

House Bill 674

By: Representatives Welch of the 110th, Caldwell of the 131st, and Weldon of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Sections 15-18-14 and 17-12-27 of the Official Code of Georgia Annotated,
2 relating to the appointment of assistant district attorneys and assistant public defenders,
3 respectively, so as to provide for state funded positions for juvenile court; to amend Chapters
4 11 and 18 Title 15 of the Official Code of Georgia Annotated, relating to juvenile
5 proceedings and prosecuting attorneys, respectively, so as provide for conforming
6 amendments to HB 242 as enacted during the 2013-2014 biennium of the General Assembly;
7 to provide for related matters; to provide an effective date; to provide for conditional
8 automatic repeal; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

12 Code Section 15-18-14 of the Official Code of Georgia Annotated, relating to the
13 appointment of assistant district attorneys, is amended by revising paragraph (1) of
14 subsection (a) as follows:

15 "(a)(1) Subject to the provisions of this Code section, the district attorney in each judicial
16 circuit is authorized to appoint:

17 (A)(i) One assistant district attorney for each superior court judge authorized for the
18 circuit, excluding senior judges, plus one additional assistant district attorney to assist
19 the district attorney in the performance of the duties of the district attorney's office
20 and consistent with their constitutional and statutory duties to protect the rights of
21 victims of crimes as now or in the future may be defined by applicable law; and

22 (ii) Assistant district attorneys to perform the duties of prosecuting attorney in the
23 juvenile court for the circuit. The number of assistant district attorneys shall depend
24 on the number of superior court judges authorized for the circuit. If there are one or
25 two superior court judges for the circuit, there shall be one assistant district attorney

26 appointed. If there are at least three but fewer than seven superior court judges for the
 27 circuit, there shall be two assistant district attorneys appointed. If there are at least
 28 seven but fewer than ten superior court judges for the circuit, there shall be three
 29 assistant district attorneys appointed. If there are ten or more superior court judges
 30 for the circuit, there shall be four assistant district attorneys appointed;

31 (B) Subject to the availability of funding and at the option of the Department of Human
 32 Services, at least one assistant district attorney to perform duties described specifically
 33 under Code Sections 19-11-23 and 19-11-53 and generally under Article 1 of Chapter
 34 11 of Title 19, the 'Child Support Recovery Act,' Article 2 of Chapter 11 of Title 19, the
 35 'Uniform Reciprocal Enforcement of Support Act,' and Article 3 of Chapter 11 of Title
 36 19, the 'Uniform Interstate Family Support Act.' The district attorney retains the
 37 authority to appoint one or more assistant district attorneys, who shall be county
 38 employees, to perform the aforementioned statutory duties, so long as such
 39 appointments are pursuant to a contract for such services with the Department of
 40 Human Services. Once the election to make this position a state position is made, under
 41 this statutory provision, it shall be irrevocable. Contractual funds shall be paid by the
 42 Department of Human Services to the Prosecuting Attorneys' Council of the State of
 43 Georgia in accordance with the compensation provisions of this Code section, or at the
 44 election of the appointed attorney, to the appointed attorney's judicial circuit, in
 45 accordance with the compensation provisions of that judicial circuit; and

46 (C) Subject to funds being appropriated by the General Assembly or otherwise
 47 available for such purpose, such additional assistant district attorneys as may be
 48 authorized by the Prosecuting Attorneys' Council of the State of Georgia. In
 49 authorizing additional assistant district attorneys, the Prosecuting Attorneys' Council
 50 of the State of Georgia shall consider the case load, present staff, and resources
 51 available to each district attorney, and shall make such authorizations as will contribute
 52 to the efficiency of individual district attorneys and the effectiveness of prosecuting
 53 attorneys throughout the state in their efforts against criminal activity in the state."

