

The House Committee on Judiciary Non-civil offers 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 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 the Georgia Public
5 Defender Agency and the Office of Alternative Defense Counsel; to provide for the Georgia
6 Public Defender Agency as an agency of the state; to provide for its director and the powers
7 and duties and operations of the agency and the director; to provide that the director shall
8 have the control and management of the agency and shall exercise supervision with respect
9 to circuit public defenders and carry out other duties formerly vested in the council; to
10 provide for procedures for the removal of a circuit public defender from office; to change
11 provisions relating to the utilization of third-year law students; to provide for the Office of
12 Alternative Defense Counsel to manage cases in which a circuit or assistant public defender
13 or capital defender division has a conflict of interest; to provide for duties and responsibilities
14 of the office, annual accounting, and budgeting; to provide for an executive director and
15 powers and duties of the executive director; to provide for other related matters; to amend
16 Title 15 and Code Section 36-32-1 of the Official Code of Georgia Annotated, relating to
17 courts and municipal courts, respectively, so as to conform cross-references; to provide for
18 an effective date; to repeal conflicting laws; and for other purposes.

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

20 **SECTION 1.**

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

25 "17-12-1.

26 (a) This chapter shall be known and may be cited as the 'Georgia Indigent Defense Act of
27 2003.'

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

30 (c) The Georgia Public Defender Agency shall be an independent agency within the
31 executive branch of state government.

32 (d) The council, agency, and office shall be responsible for assuring that adequate and
33 effective legal representation is provided, independently of political considerations or
34 private interests, to indigent persons who are entitled to representation under this chapter.

35 17-12-2.

36 As used in this chapter, the term:

37 (1) 'Agency' means the Georgia Public Defender Agency under the direction of the
38 director.

39 ~~(1)~~(2) 'Assistant public defender' means an attorney who is employed by any circuit
40 public defender.

41 ~~(2)~~(3) 'Circuit public defender' means the head of a public defender office providing
42 indigent defense representation within any given judicial circuit of this state.

43 ~~(3)~~(4) 'Circuit public defender office' means the office of any of the several circuit public
44 defenders.

45 ~~(4)~~(5) 'Council' means the Georgia Public Defender Standards Council.

46 ~~(5)~~(6) 'Director' means the director of the Georgia Public Defender Agency Standards
47 Council.

48 (7) 'Executive director' means the director of the Office of Alternative Defense Counsel.

49 ~~(6)~~(8) 'Indigent person' or 'indigent defendant' means:

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

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

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

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

68 ~~(7)~~(9) 'Legislative oversight committee' means the Legislative Oversight Committee for
 69 the Georgia Public Defender ~~Standards Council~~ Agency and the Office of Alternative
 70 Defense Counsel.

71 (10) 'Office' means the Office of Alternative Defense Counsel.

72 ~~(8)~~(11) 'Public defender' means an attorney who is employed in a circuit public defender
 73 office or who represents an indigent person pursuant to this chapter.

74 17-12-3.

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

77 (b) Effective July 1, 2009, the council shall be reconstituted as a new advisory body. The
 78 members serving on the council immediately prior to July 1, 2009, shall cease to serve on
 79 that date, but such prior members shall be eligible for reappointment to succeed themselves
 80 or to fill another position on the council. Ten members of the council shall be appointed
 81 as follows:

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

93 (2) The members appointed pursuant to paragraph (1) of this subsection shall be chosen
 94 so that each of the ten judicial administration districts in this state is represented and so

95 that each appointing authority shall rotate the particular judicial administration district
 96 for which he or she is responsible for appointing. The appointments shall be as follows:

97 (A) For the initial appointments in 2009:

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

100 (ii) The Lieutenant Governor shall appoint one person who resides in judicial
 101 administration district 3 ~~and~~ one person who resides in judicial administration district
 102 4, one person who resides in judicial administration district 7, and one person who
 103 resides in judicial administration district 8; and

104 (iii) The Speaker of the House of Representatives shall appoint one person who
 105 resides in judicial administration district 5, ~~and~~ one person who resides in judicial
 106 administration district 6, one person who resides in judicial administration district 9,
 107 and one person who resides in judicial administration district 10;

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

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

116 (B) For the first subsequent council appointments:

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

119 (ii) The Lieutenant Governor shall appoint one person who resides in judicial
 120 administration district 5, ~~and~~ one person who resides in judicial administration district
 121 6, one person who resides in judicial administration district 9, and one person who
 122 resides in judicial administration district 10; and

123 (iii) The Speaker of the House of Representatives shall appoint one person who
 124 resides in judicial administration district 1, one person who resides in judicial
 125 administration district 2, one person who resides in judicial administration district 7,
 126 and one person who resides in judicial administration district 8;

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

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

135 (C) For the second subsequent council appointments:

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

138 (ii) The Lieutenant Governor shall appoint one person who resides in judicial
 139 administration district 1, one person who resides in judicial administration district 2,
 140 one person who resides in judicial administration district 7, and one person who
 141 resides in judicial administration district 8; and

142 (iii) The Speaker of the House of Representatives shall appoint one person who
 143 resides in judicial administration district 3, one person who resides in judicial
 144 administration district 4, one person who resides in judicial administration district 9,
 145 and one person who resides in judicial administration district 10;

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

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

154 (D) For the third subsequent council appointments:

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

157 (ii) The Lieutenant Governor shall appoint one person who resides in judicial
 158 administration district 3, one person who resides in judicial administration district 4,
 159 one person who resides in judicial administration district 9, and one person who
 160 resides in judicial administration district 10;

161 (iii) The Speaker of the House of Representatives shall appoint one person who
 162 resides in judicial administration district 1, ~~and~~ one person who resides in judicial
 163 administration district 2, one person who resides in judicial administration district 5,
 164 and one person who resides in judicial administration district 6; and

165 ~~(iv) The Chief Justice of the Supreme Court of Georgia shall appoint one person who~~
 166 ~~resides in judicial administration district 3 and one person who resides in judicial~~

167 ~~administration district 4, except that on and after July 1, 2008, the Lieutenant~~
 168 ~~Governor shall make such appointments; and~~

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

173 (E) For the fourth subsequent council appointments:

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

176 (ii) The Lieutenant Governor shall appoint one person who resides in judicial
 177 administration district 1 ~~and~~, one person who resides in judicial administration district
 178 2, one person who resides in judicial administration district 5, and one person who
 179 resides in judicial administration district 6;

180 (iii) The Speaker of the House of Representatives shall appoint one person who
 181 resides in judicial administration district 3 ~~and~~, one person who resides in judicial
 182 administration district 4, one person who resides in judicial administration district 7,
 183 and one person who resides in judicial administration district 8.

