

The Senate Committee on Judiciary offered the following substitute to SB 189:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure,
2 so as to change provisions relating to the legal defense of indigents; to clarify defined terms;
3 to remove obsolete references; to change and clarify provisions relating to the authority and
4 responsibilities of the Georgia Public Defender Council and its director; to authorize the
5 creation of more divisions within the council; to clarify the obligation of the council and
6 circuit public defender offices in representing individuals and providing services; to change
7 provisions relating to the circuit public defender supervisory panel; to provide for reporting
8 of certain information; to provide a method for an alternative delivery system to become a
9 circuit public defender office; to provide for related matters; to repeal conflicting laws; and
10 for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is
13 amended by revising Articles 1 and 2 of Chapter 12, relating to the Georgia Public Defender
14 Council and public defenders, respectively, as follows:
15

"ARTICLE 1

16 17-12-1.

17 (a) This chapter shall be known and may be cited as the 'Georgia Indigent Defense Act of
18 2003.'

19 (b) The Georgia Public Defender Council shall be an independent agency within the
20 executive branch of state government.

21 (c) The council shall be responsible for assuring that adequate and effective legal
22 representation is provided, independently of political considerations or private interests, to
23 indigent persons who are entitled to representation under this chapter.
24

25 17-12-2.

26 As used in this chapter, the term:

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

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

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

33 (4) 'Council' means the Georgia Public Defender Council.

34 (5) 'Director' means the director of the Georgia Public Defender Council.

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

36 (A) A person charged with a misdemeanor, violation of probation, or a municipal or
37 county offense punishable by imprisonment who earns ~~less~~ not more than 100 percent
38 of the federal poverty guidelines unless there is evidence that the person has other
39 resources that might reasonably be used to employ a lawyer without undue hardship on
40 the person or his or her dependents;

41 (B) A juvenile charged with a delinquent act or a violation of probation that was
42 imposed following an adjudication for a delinquent act punishable by detention whose
43 parents earn ~~less~~ not more than 125 percent of the federal poverty guidelines unless
44 there is evidence that the juvenile or his or her parents have other resources that might
45 reasonably be used to employ a lawyer without undue hardship on the juvenile, his or
46 her parents, or the parent's dependents; and

47 (C) A person charged with a felony who earns or, in the case of a juvenile, whose
48 parents earn, ~~less~~ not more than 150 percent of the federal poverty guidelines unless
49 there is evidence that the person has other resources that might reasonably be used to
50 employ a lawyer without undue hardship on the person, his or her dependents, or, in the
51 case of a juvenile, his or her parents or the parent's dependents.

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

55 (7) 'Legislative oversight committee' means the Legislative Oversight Committee for the
56 Georgia Public Defender Council.

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

59 17-12-3.

60 (a) There is created the Georgia Public Defender Council to be composed of nine
61 members. Other than county commission members, members of the council shall be
62 individuals with significant experience working in the criminal justice system or who have
63 demonstrated a strong commitment to the provision of adequate and effective
64 representation of indigent defendants.

65 (b) ~~Reserved. Effective July 1, 2011, the council shall be reconstituted. The members~~
66 ~~serving on the council immediately prior to July 1, 2011, shall cease to serve on that date,~~
67 ~~but such prior members shall be eligible for reappointment to succeed themselves or to fill~~
68 ~~another position on the council.~~

69 (c) The nine members of the council shall be appointed as follows:

70 (1) Five members shall be appointed by the Governor. The Governor shall appoint three
71 county commissioners who have been elected and are serving as members of a county
72 governing authority in this state. The county commissioner councilmembers appointed
73 by the Governor shall be from different geographic regions of this state. The Governor
74 may solicit recommendations for such appointees from the Association County
75 Commissioners of Georgia. Each county commissioner councilmember shall serve a
76 term of four years; ~~provided, however, that the initial appointments shall be for one, two,~~
77 ~~and three years, respectively, as designated by the Governor for each appointment, and~~
78 ~~thereafter, such members shall serve terms of four years.~~ A county commission
79 councilmember shall be eligible to serve so long as he or she retains the office by virtue
80 of which he or she is serving on the council. The Governor shall appoint two other
81 members to the council, one of whom shall be a circuit public defender, who shall serve
82 terms of four years;

83 (2) Two members shall be appointed by the Lieutenant Governor and each shall serve
84 terms of four years; provided, however, that the initial appointments shall be for one and
85 four years, respectively, as designated by the Lieutenant Governor for each appointment,
86 and thereafter, such members shall serve terms of four years; and

87 (3) Two members shall be appointed by the Speaker of the House of Representatives and
88 each shall serve terms of four years; provided, however, that the initial appointments shall
89 be for two and three years, respectively, as designated by the Speaker of the House of
90 Representatives for each appointment, and thereafter, such members shall serve terms of
91 four years.

92 (d) ~~All initial terms shall begin on July 1, 2011, and their successors' terms shall begin on~~
93 July 1 following their appointment. Any vacancy for a member shall be filled by the
94 appointing authority, and such appointee shall serve the balance of the vacating member's
95 unexpired term. Any member of the council may be appointed to successive terms.

96 (e) In making the appointments of members of the council who are not county
 97 commissioners, the appointing authorities shall seek to identify and appoint persons who
 98 represent a diversity of backgrounds and experience and may solicit suggestions from the
 99 State Bar of Georgia, local bar associations, the Georgia Association of Criminal Defense
 100 Lawyers, the councils representing the various categories of state court judges in Georgia,
 101 and the Prosecuting Attorneys' Council of the State of Georgia, as well as from the public
 102 and other interested organizations and individuals within this state. The appointing
 103 authorities may solicit recommendations for county commissioners from the Association
 104 County Commissioners of Georgia. The appointing authorities shall not appoint a
 105 prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any employee
 106 of a prosecuting attorney's office, or an employee of the Prosecuting Attorneys' Council of
 107 the State of Georgia to serve on the council.

