House Bill 328 (AS PASSED HOUSE AND SENATE)
By: Representatives Efstration of the 104th, Coomer of the 14th, Nimmer of the 178th, Dickey of the 140th, Golick of the 40th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Part 2 of Article 15 of Chapter 1 of Title 10, Code Sections 17-10-7 and 42-9-45, Chapter 1 of Title 43, and Code Section 49-4-15 of the Official Code of Georgia Annotated, relating to the "Fair Business Practices Act of 1975," repeat offenders and the State Board of Pardons and Paroles general rule-making authority, general provisions for professions and businesses, and fraud in obtaining public assistance, food stamps, or Medicaid, respectively, so as to enact reforms recommended by the Georgia Council on Criminal Justice Reform involving adult offenders; to provide greater employment opportunities for individuals who have had interaction with the criminal justice system; to provide protection to consumers relating to consumer reports in connection with employment and licensing; to provide for definitions; to change provisions relating to certain inmates' parole eligibility; to provide for probationary licenses under certain conditions; to change provisions relating to the misdemeanor and felony threshold in certain fraud cases; to amend Title 15 of the Official Code of Georgia Annotated, relating to courts, so as to create the Council of Accountability Court Judges of Georgia; to provide for membership, duties, and responsibilities; to change responsibilities of drug court divisions, mental health court divisions, and veterans court divisions from the Judicial Council of Georgia to the Council of Accountability Court Judges of Georgia; to amend Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions for payment and disposition of fines and forfeitures, so as to provide for the collection of moneys owed to a court; to amend Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, so as to change the name of the Georgia Public Defender Standards Council; to remove all references to standards within the chapter; to remove mandatory provisions and make them discretionary; to change provisions relating to the qualifications of the director; to revise the director's powers and authority; to require fewer council and legislative oversight meetings; to limit disclosure of information only upon request; to repeal provisions requiring the council to approve programs for the representation of indigent persons; to change provisions relating to appeals in alternative delivery systems; to amend Title 15 and Code Sections 35-6A-3 and 36-32-1 of the Official Code of Georgia Annotated, relating to courts, membership on the...
Criminal Justice Coordinating Council, and establishment of municipal courts, respectively, so as to correct cross-references; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Part 2 of Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, the "Fair Business Practices Act of 1975," is amended by adding a new Code section to read as follows:

"10-1-393.14.

(a) As used in this Code section, the term:

(1) 'Adverse effect' means:

(A) A denial of employment;
(B) Any other decision for employment purposes that negatively affects any current or prospective employee; or
(C) A denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of any license.

(2) 'Consumer report' means any written, oral, or other communication of any information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for purposes of credit, insurance, or employment.

(3) 'Consumer reporting agency' means any person or entity which, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(4) 'Employment purposes' means used for the purpose of evaluating a consumer for employment, promotion, reassignment, retention as an employee, or licensing.

(b) A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall:
(1) At the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) Maintain strict procedures designed to ensure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, and convictions shall be considered up to date if the current public record status of the item at the time of the report is reported.

(c) A consumer reporting agency shall be considered to be conducting business in this state if it provides information to any individual, partnership, corporation, association, or any other group however organized that is domiciled within this state or whose principal place of business is within this state.

(d) A consumer reporting agency that provides a consumer report for employment purposes that is in compliance with the federal Fair Credit Reporting Act in existence on March 11, 2015, shall be deemed to have complied with this Code section.

PART II

SECTION 2-1.

Code Section 17-10-7 of the Official Code of Georgia Annotated, relating to punishment of repeat offenders, is amended by revising subsection (c) as follows:

“(c) Except as otherwise provided in subsection (b) or (b.1) of this Code section and subsection (b) of Code Section 42-9-45, any person who, after having been convicted under the laws of this state for three felonies or having been convicted under the laws of any other state or of the United States of three crimes which if committed within this state would be felonies, commits a felony within this state shall, upon conviction for such fourth offense or for subsequent offenses, serve the maximum time provided in the sentence of the judge based upon such conviction and shall not be eligible for parole until the maximum sentence has been served.”

SECTION 2-2.

