full-time basis in the provision of  
 209 criminal defense to the indigent;

210 (5) Any vacancy for a member appointed pursuant to paragraphs (1), (2), and (3.1) of  
 211 this subsection shall be filled by the appointing authority, and such appointee shall serve  
 212 the balance of the vacating member's unexpired term; and

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

216 (c) In making the appointments for ten members of the council as provided in  
 217 paragraph (2) of subsection (b) of this Code section, the appointing authorities shall seek  
 218 to identify and appoint persons who represent a diversity of backgrounds and experience  
 219 and shall solicit suggestions from the State Bar of Georgia, state and local bar associations,  
 220 the Georgia Association of Criminal Defense Lawyers, the councils representing the  
 221 various categories of state court judges in Georgia, and the Prosecuting Attorneys' Council  
 222 of the State of Georgia, as well as from the public and other interested organizations and  
 223 individuals within this state. The appointing authorities shall not appoint a prosecuting  
 224 attorney as defined in paragraph (6) of Code Section 19-13-51, any employee of a  
 225 prosecuting attorney's office, or an employee of the Prosecuting Attorneys' Council of the  
 226 State of Georgia to serve on the council.

227 ~~(d) This Code section shall become effective on July 1, 2003, for purposes of making the~~  
 228 ~~initial appointments to the council.~~

229 17-12-4.

230 (a) The ~~council~~ agency:

231 (1) Shall be a legal entity;

232 (2) Shall have perpetual existence;

233 (3) May contract;

234 (4) May own property;

235 (5) May accept funds, grants, and gifts from any public or private source, which shall be  
 236 used to defray the expenses incident to implementing its purposes;

237 (6) May adopt and use an official seal;

238 (7) May establish a principal office;

239 (8) May hire such administrative and clerical personnel as may be necessary and  
 240 appropriate to fulfill its purposes; and

241 (9) Shall have such other powers, privileges, and duties as may be reasonable and  
 242 necessary for the proper fulfillment of its purposes.

243 (b) The ~~council~~ director shall establish auditing procedures as may be required in  
 244 connection with the handling of public funds. The state auditor shall be authorized and  
 245 directed to make an annual audit of the transactions of the ~~council~~ agency and to make a  
 246 complete report of the same to the General Assembly. The annual audit shall disclose all  
 247 moneys received by the ~~council~~ agency and all expenditures made by the ~~council~~ agency  
 248 by revenue source, including all programs and special projects itemized in the General  
 249 Appropriations Act. The annual audit shall include an itemization by revenue source of  
 250 encumbered and reserved money. Revenue sources shall include each county governing  
 251 authority's expenditures which are made pursuant to Code Sections 17-12-31 and 17-12-32  
 252 and city or county expenditures which are made pursuant to subsection (d) of Code Section  
 253 17-12-23. The state auditor shall also make an audit of the affairs of the ~~council~~ agency  
 254 at any time when requested to do so by ~~a majority of the council~~ the director or by the  
 255 Governor or General Assembly.

256 (c) The ~~council~~ agency may not provide compensation from its funds to any administrative  
 257 or clerical personnel employed by the ~~council~~ agency if the personnel are then receiving  
 258 retirement compensation from any retirement or pension fund created by Title 47 to  
 259 provide compensation for past services as a judicial officer, prosecuting attorney, indigent  
 260 defense attorney, court officer, or law enforcement officer except for county or municipal  
 261 retirement funds.

262 17-12-5.

263 (a) To be eligible for appointment as the director, a candidate shall be a member in good  
 264 standing of the State Bar of Georgia with at least seven years' experience in the practice of  
 265 law. ~~The director shall be selected on the basis of training and experience and such other~~  
 266 ~~qualifications as the council deems appropriate.~~ The director shall be appointed by the  
 267 Governor and shall serve at the pleasure of the Governor.

268 (b)(1) The director shall work with and provide support services and programs for circuit  
 269 public defender offices and other attorneys representing indigent persons in criminal or  
 270 juvenile cases in order to improve the quality and effectiveness of legal representation of  
 271 such persons and otherwise fulfill the purposes of this chapter. Such services and  
 272 programs shall include, but shall not be limited to, technical, research, and administrative  
 273 assistance; educational and training programs for attorneys, investigators, and other staff;  
 274 assistance with the representation of indigent defendants with mental disabilities;  
 275 assistance with the representation of juveniles; assistance with death penalty cases; and  
 276 assistance with appellate advocacy.

277 (2) The director may establish divisions within the office to administer the services and  
 278 programs as may be necessary to fulfill the purposes of this chapter. The director shall  
 279 establish a mental health advocacy division and the Georgia capital defender division.