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

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

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

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

199 (3.1) Four members of the council shall be county commissioners who have been elected
 200 and are serving as members of a county governing authority in this state. The county
 201 commissioner councilmembers shall be appointed by the Governor on or before July 1,
 202 ~~2008~~ 2009, and shall be from different geographic regions of this state. The Governor
 203 may solicit recommendations for such appointees from the Association County

204 Commissioners of Georgia. Each county commissioner councilmember shall serve terms
 205 of four years; provided, however, that the initial appointments shall be for one, two, three,
 206 and four years, respectively, as designated by the Governor for each appointment, and
 207 thereafter, such members shall serve terms of four years. A county commission
 208 councilmember shall be eligible to serve so long as he or she retains the office by virtue
 209 of which he or she is serving on the council;

210 (4) Except as provided in paragraph (3.1) of this subsection, all initial appointments shall
 211 be made to become members of the council on July 1, ~~2003~~ 2009, and their successors
 212 shall become members of the council on July 1 following their appointment. ~~The initial~~
 213 ~~appointees from the even-numbered judicial administration circuits shall serve until June~~
 214 ~~30, 2009. Notwithstanding the provisions of paragraph (3) of this subsection, the initial~~
 215 ~~member representing the circuit public defenders shall be made by the Supreme Court of~~
 216 ~~Georgia.~~ The person representing the circuit defender position on the initial council shall
 217 be engaged on a full-time basis in the provision of criminal defense to the indigent;

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

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

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

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

237 17-12-4.

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

239 (1) Shall be a legal entity;

- 240 (2) Shall have perpetual existence;
- 241 (3) May contract;
- 242 (4) May own property;
- 243 (5) May accept funds, grants, services, and gifts from any public or private source, which
244 shall be used to defray the expenses incident to implementing its purposes;
- 245 (6) May adopt and use an official seal;
- 246 (7) May establish a principal office;
- 247 (8) May hire such administrative and clerical personnel as may be necessary and
248 appropriate to fulfill its purposes; and
- 249 (9) Shall have such other powers, privileges, and duties as may be reasonable and
250 necessary for the proper fulfillment of its purposes.
- 251 ~~(b) The council shall establish auditing procedures as may be required in connection with~~
252 ~~the handling of public funds.~~ The state auditor shall be authorized and directed to make
253 an annual audit of the transactions of the council agency and to make a complete report of
254 the same to the General Assembly. The annual audit shall disclose all moneys received by
255 the council agency and all expenditures made by the council agency by revenue source,
256 including all programs and special projects itemized in the General Appropriations Act.
257 The annual audit shall include an itemization by revenue source of encumbered and
258 reserved money. Revenue sources shall include each county governing authority's
259 expenditures which are made pursuant to Code Sections 17-12-31 and 17-12-32 and city
260 or county expenditures which are made pursuant to subsection (d) of Code Section
261 17-12-23. The state auditor shall also make an audit of the affairs of the council agency
262 at any time when requested to do so by ~~a majority of the council~~ the director or by the
263 Governor or General Assembly.
- 264 ~~(c) The council may not provide compensation from its funds to any administrative or~~
265 ~~clerical personnel employed by the council if the personnel are then receiving retirement~~
266 ~~compensation from any retirement or pension fund created by Title 47 to provide~~
267 ~~compensation for past services as a judicial officer, prosecuting attorney, indigent defense~~
268 ~~attorney, court officer, or law enforcement officer except for county or municipal~~
269 ~~retirement funds.~~
- 270 17-12-5.
- 271 (a) To be eligible for appointment as the director, a candidate shall be a member in good
272 standing of the State Bar of Georgia with at least seven years' experience in the practice of
273 law. The director shall be selected on the basis of training and experience and such other
274 qualifications as the council Governor deems appropriate. The director shall be appointed
275 by the Governor and shall serve at the pleasure of the Governor.

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

285 (2) The director may establish divisions within the ~~office~~ agency to administer the
 286 services and programs as may be necessary to fulfill the purposes of this chapter. The
 287 director shall establish a mental health advocacy division and the Georgia capital
 288 defender division.

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

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

293 (1) With the advice of the council, the ~~The~~ power and authority to take or cause to be
 294 taken any or all action necessary to perform any indigent defense services or otherwise
 295 necessary to perform any duties, responsibilities, or functions which the ~~council~~ agency
 296 is authorized by law to perform or to exercise any power or authority which the ~~council~~
 297 agency is authorized by law to exercise; and

298 (2) With the advice of the council, the ~~The~~ power and authority to make, promulgate,
 299 enforce, or otherwise require compliance with any and all rules, regulations, procedures,
 300 or directives necessary to perform any indigent defense services, to carry into effect the
 301 minimum standards and procedures promulgated by the ~~council~~ agency, or otherwise
 302 necessary to perform any duties, responsibilities, or functions which the ~~council~~ agency
 303 is authorized by law to perform, ~~or to exercise any power or authority which the council~~
 304 ~~is authorized by law to exercise; and~~

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

307 (d) The director shall:

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

- 312 (2) With the advice of the council, develop ~~Develop~~ such rules, policies, procedures,
 313 regulations, and standards as may be necessary to carry out the provisions of this chapter
 314 and comply with all applicable laws, standards, and regulations, ~~and submit these to the~~
 315 ~~council for approval;~~
- 316 (3) Administer and coordinate the operations of the agency ~~council~~ and supervise
 317 ~~compliance with rules, policies, procedures, regulations, and standards adopted by the~~
 318 ~~council;~~
- 319 (4) Maintain proper records of all financial transactions related to the operation of the
 320 ~~council~~ agency;
- 321 (5) At the director's discretion, solicit and accept on behalf of the ~~council~~ agency any
 322 funds, services, training, or educational opportunities that may become available from
 323 any source, including government, nonprofit, or private grants, gifts, or bequests;
- 324 (6) Coordinate the services of the ~~council~~ agency with any federal, county, or private
 325 programs established to provide assistance to indigent persons in cases subject to this
 326 chapter and consult with professional bodies concerning the implementation and
 327 improvement of programs for providing indigent services;
- 328 (7) Provide for the training of attorneys and other staff involved in the legal
 329 representation of persons subject to this chapter;
- 330 (8) Attend all council meetings, ~~except those meetings or portions thereof that address~~
 331 ~~the question of appointment or removal of the director;~~
- 332 (9) Ensure that the expenditures of the ~~council~~ agency are not greater than the amounts
 333 budgeted or available from other revenue sources;
- 334 (10) ~~Hire, with the pending approval of the council,~~ a mental health advocate who shall
 335 serve as director of the division of the office of mental health advocacy;
- 336 (11) ~~Hire, with the pending approval of the council,~~ the capital defender who shall serve
 337 as the director of the division of the office of the Georgia capital defender;
- 338 (12) Evaluate each circuit public defender's job performance ~~and communicate his or her~~
 339 ~~findings to the council; and~~
- 340 (13) Establish auditing procedures as may be required in connection with the handling
 341 of public funds; Perform other duties as the council may assign.
- 342 (14) Prepare annually a report of the agency's activities in order to provide the General
 343 Assembly, the Governor, and the Supreme Court of Georgia with an accurate description
 344 and accounting of the preceding year's expenditures and revenue, including moneys
 345 received from cities and county governing authorities. Such report shall include a
 346 three-year cost projection and anticipated revenues for all programs defined in the
 347 General Appropriations Act;

348 (15) Provide to the General Assembly, the Governor, and the Supreme Court of Georgia
 349 a detailed analysis of all grants and funds, whether public or private, applied for or
 350 granted, together with how and in what manner the same are to be utilized and expended;
 351 and

352 (16) Prepare and submit a budget estimate for the agency necessary for fulfilling the
 353 purposes of this chapter to the director of the Office of Planning and Budget in
 354 accordance with Code Section 45-12-78.

355 17-12-6.