Code Section 42-9-45 of the Official Code of Georgia Annotated, relating to the State Board of Pardons and Paroles general rule-making authority, is amended by revising subsection (b) as follows:
"(b)(1) An inmate serving a misdemeanor sentence or misdemeanor sentences shall only be eligible for consideration for parole after the expiration of six months of his or her sentence or sentences or one-third of the time of his or her sentence or sentences, whichever is greater.

(2) Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and paragraph (3) of this subsection, an inmate serving a felony sentence or felony sentences shall only be eligible for consideration for parole after the expiration of nine months of his or her sentence or one-third of the time of the sentences, whichever is greater. Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and paragraph (3) of this subsection, inmates serving sentences aggregating 21 years or more shall become eligible for consideration for parole upon completion of the service of seven years.

(3) When an inmate was sentenced pursuant to subsection (d) of Code Section 16-13-30 and subsection (c) of Code Section 17-10-7 to a term of at least 12 years and up to a life sentence, he or she may become eligible for consideration for parole if he or she:

(A) Has never been convicted of:

(i) A serious violent felony as such term is defined in Code Section 17-10-6.1;

(ii) An offense for which he or she was or could have been required to register pursuant to Code Section 42-1-12; provided, however, that this paragraph shall not apply to any felony that became punishable as a misdemeanor on or after July 1, 2006;

(iii) A violation of paragraph (1) or (2) of subsection (b) of Code Section 16-5-21;

(iv) A violation of Code Section 16-11-106; and

(v) A violation of Code Section 16-11-131;

(B) Has completed at least 12 years of his or her sentence;

(C) Has obtained a low-risk for recidivism rating as determined by a validated risk assessment instrument approved by the Department of Corrections;

(D) Has been classified as a medium or less than medium security risk for institutional housing classification purposes by the Department of Corrections;

(E) Has completed all criminogenic programming requirements as determined by a validated risk assessment instrument approved by the Department of Corrections;

(F) In the 12 months preceding consideration, has not been found guilty of any serious disciplinary infractions; and

(G) Has a high school diploma or general educational development (GED) diploma, unless he or she is unable to obtain such educational achievement due to a learning disability or illiteracy. If the inmate is incapable of obtaining such education, he or she shall have completed a job skills training program, a literacy program, an adult basic education program, or a faith based program.
Chapter 1 of Title 43 of the Official Code of Georgia Annotated, relating to general
provisions for professions and businesses, is amended by adding a new subsection to Code
Section 43-1-19, relating to grounds for refusing to grant or revoking licenses, to read as
follows:

“(p)(1) Notwithstanding any other provision of this Code section or title, when an
applicant submits his or her application for licensure or renewal, together with proof of
completion of a drug court division program, as set forth in Code Section 15-1-15, a
board shall issue the applicant a probationary license under the terms and conditions
deemed appropriate by such board.

(2) Paragraph (1) of this subsection shall not supersede a board's consideration of an
applicant's other prior criminal history or arrests or convictions that occur subsequent to
completion of a drug court division program.”

Code Section 49-4-15 of the Official Code of Georgia Annotated, relating to fraud in
obtaining public assistance, food stamps, or Medicaid, is amended by revising subsection (a)
as follows:

“(a) Any person who by means of a false statement, failure to disclose information, or
impersonation, or by other fraudulent device, obtains or attempts to obtain, or any person
who knowingly or intentionally aids or abets such person in the obtaining or attempting to
obtain:

(1) Any grant or payment of public assistance, food stamps, or medical assistance
(Medicaid) to which he or she is not entitled;

(2) A larger amount of public assistance, food stamp allotment, or medical assistance
(Medicaid) than that to which he or she is entitled; or

(3) Payment of any forfeited grant of public assistance;

or any person who, with intent to defraud the department, aids or abets in the buying or in
any way disposing of the real property of a recipient of public assistance shall be guilty of
a misdemeanor unless the total amount of the value of public assistance, food stamps, and
medical assistance (Medicaid) so obtained exceeds $500.00 $1,500.00, in which event such
person shall be guilty of a felony and, upon conviction thereof, shall be punished by
imprisonment for not less than one nor more than five years. In determining the amount
of value of public assistance, food stamps, and medical assistance (Medicaid) obtained by
false statement, failure to disclose information, or impersonation, or other fraudulent
device, the total amount obtained during any uninterrupted period of time shall be treated
as one continuing offense."

PART V
SECTION 5-1.