280 (3) The director may hire and supervise such staff employees and may contract with  
 281 outside consultants on behalf of the office as may be necessary to provide the services  
 282 contemplated by this chapter.

283 (c) The director shall have and may exercise the following power and authority:

284 (1) The power and authority to take or cause to be taken any or all action necessary to  
 285 perform any indigent defense services or otherwise necessary to perform any duties,  
 286 responsibilities, or functions which the ~~council~~ agency is authorized by law to perform  
 287 or to exercise any power or authority which the ~~council~~ agency is authorized by law to  
 288 exercise; and

289 (2) The power and authority to make, promulgate, enforce, or otherwise require  
 290 compliance with any and all rules, regulations, procedures, or directives necessary to  
 291 perform any indigent defense services, to carry into effect the minimum standards and  
 292 procedures promulgated by the ~~council~~ agency, or otherwise necessary to perform any  
 293 duties, responsibilities, or functions which the ~~council~~ agency is authorized by law to  
 294 perform, ~~or to exercise any power or authority which the council is authorized by law to~~  
 295 ~~exercise; and~~

296 ~~(3) The power and authority to assist the council in the performance of its duties,~~  
 297 ~~responsibilities, and functions and the exercise of its power and authority.~~

298 (d) The director shall:

299 (1) Prepare and submit ~~to the council a proposed~~ the budget for the ~~council~~ agency. The  
 300 director shall also prepare and submit an annual report containing pertinent data on the  
 301 operations, costs, and needs of the ~~council~~ agency and such other information as the  
 302 ~~council~~ Governor may require;

303 (2) Develop such rules, policies, procedures, regulations, and standards as may be  
 304 necessary to carry out the provisions of this chapter and comply with all applicable laws,  
 305 standards, and regulations, ~~and submit these to the council for approval;~~

306 (3) Administer and coordinate the operations of the ~~agency~~ council ~~and supervise~~  
 307 ~~compliance with rules, policies, procedures, regulations, and standards adopted by the~~  
 308 ~~council;~~

309 (4) Maintain proper records of all financial transactions related to the operation of the  
 310 ~~council~~ agency;

311 (5) At the director's discretion, solicit and accept on behalf of the ~~council~~ agency any  
 312 funds that may become available from any source, including government, nonprofit, or  
 313 private grants, gifts, or bequests;

- 314 (6) Coordinate the services of the ~~council~~ agency with any federal, county, or private  
 315 programs established to provide assistance to indigent persons in cases subject to this  
 316 chapter and consult with professional bodies concerning the implementation and  
 317 improvement of programs for providing indigent services;
- 318 (7) Provide for the training of attorneys and other staff involved in the legal  
 319 representation of persons subject to this chapter;
- 320 (8) Attend all council meetings, ~~except those meetings or portions thereof that address~~  
 321 ~~the question of appointment or removal of the director;~~
- 322 (9) Ensure that the expenditures of the ~~council~~ agency are not greater than the amounts  
 323 budgeted or available from other revenue sources;
- 324 (10) Hire, ~~with the pending approval of the council,~~ a mental health advocate who shall  
 325 serve as director of the division of the office of mental health advocacy;
- 326 (11) Hire, ~~with the pending approval of the council,~~ the capital defender who shall serve  
 327 as the director of the division of the office of the Georgia capital defender; and
- 328 (12) Evaluate each circuit public defender's job performance, ~~and communicate his or~~  
 329 ~~her findings to the council, and~~
- 330 (13) ~~Perform other duties as the council may assign.~~

331 17-12-6.

- 332 (a) The ~~council~~ agency shall assist the public defenders throughout the state in their efforts  
 333 to provide adequate legal defense to the indigent. Assistance may include:
- 334 (1) The preparation and distribution of a basic defense manual and other educational  
 335 materials;
- 336 (2) The preparation and distribution of model forms and documents employed in indigent  
 337 defense;
- 338 (3) The promotion of and assistance in the training of indigent defense attorneys;
- 339 (4) The provision of legal research assistance to public defenders; and
- 340 (5) The provision of such other assistance to public defenders as may be authorized by  
 341 law.
- 342 (b) The ~~council~~ director:
- 343 (1) Shall be the fiscal officer for the circuit public defender offices and shall account for  
 344 all moneys received from each governing authority; and
- 345 (2) Shall collect, maintain, review, and publish records and statistics for the purpose of  
 346 evaluating the delivery of indigent defense representation in Georgia.

347 17-12-7.

348 (a) All members of the council shall at all times act in the best interest of indigent  
349 defendants who are receiving legal representation under the provisions of this chapter.

350 (b) All members of the council shall be entitled to vote on any matter coming before the  
351 council unless otherwise provided by law or by rules adopted by the council concerning  
352 conflicts of interest.