356 (a) The council shall assist the ~~public defenders throughout the state~~ agency and the office
 357 in their efforts to provide adequate legal defense to the indigent defendants. Assistance
 358 ~~may~~ shall include:

359 (1) The preparation and distribution of a basic defense manual and other educational
 360 materials;

361 (2) The preparation and distribution of model forms and documents employed in indigent
 362 defense;

363 (3) The promotion of and assistance in the training of indigent defense attorneys;

364 (4) The provision of legal research assistance to public defenders; and

365 (5) The provision of such other assistance to public defenders as may be authorized by
 366 law.

367 (b) The ~~council~~ agency:

368 (1) Shall be the fiscal officer, through the director, for the circuit public defender offices
 369 and shall account for all moneys received from each governing authority; ~~and~~

370 (2) Shall collect, maintain, review, and publish records and statistics for the purpose of
 371 evaluating the delivery of indigent defense representation in Georgia; and

372 (3) Shall not reimburse any attorney representing a defendant in a conflict of interest
 373 case on behalf of the agency if such attorney fails to submit a request for reimbursement
 374 more than 45 days after the month in which such acts occurred.

375 17-12-7.

376 (a) All members of the council shall at all times act in the best interest of indigent
 377 defendants who are receiving legal representation under the provisions of this chapter;
 378 provided, however, that unless pursuant to court order or subpoena, no member of the
 379 council shall intentionally assist any party involved in a civil action against the council,
 380 agency, or office in connection with providing indigent defense services. Members of the
 381 council shall not file any civil action against the state for any law related to providing
 382 indigent defense services.

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

386 (c) Each member of the council shall serve ~~until a successor has been appointed. Removal~~
 387 ~~of council members shall be for cause and shall be in accordance with policies and~~
 388 ~~procedures adopted by the council at the pleasure of the appointing authority.~~

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

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

397 (f) The council shall elect a chairperson and such officers from the members of the council
 398 as it deems necessary and shall adopt such rules for the transaction of its business as it
 399 desires. The chairperson and officers shall serve for a term of two years and may be
 400 removed without cause by a vote of two-thirds of the members of the entire council and for
 401 cause by a majority vote of the entire council. The chairperson shall retain a vote on all
 402 matters except those in which the chairperson has a conflict of interest or the removal of
 403 the chairperson for cause. The council shall keep and maintain minutes of all council
 404 meetings.

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

409 17-12-8.

410 (a) The council shall serve in an advisory capacity only, and council approval shall not be
 411 required for any action by the director, executive director, the agency, or the office unless
 412 such approval is specifically required under this chapter.

413 (b) Subject to fiscal considerations as dictated by the director or executive director, as
 414 appropriate, the The council shall approve the development and improvement of programs
 415 which provide legal representation to indigent persons ~~and juveniles~~.

416 ~~(b)~~(c) The council shall approve ~~and implement~~ programs, services, rules, policies,
 417 procedures, regulations, and standards as may be necessary to fulfill the purposes and
 418 provisions of this chapter and to comply with all applicable laws governing the rights of

419 indigent persons accused of violations of criminal law or Chapter 11 of Title 15, subject
 420 to fiscal considerations as dictated by the director or executive director.

421 ~~(c)~~(d) All rules, regulations, policies, and standards that are ~~promulgated~~ recommended
 422 by the council and adopted, with or without changes, by the director or executive director,
 423 as appropriate, shall be publicly available for review and shall be posted on the ~~council's~~
 424 agency's or office's website, as applicable. Each rule, regulation, policy, and standard shall
 425 identify the date upon which such rule, regulation, policy, and standard took effect.

426 17-12-9.

427 The ~~council~~ agency shall be authorized to conduct or approve for credit or reimbursement,
 428 or both, basic and continuing legal education courses or other appropriate training
 429 programs for the circuit public defenders or their staff members. The ~~council~~ agency, in
 430 accordance with such rules as ~~it~~ the director shall adopt, shall be authorized to provide
 431 reimbursement, in whole or in part, for the actual expenses incurred by ~~any~~ circuit public
 432 ~~defender~~ defenders or their staff members in attending any approved course or training
 433 program from funds as may be appropriated or otherwise made available to the ~~council~~
 434 agency. The circuit public defenders or their staff members shall be authorized to receive
 435 reimbursement for actual expenses incurred in attending approved courses or training
 436 programs. The ~~council~~ director shall adopt rules governing the approval of courses and
 437 training programs for credit or reimbursement as may be necessary to administer this Code
 438 section properly.

439 17-12-10.

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

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

450 ~~(c)~~ The council, director, and executive director shall each prepare annually a report in
 451 order to provide the General Assembly and the Governor with information on ~~the council's~~
 452 assessment their assessments of the delivery of indigent defense services, including, but not
 453 limited to, the costs involved in operating each program and each governing authority's

454 indigent person verification system, methodology used, costs expended, and savings
455 realized.

456 17-12-10.1.

457 (a) There is created the Legislative Oversight Committee for the Georgia Public Defender
458 ~~Standards Council~~ Agency and Office of Alternative Defense Counsel which shall be
459 composed of eight persons: three members of the House of Representatives appointed by
460 the Speaker of the House of Representatives, three members of the Senate appointed by the
461 Senate Committee on Assignments or such person or entity as established by Senate rule,
462 and one member of the House of Representatives and one member of the Senate appointed
463 by the Governor. The members of such committee shall be selected within ten days after
464 the convening of the General Assembly in each odd-numbered year and shall serve until
465 their successors are appointed.

466 (b) The Speaker of the House of Representatives shall appoint a member of such
467 committee to serve as chairperson, and the Senate Committee on Assignments or such
468 person or entity as established by Senate rule shall appoint one member of the committee
469 to serve as vice chairperson during each even-numbered year. The Senate Committee on
470 Assignments or such person or entity as established by Senate rule shall appoint a member
471 of such committee to serve as chairperson, and the Speaker of the House of Representatives
472 shall appoint one member to serve as vice chairperson during each odd-numbered year.
473 Such committee shall meet at least three times each year and, upon the call of the
474 chairperson, at such additional times as deemed necessary by the chairperson.

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

476 (1) Information on new programs submitted by the council, agency, or office;

477 (2) Information on rules, regulations, policies, and standards proposed by the council,
478 agency, or office;

479 (3) The strategic plans for the ~~council~~ agency and office;

480 (4) Program evaluation reports and budget recommendations of the ~~council~~ agency and
481 office;

482 (5) The fiscal impact of fees and fines on counties;

483 (6) The reports submitted pursuant to Code Section 15-21A-7 in order to identify, among
484 other things, opportunities to reduce or consolidate fees, fines, and surcharges; and

485 (7) Such other information or reports as deemed necessary by such committee.

486 (d) The council ~~and~~ director, and executive director shall cooperate with such committee
487 and provide such information or reports as requested by the committee for the performance
488 of its functions.

489 ~~(e) The council shall submit its budget estimate to the director of the Office of Planning~~
 490 ~~and Budget in accordance with subsection (a) of Code Section 45-12-78.~~

491 ~~(f)~~(e) The legislative oversight committee shall make an annual report of its activities and
 492 findings to the membership of the General Assembly and the Governor within one week
 493 of the convening of each regular session of the General Assembly. The chairperson of such
 494 committee shall deliver written executive summaries of such report to the members of the
 495 General Assembly prior to the adoption of the General Appropriations Act each year.