108 17-12-4.

109 (a) The council:

110 (1) Shall be a legal entity;

111 (2) Shall have perpetual existence;

112 (3) Shall review any contract sought to be entered into by a circuit public defender office
 113 and approve, modify, or disapprove of such contract;

114 ~~(3)~~(4) May contract;

115 ~~(4)~~(5) May own property;

116 ~~(5)~~(6) May accept funds, grants, and gifts from any public or private source, which shall
 117 be used to defray the expenses incident to implementing its purposes;

118 ~~(6)~~(7) May adopt and use an official seal; ~~and~~

119 ~~(7)~~(8) May establish a principal office;

120 (9) May sue or be sued; and

121 (10) May seek, solicit, apply for, and utilize funds from any public or private source to
 122 fulfill the purposes of this chapter.

123 (b) The council shall establish auditing procedures as may be required in connection with
 124 the handling of public funds. The state auditor shall be authorized and directed to make
 125 an annual audit of the transactions of the council and to make a complete report of the same
 126 to the General Assembly. The annual audit shall disclose all moneys received by the
 127 council and all expenditures made by the council by revenue source, including all programs
 128 and special projects itemized in the General Appropriations Act. The annual audit shall
 129 include an itemization by revenue source of encumbered and reserved money. Revenue
 130 sources shall include each county governing authority's expenditures which are made
 131 pursuant to Code Sections 17-12-31 and 17-12-32 and city or county expenditures which

132 are made pursuant to subsection (d) of Code Section 17-12-23. The state auditor shall also
 133 make an audit of the affairs of the council at any time when requested to do so by a
 134 majority of the council or by the Governor or General Assembly.

135 (c) The council may not provide compensation from its funds to any administrative or
 136 clerical personnel employed by the council if the personnel are then receiving retirement
 137 compensation from any retirement or pension fund created by Title 47 to provide
 138 compensation for past services as a judicial officer, prosecuting attorney, indigent defense
 139 attorney, court officer, or law enforcement officer except for county or municipal
 140 retirement funds.

141 17-12-5.

142 (a) To be eligible for appointment as the director, a candidate shall be a member in good
 143 standing of the State Bar of Georgia with at least seven years' experience in the practice of
 144 law. The director shall be appointed by the Governor and shall serve at the pleasure of the
 145 Governor.

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

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

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

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

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

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

- 168 (d) The director shall:
- 169 (1) Prepare and submit to the ~~council a proposed budget for the council~~ director of the
 170 Office of Planning and Budget the council's budget estimate necessary for fulfilling the
 171 purposes of this chapter in accordance with Code Section 45-12-78. The director ~~shall~~
 172 may also prepare and submit an annual report containing pertinent data on the operations,
 173 costs, and needs of the council and such other information as the council may require;
- 174 (2) Develop such procedures as the director determines may be necessary to carry out
 175 the provisions of this chapter;
- 176 (3) Administer and coordinate the operations of the council;
- 177 (4) Maintain proper records of all financial transactions related to the operation of the
 178 council;
- 179 (5) At the director's discretion, solicit and accept on behalf of the council any funds that
 180 may become available from any source, including government, nonprofit, or private
 181 grants, gifts, or bequests;
- 182 (6) Coordinate the services of the council with any federal, county, or private programs
 183 established to provide assistance to indigent persons in cases subject to this chapter;
- 184 (7) Provide for the training of attorneys and other staff involved in the legal
 185 representation of persons subject to this chapter;
- 186 (8) Attend all council meetings, except those meetings or portions thereof that ~~address~~
 187 ~~the question of appointment or removal of the director;~~ involve deliberations on the:
- 188 (A) Removal of a circuit public defender; or
 189 (B) Appeal of a list of nominees submitted by a circuit public defender supervisory
 190 panel;
- 191 (9) Ensure that the expenditures of the council are not greater than the amounts budgeted
 192 or available from other revenue sources;
- 193 (10) Hire or remove a mental health advocate who shall serve as director of the ~~division~~
 194 ~~of the office of~~ mental health advocacy division;
- 195 (11) Hire or remove the capital defender who shall serve as the director of the ~~division~~
 196 ~~of the office of the~~ Georgia capital defender division; ~~and~~
- 197 (12) Hire or remove any attorney who serves as the head of any division created by the
 198 director; and
- 199 ~~(12)~~(13) Select Evaluate each circuit public ~~defender's~~ defender and evaluate his or her
 200 job performance.
- 201 (e) The director shall not:
- 202 (1) Provide direct legal representation to any person entitled to services pursuant to this
 203 chapter; and
- 204 (2) Engage in the private practice of law for profit.

205 17-12-6.

206 (a) The council may assist ~~the public defenders throughout the state in their efforts to~~
 207 ~~provide adequate legal defense to the indigent~~ and other attorneys representing indigent
 208 persons receiving services under this chapter. Assistance may include:

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

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

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

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

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

217 (b) The council:

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

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

223 17-12-7.

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

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

229 (c) Each member of the council shall serve until a successor has been appointed. Removal
 230 of councilmembers shall be for cause and shall be in accordance with policies and
 231 procedures adopted by the council.

232 (d) Unless otherwise provided in this article, a quorum shall be a majority of the members
 233 of the council who are then in office, and decisions of the council shall be by majority vote
 234 of the members present, except that a majority of the entire council shall be required to
 235 approve the appointment of the chairperson and for annual approval of an alternative
 236 delivery system pursuant to Code Section 17-12-36 and other matters as set forth in Code
 237 Section 17-12-36. The vote of two-thirds of the members of the entire council shall be
 238 required to remove the chairperson of the council or to overturn the director's decision
 239 regarding the removal of a circuit public defender.

