

Senate Bill 42

By: Senators Smith of the 52nd, Wiles of the 37th, Hill of the 4th, Hamrick of the 30th and Hill of the 32nd

AS PASSED SENATE

**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 Defender Standards Council with new membership; to change the powers and
4 duties of the council and provide that it shall be an advisory body; to provide for the Georgia
5 Public Defender Standards Agency as an agency of the state; to provide for its director and
6 the powers and duties and operations of the agency and the director; to provide that the
7 director shall have the control and management of the agency and shall exercise supervision
8 with respect to circuit public defenders and carry out other duties formerly vested in the
9 council; to provide for procedures for the removal of a circuit public defender from office;
10 to provide for other related matters; to provide for effective dates; to repeal conflicting laws;
11 and for other purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

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

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) Not later than 60 days after the effective date of this subsection, the council shall be
68 reconstituted as a new advisory body with new members appointed in 2009. The members
69 serving on the council immediately prior to the effective date of this subsection shall cease
70 to serve on the effective date of this subsection, but such prior members shall be eligible
71 for reappointment in 2009 to succeed themselves or to fill another position on the council.

72 Ten members of the council shall be appointed as 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 paragraph~~ and shall be from different geographic regions
 194 of this 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 ~~on July 1, 2003~~ not later than 60 days after
 203 the effective date of this paragraph, and their successors shall become members of the
 204 council on July 1 following their appointment. ~~The initial appointees from the~~
 205 ~~even-numbered judicial administration circuits shall serve until June 30, 2009.~~

206 ~~Notwithstanding the provisions of paragraph (3) of this subsection, the initial member~~
 207 ~~representing the circuit public defenders shall be made by the Supreme Court of Georgia.~~

208 The person representing the circuit defender position on the initial council shall be
 209 engaged on a full-time basis in the provision of 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 1A.**

460 Said chapter is further amended by revising subsection (a) of Code Section 17-12-11, relating
 461 to mental health advocacy division, duties, responsibilities, and management, as follows:

462 "(a) The mental health advocacy division shall represent in any court in this state indigent
 463 persons found not guilty by reason of insanity at the time of the crime or found mentally
 464 incompetent to stand trial and shall be the successor to the office of mental health advocacy
 465 created by Article 4 of this chapter as it existed on June 30, 2008. Any assets or resources
 466 of the office of mental health advocacy shall be transferred to the ~~council~~ agency. The
 467 mental health advocacy division office shall serve all counties of this state."

468 **SECTION 1B.**

469 Said chapter is further amended by revising subsection (a) of Code Section 17-12-12, relating
 470 to Georgia capital defender division and duties, responsibilities, and management, as follows:

471 "(a) The Georgia capital defender division shall represent all indigent persons charged with
 472 a capital felony for which the death penalty is being sought in any court in this state and
 473 shall be the successor to the Office of the Georgia Capital Defender created by Article 6
 474 of this chapter as it existed on June 30, 2008. Any assets or resources of the Office of the
 475 Georgia Capital Defender shall be transferred to the ~~council~~ agency. The Georgia capital
 476 defender division shall serve all counties of this state."

477 **SECTION 2.**

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

480 "17-12-12.1.

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

487 (b) A maximum of two attorneys shall be paid by the ~~council~~ agency pursuant to a
 488 contractual agreement or at an hourly rate established by the ~~council~~ director with state
 489 funds appropriated to the ~~council~~ agency. State funds shall be appropriated to the ~~council~~
 490 agency for use by the Georgia capital defender division for the first \$150,000.00 paid for
 491 each death penalty case. Funding for attorney's fees and expenses between \$150,000.01
 492 and \$250,000.00 for each death penalty case shall be paid through state appropriations for
 493 75 percent of such attorney's fees and expenses, and the county governing authority where
 494 the indictment was returned shall pay 25 percent of such attorney's fees and expenses.
 495 Funding for all attorney's fees and expenses in excess of \$250,000.00 for each death
 496 penalty case shall be paid through state appropriations for 50 percent of such attorney's fees
 497 and expenses, and the county governing authority where the indictment was returned shall
 498 pay 50 percent of such attorney's fees and expenses.

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

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

505 ~~17-12-13.~~

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

508 SECTION 3.

509 Said chapter is further amended by revising Code Section 17-12-20, relating to selection and
 510 removal of circuit public defenders, as follows:

511 "17-12-20.

512 (a) On and after July 1, 2008, there is created in each judicial circuit in this state a circuit
 513 public defender supervisory panel to be composed of seven members. The Lieutenant
 514 Governor, the Speaker of the House of Representatives, and the chief judge of the superior
 515 court of the circuit shall each appoint one member. The Governor shall appoint four
 516 members, two of which shall be members of the governing authority of the counties within
 517 the judicial circuit for which such member is appointed to serve. A member of a governing
 518 authority shall be eligible to serve so long as he or she retains the office by virtue of which
 519 he or she is serving on the panel. Other than the county commissioner, members of the
 520 circuit public defender supervisory panel shall be individuals with significant experience
 521 working in the criminal justice system or who have demonstrated a strong commitment to

522 the provision of adequate and effective representation of indigent defendants. A
523 prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any employee
524 of a prosecuting attorney's office, or an employee of the Prosecuting Attorneys' Council of
525 the State of Georgia shall not serve as a member of the circuit public defender supervisory
526 panel after July 1, 2005. On and after July 1, 2008, no employees of the ~~council~~ agency
527 shall serve as a member of the circuit public defender supervisory panel. Members of the
528 circuit public defender supervisory panel shall reside in the judicial circuit in which they
529 serve. The circuit public defender supervisory panel members shall serve for a term of five
530 years. Any vacancy for an appointed member shall be filled by the appointing authority.