496 ~~(g)~~(f) The members of such committee shall receive the allowances authorized for
 497 legislative members of legislative committees. The funds necessary to pay such allowances
 498 shall come from funds appropriated to the House of Representatives and the Senate.

499 ~~(h)~~(g) The legislative oversight committee shall be authorized to request that a
 500 performance audit of the ~~council~~ agency or office be conducted."

501 **SECTION 2.**

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

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

510 **SECTION 3.**

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

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

519 **SECTION 4.**

520 Said chapter is further amended by repealing Code Sections 17-12-12.1 and 17-12-13,
 521 relating to the capital defender division and effective date, respectively, which read as
 522 follows:

523 "17-12-12.1.

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

530 (b) A maximum of two attorneys shall be paid by the council pursuant to a contractual
531 agreement or at an hourly rate established by the council with state funds appropriated to
532 the council. State funds shall be appropriated to the council for use by the Georgia capital
533 defender division for the first \$150,000.00 paid for each death penalty case. Funding for
534 attorney's fees and expenses between \$150,000.01 and \$250,000.00 for each death penalty
535 case shall be paid through state appropriations for 75 percent of such attorney's fees and
536 expenses, and the county governing authority where the indictment was returned shall pay
537 25 percent of such attorney's fees and expenses. Funding for all attorney's fees and
538 expenses in excess of \$250,000.00 for each death penalty case shall be paid through state
539 appropriations for 50 percent of such attorney's fees and expenses, and the county
540 governing authority where the indictment was returned shall pay 50 percent of such
541 attorney's fees and expenses.

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

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

548 17-12-13.

549 This article shall become effective on December 31, 2003, except as specified in Code
550 Section 17-12-3."

551 **SECTION 5.**

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

554 "17-12-20.

555 (a) On and after July 1, 2008, there is created in each judicial circuit in this state a circuit
556 public defender supervisory panel to be composed of seven members. The Lieutenant
557 Governor, the Speaker of the House of Representatives, and the chief judge of the superior

558 court of the circuit shall each appoint one member. The Governor shall appoint four
559 members, two of which shall be members of the governing authority of the counties within
560 the judicial circuit for which such member is appointed to serve. A member of a governing
561 authority shall be eligible to serve so long as he or she retains the office by virtue of which
562 he or she is serving on the panel. Other than the county commissioner, members of the
563 circuit public defender supervisory panel shall be individuals with significant experience
564 working in the criminal justice system or who have demonstrated a strong commitment to
565 the provision of adequate and effective representation of indigent defendants. A
566 prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any employee
567 of a prosecuting attorney's office, or an employee of the Prosecuting Attorneys' Council of
568 the State of Georgia shall not serve as a member of the circuit public defender supervisory
569 panel after July 1, 2005. On and after July 1, 2008, no employees of the ~~council~~ agency
570 shall serve as a member of the circuit public defender supervisory panel. Members of the
571 circuit public defender supervisory panel shall reside in the judicial circuit in which they
572 serve. The circuit public defender supervisory panel members shall serve for a term of five
573 years. Any vacancy for an appointed member shall be filled by the appointing authority.

574 (b)(1) By majority vote of its membership, the circuit public defender supervisory panel
575 shall annually elect a chairperson and secretary and determine a quorum for the
576 transaction of business. The chairperson shall conduct the meetings and deliberations of
577 the panel and direct all activities. The secretary shall keep accurate records of all the
578 meetings and deliberations and perform such other duties as the chairperson may direct.
579 The panel may be called into session upon the direction of the chairperson or by the
580 ~~council~~ director.

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

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

590 (d) A circuit public defender supervisory panel may convene at any time during its circuit
591 public defender's term of office and shall convene at least semiannually for purposes of
592 reviewing the circuit public defender's job performance and the performance of the circuit
593 public defender office. The council and circuit public defender shall be notified at least
594 two weeks in advance of the convening of the circuit public defender supervisory panel.

595 The circuit public defender shall be given the opportunity to appear before the circuit
 596 public defender supervisory panel and present evidence and testimony. The chairperson
 597 shall determine the agenda for the semiannual review process, but, at a minimum, such
 598 review shall include information collected pursuant to subsection (c) of Code Section
 599 17-12-24, usage of state and local funding, expenditures, and budgeting matters. The
 600 chairperson shall make an annual report on or before ~~the thirtieth day of~~ September 30 of
 601 each year concerning the circuit public defender supervisory panel's findings regarding the
 602 job performance of the circuit public defender and his or her office to the ~~council~~ director
 603 on a form provided to the panel by the ~~council~~ director. If at any time the circuit public
 604 defender supervisory panel finds that the circuit public defender is performing in a less than
 605 satisfactory manner or finds information of specific misconduct, the circuit public defender
 606 supervisory panel may by majority vote of its members adopt a resolution seeking review
 607 of ~~their~~ its findings and remonstrative action by the ~~council~~ director. Such resolution shall
 608 specify the reason for such request. All evidence presented and the findings of the circuit
 609 public defender supervisory panel shall be forwarded to the ~~council~~ director within 15 days
 610 of the adoption of the resolution. ~~The council shall initiate action on the circuit public~~
 611 ~~defender supervisory panel's resolution at its next regularly scheduled meeting and take~~
 612 ~~final action within 60 days thereafter. The council shall notify the circuit public defender~~
 613 ~~supervisory panel, in writing, of any actions taken pursuant to submission of a resolution~~
 614 ~~under this subsection.~~

615 (e) If a vacancy occurs for the position of circuit public defender, the chief judge of the
 616 superior court of the circuit shall appoint an interim circuit public defender to serve until
 617 the circuit public defender supervisory panel has appointed a replacement. The circuit
 618 public defender supervisory panel shall appoint a replacement circuit public defender
 619 within three months of the occurring of the vacancy. The replacement circuit public
 620 defender shall not be any individual who has been removed ~~by the council~~ pursuant to
 621 subsection (c) of this Code section."

622 SECTION 6.

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

624 "17-12-20.1.

625 (a) Whenever the director determines that an investigation of a circuit public defender
 626 should be made as a result of a finding by the director that the circuit public defender is
 627 performing in a less than satisfactory manner or finds information of specific misconduct,
 628 the director shall notify the Governor and the circuit public defender. The circuit public
 629 defender may agree to a voluntary suspension or may resign. Within 30 days of such
 630 notice, the Governor shall appoint two circuit public defenders and a member of the council

631 who shall constitute a committee to conduct an investigation of the circuit public defender.
 632 The members of any such committee shall receive no compensation for their services but
 633 shall be reimbursed for any expenses directly incurred in connection with the investigation
 634 from funds available to the agency in the discretion of the director. The committee shall
 635 make a report and recommendation regarding the circuit public defender to the Governor
 636 within 30 days from the date of the appointment of the committee.

637 (b) If the committee by majority vote recommends the suspension of the circuit public
 638 defender, the Governor shall be authorized to suspend the circuit public defender for a
 639 period of up to 90 days. The Governor may extend such period of suspension once for an
 640 additional 30 days. If the committee by majority vote recommends the removal of the
 641 circuit public defender, he or she may appeal to the council for a final determination."

642 **SECTION 7.**

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

645 "17-12-22.