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

242 (f) The council shall elect a chairperson and such officers from the members of the council
243 as it deems necessary and shall adopt such rules for the transaction of its business as it
244 desires. The chairperson and officers shall serve for a term of two years and may be
245 removed from such positions without cause by a vote of two-thirds of the members of the
246 entire council and for cause by a majority vote of the entire council. The chairperson shall
247 retain a vote on all matters except those in which the chairperson has a conflict of interest
248 or the removal of the chairperson for cause. The council shall keep and maintain minutes
249 of all council meetings.

250 (g) The members of the council shall receive no compensation for their services but shall
251 be reimbursed for their actual expenses incurred in the performance of their duties as
252 members of the council. Any expenses incurred by the council shall be paid from the
253 general operating budget of the council.

254 17-12-8.

255 (a) No person shall receive representation under this chapter unless he or she been
256 appointed an attorney by the director, a circuit public defender, an individual designated
257 by the director or a circuit public defender to make such appointments, or the director of
258 an alternative delivery system or his or her designee.

259 (b) No person receiving representation under this chapter shall be entitled to receive other
260 services unless the director or a circuit public defender approves of such services.

261 (c) When a person waives his or her right to counsel in a proceeding in any court of this
262 state, he or she shall not be entitled to counsel or other services under this chapter until a
263 court has reinstated the right to counsel and he or she applies for the appointment of an
264 attorney from a circuit public defender or his or her designee and is determined to be an
265 indigent person. Reserved.

266 17-12-9.

267 The council shall be authorized to conduct or approve for credit or reimbursement, or both,
268 basic and continuing legal education courses or other appropriate training programs for ~~the~~
269 ~~circuit public defenders or their,~~ circuit public defenders' staff members, employees of the
270 council, and attorneys with whom the council has a contractual relationship. The council,
271 ~~in accordance with such policies as it shall adopt,~~ shall be authorized to provide
272 reimbursement, in whole or in part, for the actual expenses incurred by ~~any circuit public~~
273 ~~defender or their staff members~~ individuals employed by the council or a circuit public
274 defender office in attending any approved course or training program from funds as may

275 be appropriated or otherwise made available to the council. ~~The circuit public defenders~~
 276 ~~or their staff members~~ individuals employed by the council or a circuit public defender
 277 office shall be authorized to receive reimbursement for actual expenses incurred in
 278 attending approved courses or training programs. ~~The council shall adopt policies~~
 279 ~~governing the approval of courses and training programs for credit or reimbursement as~~
 280 ~~may be necessary to administer this Code section properly.~~

281 17-12-10.

282 (a) Upon request, the ~~council~~ director shall prepare annually a report of its the council's
 283 activities in order to provide the General Assembly, the Governor, and the Supreme Court
 284 of Georgia with an accurate description and accounting of the preceding year's
 285 expenditures and revenue, including moneys received from cities and county governing
 286 authorities.

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

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

296 17-12-10.1.

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

305 (b) The Speaker of the House of Representatives shall appoint a member of such
 306 committee to serve as chairperson, and the ~~Senate Committee on Assignments or such~~
 307 ~~person or entity as established by Senate rule~~ President of the Senate shall appoint one
 308 member of the committee to serve as vice chairperson during each even-numbered year.
 309 The ~~Senate Committee on Assignments or such person or entity as established by Senate~~

310 ~~rule~~ President of the Senate shall appoint a member of such committee to serve as
 311 chairperson, and the Speaker of the House of Representatives shall appoint one member
 312 to serve as vice chairperson during each odd-numbered year. Such committee shall meet
 313 at least once each year and, upon the call of the chairperson, at such additional times as
 314 deemed necessary by the chairperson.

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

316 (1) Information on new programs submitted by the council;

317 (2) Information on policies proposed by the council;

318 (3) The strategic plans for the council;

319 (4) Program evaluation reports and budget recommendations of the council;

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

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

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

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

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

328 (f) The members of such committee shall receive the allowances authorized for legislative
 329 members of legislative committees. The funds necessary to pay such allowances shall
 330 come from funds appropriated to the House of Representatives and the Senate.

331 (g) The legislative oversight committee shall be authorized to request that a performance
 332 audit of the council be conducted.

333 17-12-10.2.

334 The members of the council as created by this article, the members of ~~the~~ each circuit
 335 public defender supervisory panel created by Article 2 of this chapter, and other
 336 policy-making or administrative personnel acting in a policy-making or administrative
 337 capacity shall not be subject to civil liability resulting from any act or failure to act in the
 338 implementation and carrying out of the purposes of this chapter.

339 17-12-11.

340 (a) The council, mental health advocate, mental health advocacy division, a circuit public
 341 defender office, or other attorney appointed by the council shall represent in any court in
 342 this state indigent persons found not guilty by reason of insanity at the time of the crime
 343 or found mentally incompetent to stand trial ~~and shall be the successor to the office of~~
 344 ~~mental health advocacy created by Article 4 of this chapter as it existed on June 30, 2008.~~