Title 15 of the Official Code of Georgia Annotated is amended by revising Code Section
15-1-15, relating to drug court divisions, by revising paragraphs (4) and (10) of subsection
(a) as follows:

"(4)(A) On or before January 1, 2013, the Judicial Council of Accountability Court
Judges of Georgia shall establish standards and practices for drug court divisions taking
into consideration guidelines and principles based on current research and findings
published by the National Drug Court Institute and the Substance Abuse and Mental
Health Services Administration, relating to practices shown to reduce recidivism of
offenders with drug abuse problems. Standards and practices shall include, but shall
not be limited to, the use of a risk and needs assessment to identify the likelihood of
recidivating and identify the needs that, when met, reduce recidivism. The Judicial
Council of Accountability Court Judges of Georgia shall update its standards and
practices to incorporate research, findings, and developments in the drug court field.
Each drug court division shall adopt policies and practices that are consistent with the
standards and practices published by the Judicial Council of Accountability Court
Judges of Georgia.

(B) On and after January 1, 2013, the Judicial Council of Accountability Court
Judges of Georgia shall provide technical assistance to drug court divisions to assist
them with the implementation of policies and practices, including, but not limited to,
guidance on the implementation of risk and needs assessments in drug court divisions.

(C) On or before July 1, 2013, the Judicial Council of Accountability Court Judges
of Georgia shall create and manage a certification and peer review process to ensure
drug court divisions are adhering to the Judicial Council of Accountability Court Judges
of Georgia's standards and practices and shall create a waiver process for drug court
divisions to seek an exception to the Judicial Council of Accountability Court Judges
of Georgia's standards and practices. In order to receive state appropriated funds, any
drug court division established on and after July 1, 2013, shall be certified pursuant to
this subparagraph or, for good cause shown to the Judicial Council of Accountability
Court Judges of Georgia, shall receive a waiver from the Judicial Council of Accountability Court Judges of Georgia.

(D) On and after July 1, 2013, the award of any state funds for a drug court division shall be conditioned upon a drug court division attaining certification or a waiver by the Judicial Council of Accountability Court Judges of Georgia. On or before September 1, the Judicial Council of Accountability Court Judges of Georgia shall publish an annual report listing certified drug court divisions.

(E) The Council of Accountability Court Judges of Georgia and the Georgia Council on Criminal Justice Reform Pursuant to Code Section 15-5-24, the Administrative Office of the Courts shall develop and manage an electronic information system for performance measurement and accept submission of performance data in a consistent format from all drug court divisions. The Judicial Council of Accountability Court Judges of Georgia shall identify elements necessary for performance measurement, including, but not limited to, recidivism, the number of moderate-risk and high-risk participants in a drug court division, drug testing results, drug testing failures, participant employment, the number of participants who successfully complete the program, and the number of participants who fail to complete the program.

(F) On or before July 1, 2015, and every three years thereafter, the Judicial Council of Accountability Court Judges of Georgia shall conduct a performance peer review of the drug court divisions for the purpose of improving drug court division policies and practices and the certification and recertification process.

(10) As used in this Code section, the term 'risk and needs assessment' means an actuarial tool, approved by the Judicial Council of Accountability Court Judges of Georgia and validated on a targeted population, scientifically proven to determine a person's risk to recidivate and to identify criminal risk factors that, when properly addressed, can reduce that person's likelihood of committing future criminal behavior.

SECTION 5-2.

Said title is further amended by revising paragraphs (4) and (10) of subsection (b) of Code Section 15-1-16, relating to mental health court divisions, as follows:

‘(4)(A) On or before January 1, 2013, the Judicial Council of Accountability Court Judges of Georgia shall establish standards and practices for mental health court divisions taking into consideration guidelines and principles based on current research and findings published by expert organizations, including, but not limited to, the United States Substance Abuse and Mental Health Services Administration, the Council of State Governments Consensus Project, and the National GAINS Center, relating to practices shown to reduce recidivism of offenders with mental illness or developmental...”
disabilities. Standards and practices shall include, but shall not be limited to, the use of a risk and needs assessment to identify the likelihood of recidivating and identify the needs that, when met, reduce recidivism. The Judicial Council of Accountability Court Judges of Georgia shall update its standards and practices to incorporate research, findings, and developments in the mental health court field. Each mental health court division shall adopt policies and practices that are consistent with the standards and practices published by the Judicial Council of Accountability Court Judges of Georgia.