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

653 ~~(b) The circuit public defender shall establish a method for identifying conflicts of interest~~
 654 ~~at the earliest possible opportunity in accordance with rules and regulations established by~~
 655 ~~the agency. If there is a conflict of interest such that the circuit public defender office~~
 656 ~~cannot represent a defendant and an attorney who is not employed by the circuit public~~
 657 ~~defender office is appointed, such attorney shall have a contractual relationship with the~~
 658 ~~council to represent indigent persons in conflict of interest cases, and such relationship may~~
 659 ~~include, but shall not be limited to, a flat fee structure, the Office of Alternative Defense~~
 660 Counsel shall provide legal representation as provided for in Article 5 of this chapter.

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

665 **SECTION 8.**

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

668 "(d) A city or county may contract with the circuit public defender office or the Office of
 669 Alternative Defense Counsel for the provision of criminal defense for indigent persons
 670 accused of violating city or county ordinances or state laws. If a city or county does not
 671 contract with the circuit public defender office, the city or county shall be subject to all
 672 applicable rules, regulation, policies, and standards adopted by the ~~council~~ agency for
 673 representation of indigent persons in this state."

674 **SECTION 9.**

675 Said chapter is further amended by revising subsections (a) and (c) of Code Section
 676 17-12-24, relating to operations of circuit public defenders, as follows:

677 "(a) The circuit public defender; or any other person or entity providing indigent defense
 678 services; ~~or using~~ using the system established pursuant to Code Section 17-12-80 shall
 679 determine if a person or juvenile arrested, detained, or charged in any manner is an indigent
 680 person entitled to representation under this chapter."

681 "(c) The circuit public defender shall keep and maintain appropriate records, which shall
 682 include the number of persons represented, including cases assigned to alternative defense
 683 counsel or other counsel based on conflict of interest; the offenses charged; the outcome
 684 of each case; the expenditures made in carrying out the duties imposed by this chapter; and
 685 any other information requested by the ~~council~~ agency. Failure to maintain accurate
 686 records may be grounds for suspension or removal from office."

687 **SECTION 10.**

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

690 "17-12-26.

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

696

SECTION 11.

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

700 "(2) Subject to funds being appropriated by the General Assembly or otherwise available,
 701 additional assistant public defenders as may be authorized by the council director. In
 702 authorizing additional assistant public defenders, the council director shall consider the
 703 caseload, present staff, and resources available to each circuit public defender and shall
 704 make authorizations as will contribute to the efficiency of individual circuit public
 705 defenders and the effectiveness of providing adequate legal defense for indigent
 706 defendants.

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

713 "(h) Notwithstanding the provisions of subsection (g) of this Code section, an employee
 714 of a local public defender office who was an employee of the office on June 30, 2004, and
 715 who becomes a circuit public defender or an employee of a circuit public defender office
 716 before July 1, 2005, may elect, with the consent of the former employer and the consent
 717 of the council, to remain an employee of the entity for which the employee worked as a
 718 local public defender; and such entity shall be his or her employer for all purposes,
 719 including, without limitation, compensation and employee benefits. The right to make an
 720 election pursuant to this subsection shall expire on July 1, 2005. The council shall
 721 reimburse the appropriate entity for compensation, benefits, and employer contributions
 722 under the federal Social Security Act, but the total payment from the council to the entity
 723 on behalf of the employee shall not exceed the amount otherwise payable to or for the
 724 employee under the circumstance where the employee had become a state employee."

725

SECTION 12.

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

728 "(a) Subject to the provisions of this Code section, the circuit public defender in each
 729 judicial circuit is authorized to appoint one investigator to assist the circuit public defender
 730 in the performance of his or her official duties in the preparation of cases for trial. Subject
 731 to funds being appropriated by the General Assembly or otherwise available, the circuit

732 public defender in each judicial circuit may appoint additional investigators as may be
 733 authorized by the ~~council~~ director. In authorizing additional investigators, the ~~council~~
 734 director shall consider the caseload, present staff, and resources available to each circuit
 735 public defender and shall make authorizations as will contribute to the efficiency of
 736 individual circuit public defenders and the effectiveness of circuit public defenders
 737 throughout the state in providing adequate legal defense for indigent defendants."

738 **SECTION 13.**

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

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

749 **SECTION 14.**

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

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

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

765 (3) All salary advancements shall be based on quality of work, training, and
 766 performance. The salary of state paid personnel appointed pursuant to this article may

767 be increased at the first of the calendar month following the annual anniversary of the
 768 person's appointment. No employee's salary shall be advanced beyond the maximum
 769 established in the applicable pay range.

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

772 (5) The compensation of state paid personnel appointed pursuant to this article shall be
 773 paid in equal installments by the ~~council~~ agency as provided by this subsection from
 774 funds appropriated for such purpose. The ~~council~~ director may authorize employees
 775 compensated pursuant to this Code section to participate in voluntary salary deductions
 776 as provided by Article 3 of Chapter 7 of Title 45."

777 **SECTION 15.**

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

780 "17-12-32.

781 The governing authority of any county or municipality within the judicial circuit which
 782 provides additional personnel for the ~~office of~~ circuit public defender office may contract
 783 with the ~~council~~ agency to provide such additional personnel in the same manner as is
 784 provided for state paid personnel in this article. Any such personnel shall be considered
 785 state employees and shall be entitled to the same fringe benefits as other state paid
 786 personnel employed by the circuit public defender pursuant to this article. The governing
 787 authority of such county or municipality shall transfer to the ~~council~~ agency such funds as
 788 may be necessary to cover the compensation, benefits, travel, and other expenses for such
 789 personnel."

790 **SECTION 16.**

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

793 "17-12-36.

794 (a) ~~The council may permit a~~ A judicial circuit composed of a single county ~~to~~ may
 795 continue in effect an alternative delivery system ~~to the one set forth in this article if:~~ if
 796 approved to do so under the law in effect prior to July 1, 2009.

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

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

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

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

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

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

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

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

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

826 ~~(e)~~(b) In the event an alternative delivery system is approved, ~~the council~~ in operation, the
 827 director shall annually review the operation of such system and determine whether such
 828 system is meeting the standards as established by the ~~council~~ director and is eligible to
 829 continue operating as an approved alternative delivery system. In the event the ~~council~~
 830 director determines that such system is not meeting the standards as established by the
 831 ~~council~~ director, the ~~council~~ director shall provide written notice to such system of the
 832 deficiencies and shall provide such system an opportunity to cure such deficiencies.

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

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

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

846 ~~17-12-37.~~

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

851 **SECTION 17.**

852 Said chapter is further amended by revising Code Sections 17-12-41 through 17-12-45,
 853 which Code sections relate to assistance by third-year law students or staff instructors and
 854 the effective date of this article, as follows:

855 "17-12-41.

856 An authorized third-year law student or staff instructor, when under the supervision of a
 857 circuit public defender or attorney employed by the office, may assist in criminal
 858 proceedings within this state as if admitted and licensed to practice law in this state except
 859 that all pleadings and other entries of record ~~must~~ shall be signed by a circuit public
 860 defender or ~~by his or her duly appointed assistant~~ attorney employed by the office and that,
 861 in the conduct of a trial or other criminal proceeding, a circuit public defender or ~~his or her~~
 862 ~~duly appointed assistant must~~ attorney employed by the office shall be physically present.

863 17-12-42.