345 ~~Any assets or resources of the office of mental health advocacy shall be transferred to the~~
 346 ~~council.~~ The mental health advocacy division office shall serve all counties of this state.
 347 (b) Whenever any person has been found not guilty by reason of insanity at the time of the
 348 crime pursuant to Code Section 17-7-131 or found mentally incompetent to stand trial
 349 pursuant to Code Section 17-7-130 and has been determined to be an indigent person, the
 350 ~~court in which~~ circuit public defender or the director of an alternative delivery system
 351 authorized under Code Section 17-12-36, as applicable, for the judicial circuit where such
 352 case is pending shall notify the mental health advocacy division, and the division may
 353 assume the defense and representation of such person in all matters pursuant to Code
 354 Sections 17-7-130 and 17-7-131, as applicable, if the resources, funding, and staffing of
 355 the division allow; provided, however, that the circuit public defender or other attorney
 356 who represented the indigent person at the time of the finding of not guilty by reason of
 357 insanity at the time of the crime or the finding of mentally incompetent to stand trial shall
 358 have the option to retain responsibility for the representation of any such person.
 359 (c) Nothing in this Code section shall prevent the circuit public defender, the court, or the
 360 court appointed attorney from requesting the participation of the mental health advocacy
 361 division prior to a finding of not guilty by reason of insanity at the time of the crime or a
 362 finding of mentally incompetent to stand trial. The circuit public defender, the court, or the
 363 ~~court appointed~~ attorney appointed under this chapter may request that the mental health
 364 advocacy division assist in the case prior to a plea being entered and accepted by the court.
 365 (d) If for any reason the mental health advocacy division is unable to represent any
 366 indigent person found not guilty by reason of insanity at the time of the crime or found
 367 mentally incompetent to stand trial, such representation shall be provided as otherwise
 368 provided by law.
 369 (e) The director shall be responsible for management of the mental health advocacy
 370 division; provided, however, that the director may delegate day-to-day operations of the
 371 division to the mental health advocate.

372 17-12-12.

373 (a) The Georgia capital defender division shall represent all indigent persons charged with
 374 a capital felony for which the death penalty is being sought in any court in this state ~~and~~
 375 ~~shall be the successor to the Office of the Georgia Capital Defender created by Article 6~~
 376 ~~of this chapter as it existed on June 30, 2008. Any assets or resources of the Office of the~~
 377 ~~Georgia Capital Defender shall be transferred to the council.~~ The Georgia capital defender
 378 division shall serve all counties of this state.
 379 (b) Whenever any person accused of a capital felony for which the death penalty is being
 380 sought has been determined to be an indigent person who has requested the assistance of

381 counsel, the ~~court in which the~~ circuit public defender or the director of an alternative
 382 delivery system authorized under Code Section 17-12-36, as applicable, for the judicial
 383 circuit where such charges are pending shall notify the Georgia capital defender division,
 384 and the division shall assume the defense of such person except as provided in Code
 385 Section 17-12-12.1.

386 (c) No person shall be assigned the primary responsibility of representing an indigent
 387 person accused of a capital offense for which the death penalty is sought unless such person
 388 is authorized to practice law in this state and is otherwise competent to counsel and defend
 389 a person charged with a capital felony.

390 (d) ~~For The Georgia capital defender division or appointed counsel's defense of a~~
 391 ~~defendant in~~ a case in which the death penalty is sought, any attorney employed by the
 392 council or appointed counsel shall include represent the defendant in all proceedings in the
 393 trial court and any appeals to the Supreme Court of Georgia. ~~Neither the Georgia capital~~
 394 ~~defender division nor appointed counsel shall;~~ provided, however, that he or she shall not
 395 assist with any petition for a writ of habeas corpus in federal court.

396 (e) The director shall be responsible for management of the Georgia capital defender
 397 division; provided, however, that the director may delegate day-to-day operations of the
 398 division to the capital defender.

399 17-12-12.1.

400 (a) If there is a conflict of interest such that the Georgia capital defender division is unable
 401 to defend any indigent person accused of a capital felony for which the death penalty is
 402 being sought, except as provided in subsection (e) of this Code section, the director shall
 403 determine and appoint counsel to represent the defendant. The director shall establish the
 404 contractual agreement with the defendant's counsel for payment of representing the
 405 defendant, and, when feasible and prudent, a flat fee structure shall be utilized.

406 (b) Except as provided in subsection (e) of this Code section, a ~~A~~ maximum of two
 407 attorneys shall be paid by the council pursuant to a contractual agreement or at an hourly
 408 rate established by the council with state funds appropriated to the council. State funds
 409 shall be appropriated to the council for use by the Georgia capital defender division for the
 410 first \$150,000.00 paid for each death penalty case. Funding for attorney's fees and
 411 expenses between \$150,000.01 and \$250,000.00 for each death penalty case shall be paid
 412 through state appropriations for 75 percent of such attorney's fees and expenses, and the
 413 county governing authority where the indictment was returned shall pay 25 percent of such
 414 attorney's fees and expenses. Funding for all attorney's fees and expenses in excess of
 415 \$250,000.00 for each death penalty case shall be paid through state appropriations for 50

416 percent of such attorney's fees and expenses, and the county governing authority where the
 417 indictment was returned shall pay 50 percent of such attorney's fees and expenses.

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

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

424 (e) The director may establish conflict case divisions for the circumstances when the
 425 Georgia capital defender division is unable to represent an indigent person accused with
 426 a capital felony for which the death penalty is being sought due to a conflict of interest.
 427 The qualifications set forth in subsection (c) of Code Section 17-12-12 shall equally apply
 428 to attorneys in a conflict division.

429 ARTICLE 2

430 17-12-20.