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

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

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

547 (d) A circuit public defender supervisory panel may convene at any time during its circuit
548 public defender's term of office and shall convene at least semiannually for purposes of
549 reviewing the circuit public defender's job performance and the performance of the circuit
550 public defender office. The council and circuit public defender shall be notified at least
551 two weeks in advance of the convening of the circuit public defender supervisory panel.
552 The circuit public defender shall be given the opportunity to appear before the circuit
553 public defender supervisory panel and present evidence and testimony. The chairperson
554 shall determine the agenda for the semiannual review process, but, at a minimum, such
555 review shall include information collected pursuant to subsection (c) of Code Section
556 17-12-24, usage of state and local funding, expenditures, and budgeting matters. The
557 chairperson shall make an annual report on or before ~~the thirtieth day of September~~ 30 of
558 each year concerning the circuit public defender supervisory panel's findings regarding the

559 job performance of the circuit public defender and his or her office to the ~~council~~ director
 560 on a form provided to the panel by the ~~council~~ director. If at any time the circuit public
 561 defender supervisory panel finds that the circuit public defender is performing in a less than
 562 satisfactory manner or finds information of specific misconduct, the circuit public defender
 563 supervisory panel may by majority vote of its members adopt a resolution seeking review
 564 of their findings and remonstrative action by the ~~council~~ director. Such resolution shall
 565 specify the reason for such request. All evidence presented and the findings of the circuit
 566 public defender supervisory panel shall be forwarded to the ~~council~~ director within 15 days
 567 of the adoption of the resolution. ~~The council shall initiate action on the circuit public~~
 568 ~~defender supervisory panel's resolution at its next regularly scheduled meeting and take~~
 569 ~~final action within 60 days thereafter. The council shall notify the circuit public defender~~
 570 ~~supervisory panel, in writing, of any actions taken pursuant to submission of a resolution~~
 571 ~~under this subsection.~~

572 (e) If a vacancy occurs for the position of circuit public defender, the chief judge of the
 573 superior court of the circuit shall appoint an interim circuit public defender to serve until
 574 the circuit public defender supervisory panel has appointed a replacement. The circuit
 575 public defender supervisory panel shall appoint a replacement circuit public defender
 576 within three months of the occurring of the vacancy. The replacement circuit public
 577 defender shall not be any individual who has been removed ~~by the council~~ pursuant to
 578 subsection (c) of this Code section."

579 **SECTION 4.**

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

581 "17-12-20.1.

582 (a) Whenever the director determines that an investigation of a circuit public defender
 583 should be made as a result of criminal charges, alleged misconduct in office, or alleged
 584 incapacity of the circuit public defender to perform the functions of the office, the director
 585 shall notify the Governor. The Governor shall appoint two circuit public defenders and a
 586 member of the council who shall constitute a committee to conduct an investigation. The
 587 members of any such committee shall receive no compensation for their services but shall
 588 be reimbursed for any expenses incurred in connection with the investigation from funds
 589 available to the agency. Any member of the committee shall be authorized to administer
 590 oaths to any witness before the committee. The committee shall make a report and
 591 recommendation to the Governor within 30 days from the date of the appointment of the
 592 committee.

593 (b) If the committee by majority vote recommends the suspension of the circuit public
 594 defender, the Governor shall be authorized to suspend the circuit public defender for a

595 period of up to 90 days. The Governor may extend such period of suspension once for an
 596 additional 30 days. Upon a recommendation of suspension, the Governor shall also be
 597 authorized to appoint a special prosecutor to bring a removal petition against the circuit
 598 public defender pursuant to subsection (c) of this Code section based upon the evidence
 599 provided by the committee.

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

608

SECTION 5.

609 Said chapter is further amended by revising Code Section 17-12-22, relating to provision of
 610 counsel in event of a conflict of interests, as follows:

611 "17-12-22.

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

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

625 (c) Attorneys who seek appointment in conflict cases shall have such experience or
 626 training in the defense of criminal cases as is necessary in light of the complexity of the
 627 case to which he or she is appointed and shall meet such qualifications, regulations, and
 628 standards for the representation of indigent defendants as are established by the ~~council~~
 629 agency."

630 **SECTION 6.**

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

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

638 **SECTION 7.**

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

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

646 **SECTION 8.**

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

649 "17-12-26.