(B) The on and after January 1, 2013, the Judicial Council of Accountability Court Judges of Georgia shall provide technical assistance to mental health court divisions to assist them with the implementation of policies and practices, including, but not limited to, guidance on the implementation of risk and needs assessments in mental health court divisions.

(C) The on or before July 1, 2013, the Judicial Council of Accountability Court Judges of Georgia shall create and manage a certification and peer review process to ensure mental health court divisions are adhering to the Judicial Council of Accountability Court Judges of Georgia's standards and practices and shall create a waiver process for mental health court divisions to seek an exception to the Judicial Council of Accountability Court Judges of Georgia's standards and practices. In order to receive state appropriated funds, any mental health court division established on and after July 1, 2013, shall be certified pursuant to this subparagraph or, for good cause shown to the Judicial Council of Accountability Court Judges of Georgia, shall receive a waiver from the Judicial Council of Accountability Court Judges of Georgia.

(D) On and after July 1, 2013, the award of any state funds for a mental health court division shall be conditioned upon a mental health court division attaining certification or a waiver by the Judicial Council of Accountability Court Judges of Georgia. On or before September 1, the Judicial Council of Accountability Court Judges of Georgia shall publish an annual report listing of certified mental health court divisions.

(E) Pursuant to Code Section 15-5-24, the Administrative Office of the Courts shall develop and manage an electronic information system for performance measurement and accept submission of performance data in a consistent format from all mental health court divisions. The Judicial Council of Accountability Court Judges of Georgia shall identify elements necessary for performance measurement, including, but not limited to, recidivism, the number of moderate-risk and high-risk participants in a mental health court division, drug testing results, drug testing failures, the number of participants who successfully complete the program, and the number of participants who fail to complete the program.
(F) On or before July 1, 2015, and every three years thereafter, the Judicial Council of Accountability Court Judges of Georgia shall conduct a performance peer review of the mental health court divisions for the purpose of improving mental health court division policy and practices and the certification and recertification process."

"(10) As used in this Code section, the term 'risk and needs assessment' means an actuarial tool, approved by the Judicial Council of Accountability Court Judges of Georgia and validated on a targeted population, scientifically proven to determine a person's risk to recidivate and to identify criminal risk factors that, when properly addressed, can reduce that person's likelihood of committing future criminal behavior."

SECTION 5-3.

Said title is further amended by revising paragraph (4) of subsection (b) of Code Section 15-1-17, relating to veterans court divisions, as follows:

"(4) The Judicial Council of Accountability Court Judges of Georgia shall adopt standards and practices for veterans court divisions, taking into consideration guidelines and principles based on available current research and findings published by experts on veterans' health needs and treatment options, including, but not limited to, the VA and the Georgia Department of Veterans Service. The Judicial Council of Accountability Court Judges of Georgia shall update its standards and practices to incorporate research, findings, and developments in the veterans court field if any such research, findings, or developments are created. Each veterans court division shall adopt policies and practices that will be consistent with any standards and practices published by the Judicial Council of Accountability Court Judges of Georgia. Such standards and practices shall serve as a flexible framework for developing effective veterans court divisions and provide a structure for conducting research and evaluation for accountability. Such standards and practices are not intended to be a certification or regulatory checklist."

SECTION 5-4.

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

"15-1-18, (a) As used in this Code section, the term:

(1) 'Accountability court' means a drug court division, mental health court division, or veterans court division.

(2) 'Council' means the Council of Accountability Court Judges of Georgia.

(b) There is created an accountability court judges' council to be known as the 'Council of Accountability Court Judges of Georgia.' Such council shall be composed of the judges, senior judges, and judges emeriti of the accountability courts of this state.

H. B. 328
- 9 -
(c) The council shall be authorized to organize itself and to develop a constitution and bylaws. The council shall promulgate rules and regulations as it deems necessary. The council shall annually elect a chairperson from among its membership. The council may appoint such committees as it considers necessary to carry out its duties and responsibilities, including appointing judges serving in other courts to serve in an advisory capacity to the council.