353 (c) Each member of the council shall serve until a successor has been appointed. Removal  
354 of council members shall be for cause and shall be in accordance with policies and  
355 procedures adopted by the council.

356 (d) Unless otherwise provided in this article, a quorum shall be a majority of the members  
357 of the council who are then in office, and decisions of the council shall be by majority vote  
358 of the members present, ~~except that a majority of the entire council must approve the~~  
359 ~~appointment or removal of the chairperson or removal of a circuit public defender for cause~~  
360 ~~pursuant to Code Section 17-12-20 and an alternative delivery system pursuant to Code~~  
361 ~~Section 17-12-36 and other matters as set forth in Code Section 17-12-36.~~

362 (e) The council shall meet at least quarterly and at such other times and places as it deems  
363 necessary or convenient for the performance of its duties.

364 (f) The council shall elect a chairperson and such officers from the members of the council  
365 as it deems necessary and shall adopt such rules for the transaction of its business as it  
366 desires. The chairperson and officers shall serve for a term of two years and may be  
367 removed without cause by a vote of two-thirds of the members of the entire council and for  
368 cause by a majority vote of the entire council. The chairperson shall retain a vote on all  
369 matters except those in which the chairperson has a conflict of interest or the removal of  
370 the chairperson for cause. The council shall keep and maintain minutes of all council  
371 meetings.

372 (g) The members of the council shall receive no compensation for their services but shall  
373 be reimbursed for their actual expenses incurred in the performance of their duties as  
374 members of the council. Any expenses incurred by the council shall be paid from the  
375 general operating budget of the ~~council~~ agency.

376 17-12-8.

377 (a) The council shall ~~approve~~ recommend the development and improvement of programs  
378 which provide legal representation to indigent persons and juveniles.

379 (b) The council shall ~~approve and implement~~ recommend programs, services, rules,  
380 policies, procedures, regulations, and standards as may be necessary to fulfill the purposes  
381 and provisions of this chapter and to comply with all applicable laws governing the rights  
382 of indigent persons accused of violations of criminal law.

383 (c) All rules, regulations, policies, and standards that are ~~promulgated~~ recommended by  
384 the council and adopted, with or without changes, by the director shall be publicly available  
385 for review and shall be posted on the ~~council's~~ agency's website. Each rule, regulation,  
386 policy, and standard shall identify the date upon which such rule, regulation, policy, and  
387 standard took effect.

388 17-12-9.

389 The ~~council~~ agency shall be authorized to conduct or approve for credit or reimbursement,  
390 or both, basic and continuing legal education courses or other appropriate training  
391 programs for the circuit public defenders or their staff members. The ~~council~~ agency, in  
392 accordance with such rules as ~~it~~ the director shall adopt, shall be authorized to provide  
393 reimbursement, in whole or in part, for the actual expenses incurred by any circuit public  
394 defender or their staff members in attending any approved course or training program from  
395 funds as may be appropriated or otherwise made available to the ~~council~~ agency. The  
396 circuit public defenders or their staff members shall be authorized to receive  
397 reimbursement for actual expenses incurred in attending approved courses or training  
398 programs. The ~~council~~ director shall adopt rules governing the approval of courses and  
399 training programs for credit or reimbursement as may be necessary to administer this Code  
400 section properly.

401 17-12-10.

402 (a) The ~~council~~ director shall prepare annually a report of its the agency's activities in  
403 order to provide the General Assembly, the Governor, and the Supreme Court of Georgia  
404 with an accurate description and accounting of the preceding year's expenditures and  
405 revenue, including moneys received from cities and county governing authorities. Such  
406 report shall include a three-year cost projection and anticipated revenues for all programs  
407 defined in the General Appropriations Act.

408 (b) The ~~council~~ director shall provide to the General Assembly, the Governor, and the  
409 Supreme Court of Georgia a detailed analysis of all grants and funds, whether public or  
410 private, applied for or granted, together with how and in what manner the same are to be  
411 utilized and expended.

412 (c) The ~~council~~ director shall prepare annually a report in order to provide the General  
413 Assembly and the Governor with information on the ~~council's~~ director's assessment of the  
414 delivery of indigent defense services, including, but not limited to, the costs involved in  
415 operating each program and each governing authority's indigent person verification system,  
416 methodology used, costs expended, and savings realized.

417 17-12-10.1.

418 (a) There is created the Legislative Oversight Committee for the Georgia Public Defender  
419 Agency Standards Council which shall be composed of eight persons: three members of  
420 the House of Representatives appointed by the Speaker of the House of Representatives,  
421 three members of the Senate appointed by the Senate Committee on Assignments or such  
422 person or entity as established by Senate rule, and one member of the House of  
423 Representatives and one member of the Senate appointed by the Governor. The members  
424 of such committee shall be selected within ten days after the convening of the General  
425 Assembly in each odd-numbered year and shall serve until their successors are appointed.