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

655 **SECTION 9.**

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

658 "(2) Subject to funds being appropriated by the General Assembly or otherwise available,
 659 additional assistant public defenders as may be authorized by the ~~council~~ director. In
 660 authorizing additional assistant public defenders, the ~~council~~ director shall consider the
 661 caseload, present staff, and resources available to each circuit public defender and shall
 662 make authorizations as will contribute to the efficiency of individual circuit public

663 defenders and the effectiveness of providing adequate legal defense for indigent
664 defendants.

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

671 "(h) Notwithstanding the provisions of subsection (g) of this Code section, an employee
672 of a local public defender office who was an employee of the office on June 30, 2004, and
673 who becomes a circuit public defender or an employee of a circuit public defender office
674 before July 1, 2005, may elect, with the consent of the former employer and the consent
675 of the ~~council~~ agency, to remain an employee of the entity for which the employee worked
676 as a local public defender; and such entity shall be his or her employer for all purposes,
677 including, without limitation, compensation and employee benefits. The right to make an
678 election pursuant to this subsection shall expire on July 1, 2005. The ~~council~~ agency shall
679 reimburse the appropriate entity for compensation, benefits, and employer contributions
680 under the federal Social Security Act, but the total payment from the ~~council~~ agency to the
681 entity on behalf of the employee shall not exceed the amount otherwise payable to or for
682 the employee under the circumstance where the employee had become a state employee."

683 **SECTION 10.**

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

686 "(a) Subject to the provisions of this Code section, the circuit public defender in each
687 judicial circuit is authorized to appoint one investigator to assist the circuit public defender
688 in the performance of his or her official duties in the preparation of cases for trial. Subject
689 to funds being appropriated by the General Assembly or otherwise available, the circuit
690 public defender in each judicial circuit may appoint additional investigators as may be
691 authorized by the ~~council~~ director. In authorizing additional investigators, the ~~council~~
692 director shall consider the caseload, present staff, and resources available to each circuit
693 public defender and shall make authorizations as will contribute to the efficiency of
694 individual circuit public defenders and the effectiveness of circuit public defenders
695 throughout the state in providing adequate legal defense for indigent defendants."

696

SECTION 11.

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

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

707

SECTION 12.

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

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

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

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

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

730 (5) The compensation of state paid personnel appointed pursuant to this article shall be
731 paid in equal installments by the ~~council~~ agency as provided by this subsection from

732 funds appropriated for such purpose. The ~~council~~ director may authorize employees
 733 compensated pursuant to this Code section to participate in voluntary salary deductions
 734 as provided by Article 3 of Chapter 7 of Title 45."

735 **SECTION 13.**

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

738 "17-12-32.

739 The governing authority of any county or municipality within the judicial circuit which
 740 provides additional personnel for the office of circuit public defender may contract with
 741 the ~~council~~ agency to provide such additional personnel in the same manner as is provided
 742 for state paid personnel in this article. Any such personnel shall be considered state
 743 employees and shall be entitled to the same fringe benefits as other state paid personnel
 744 employed by the circuit public defender pursuant to this article. The governing authority
 745 of such county or municipality shall transfer to the ~~council~~ agency such funds as may be
 746 necessary to cover the compensation, benefits, travel, and other expenses for such
 747 personnel."

748 **SECTION 14.**

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

751 "17-12-36.

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

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

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

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

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

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

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

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

774 ~~(c) The council shall make a determination with regard to continuation of an alternative~~
775 ~~delivery system not later than December 1, 2005, and if the council determines that such~~
776 ~~judicial circuit's alternative delivery system does not meet the standards as established by~~
777 ~~the council, the council shall notify such judicial circuit of its deficiencies in writing and~~
778 ~~shall allow such judicial circuit an opportunity to cure such deficiencies. The council shall~~
779 ~~make a final determination with regard to continuation of an alternative delivery system~~
780 ~~on or before December 31, 2005. Initial and subsequent approvals of alternative delivery~~
781 ~~systems shall be by a majority vote of the entire council.~~

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

784 ~~(e)~~(b) In the event an alternative delivery system is approved, the council in operation, the
785 director shall annually review the operation of such system and determine whether such
786 system is meeting the standards as established by the council director and is eligible to
787 continue operating as an approved alternative delivery system. In the event the council
788 director determines that such system is not meeting the standards as established by the
789 council director, the council director shall provide written notice to such system of the
790 deficiencies and shall provide such system an opportunity to cure such deficiencies.

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

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

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

804 17-12-37.

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

809 **SECTION 15.**

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

812 "(c) If a defendant who is represented by a public defender, who is paid for entirely by the
 813 state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted,
 814 the court may impose as a condition of probation repayment of all or a portion of the cost
 815 for providing legal representation and other costs of the defense if the payment does not
 816 impose a financial hardship upon such defendant or such defendant's dependent or
 817 dependents. Such defendant shall make such payment through the probation department
 818 to the Georgia Public Defender ~~Standards Council~~ Agency for payment to the general fund
 819 of the state treasury."

820 **SECTION 16.**

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

823 "17-12-80.

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

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

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

838

SECTION 17.

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

841

SECTION 18.

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