431 (a) ~~There~~ ~~On and after July 1, 2011,~~ there is created in each judicial circuit in this state a
 432 circuit public defender supervisory panel to be composed of three members, all of whom
 433 shall be attorneys who regularly practice in that particular judicial circuit. The chief judge
 434 of the superior court of the circuit shall appoint one member. The Governor shall appoint
 435 one member. In a single county judicial circuit, the chairperson of the governing authority
 436 or sole commissioner shall appoint one member; in multicounty judicial circuits, the
 437 chairpersons of the governing authorities or sole commissioners shall caucus and appoint
 438 one member. When a caucus is needed to appoint a member of the supervisory panel, the
 439 chairperson or sole commissioner of the largest county by population in the judicial circuit
 440 shall convene the caucus. Members of the circuit public defender supervisory panel shall
 441 be individuals with significant experience working in the criminal justice system or who
 442 have demonstrated a strong commitment to the provision of adequate and effective
 443 representation of indigent defendants. A prosecuting attorney as defined in paragraph (6)
 444 of Code Section 19-13-51, any employee of a prosecuting attorney's office, or an employee
 445 of the Prosecuting Attorneys' Council of the State of Georgia shall not serve as a member
 446 of the circuit public defender supervisory panel after July 1, 2005. ~~No~~ ~~On and after July~~
 447 ~~1, 2008,~~ no employees of the council shall serve as a member of the circuit public defender
 448 supervisory panel. Members of the circuit public defender supervisory panel shall reside
 449 in the judicial circuit in which they serve. The circuit public defender supervisory panel

450 members shall serve for a term of five years. Any vacancy for an appointed member shall
 451 be filled by the appointing authority within 60 days of the vacancy occurring.

452 (b)(1) By majority vote of its membership, the circuit public defender supervisory panel
 453 shall annually elect a chairperson and secretary. The chairperson shall conduct the
 454 meetings and deliberations of the panel and direct all activities. The secretary shall keep
 455 accurate records of all the meetings and deliberations and perform such other duties as
 456 the chairperson may direct. The panel may be called into session upon the direction of
 457 the chairperson, ~~or by the council, or the director.~~

458 (2) By majority vote of its membership, the circuit public defender supervisory panel
 459 shall nominate not more than five people to serve as the circuit public defender in the
 460 circuit. When such panel is determining its list of nominees, it shall consider including
 461 the individual serving as the circuit public defender for inclusion on its list of nominees.

462 (3) The director shall select the circuit public defender from the panel's list of nominees;
 463 provided, however, that, if the director determines that no nominee is acceptable, the
 464 director shall return the list to such panel along with the reasons for his or her findings
 465 and require the panel to reconsider its nominees and submit a new list of nominees. If the
 466 director returns a supervisory panel's list of nominees without selecting a circuit public
 467 defender, by majority vote of such panel, it may appeal the director's decision to the
 468 council so long as its appeal is submitted to the council within 15 days of the director's
 469 notice to such panel of the director's request for another list of nominees. By a vote of
 470 two-thirds of the members of the entire council, the council may overturn the director's
 471 decision and require the director to select the circuit public defender from the panel's
 472 original list of nominees. When an appeal is made to the council, the council shall take
 473 action in hearing the appeal at its next regularly scheduled meeting and take final action
 474 within 30 days thereafter.

475 (4) A circuit public defender shall serve a term ~~for up to~~ of four years and may be
 476 appointed for successive terms but shall not be reappointed if he or she was removed
 477 pursuant to subsection (c) of this Code section.

478 (c) A circuit public defender may be removed for cause by the director. ~~A~~ If a circuit
 479 public defender ~~wants to appeal such removal, he or she~~ may appeal the director's decision
 480 to the council. By a vote of two-thirds of the members of the entire council, the council
 481 may overturn the director's decision. Any appeal ~~regarding a removal request~~ under this
 482 subsection shall be submitted to the chairperson of the council within 15 days of the
 483 effective date of the removal, ~~and the.~~ The council shall take action in hearing hear the
 484 appeal at its next regularly scheduled meeting ~~and~~ after the appeal was submitted. The
 485 council shall take final action on any appeal within 30 days ~~thereafter~~ of hearing the appeal.
 486 A circuit public defender who has been removed by the director and who has filed an

487 appeal with the council shall ~~continue to serve as the circuit public defender until the~~
 488 ~~council reaches a decision on the appeal~~ be replaced by an interim circuit public defender
 489 as if there were a vacancy for the position.

490 (d) A circuit public defender supervisory panel may convene at any time during its circuit
 491 public defender's term of office and shall convene at least annually for purposes of
 492 reviewing the circuit public defender's job performance and the performance of the circuit
 493 public defender office. The director and circuit public defender shall be notified at least
 494 two weeks in advance of the convening of the circuit public defender supervisory panel.
 495 The circuit public defender shall be given the opportunity to appear before the circuit
 496 public defender supervisory panel and present evidence and testimony. The chairperson
 497 shall determine the agenda for the annual review process, but, at a minimum, such review
 498 shall include usage of state and local funding, expenditures, and budgeting matters. The
 499 chairperson shall make an annual report on or before the thirtieth day of September of each
 500 year concerning the circuit public defender supervisory panel's findings regarding the job
 501 performance of the circuit public defender and his or her office to the director on a form
 502 provided to the panel by the director. If at any time the circuit public defender supervisory
 503 panel finds that the circuit public defender is performing in a less than satisfactory manner
 504 or finds information of specific misconduct, the circuit public defender supervisory panel
 505 may by majority vote of its members adopt a resolution seeking review of its findings and
 506 remonstrative action, including the removal of the circuit public defender, by the director.
 507 Such resolution shall specify the reason for such request. All evidence presented and the
 508 findings of the circuit public defender supervisory panel shall be forwarded to the director
 509 within 15 days of the adoption of the resolution. The director shall initiate action on the
 510 circuit public defender supervisory panel's resolution within 30 days of receiving the
 511 resolution. The director shall notify the circuit public defender supervisory panel, in
 512 writing, of any actions taken pursuant to submission of a resolution under this subsection.
 513 (e) If a vacancy occurs for the position of circuit public defender, the director shall appoint
 514 an interim circuit public defender to serve until the director has appointed a replacement.
 515 Within ~~30~~ 60 days of the vacancy occurring, the circuit public defender supervisory panel
 516 shall meet and nominate not more than five people to serve as a replacement circuit public
 517 defender. The director may extend such panel's deadline to submit nominees to replace the
 518 circuit public defender. The director shall select the replacement circuit public defender
 519 from the panel's list of nominees in the same manner as set forth in subsection (b) of this
 520 Code section.