864 A third-year law student or staff instructor may be authorized to assist a circuit public
 865 defender or attorney employed by the office in such form and manner as the judge of the
 866 court may prescribe, taking care that the requirements of this article and the good moral
 867 character of the third-year law student or staff instructor are properly certified by the dean
 868 of the law school.

869 17-12-43.

870 As to each third-year law student or staff instructor authorized to assist a circuit public
 871 defender or attorney employed by the office, there shall be kept on file ~~in the office of the~~
 872 with the clerk of the court in the county where such authority is to be exercised the dean's
 873 certificate, the student's and instructor's oaths, and the judge's order as contemplated under
 874 Code Section 17-12-42. The authority to assist a circuit public defender or attorney
 875 employed by the office as allowed under this Code section shall extend for no longer than
 876 18 months. If during this period any change occurs in the status of the student or instructor
 877 at the law school in which he or she was enrolled or employed, that is, if the student ceases
 878 his or her enrollment, is suspended, or is expelled or if the instructor ceases his or her
 879 employment or is released by the school, any such authority shall terminate and be
 880 revoked.

881 17-12-44.

882 Any third-year law student or staff instructor authorized to assist a circuit public defender
 883 or attorney employed by the office under this article ~~is~~ shall not be required to possess the
 884 qualifications for appointment to the office of circuit public defender or appointment as an
 885 assistant circuit public defender as provided in ~~Article 1~~ of this chapter.

886 ~~17-12-45.~~

887 ~~This article shall become effective on January 1, 2005."~~

888 **SECTION 18.**

889 Said chapter is further amended by revising paragraph (1) of Code Section 17-12-50, relating
 890 to definitions for recovery of attorney's fees and costs, as follows:

891 "(1) 'Paid in part' means payment by a county or municipality for a part of the cost of the
 892 provision of indigent defense services pursuant to a contract with a circuit public
 893 defender office or the Office of Alternative Defense Counsel as set forth in subsection (d)
 894 of Code Section 17-12-23. The term shall not include payment by a county or
 895 municipality for office space and other supplies as set forth in Code Section 17-12-34."

896 **SECTION 19.**

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

899 "(c) If a defendant who is represented by a public defender, who is paid for entirely by the
 900 state, enters a plea of nolo contendere, first offender, or guilty or is otherwise convicted,
 901 the court may impose as a condition of probation repayment of all or a portion of the cost

902 for providing legal representation and other costs of the defense if the payment does not
 903 impose a financial hardship upon such defendant or such defendant's dependent or
 904 dependents. Such defendant shall make such payment through the probation department
 905 to the Georgia Public Defender ~~Standards Council~~ Agency or the Office of Alternative
 906 Defense Counsel, as applicable, for payment to the general fund of the state treasury."

907 **SECTION 20.**

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

910 "17-12-80.

911 (a) In order to retain funding as provided in Code Sections 15-21-74 and 15-21A-6, a
 912 governing authority shall verify that the applicant qualifies as an indigent person. The
 913 governing authority shall establish the methodology for verification and fund such process.

914 The governing authority shall produce auditable information to the ~~council~~ agency to
 915 substantiate its verification process as requested by the ~~council~~ or its director.

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

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

925 **SECTION 21.**

926 Said chapter is further amended by adding a new Article 5 to read as follows:

927 "ARTICLE 5

928 17-12-100.

929 (a) The Office of Alternative Defense Counsel is hereby created and shall be an
 930 independent agency within the executive branch of state government.

931 (b) The office shall be responsible for assuring that adequate and effective legal
 932 representation is provided, independently of political considerations or private interests, to
 933 indigent persons who are entitled to representation under this chapter in circumstances
 934 where the agency has a conflict of interest in providing legal representation. For purposes

935 of this article, a conflict of interest may include, but need not be limited to, circumstances
936 in which a circuit public defender or assistant public defender represents a codefendant or
937 a person who is a witness in the case or other circumstances identified in the Georgia rules
938 of professional conduct as creating a conflict of interest. Case overload, lack of resources,
939 and other similar circumstances shall not constitute a conflict of interest.

940 (c) The Governor shall appoint a person to serve as executive director of the office at the
941 pleasure of the Governor. To be eligible for appointment as executive director, a candidate
942 shall be a member in good standing with the State Bar of Georgia with at least five years
943 of experience in the practice of law. The executive director shall not engage in the private
944 practice of law.

945 (d) The executive director shall collect, maintain, review, and publish records and statistics
946 for the purpose of evaluating the delivery of indigent defense representation in indigent
947 defendant conflict of interest cases in Georgia.

948 17-12-101.

949 (a) On and after January 1, 2010, the office shall provide legal representation in cases
950 involving conflicts of interest for circuit public defender offices as determined pursuant to
951 policies, rules, or regulations of the agency.

952 (b) The office shall provide legal representation for indigent persons by either contracting
953 with licensed attorneys and investigators pursuant to Code Section 17-12-102 or by
954 utilizing the office's own staff attorneys and investigators.

955 17-12-102.

956 (a)(1) On and after January 1, 2010, the office may contract, where feasible, without
957 prior approval of the court, for the provision of attorney services for conflict of interest
958 cases described in Code Section 17-12-101. Such contract may be by the establishment
959 of an alternative defense counsel division in those circuits where the volume of cases may
960 warrant a separate alternative defense counsel division. To provide for adequate legal
961 representation of indigent persons, the office may contract, where feasible, without prior
962 approval of the court, for the provision of investigative services for conflict of interest
963 cases described in Code Section 17-12-101.

964 (2) The office shall establish, where feasible, a list of approved contract attorneys to
965 serve as counsel and a list of approved investigators to provide investigative services in
966 such cases.

967 (3) As a condition of placement on the approved list, the contracting attorney or
968 investigator shall agree to provide services based on the terms to be established in a
969 contract at either a fixed fee or the hourly rate for reimbursement set by the executive

970 director. Terms of the contract shall be negotiated between the executive director and the
 971 contract attorney or investigator. Contracts made with an attorney shall specify that the
 972 services shall be provided subject to the Georgia rules of professional conduct.

973 (4) Attorneys who seek to be a contracting attorney shall have such experience or
 974 training in the defense of criminal cases as is necessary in light of the complexity of the
 975 case to which he or she is appointed and shall meet such qualifications, regulations, and
 976 standards for the representation of indigent defendants as are established by the council.

977 (b) Contracts made pursuant to this Code section shall provide for reasonable
 978 compensation and reimbursement for expenses necessarily incurred, to be fixed and paid
 979 from funds appropriated therefor. The office shall review the bills submitted for
 980 reimbursement by any contract attorney or investigator and may approve or deny the
 981 payment of such bills in whole or in part based on the terms set forth in the contract
 982 negotiated between the executive director and the contract attorney or investigator.

983 17-12-103.

984 (a) The office:

985 (1) Shall be a legal entity;

986 (2) Shall have perpetual existence;

987 (3) May contract;

988 (4) May own property;

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

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

992 (7) May establish a principal office;

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

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

997 (b) The state auditor shall be authorized and directed to make an annual audit of the
 998 transactions of the office and to make a complete report of the same to the General
 999 Assembly. The annual audit shall disclose all moneys received by the office and all
 1000 expenditures made by the office by revenue source, including all programs and special
 1001 projects itemized in the General Appropriations Act. The annual audit shall include an
 1002 itemization by revenue source of encumbered and reserved money. The state auditor shall
 1003 also make an audit of the affairs of the office at any time when requested to do so by the
 1004 executive director or by the Governor or General Assembly.