(d) It shall be the purpose of the council to effectuate the constitutional and statutory responsibilities conferred upon it by law and to further the improvement of accountability courts, the quality and expertise of the judges thereof, and the administration of justice.

(e) Expenses of the administration of the council shall be paid from state funds appropriated for that purpose, from federal funds available to the council for such purpose, or from other appropriate sources. The council shall be authorized to accept and use gifts, grants, and donations for the purposes of carrying out this Code section. The council shall be authorized to accept and use property, both real and personal, and services for the purposes of carrying out this Code section.

(f) The Criminal Justice Coordinating Council shall provide technical services to the council and shall assist the council in complying with all its legal requirements.

(g) The Administrative Office of the Courts shall provide the council with office space and administrative support, including staff for record keeping, reporting, and related administrative and clerical functions.

(h) Appropriations to the Administrative Office of the Courts for functions transferred to the Criminal Justice Coordinating Council pursuant to this Code section shall be transferred as provided in Code Section 45-12-90. Personnel previously employed by the Administrative Office of the Courts and equipment and facilities of the Administrative Office of the Courts shall likewise be transferred to the Criminal Justice Coordinating Council. Such transfers shall be as determined by the director of the Administrative Office of the Courts.

PART VI
SECTION 6-1.

Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to general provisions for payment and disposition of fines and forfeitures, is amended by revising Code Section 15-21-12, which was previously reserved, as follows:

"15-21-12.

Reserved.

For the purpose of collecting any moneys owed to a court pursuant to a judgment and with the recommendation of such court, a local governing authority may contract with any person
doing business within or outside this state for the collection of moneys owed to such court; provided, however, that a local governing authority shall not enter into such contract for the collection of moneys owed as a result of a court order sentencing a defendant to a probationary sentence or placing a defendant under probationary supervision solely because such defendant is unable to pay the court imposed fines and statutory surcharges when such defendant's sentence is imposed."

PART VII

SECTION 7-1.

Chapter 12 of Title 17 of the Official Code of Georgia Annotated, relating to legal defense for indigents, is amended by revising subsection (b) of Code Section 17-12-1, relating to the Georgia Public Defender Standards Council, as follows:
"(b) The Georgia Public Defender Standards Council shall be an independent agency within the executive branch of state government."

SECTION 7-2.

Said chapter is further amended by revising paragraphs (4), (5), and (7) of Code Section 17-12-2, relating to definitions, as follows:
"(4) 'Council' means the Georgia Public Defender Standards Council."
"(5) 'Director' means the director of the Georgia Public Defender Standards Council."
"(7) 'Legislative oversight committee' means the Legislative Oversight Committee for the Georgia Public Defender Standards Council."

SECTION 7-3.

Said chapter is further amended by revising subsections (a) and (e) of Code Section 17-12-3, relating to the creation of the council, as follows:
"(a) There is created the Georgia Public Defender Standards Council to be composed of nine members. Other than county commission members, members of the council shall be individuals with significant experience working in the criminal justice system or who have demonstrated a strong commitment to the provision of adequate and effective representation of indigent defendants."
"(e) In making the appointments of members of the council who are not county commissioners, the appointing authorities shall seek to identify and appoint persons who represent a diversity of backgrounds and experience and may solicit suggestions from the State Bar of Georgia, local bar associations, the Georgia Association of Criminal Defense Lawyers, the councils representing the various categories of state court judges in

H. B. 328
- 11 -
Georgia, and the Prosecuting Attorneys' Council of the State of Georgia, as well as from the public and other interested organizations and individuals within this state. The appointing authorities may solicit recommendations for county commissioners from the Association County Commissioners of Georgia. The appointing authorities shall not appoint a prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any employee of a prosecuting attorney's office, or an employee of the Prosecuting Attorneys' Council of the State of Georgia to serve on the council."

SECTION 7-4.

Said chapter is further amended by revising Code Section 17-12-5, relating to the director, qualifications, selection, salary, and responsibilities, as follows:

"17-12-5.