521 17-12-21.

522 To be eligible to fill the position of circuit public defender, a person must:

- 523 (1) Have attained the age of 25 years;
 524 (2) Have been duly admitted and licensed to practice law in the superior courts for at
 525 least three years;
 526 (3) Be a member in good standing of the State Bar of Georgia; and
 527 (4) If previously disbarred from the practice of law, have been reinstated as provided by
 528 law.

529 17-12-22.

530 (a) The director, with input from the council, shall establish a procedure for providing
 531 legal representation in cases where the circuit public defender office has a conflict of
 532 interest. Such procedure may include, but shall not be limited to, the appointment of
 533 individual counsel on a case-by-case basis, ~~or the utilization of another circuit public~~
 534 ~~defender office, or the creation of conflict divisions.~~ Whatever procedure the director
 535 establishes for each circuit's conflict of interest cases shall be adhered to by the circuit
 536 public defender office. It is the intent of the General Assembly that the director consider
 537 the most efficient and effective system to provide legal representation where the circuit
 538 public defender office has a conflict of interest.

539 (b) The circuit public defender shall ~~establish a method for identifying~~ identify conflicts
 540 of interest at the earliest ~~possible~~ practical opportunity. If there is a conflict of interest such
 541 that the circuit public defender office cannot represent a defendant and an attorney who is
 542 not employed by the circuit public defender office or council is appointed, such attorney
 543 shall have a contractual relationship with the council to represent indigent persons in
 544 conflict of interest cases, and such relationship may include, but shall not be limited to, a
 545 flat fee structure.

546 (c) Attorneys who seek appointment in conflict cases shall have such experience or
 547 training in the defense of criminal cases as is necessary in light of the complexity of the
 548 case to which he or she is appointed and shall ~~meet~~ have such qualifications ~~and standards~~
 549 ~~for the representation of indigent defendants as are established~~ as are required by the
 550 council.

551 17-12-23.

552 (a) The circuit public defender shall provide representation in the following actions and
 553 proceedings:

- 554 (1) Any case prosecuted in a superior court under the laws of the State of Georgia in
 555 which there is a possibility that a sentence of imprisonment or probation or a suspended
 556 sentence of imprisonment may be adjudged;
 557 (2) A hearing on a revocation of probation in a superior court;

558 (3) Any juvenile court case ~~where~~ when the juvenile is charged with a delinquent act or
 559 a violation of probation when such probation was based on an adjudication for a
 560 delinquent act and the juvenile may face a disposition of confinement, commitment, or
 561 probation and in any other juvenile court case when representation is required pursuant
 562 to a contract as provided in subsection (d) of this Code section; and

563 (4) Any direct appeal of any of the proceedings enumerated in paragraphs (1) through
 564 (3) of this subsection.

565 (b) In each of the actions and proceedings enumerated in subsection (a) of this Code
 566 section, entitlement to the services of ~~counsel~~ an attorney begins not more than three
 567 ~~business~~ days after the indigent person is taken into custody or service is made upon him
 568 or her of the charge, petition, notice, or other initiating process and such person makes an
 569 application for ~~counsel~~ an attorney to be appointed.

570 (c) Each circuit public defender shall establish a juvenile division within the circuit public
 571 defender office to specialize in the defense of juveniles.

572 (d) A city or county may contract with the circuit public defender office for the provision
 573 of criminal defense for indigent persons and other indigent individuals accused of violating
 574 city or county ordinances or state laws so long as the council approves of such contract.

575 If a city or county does not contract with the circuit public defender office, the city or
 576 county shall be subject to all applicable policies ~~and standards~~ adopted by the council for
 577 representation of indigent persons in this state.

578 (e) Notwithstanding subsection (a) of this Code section, the director may allow a public
 579 defender or attorney providing services under this chapter to an indigent defendant or other
 580 indigent individual to represent such person in an ancillary motion or action pertinent to
 581 such person's criminal or juvenile case or the consequences therefrom, on a case-by-case
 582 basis.

583 (f) As used in this Code section, the term 'indigent individual' means a person or juvenile
 584 who is a party to a legal proceeding not described in subparagraphs (A) through (C) of
 585 paragraph (6) of Code Section 17-12-2 who earns or, in the case of a juvenile, whose
 586 parents earn, not more than 150 percent of the federal poverty guidelines unless there is
 587 evidence that the person has other resources that might reasonably be used to employ a
 588 lawyer without undue hardship on the person, his or her dependents, or, in the case of a
 589 juvenile, his or her parents or the parent's dependents.

590 17-12-24.

591 (a) The director, the circuit public defender, their designees, any other person or entity
 592 providing indigent defense services, or the system established pursuant to Code Section
 593 17-12-80 shall determine if a person or juvenile arrested, detained, or charged in any

594 manner who makes an application for an attorney to be appointed is an indigent person
 595 entitled to representation under this chapter; provided, however, that it shall utilize the
 596 criteria and procedure developed and approved by the council in making such
 597 determination.

598 (b) The circuit public defenders shall administer and coordinate the day-to-day operations
 599 of their respective offices and shall supervise the assistant public defenders and other staff
 600 serving in the office.

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

606 17-12-25.