1005 17-12-104.

1006 (a) If there is a conflict of interest such that the Georgia capital defender division or the
1007 office is unable to defend any indigent person accused of a capital felony for which the
1008 death penalty is being sought, the executive director shall determine and appoint counsel
1009 to represent the defendant. The executive director shall establish the contractual agreement
1010 with the defendant's counsel for payment of representing the defendant, and, when feasible
1011 and prudent, a flat fee structure shall be utilized.

1012 (b) A maximum of two attorneys shall be paid by the office pursuant to a contractual
1013 agreement or at an hourly rate established by the executive director with state funds
1014 appropriated to the office. State funds shall be appropriated to the office for use by the
1015 Georgia capital defender division for the first \$150,000.00 paid for each death penalty case.
1016 Funding for attorney's fees and expenses between \$150,000.01 and \$250,000.00 for each
1017 death penalty case shall be paid through state appropriations for 75 percent of such
1018 attorney's fees and expenses, and the county governing authority where the indictment was
1019 returned shall pay 25 percent of such attorney's fees and expenses. Funding for all
1020 attorney's fees and expenses in excess of \$250,000.00 for each death penalty case shall be
1021 paid through state appropriations for 50 percent of such attorney's fees and expenses, and
1022 the county governing authority where the indictment was returned shall pay 50 percent of
1023 such attorney's fees and expenses.

1024 (c) The office, with the assistance of the Georgia capital defender division, shall establish
1025 guidelines for all expense requests for cases in which the death penalty is sought, including,
1026 but not limited to, attorney's fees, expert witness fees, investigative fees, travel and
1027 accommodation expenses, and copy and transcription costs.

1028 (d) A county governing authority may provide supplemental compensation to counsel
1029 appointed pursuant to this Code section.

1030 17-12-105.

1031 (a) When representing an indigent person, the attorney under contract with the office shall:

1032 (1) Counsel and defend such person at every stage of the proceedings;

1033 (2) Prosecute any direct or interlocutory appeal before or after conviction that the
1034 executive director and the contract attorney consider to be in the interest of justice; and

1035 (3) Submit reimbursement requests within 45 days after the month the costs were
1036 accrued. Failure to comply with this paragraph shall void the office's obligation to
1037 reimburse such attorney for services rendered.

1038 (b) In no case shall the executive director or a contract attorney be required to prosecute
1039 any appeal or other remedy unless the executive director and contract attorney are satisfied
1040 that there is arguable merit to the proceeding.

1041 17-12-106.

1042 (a)(1) The executive director shall work with and provide support services and programs
1043 for the office and other attorneys representing indigent persons in criminal or juvenile
1044 cases in order to improve the quality and effectiveness of legal representation of such
1045 persons and otherwise fulfill the purposes of this article. Such services and programs
1046 shall include, but shall not be limited to, technical, research, and administrative
1047 assistance; educational and training programs for attorneys, investigators, and other staff;
1048 assistance with the representation of indigent defendants with mental disabilities;
1049 assistance with the representation of juveniles; assistance with death penalty cases; and
1050 assistance with appellate advocacy.

1051 (2) The executive director may establish divisions within the office to administer the
1052 services and programs as may be necessary to fulfill the purposes of this article.

1053 (3) The executive director may hire and supervise such staff employees and may contract
1054 with outside consultants on behalf of the office as may be necessary to provide the
1055 services contemplated by this article.

1056 (b) The executive director shall have and may exercise the following powers and
1057 authorities:

1058 (1) The power and authority to take or cause to be taken any or all action necessary to
1059 perform any indigent defense services or otherwise necessary to perform any duties,
1060 responsibilities, or functions which the office is authorized by law to perform or to
1061 exercise any power or authority which the office is authorized by law to exercise; and

1062 (2) With the advice of the council, the power and authority to make, promulgate, enforce,
1063 or otherwise require compliance with any and all rules, regulations, procedures, or
1064 directives necessary to perform any indigent defense services and to carry into effect the
1065 minimum standards and procedures promulgated by the office or otherwise necessary to
1066 perform any duties, responsibilities, or functions which the office is authorized by law
1067 to perform.

1068 (c) The executive director shall:

1069 (1) With the advice of the council, prepare and submit the budget for the office. The
1070 executive director shall also prepare and submit an annual report containing pertinent data
1071 on the operations, costs, and needs of the office and such other information as the
1072 Governor may require;

1073 (2) With the advice of the council, develop such rules, policies, procedures, regulations,
1074 and standards as may be necessary to carry out the provisions of this article and comply
1075 with all applicable laws, standards, and regulations;

1076 (3) Administer and coordinate the operations of the office;

- 1077 (4) Maintain proper records of all financial transactions related to the operation of the
 1078 office;
- 1079 (5) At the executive director's discretion, solicit and accept on behalf of the office any
 1080 funds, services, training, or educational opportunities that may become available from
 1081 any source, including government, nonprofit, or private grants, gifts, or bequests;
- 1082 (6) Coordinate the services of the office with any federal, county, or private programs
 1083 established to provide assistance to indigent persons in cases subject to this chapter and
 1084 consult with professional bodies concerning the implementation and improvement of
 1085 programs for providing indigent services;
- 1086 (7) Provide for the training of attorneys and other staff involved in the legal
 1087 representation of persons subject to this chapter;
- 1088 (8) Attend all council meetings;
- 1089 (9) Ensure that the expenditures of the office are not greater than the amounts budgeted
 1090 or available from other revenue sources;
- 1091 (10) Establish auditing procedures as may be required in connection with the handling
 1092 of public funds;
- 1093 (11) Evaluate office staff's job performance;
- 1094 (12) Prepare annually a report of the office's activities in order to provide the General
 1095 Assembly, the Governor, and the Supreme Court of Georgia with an accurate description
 1096 and accounting of the preceding year's expenditures and revenue, including moneys
 1097 received from cities and county governing authorities. Such report shall include a
 1098 three-year cost projection and anticipated revenues for all programs defined in the
 1099 General Appropriations Act;
- 1100 (13) Provide to the General Assembly, the Governor, and the Supreme Court of Georgia
 1101 a detailed analysis of all grants and funds, whether public or private, applied for or
 1102 granted, together with how and in what manner the same are to be utilized and expended;
 1103 and
- 1104 (14) Prepare and submit the office's budget estimate necessary for fulfilling the purposes
 1105 of this article to the director of the Office of Planning and Budget in accordance with
 1106 Code Section 45-12-78.
- 1107 17-12-107.
- 1108 (a) The office:
- 1109 (1) Shall be the fiscal officer, through the executive director, for the office and shall
 1110 account for all moneys received from each governing authority; and

1111 (2) Shall collect, maintain, review, and publish records and statistics for the purpose of
 1112 evaluating the delivery of indigent defense representation in conflict of interest cases in
 1113 Georgia.