426 (b) The Speaker of the House of Representatives shall appoint a member of such  
427 committee to serve as chairperson, and the Senate Committee on Assignments or such  
428 person or entity as established by Senate rule shall appoint one member of the committee  
429 to serve as vice chairperson during each even-numbered year. The Senate Committee on  
430 Assignments or such person or entity as established by Senate rule shall appoint a member  
431 of such committee to serve as chairperson, and the Speaker of the House of Representatives  
432 shall appoint one member to serve as vice chairperson during each odd-numbered year.  
433 Such committee shall meet at least three times each year and, upon the call of the  
434 chairperson, at such additional times as deemed necessary by the chairperson.

435 (c) It shall be the duty of such committee to review and evaluate:

- 436 (1) Information on new programs submitted by the council;  
437 (2) Information on rules, regulations, policies, and standards proposed by the council;  
438 (3) The strategic plans for the ~~council~~ agency;  
439 (4) Program evaluation reports and budget recommendations of the ~~council~~ agency;  
440 (5) The fiscal impact of fees and fines on counties;  
441 (6) The reports submitted pursuant to Code Section 15-21A-7 in order to identify, among  
442 other things, opportunities to reduce or consolidate fees, fines, and surcharges; and  
443 (7) Such other information or reports as deemed necessary by such committee.

444 (d) The council and director shall cooperate with such committee and provide such  
445 information or reports as requested by the committee for the performance of its functions.

446 (e) The ~~council~~ director shall submit ~~its~~ the agency's budget estimate to the director of the  
447 Office of Planning and Budget in accordance with subsection (a) of Code Section  
448 45-12-78.

449 (f) The legislative oversight committee shall make an annual report of its activities and  
450 findings to the membership of the General Assembly and the Governor within one week  
451 of the convening of each regular session of the General Assembly. The chairperson of such  
452 committee shall deliver written executive summaries of such report to the members of the  
453 General Assembly prior to the adoption of the General Appropriations Act each year.

454 (g) The members of such committee shall receive the allowances authorized for legislative  
 455 members of legislative committees. The funds necessary to pay such allowances shall  
 456 come from funds appropriated to the House of Representatives and the Senate.

457 (h) The legislative oversight committee shall be authorized to request that a performance  
 458 audit of the ~~council~~ agency be conducted."

459 **SECTION 2.**

460 Said chapter is further amended by revising Code Sections 17-12-12.1, relating to the capital  
 461 defender division, and 17-12-13, relating to effective date, as follows:

462 "17-12-12.1.

463 (a) If there is a conflict of interest such that the Georgia capital defender division is unable  
 464 to defend any indigent person accused of a capital felony for which the death penalty is  
 465 being sought, the director shall determine and appoint counsel to represent the defendant.  
 466 The director shall establish the contractual agreement with the defendant's counsel for  
 467 payment of representing the defendant, and, when feasible and prudent, a flat fee structure  
 468 shall be utilized.

469 (b) A maximum of two attorneys shall be paid by the ~~council~~ agency pursuant to a  
 470 contractual agreement or at an hourly rate established by the ~~council~~ director with state  
 471 funds appropriated to the ~~council~~ agency. State funds shall be appropriated to the ~~council~~  
 472 agency for use by the Georgia capital defender division for the first \$150,000.00 paid for  
 473 each death penalty case. Funding for attorney's fees and expenses between \$150,000.01  
 474 and \$250,000.00 for each death penalty case shall be paid through state appropriations for  
 475 75 percent of such attorney's fees and expenses, and the county governing authority where  
 476 the indictment was returned shall pay 25 percent of such attorney's fees and expenses.  
 477 Funding for all attorney's fees and expenses in excess of \$250,000.00 for each death  
 478 penalty case shall be paid through state appropriations for 50 percent of such attorney's fees  
 479 and expenses, and the county governing authority where the indictment was returned shall  
 480 pay 50 percent of such attorney's fees and expenses.

481 (c) The ~~council~~ agency, with the assistance of the Georgia capital defender division, shall  
 482 establish guidelines for all expense requests for cases in which the death penalty is sought,  
 483 including, but not limited to, attorney's fees, expert witness fees, investigative fees, travel  
 484 and accommodation expenses, and copy and transcription costs.

485 (d) A county governing authority may provide supplemental compensation to counsel  
 486 appointed pursuant to this Code section.