607 (a) Each circuit public defender shall receive an annual salary of \$99,526.00, and
 608 cost-of-living adjustments may be given by the General Assembly in the General
 609 Appropriations Act by a percentage not to exceed the average percentage of the general
 610 increase in salary as may from time to time be granted to employees of the executive,
 611 judicial, and legislative branches of government; provided, however, that any increase for
 612 such circuit public defender shall not include within-grade step increases for which
 613 classified employees as defined by Code Section 45-20-2 are eligible. Any increase
 614 granted pursuant to this subsection shall become effective at the same time that funds are
 615 made available for the increase for such employees. The Office of Planning and Budget
 616 shall calculate the average percentage increase. Each circuit public defender may also be
 617 entitled to an accountability court salary supplement as set forth in Code Section
 618 17-12-25.1.

619 (b) The county or counties ~~comprising~~ composing the judicial circuit may supplement the
 620 salary of the circuit public defender in an amount as is or may be authorized by local Act
 621 or in an amount as may be determined by the governing authority of the county or counties,
 622 whichever is greater. The circuit public defender shall report to the council any such
 623 supplement received.

624 (c) No circuit public defender shall engage in the private practice of law for profit or serve
 625 concurrently in any judicial office.

626 17-12-25.1.

627 (a) Whenever a circuit has implemented a drug court division, mental health court
 628 division, or veterans court division, then on and after January 1, 2016, the state shall pay

629 the circuit public defender in such circuit an annual accountability court supplement of
 630 \$6,000.00. Such supplement shall be paid from state funds by the Georgia Public Defender
 631 Council in equal monthly installments as regular compensation.

632 (b) Notwithstanding Code Sections 17-12-27 and 17-12-28, the accountability court salary
 633 supplement paid pursuant to this Code section shall not be included in any calculation of
 634 compensation paid to assistant circuit public defenders or investigators that is measured as
 635 a percentage of a circuit public defender's salary.

636 (c) When a local law provides for a salary to be paid based on a percentage of, total
 637 compensation for, or similar mathematical relationship to a circuit public defender's salary,
 638 the accountability court salary supplement paid pursuant to this Code section shall not be
 639 included in the calculation of compensation to be paid by a county, municipality, or
 640 consolidated government.

641 (d) Notwithstanding subsection (b) of Code Section 17-12-25 and Code Section 17-12-30,
 642 on and after January 1, 2016, no county or counties ~~comprising~~ composing the circuit shall
 643 increase an aggregate county salary supplement paid to the circuit public defender or a
 644 state-paid position appointed pursuant to this article, if such supplement is \$50,000.00 or
 645 more.

646 17-12-26.

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

652 17-12-27.

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

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

657 (2) Subject to funds being appropriated by the General Assembly or otherwise available,
 658 additional assistant public defenders as may be authorized by the ~~council~~ director. In
 659 authorizing additional assistant public defenders, the ~~council~~ director shall consider the
 660 caseload, present staff, and resources available to each circuit public defender and shall
 661 make ~~authorizations~~ such allocations as will contribute to the ~~efficiency of individual~~
 662 ~~circuit public defenders and the effectiveness of providing provision of~~ adequate legal
 663 defense for indigent defendants entitled to services under this chapter.

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

669 (c) Each assistant public defender appointed pursuant to this Code section shall be
670 compensated based on a salary ~~range~~ established in accordance with subsection (c) of Code
671 Section 17-12-30. The salary ~~range~~ for each job established in accordance with subsection
672 (b) of this Code section shall be as follows:

673 (1) Assistant public defender I. Not less than \$38,124.00 nor more than 65 percent of
674 the compensation of the circuit public defender;

675 (2) Assistant public defender II. Not less than \$40,884.00 nor more than 70 percent of
676 the compensation of the circuit public defender;

677 (3) Assistant public defender III. Not less than \$45,108.00 nor more than 80 percent of
678 the compensation of the circuit public defender; and

679 (4) Assistant public defender IV. Not less than \$52,176.00 ~~nor more than 90 percent of~~
680 ~~the compensation of the circuit public defender.~~

681 (d) All personnel actions involving attorneys appointed pursuant to this Code section shall
682 be made by the circuit public defender in writing in accordance with the provisions of Code
683 Section 17-12-30.

684 (e)(1) All salary advancements shall be based on quality of work, education, and
685 performance.

686 (2) The salary of an assistant public defender appointed pursuant to this Code section
687 may be increased at the first of the calendar month following the anniversary of his or her
688 appointment.

689 (3) The salary of any assistant public defender who, subsequent to his or her appointment
690 pursuant to this Code section, is awarded an LL.M. or S.J.D. degree by a law school
691 recognized by the State Bar of Georgia from which a graduate of or student enrolled
692 therein is permitted to take the bar examination or by a law school accredited by the
693 American Bar Association or the Association of American Law Schools may be increased
694 effective on the first day of the calendar month following the award of the degree,
695 provided that such advancement does not exceed the maximum of the salary ~~range~~
696 applicable to the attorney's job classification.

697 (f) Any assistant public defender appointed pursuant to this Code section may be promoted
698 to the next highest job at any time the attorney meets the minimum qualifications for such
699 job, but in order to be eligible for promotion, the attorney shall have served not less than
700 12 months in the job from which the attorney is to be promoted. When an assistant public

701 defender is promoted to the next highest job, the assistant public defender shall enter the
702 higher job at an annual salary greater than the annual salary the assistant public defender
703 was receiving immediately prior to the promotion.

704 (g) All full-time state paid employees of the ~~office of the~~ circuit public defender office
705 shall be state employees in the unclassified service as defined by Chapter 20 of Title 45
706 with all benefits of such appointed state employees as provided by law. A circuit public
707 defender, assistant public defender, or local public defender may be issued an employee
708 identification card by his or her employing agency; provided, however, that no employer
709 of any such public defender shall issue nor shall any public defender display, wear, or carry
710 any badge, shield, card, or other item that is similar to a law enforcement officer's badge
711 or that could be reasonably construed to indicate that the public defender is a peace officer
712 or law enforcement official.