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

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

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

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

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

(1) The power and authority to take or cause to be taken any or all action necessary to perform any indigent defense services or otherwise necessary to perform any duties, responsibilities, or functions which the director is authorized by law to perform and to
exercise any power or authority which the council is authorized under subsection (a) of Code Section 17-12-4 to exercise; and

(2) The power and authority to enforce or otherwise require compliance with any and all rules, regulations, procedures, or directives necessary to perform any indigent defense services; to carry into effect the minimum standards and policies promulgated by the council; and to perform any duties, responsibilities, or functions which the council is authorized under subsection (a) of Code Section 17-12-4 to perform or to exercise; and

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

(d) The director shall:

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

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

(3) Administer and coordinate the operations of the council and supervise compliance with policies and standards adopted by the council;

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

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

(6) Coordinate the services of the council with any federal, county, or private programs established to provide assistance to indigent persons in cases subject to this chapter and consult with professional bodies concerning the implementation and improvement of programs for providing indigent services;

(7) Provide for the training of attorneys and other staff involved in the legal representation of persons subject to this chapter;

(8) Attend all council meetings, except those meetings or portions thereof that address the question of appointment or removal of the director;

(9) Ensure that the expenditures of the council are not greater than the amounts budgeted or available from other revenue sources;

(10) Hire or remove a mental health advocate who shall serve as director of the division of the office of mental health advocacy;

(11) Hire or remove the capital defender who shall serve as the director of the division of the office of the Georgia capital defender; and
(12) Evaluate each circuit public defender's job performance.

(e) The director shall not:

(1) Provide direct legal representation to any person entitled to services pursuant to this chapter; and

(2) Engage in the private practice of law for profit."

SECTION 7-5.

Said chapter is further amended by revising Code Section 17-12-6, relating to assistance of council to public defenders, as follows:

"17-12-6.

(a) The council shall may assist the public defenders throughout the state in their efforts to provide adequate legal defense to the indigent. Assistance may include:

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

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

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

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

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

(b) The council:

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

(2) May Shall collect, maintain, review, and publish in print or electronically records and statistics for the purpose of evaluating the delivery of indigent defense representation in Georgia."
Reserved.

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

(b) The council shall approve and implement programs, services, policies, and standards as may be necessary to fulfill the purposes and provisions of this chapter and to comply with all applicable laws governing the rights of indigent persons accused of violations of criminal

(c) All policies and standards that are promulgated by the council shall be publicly available for review and shall be posted on the council's website. Each policy and standard shall identify the date upon which such policy and standard took effect."

SECTION 7-8.

Said chapter is further amended by revising Code Section 17-12-10, relating to annual reporting, as follows:

"17-12-10.

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

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

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

SECTION 7-9.

Said chapter is further amended by revising Code Section 17-12-10.1, relating to the creation of the legislative oversight committee, as follows:

"17-12-10.1.

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

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

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

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

(d) The council and director shall cooperate with such committee and provide such
information or reports as requested by the committee for the performance of its functions.
(e) The council shall submit its budget estimate to the director of the Office of Planning and
Budget in accordance with subsection (a) of Code Section 45-12-78.

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

(g) The members of such committee shall receive the allowances authorized for
legislative members of legislative committees. The funds necessary to pay such allowances
shall come from funds appropriated to the House of Representatives and the Senate.
The legislative oversight committee shall be authorized to request that a performance audit of the council be conducted.”

SECTION 7-10.

Said chapter is further amended by revising subsection (d) of Code Section 17-12-20, relating to the public defender selection panel, as follows:

“(d) A circuit public defender supervisory panel may convene at any time during its circuit public defender's term of office and shall convene at least annually for purposes of reviewing the circuit public defender's job performance and the performance of the circuit public defender office. The director and circuit public defender shall be notified at least two weeks in advance of the convening of the circuit public defender supervisory panel. The circuit public defender shall be given the opportunity to appear before the circuit public defender supervisory panel and present evidence and testimony. The chairperson shall determine the agenda for the annual review process, but, at a minimum, such review shall include information collected pursuant to subsection (c) of Code Section 17-12-24, usage of state and local funding, expenditures, and budgeting matters. The chairperson shall make an annual report on or before the thirtieth day of September of each year concerning the circuit public defender supervisory panel's findings regarding the job performance of the circuit public defender and his or her office to the director on a form provided to the panel by the director. If at any time the circuit public defender supervisory panel finds that the circuit public defender is performing in a less than satisfactory manner or finds information of specific misconduct, the circuit public defender supervisory panel may by majority vote of its members adopt a resolution seeking review of its findings and remonstrative action by the director. Such resolution shall specify the reason for such request. All evidence presented and the findings of the circuit public defender supervisory panel shall be forwarded to the director within 15 days of the adoption of the resolution. The director shall initiate action on the circuit public defender supervisory panel's resolution within 30 days of receiving the resolution. The director shall notify the circuit public defender supervisory panel, in writing, of any actions taken pursuant to submission of a resolution under this subsection.”