487 ~~17-12-13.~~

488 ~~Reserved. This article shall become effective on December 31, 2003, except as specified~~  
 489 ~~in Code Section 17-12-3."~~

### 490 SECTION 3.

491 Said chapter is further amended by revising subsections (b) through (e) of Code Section  
 492 17-12-20, relating to selection and removal of circuit public defenders, as follows:

493 "(b)(1) By majority vote of its membership, the circuit public defender supervisory panel  
 494 shall annually elect a chairperson and secretary and determine a quorum for the  
 495 transaction of business. The chairperson shall conduct the meetings and deliberations of  
 496 the panel and direct all activities. The secretary shall keep accurate records of all the  
 497 meetings and deliberations and perform such other duties as the chairperson may direct.  
 498 The panel may be called into session upon the direction of the chairperson or by the  
 499 ~~council~~ director.

500 (2) By majority vote of its membership, the circuit public defender supervisory panel  
 501 shall appoint the circuit public defender in the circuit as provided in this article. The first  
 502 such appointments shall be made to take office on January 1, 2005, for terms of up to four  
 503 years. The initial appointments shall be for a term of up to four years. A circuit public  
 504 defender may be appointed for successive terms but shall not be reappointed if he or she  
 505 was removed pursuant to subsection (c) of this Code section.

506 (c) A circuit public defender may be removed for cause ~~by a majority vote of the council~~  
 507 ~~and may be removed without cause by a vote of two-thirds of the members of the entire~~  
 508 ~~council~~ as provided in Code Section 17-12-20.1.

509 (d) A circuit public defender supervisory panel may convene at any time during its circuit  
 510 public defender's term of office and shall convene at least semiannually for purposes of  
 511 reviewing the circuit public defender's job performance and the performance of the circuit  
 512 public defender office. The council and circuit public defender shall be notified at least  
 513 two weeks in advance of the convening of the circuit public defender supervisory panel.  
 514 The circuit public defender shall be given the opportunity to appear before the circuit  
 515 public defender supervisory panel and present evidence and testimony. The chairperson  
 516 shall determine the agenda for the semiannual review process, but, at a minimum, such  
 517 review shall include information collected pursuant to subsection (c) of Code Section  
 518 17-12-24, usage of state and local funding, expenditures, and budgeting matters. The  
 519 chairperson shall make an annual report on or before ~~the thirtieth day of September~~ 30 of  
 520 each year concerning the circuit public defender supervisory panel's findings regarding the  
 521 job performance of the circuit public defender and his or her office to the ~~council~~ director  
 522 on a form provided to the panel by the ~~council~~ director. If at any time the circuit public

523 defender supervisory panel finds that the circuit public defender is performing in a less than  
 524 satisfactory manner or finds information of specific misconduct, the circuit public defender  
 525 supervisory panel may by majority vote of its members adopt a resolution seeking review  
 526 of their findings and remonstrative action by the council director. Such resolution shall  
 527 specify the reason for such request. All evidence presented and the findings of the circuit  
 528 public defender supervisory panel shall be forwarded to the council director within 15 days  
 529 of the adoption of the resolution. ~~The council shall initiate action on the circuit public~~  
 530 ~~defender supervisory panel's resolution at its next regularly scheduled meeting and take~~  
 531 ~~final action within 60 days thereafter. The council shall notify the circuit public defender~~  
 532 ~~supervisory panel, in writing, of any actions taken pursuant to submission of a resolution~~  
 533 ~~under this subsection.~~

534 (e) If a vacancy occurs for the position of circuit public defender, the chief judge of the  
 535 superior court of the circuit shall appoint an interim circuit public defender to serve until  
 536 the circuit public defender supervisory panel has appointed a replacement. The circuit  
 537 public defender supervisory panel shall appoint a replacement circuit public defender  
 538 within three months of the occurring of the vacancy. The replacement circuit public  
 539 defender shall not be any individual who has been removed by ~~the council~~ pursuant to  
 540 subsection (c) of this Code section."

#### 541 SECTION 4.

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

543 "17-12-20.1.

544 (a) Whenever the director determines that an investigation of a circuit public defender  
 545 should be made as a result of criminal charges, alleged misconduct in office, or alleged  
 546 incapacity of the circuit public defender to perform the functions of the office, the director  
 547 shall notify the Governor. The Governor shall appoint two circuit public defenders and a  
 548 member of the council who shall constitute a committee to conduct an investigation. The  
 549 members of any such committee shall receive no compensation for their services but shall  
 550 be reimbursed for any expenses incurred in connection with the investigation from funds  
 551 available to the agency. Any member of the committee shall be authorized to administer  
 552 oaths to any witness before the committee. The committee shall make a report and  
 553 recommendation to the Governor within 30 days from the date of the appointment of the  
 554 committee.