54 **SECTION 1-2.**

55 Code Section 17-12-27 of the Official Code of Georgia Annotated, relating to the
 56 appointment of assistant public defenders, is amended by revising subsection (a) as follows:

57 "(a) Subject to the provisions of this Code section, the circuit public defender in each
 58 judicial circuit is authorized to appoint:

59 (1)(A) One assistant public defender for each superior court judge authorized for the
 60 circuit, excluding the chief judge and senior judges; and

61 (B) Assistant public defenders to represent indigent persons in the juvenile court for
 62 the circuit. The number of assistant public defenders shall depend on the number of
 63 superior court judges authorized for the circuit. If there are one or two superior court
 64 judges for the circuit, there shall be one assistant public defender appointed. If there
 65 are at least three but fewer than seven superior court judges for the circuit, there shall
 66 be two assistant public defenders appointed. If there are at least seven but fewer than
 67 ten superior court judges for the circuit, there shall be three assistant public defenders
 68 appointed. If there are ten or more superior court judges for the circuit, there shall be
 69 four assistant public defenders appointed; and

70 (2) Subject to funds being appropriated by the General Assembly or otherwise available,
 71 additional assistant public defenders as may be authorized by the council. In authorizing
 72 additional assistant public defenders, the council shall consider the caseload, present staff,
 73 and resources available to each circuit public defender and shall make authorizations as
 74 will contribute to the efficiency of individual circuit public defenders and the
 75 effectiveness of providing adequate legal defense for indigent defendants."

76 **PART II**

77 **SECTION 2-1.**

78 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
 79 proceedings, is amended by repealing paragraph (59) of Code Section 15-11-2, relating to
 80 definitions, as enacted by HB 242, substantially revising, superseding, and modernizing
 81 provisions relating to juvenile proceedings during the 2013-2014 biennium of the General
 82 Assembly, and enacting a new paragraph (59) to read as follows:

83 "(59) 'Prosecuting attorney' means an attorney designated by the district attorney of the
 84 judicial circuit in which juvenile proceedings are instituted."

85 **SECTION 2-2.**

86 Said chapter is further amended by repealing Code Section 15-11-520, relating to who files
 87 a petition alleging delinquency, as enacted by HB 242, substantially revising, superseding,
 88 and modernizing provisions relating to juvenile proceedings during the 2013-2014 biennium
 89 of the General Assembly, and enacting a new Code Section 15-11-520 to read as follows:

90 "15-11-520.

91 A petition alleging delinquency shall be filed by a prosecuting attorney."

SECTION 2-3.

92

93 Chapter 18 of Title 15 of the Official Code of Georgia Annotated, relating to prosecuting
94 attorneys, is amended by repealing Code Section 15-18-6.1, relating to prosecuting attorneys
95 in juvenile court, as enacted by HB 242, substantially revising, superseding, and modernizing
96 provisions relating to juvenile proceedings during the 2013-2014 biennium of the General
97 Assembly, and enacting a new Code Section 15-18-6.1 to read as follows:

98 "15-18-6.1.

99 (a) The district attorney shall be responsible for representing the state in any appeal from
100 the juvenile court. The district attorney shall be responsible for appointing assistant district
101 attorneys to represent the state in juvenile court as provided in Code Section 15-18-14. The
102 district attorney may designate investigators, victim and witness assistance personnel, and
103 other employees to assist in juvenile court.

104 (b) In counties with a solicitor-general for the state court, the solicitor-general may, with
105 the approval of the district attorney, represent the state in prosecution of juvenile traffic
106 offenses and in any delinquency case arising out of the operation of a motor vehicle or a
107 watercraft."

PART III

108

SECTION 3-1.

109

110 This Act shall become effective on July 1, 2014, only if HB 242, substantially revising,
111 superseding, and modernizing provisions relating to juvenile proceedings, is enacted during
112 the 2013-2014 biennium of the General Assembly and becomes law not later than July 1,
113 2014. If said HB 242 does not become law on or before July 1, 2014, then this Act shall
114 stand repealed on July 1, 2014.

SECTION 3-2.

115

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