SECTION 7-11.

Said chapter is further amended by revising Code Section 17-12-36, relating to alternative delivery systems, as follows:

“17-12-36.

(a) The council may permit a judicial circuit composed of a single county to continue in effect an alternative delivery system to the one set forth in this article if:

H. B. 328
- 17 -
(1) The delivery system:
(A) Has a full-time director and staff and had been fully operational for at least two years on July 1, 2003; or
(B) Is administered by the county administrative office of the courts or the office of the court administrator of the superior court and had been fully operational for at least two years on July 1, 2003;
(2) The council, by majority vote of the entire council, determines that the delivery system meets or exceeds its policies and standards, including, without limitation, caseload standards; as the council adopts;
(3) The governing authority of the county comprising the judicial circuit enacts a resolution expressing its desire to continue its delivery system and transmits a copy of such resolution to the council not later than September 30, 2004; and
(4) The governing authority of the county comprising the judicial circuit enacts a resolution agreeing to fully fund its delivery system.

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

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

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

(e) In the event an alternative delivery system is approved, the council shall annually review the operation of such system and determine whether such system is meeting the standards requirements as established by the council and is eligible to continue operating as an approved alternative delivery system. In the event the council determines that such system is not meeting the standards requirements as established by the council, the council shall provide written notice to such system of the deficiencies and shall provide such system an opportunity to cure such deficiencies.
(f) In the event an alternative delivery system is approved, it shall keep and maintain appropriate records, which shall include the number of persons represented; the offenses charged; the outcome of each case; the expenditures made in providing services; and any other information requested by the council.

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

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

SECTION 7-12.

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

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

SECTION 7-13.

Said chapter is further amended by revising subsection (b) of Code Section 17-12-80, relating to the requirement for verification of indigence, as follows:

“(b) The council shall establish policies and standards to determine approval of an indigent person verification system and shall annually provide written notification to the Georgia Superior Court Clerks' Cooperative Authority as to whether or not a governing authority has an approved indigent person verification system.”

PART VIII
SECTION 8-1.

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising
subsection (a) of Code Section 15-6-30, relating to expenses for attendance at educational programs, as follows:

"(a) The judges of the superior courts of this state shall be entitled to receive, in addition to the compensation provided by law, reimbursement of travel expenses incurred when such a judge attends any court in his judicial circuit other than the court in the county of the residence of the judge or when the judge is required to be in any county in his circuit other than the county of his residence in the discharge of any judicial duty or function, required by law, pertaining to the superior court of such county. Judges and senior judges of the superior courts shall also be entitled to receive reimbursement under this Code section of travel expenses incurred when any such judge is designated to preside in the place of an absent Justice of the Supreme Court or attends a meeting of a judicial administrative district, The Council of Superior Court Judges of Georgia, the Judicial Council of Georgia, the Council of Accountability Court Judges of Georgia, the Advisory Council for Probation, the Judicial Qualifications Commission, or any committee or subcommittee of any such body, or when any such judge attends a meeting with the personnel of any state department or other state agency when such meeting is held to carry out a public purpose; provided, however, that any expenses for which reimbursement is received under this subsection shall not be eligible for reimbursement under Code Section 15-6-32."

SECTION 8-2.