555 (b) If the committee by majority vote recommends the suspension of the circuit public  
 556 defender, the Governor shall be authorized to suspend the circuit public defender for a  
 557 period of up to 90 days. The Governor may extend such period of suspension once for an  
 558 additional 30 days. Upon a recommendation of suspension, the Governor shall also be

559 authorized to appoint a special prosecutor to bring a removal petition against the circuit  
 560 public defender pursuant to subsection (c) of this Code section based upon the evidence  
 561 provided by the committee.

562 (c) A removal petition provided for in subsection (b) of this Code section shall be filed in  
 563 the superior court of the county of the circuit public defender's residence. The charges shall  
 564 be presented to the court in writing, with a copy provided to the circuit public defender at  
 565 least two weeks prior to trial. Grounds for removal from office shall be any sufficient  
 566 cause, including criminal charges, misconduct in office, or incapacity to perform the  
 567 functions of the office. The petition shall be heard by a superior court judge; provided,  
 568 however, that upon the motion of the circuit public defender, the facts shall be tried by a  
 569 jury."

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### SECTION 5.

571 Said chapter is further amended by revising subsections (a) and (b) of Code Section  
 572 17-12-22, relating to provision of counsel in event of a conflict of interests, as follows:

573 "(a) The ~~council~~ director shall establish a procedure for providing legal representation in  
 574 cases where the circuit public defender office has a conflict of interest. Such procedure  
 575 may include, but shall not be limited to, the appointment of individual counsel on a  
 576 case-by-case basis or the utilization of another circuit public defender office when feasible.  
 577 It is the intent of the General Assembly that the ~~council~~ director consider the most efficient  
 578 and effective system to provide legal representation where the circuit public defender office  
 579 has a conflict of interest.

580 (b) The circuit public defender shall establish a method for identifying conflicts of interest  
 581 at the earliest possible opportunity. If there is a conflict of interest such that the circuit  
 582 public defender office cannot represent a defendant and an attorney who is not employed  
 583 by the circuit public defender office is appointed, such attorney shall have a contractual  
 584 relationship with the ~~council~~ agency to represent indigent persons in conflict of interest  
 585 cases, and such relationship may include, but shall not be limited to, a flat fee structure."

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### SECTION 6.

587 Said chapter is further amended by revising subsection (d) of Code Section 17-12-23, relating  
 588 to representation by circuit public defenders, as follows:

589 "(d) A city or county may contract with the circuit public defender office for the provision  
 590 of criminal defense for indigent persons accused of violating city or county ordinances or  
 591 state laws. If a city or county does not contract with the circuit public defender office, the  
 592 city or county shall be subject to all applicable rules, regulation, policies, and standards  
 593 adopted by the ~~council~~ agency for representation of indigent persons in this state."

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**SECTION 7.**

595

Said chapter is further amended by revising subsection (c) of Code Section 17-12-24, relating to operations of circuit public defenders, as follows:

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"(c) The circuit public defender shall keep and maintain appropriate records, which shall include the number of persons represented, including cases assigned to other counsel based on conflict of interest; the offenses charged; the outcome of each case; the expenditures made in carrying out the duties imposed by this chapter; and any other information requested by the ~~council~~ agency."

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**SECTION 8.**

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Said chapter is further amended by revising Code Section 17-12-26, relating to budget estimates, as follows:

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"17-12-26.

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The ~~council~~ director shall prepare and submit to the director of the Office of Planning and Budget its a budget estimate necessary for fulfilling the purposes of this chapter in accordance with Code Section 45-12-78. The ~~council~~ agency shall be authorized to seek, solicit, apply for, and utilize funds from any public or private source to use in fulfilling the purposes of this chapter."

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**SECTION 9.**

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Said chapter is further amended by revising paragraph (2) of subsection (a), subsection (b), and subsection (h) of Code Section 17-12-27, relating to public defender staff, as follows:

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"(2) Subject to funds being appropriated by the General Assembly or otherwise available, additional assistant public defenders as may be authorized by the ~~council~~ director. In authorizing additional assistant public defenders, the ~~council~~ director 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.

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

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"(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

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629 who becomes a circuit public defender or an employee of a circuit public defender office  
 630 before July 1, 2005, may elect, with the consent of the former employer and the consent  
 631 of the ~~council~~ agency, to remain an employee of the entity for which the employee worked  
 632 as a local public defender; and such entity shall be his or her employer for all purposes,  
 633 including, without limitation, compensation and employee benefits. The right to make an  
 634 election pursuant to this subsection shall expire on July 1, 2005. The ~~council~~ agency shall  
 635 reimburse the appropriate entity for compensation, benefits, and employer contributions  
 636 under the federal Social Security Act, but the total payment from the ~~council~~ agency to the  
 637 entity on behalf of the employee shall not exceed the amount otherwise payable to or for  
 638 the employee under the circumstance where the employee had become a state employee."