1114 (b) The office shall be authorized to conduct or approve for credit or reimbursement, or
 1115 both, basic and continuing legal education courses or other appropriate training programs
 1116 for its staff members. The office, in accordance with such rules as the executive director
 1117 shall adopt, shall be authorized to provide reimbursement, in whole or in part, for the actual
 1118 expenses incurred by staff members in attending any approved course or training program
 1119 from funds as may be appropriated or otherwise made available to the office. The staff
 1120 members shall be authorized to receive reimbursement for actual expenses incurred in
 1121 attending approved courses or training programs. The executive director shall adopt rules
 1122 governing the approval of courses and training programs for credit or reimbursement as
 1123 may be necessary to administer this subsection properly."

1124

SECTION 22.

1125 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
 1126 subsections (e) and (g) of Code Section 15-6-76.1, relating to election by clerks as to
 1127 investing or depositing funds, as follows:

1128 "(e) When funds have been paid into the registry of the court and the order of the court
 1129 relating to such funds does not state that such funds shall be placed in an interest-bearing
 1130 trust account for the benefit of one or more of the parties, the clerk shall deposit such funds
 1131 in an interest-bearing trust account, and the financial institution in which such funds are
 1132 deposited shall remit, after service charges or fees are deducted, the interest generated by
 1133 said funds directly to the Georgia Superior Court Clerks' Cooperative Authority by the last
 1134 day of the month following the month in which such funds were received for distribution
 1135 to the Georgia Public Defender ~~Standards Council~~ Agency for allotment to the circuit
 1136 public defender offices. With each remittance, the financial institution shall send a
 1137 statement showing the name of the court, the rate of interest applied, the average monthly
 1138 balance in the account against which the interest rate is applied, the service charges or fees
 1139 of the bank or other depository, and the net remittance. This subsection shall include, but
 1140 not be limited to, cash supersedeas bonds for criminal appeal, other supersedeas bonds, and
 1141 bonds or funds paid into the court registry in actions involving interpleader, condemnation,
 1142 and requests for injunctive relief."

1143 "(g) Any interest earned on funds subject to this Code section or Code Section 15-7-49,
 1144 15-9-18, or 15-10-240 while in the custody of the Georgia Superior Court Clerks'
 1145 Cooperative Authority shall be remitted to the Georgia Public Defender ~~Standards Council~~
 1146 Agency."

1147 **SECTION 23.**

1148 Said title is further amended by revising Code Section 15-7-49, relating to remittance of
1149 interest from interest-bearing trust accounts, as follows:

1150 "15-7-49.

1151 When funds are paid into the court registry, the clerk shall deposit such funds in
1152 interest-bearing trust accounts, and the interest from those funds shall be remitted to the
1153 Georgia Superior Court Clerks' Cooperative Authority in accordance with the provisions
1154 of subsections (c) through (i) of Code Section 15-6-76.1 for distribution to the Georgia
1155 Public Defender ~~Standards Council~~ Agency."

1156 **SECTION 24.**

1157 Said title is further amended by revising Code Section 15-9-18, relating to remittance of
1158 interest from cash bonds, as follows:

1159 "15-9-18.

1160 Whenever the sheriff transfers cash bonds to the clerk of the court, pursuant to Code
1161 Section 15-16-27, the clerk shall deposit such funds into interest-bearing trust accounts,
1162 and the interest from those funds shall be remitted to the Georgia Superior Court Clerks'
1163 Cooperative Authority in accordance with the provisions of subsections (c) through (i) of
1164 Code Section 15-6-76.1 for distribution to the Georgia Public Defender ~~Standards Council~~
1165 Agency."

1166 **SECTION 25.**

1167 Said title is further amended by revising Code Section 15-10-240, relating to remittance of
1168 interest from funds, as follows:

1169 "15-10-240.

1170 When funds are paid into the court registry, the clerk shall deposit such funds in
1171 interest-bearing trust accounts, and the interest from those funds shall be remitted to the
1172 Georgia Superior Court Clerks' Cooperative Authority in accordance with the provisions
1173 of subsections (c) through (i) of Code Section 15-6-76.1 for distribution to the Georgia
1174 Public Defender ~~Standards Council~~ Agency."

1175 **SECTION 26.**

1176 Said title is further amended by revising subsection (b) of Code Section 15-16-27, relating
1177 to deposit by sheriff of cash bonds and reserves of professional bondspersons in
1178 interest-bearing accounts, as follows:

1179 "(b) The financial institution in which the funds are deposited shall remit, after service
1180 charges or fees are deducted, the interest generated by such funds directly to the Georgia

1181 Superior Court Clerks' Cooperative Authority in accordance with the provisions of
 1182 subsections (c) through (i) of Code Section 15-6-76.1 for distribution to the Georgia Public
 1183 Defender ~~Standards Council~~ Agency and the Office of Alternative Defense Counsel. With
 1184 each remittance, the financial institution shall send a statement showing the name of the
 1185 county, deposits and withdrawals from the account or accounts, interest paid, service
 1186 charges or fees of the bank or other depository, and the net remittance."

1187 **SECTION 27.**

1188 Said title is further amended by revising subsection (c) of Code Section 15-21A-7, relating
 1189 to "court" defined and reporting and accounts system, as follows:

1190 "(c) The authority shall, on a quarterly basis, make a detailed report and accounting of all
 1191 fines and fees collected and remitted by any court and shall submit such report and
 1192 accounting to the ~~General~~ Legislative Oversight Committee for the Georgia Public
 1193 Defender ~~Standards Council~~ Agency, the Office of Planning and Budget, the Chief Justice
 1194 of the Supreme Court of Georgia, the House Budget Office, and the Senate Budget Office
 1195 no later than 60 days after the last day of the preceding quarter."

1196 **SECTION 28.**

1197 Code Section 36-32-1 of the Official Code of Georgia Annotated, relating to establishment
 1198 of municipal court, is amended by revising subsections (f) and (g) as follows:

1199 "(f) Any municipal court operating within this state and having jurisdiction over the
 1200 violation of municipal ordinances and over such other matters as are by specific or general
 1201 law made subject to the jurisdiction of municipal courts shall not impose any punishment
 1202 of confinement, probation, or other loss of liberty, or impose any fine, fee, or cost
 1203 enforceable by confinement, probation, or other loss of liberty, as authorized by general
 1204 law or municipal or county ordinance, unless the court provides to the accused the right to
 1205 representation by a lawyer, and provides to those accused who are indigent the right to
 1206 counsel at no cost to the accused. Such representation shall be subject to all applicable
 1207 standards adopted by the Georgia Public Defender ~~Standards Council~~ Agency for
 1208 representation of indigent persons in this state.

1209 (g) Any municipal court operating within this state that has jurisdiction over the violation
 1210 of municipal or county ordinances or such other statutes as are by specific or general law
 1211 made subject to the jurisdiction of municipal courts, and that holds committal hearings in
 1212 regard to such alleged violations, must provide to the accused the right to representation
 1213 by a lawyer, and must provide to those accused who are indigent the right to counsel at no
 1214 cost to the accused. Such representation shall be subject to all applicable standards adopted

1215 by the Georgia Public Defender Standards Council Agency for representation of indigent
1216 persons in this state."

1217 **SECTION 29.**

1218 This Act shall become effective July 1, 2009, except that for purposes of making the
1219 appointments called for by this Act, it shall become effective upon its approval by the
1220 Governor or upon its becoming law without such approval.

1221 **SECTION 30.**

1222 All laws and parts of laws in conflict with this Act are repealed.