Said title is further amended by revising subsections (e) and (g) of Code Section 15-6-76.1, relating to investing or depositing funds, as follows:

"(e) When funds have been paid into the registry of the court and the order of the court relating to such funds does not state that such funds shall be placed in an interest-bearing trust account for the benefit of one or more of the parties, the clerk shall deposit such funds in an interest-bearing trust account, and the financial institution in which such funds are deposited shall remit, after service charges or fees are deducted, the interest generated by said funds directly to the Georgia Superior Court Clerks’ Cooperative Authority by the last day of the month following the month in which such funds were received for distribution to the Georgia Public Defender Standards Council for allotment to the circuit public defender offices. With each remittance, the financial institution shall send a statement showing the name of the court, the rate of interest applied, the average monthly balance in the account against which the interest rate is applied, the service charges or fees of the bank or other depository, and the net remittance. This subsection shall include, but not be limited to, cash supersede bonds for criminal appeal, other supersede bonds, and bonds or funds paid into the court registry in actions involving interpleader, condemnation, and requests for injunctive relief."
(g) Any interest earned on funds subject to this Code section or Code Section 15-7-49, 15-9-18, or 15-10-240 while in the custody of the Georgia Superior Court Clerks' Cooperative Authority shall be remitted to the Georgia Public Defender Standards Council.

SECTION 8-3.

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

"15-7-49.

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

SECTION 8-4.

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

"15-9-18.

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

SECTION 8-5.

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

"15-10-240.

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

SECTION 8-6.
Said title is further amended by revising subsection (b) of Code Section 15-16-27, relating to deposit of cash bonds and reserves of professional bonds persons in interest-bearing accounts, as follows:

“(b) The financial institution in which the funds are deposited shall remit, after service charges or fees are deducted, the interest generated by such funds directly to the Georgia Superior Court Clerks' Cooperative Authority in accordance with the provisions of subsections (c) through (i) of Code Section 15-6-76.1 for distribution to the Georgia Public Defender Standards Council. With each remittance, the financial institution shall send a statement showing the name of the county, deposits and withdrawals from the account or accounts, interest paid, service charges or fees of the bank or other depository, and the net remittance.”

SECTION 8-7.

Said title is further amended by revising subsection (c) of Code Section 15-21A-7, relating to rules, regulations, reporting, and accounting, as follows:

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

SECTION 8-8.

Code Section 35-6A-3 of the Official Code of Georgia Annotated, relating to the membership on the Criminal Justice Coordinating Council, is amended by revising subsections (a) and (c) as follows:

“(a) The Criminal Justice Coordinating Council shall consist of members and shall be composed as follows:

(1) The chairperson of the Georgia Peace Officer Standards and Training Council, the director of homeland security, the chairperson of the Judicial Council of Georgia, the chairperson of the Council of Accountability Court Judges of Georgia, the chairperson of the Prosecuting Attorneys' Council of the State of Georgia, the commissioner of corrections, the chairperson of the Board of Corrections, the vice chairperson of the Board of Public Safety, the chairperson of the State Board of Pardons and Paroles, the State School Superintendent, the commissioner of community affairs, the president of the Council of Juvenile Court Judges, the chairperson of the Georgia Public Defender Standards Council, the chairperson of the Governor's Office for Children and Families,
and the commissioner of juvenile justice or their designees shall be ex officio members of the council, as full voting members of the council by reason of their office; and

(2) Ten members shall be appointed by the Governor for terms of four years, their initial appointments, however, being four for four-year terms, two for three-year terms, and four for two-year terms. Appointments shall be made so that there are always on the council the following persons: one county sheriff, one chief of police, one mayor, one county commissioner, one superior court judge, four individuals who shall be, by virtue of their training or experience, knowledgeable in the operations of the criminal justice system of this state, and one individual who shall be, by virtue of his or her training and experience, knowledgeable in the operations of the entire spectrum of crime victim assistance programs delivering services to victims of crime. No person shall serve beyond the time he or she holds the office or employment by reason of which he or she was initially eligible for appointment.

“(c) The initial terms for all 19 original members shall begin July 1, 1981. The initial term for the member added in 1985 shall begin July 1, 1985. The initial term for the member added in 1988 shall begin July 1, 1988. The initial term for the member added in 1989 shall begin July 1, 1989. The State School Superintendent shall be a member effective on July 1, 1989. The chairperson of the Georgia Public Defender Standards Council shall become a member on December 31, 2003. The chairperson of the Council of Accountability Court Judges of Georgia shall become a member on July 1, 2015.”

SECTION 8-9.

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

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

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

PART IX

SECTION 9-1.

(a) Except as provided in subsection (b) of this section, this Act shall become effective on July 1, 2015.

(b) Part II of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval. The provisions of Part II of this Act shall be given retroactive effect to those sentences imposed before the effective date of Part II of this Act.

SECTION 9-2.

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