639 **SECTION 10.**

640 Said chapter is further amended by revising subsection (a) of Code Section 17-12-28, relating  
 641 to circuit public defender investigators, as follows:

642 "(a) Subject to the provisions of this Code section, the circuit public defender in each  
 643 judicial circuit is authorized to appoint one investigator to assist the circuit public defender  
 644 in the performance of his or her official duties in the preparation of cases for trial. Subject  
 645 to funds being appropriated by the General Assembly or otherwise available, the circuit  
 646 public defender in each judicial circuit may appoint additional investigators as may be  
 647 authorized by the ~~council~~ director. In authorizing additional investigators, the ~~council~~  
 648 director shall consider the caseload, present staff, and resources available to each circuit  
 649 public defender and shall make authorizations as will contribute to the efficiency of  
 650 individual circuit public defenders and the effectiveness of circuit public defenders  
 651 throughout the state in providing adequate legal defense for indigent defendants."

652 **SECTION 11.**

653 Said chapter is further amended by revising subsection (a) of Code Section 17-12-29, relating  
 654 to circuit public defender personnel, as follows:

655 "(a) Each circuit public defender is authorized to employ administrative, clerical, and  
 656 paraprofessional personnel as may be authorized by the ~~council~~ director based on funds  
 657 appropriated by the General Assembly or otherwise available; provided, however, that each  
 658 circuit public defender shall be authorized not less than two such personnel. In authorizing  
 659 administrative, clerical, and paraprofessional personnel, the ~~council~~ director shall consider  
 660 the caseload, present staff, and resources available to each circuit public defender and shall  
 661 make authorizations as will contribute to the efficiency of individual circuit public  
 662 defenders in providing effective criminal defense for indigent defendants."

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**SECTION 12.**

664

Said chapter is further amended by revising paragraphs (1) through (5) of subsection (c) of Code Section 17-12-30, relating to classification and compensation of public defender staff, as follows:

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"(c)(1) The ~~council~~ director shall establish salary ranges for each state paid position authorized by this article or any other provision of law. Salary ranges shall be similar to the state-wide and senior executive ranges adopted by the State Merit System of Personnel Administration and shall provide for minimum, midpoint, and maximum salaries not to exceed the maximum allowable salary. In establishing the salary ranges, all amounts will be rounded off to the nearest whole dollar. The ~~council~~ director may, from time to time, revise the salary ranges to include across-the-board increases which the General Assembly may from time to time authorize in the General Appropriations Act.

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

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(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 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 range.

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

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(5) The compensation of state paid personnel appointed pursuant to this article shall be paid in equal installments by the ~~council~~ agency as provided by this subsection from funds appropriated for such purpose. The ~~council~~ director may 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."

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**SECTION 13.**

692

Said chapter is further amended by revising Code Section 17-12-32, relating to local government contracts for personnel, as follows:

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"17-12-32.

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The governing authority of any county or municipality within the judicial circuit which provides additional personnel for the office of circuit public defender may contract with the ~~council~~ agency to provide such additional personnel in the same manner as is provided for state paid personnel in this article. Any such personnel shall be considered state

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699 employees and shall be entitled to the same fringe benefits as other state paid personnel  
 700 employed by the circuit public defender pursuant to this article. The governing authority  
 701 of such county or municipality shall transfer to the ~~council~~ agency such funds as may be  
 702 necessary to cover the compensation, benefits, travel, and other expenses for such  
 703 personnel."

#### 704 SECTION 14.

705 Said chapter is further amended by revising Code Section 17-12-36, relating to alternative  
 706 service delivery systems, and Code Section 17-12-37, relating to effective date, as follows:

707 "17-12-36.

708 (a) ~~The council may permit a~~ A judicial circuit composed of a single county ~~to~~ may  
 709 continue in effect an alternative delivery system if approved to do so under the law in effect  
 710 prior to the effective date of this Act. ~~to the one set forth in this article if:~~

711 ~~(1) The delivery system:~~

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

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

717 ~~(2) The council, by majority vote of the entire council, determines that the delivery~~  
 718 ~~system meets or exceeds its rules, regulations, policies, and standards, including, without~~  
 719 ~~limitation, caseload standards, as the council adopts;~~

720 ~~(3) The governing authority of the county comprising the judicial circuit enacts a~~  
 721 ~~resolution expressing its desire to continue its delivery system and transmits a copy of~~  
 722 ~~such resolution to the council not later than September 30, 2004; and~~

723 ~~(4) The governing authority of the county comprising the judicial circuit enacts a~~  
 724 ~~resolution agreeing to fully fund its delivery system.~~

725 ~~(b) A judicial circuit composed of a single county may request an alternative delivery~~  
 726 ~~system only one time; provided, however, that if such judicial circuit's request for an~~  
 727 ~~alternative delivery system was disapproved on or before December 31, 2004, such judicial~~  
 728 ~~circuit may make one further request on or before September 1, 2005. The council shall~~  
 729 ~~allow such judicial circuit to have a hearing on such judicial circuit's request.~~

730 ~~(c) The council shall make a determination with regard to continuation of an alternative~~  
 731 ~~delivery system not later than December 1, 2005, and if the council determines that such~~  
 732 ~~judicial circuit's alternative delivery system does not meet the standards as established by~~  
 733 ~~the council, the council shall notify such judicial circuit of its deficiencies in writing and~~  
 734 ~~shall allow such judicial circuit an opportunity to cure such deficiencies. The council shall~~

735 ~~make a final determination with regard to continuation of an alternative delivery system~~  
 736 ~~on or before December 31, 2005. Initial and subsequent approvals of alternative delivery~~  
 737 ~~systems shall be by a majority vote of the entire council.~~

738 ~~(d) Any circuit whose alternative delivery system is disapproved at any time shall be~~  
 739 ~~governed by the provisions of this article other than this Code section.~~

740 ~~(e)(b)~~ In the event an alternative delivery system is approved, the council in operation, the  
 741 director shall annually review the operation of such system and determine whether such  
 742 system is meeting the standards as established by the council director and is eligible to  
 743 continue operating as an approved alternative delivery system. In the event the council  
 744 director determines that such system is not meeting the standards as established by the  
 745 council director, the council director shall provide written notice to such system of the  
 746 deficiencies and shall provide such system an opportunity to cure such deficiencies.

747 ~~(f)(c)~~ In the event an alternative delivery system is approved in operation, it shall keep and  
 748 maintain appropriate records; which shall include the number of persons represented; the  
 749 offenses charged; the outcome of each case; the expenditures made in providing services;  
 750 and any other information requested by the council director.

751 ~~(g)(d)~~ In the event the council director disapproves an alternative delivery system ~~either~~  
 752 ~~in its initial application or~~ on annual review, such system may appeal such decision to the  
 753 Supreme Court of Georgia under such rules and procedures as shall be prescribed by the  
 754 Supreme Court.

755 ~~(h)(e)~~ An approved alternative delivery system shall be paid by the council agency, from  
 756 funds available to the council agency, in an amount equal to the amount that would have  
 757 been allocated to the judicial circuit for the minimum salary of the circuit public defender,  
 758 the assistant circuit public defenders, the investigator, and the administrative staff,  
 759 exclusive of benefits, if the judicial circuit was not operating an alternative delivery system.

760 17-12-37.

761 ~~Reserved. This article shall become effective on January 1, 2005, provided, however, that~~  
 762 ~~the council and the circuit public defender selection panels shall be authorized to take~~  
 763 ~~administrative actions as may be necessary or appropriate to prepare for and phase-in full~~  
 764 ~~implementation of this article on or after December 31, 2003."~~

## 765 SECTION 15.

766 Said chapter is further amended by revising subsection (c) of Code Section 17-12-51, relating  
 767 to repayment of attorney's fees as a condition of probation, as follows:

768 "(c) If a defendant who is represented by a public defender, who is paid for entirely by the  
 769 state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted,

770 the court may impose as a condition of probation repayment of all or a portion of the cost  
 771 for providing legal representation and other costs of the defense if the payment does not  
 772 impose a financial hardship upon such defendant or such defendant's dependent or  
 773 dependents. Such defendant shall make such payment through the probation department  
 774 to the Georgia Public Defender ~~Standards Council~~ Agency for payment to the general fund  
 775 of the state treasury."

776 **SECTION 16.**

777 Said chapter is further amended by revising Code Section 17-12-80, relating to determination  
 778 of indigency, as follows:

779 "17-12-80.

780 (a) In order to retain funding as provided in Code Sections 15-21-74 and 15-21A-6, a  
 781 governing authority shall verify that the applicant qualifies as an indigent person. The  
 782 governing authority shall establish the methodology for verification and fund such process.  
 783 The governing authority shall produce auditable information to the ~~council~~ agency to  
 784 substantiate its verification process as requested by the ~~council or its~~ director.

785 (b) The ~~council~~ director shall establish rules and regulations to determine approval of an  
 786 indigent person verification system and shall annually provide written notification to the  
 787 Georgia Superior Court Clerks' Cooperative Authority as to whether or not a governing  
 788 authority has an approved indigent person verification system.

789 (c) The governing authority shall advise the circuit public defender, if applicable, or the  
 790 administrator of the indigent defense system for the jurisdiction of the name of each person  
 791 who has applied for legal services and provide identifying information for those persons  
 792 who are financially eligible for services within one business day of such person's  
 793 application for services."

794 **SECTION 17.**

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

797 **SECTION 18.**

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