713 (h) Notwithstanding the provisions of subsection (g) of this Code section, an employee of
714 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 17-12-28.

726 (a) Subject to the provisions of this Code section, the circuit public defender in each
727 judicial circuit is authorized to appoint one investigator to assist the circuit public defender
728 in the performance of his or her official duties in the preparation of cases for trial. Subject
729 to funds being appropriated by the General Assembly or otherwise available, the circuit
730 public defender in each judicial circuit may appoint additional investigators as may be
731 authorized by the council. In authorizing additional investigators, the council shall
732 consider the caseload, present staff, and resources available to each circuit public defender
733 and shall make authorizations as will contribute to the efficiency of individual circuit
734 public defenders and the effectiveness of circuit public defenders throughout the state in
735 providing adequate legal defense for indigent defendants.

- 736 (b) An investigator appointed pursuant to this Code section shall be not less than 21 years
737 of age and shall serve at the pleasure of the circuit public defender.
- 738 (c) An investigator appointed pursuant to this Code section shall:
- 739 (1) Assist the attorneys within the ~~office of the~~ circuit public defender office in the
740 preparation of cases for preliminary hearings, pretrial hearings, and trial; and
- 741 (2) Perform other duties as are required by the circuit public defender.
- 742 (d) Each investigator appointed pursuant to this Code section shall be compensated based
743 on a salary range established pursuant to Code Section 17-12-30. The salary range for the
744 investigator appointed pursuant to this Code section shall be not less than \$30,828.00 nor
745 more than 70 percent of the compensation of the circuit public defender from state funds.
- 746 (e)(1) Except as otherwise provided in this subsection, an investigator appointed
747 pursuant to this Code section shall be appointed initially to the entry grade and salary of
748 the job ~~on the state-wide pay ranges~~.
- 749 (2) Any person who is employed in a nonstate paid investigator's position within the
750 ~~office of the~~ circuit public defender office may be transferred to a state paid position.
751 Such transfer shall be to the job and salary range commensurate with the education and
752 experience of the employee.
- 753 (3) Any person who is employed as a peace officer by an agency of the executive branch
754 of state government who is appointed as an investigator pursuant to this Code section
755 without a break in service may be appointed to an annual salary at least equal to the
756 annual salary the person received on the last day of employment immediately preceding
757 said appointment.
- 758 (4) Any person who was a certified peace officer employed on a full-time basis by this
759 state, the United States or any of the several states, or a political subdivision or authority
760 thereof may be appointed to the salary that gives the officer credit for experience as a
761 full-time certified peace officer.
- 762 (f) Personnel appointed pursuant to this Code section shall be reimbursed for actual
763 expenses incurred in the performance of their official duties.

764 17-12-29.

- 765 (a) Each circuit public defender is authorized to employ administrative, clerical, and
766 paraprofessional personnel as may be authorized by the council based on funds
767 appropriated by the General Assembly or otherwise available; provided, however, that each
768 circuit public defender shall be authorized not less than two such personnel. In authorizing
769 administrative, clerical, and paraprofessional personnel, the council shall consider the
770 caseload, present staff, and resources available to each circuit public defender and shall

771 make authorizations as will contribute to the efficiency of individual circuit public
772 defenders in providing effective criminal defense for indigent defendants.

773 (b) Personnel appointed pursuant to this Code section shall be compensated based on a
774 salary ~~range~~ developed in accordance with Code Section 17-12-30.

775 (c) All personnel actions involving personnel appointed pursuant to this Code section shall
776 be in accordance with the provisions of Code Section 17-12-30.

777 17-12-30.

778 (a) All state paid personnel employed by the circuit public defenders pursuant to this
779 article shall be employees of the executive branch of state government and shall be in the
780 unclassified service as defined by Code Section 45-20-2.

781 (b) Personnel employed by the circuit public defenders pursuant to this article shall have
782 the authority, duties, powers, and responsibilities as are authorized by law or as assigned
783 by the circuit public defender and shall serve at the pleasure of the circuit public defender.

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

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

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

800 (4) Any reduction in salary shall be made in accordance with the salary ~~range~~ for the
801 position and the policies adopted by the council.

802 (5) The compensation of state paid personnel appointed pursuant to this article shall be
803 paid in equal installments by the council as provided by this subsection from funds
804 appropriated for such purpose. The council may authorize employees compensated
805 pursuant to this Code section to participate in voluntary salary deductions as provided by
806 Article 3 of Chapter 7 of Title 45.

807 (6) The governing authority of the county or counties comprising a judicial circuit may
 808 supplement the salary or fringe benefits of any state paid position appointed pursuant to
 809 this article.

810 (7) The governing authority of any municipality within the judicial circuit may, with the
 811 approval of the circuit public defender, supplement the salary or fringe benefits of any
 812 state paid position appointed pursuant to this article.

813 (8) The circuit public defender shall report to the council the amount and nature of any
 814 supplement being paid to an individual in a state-paid position.

815 17-12-31.

816 (a) The circuit public defender in each judicial circuit may employ additional assistant
 817 circuit public defenders, deputy circuit public defenders, or other attorneys, investigators,
 818 paraprofessionals, clerical assistants, and other employees or independent contractors if the
 819 employment of such additional personnel is provided for by local law or if the employment
 820 of such additional personnel is specifically authorized and funded by the governing
 821 authority of the county or counties ~~comprising~~ composing the judicial circuit. The circuit
 822 public defender shall define the duties and fix the title of any attorney or other employee
 823 of the ~~office of the~~ circuit public defender office.

824 (b) Personnel employed by the circuit public defender pursuant to this Code section shall
 825 serve at the pleasure of the circuit public defender and shall be compensated by the county
 826 or counties ~~comprising~~ composing the judicial circuit in the manner and in an amount fixed
 827 either by local Act or by the circuit public defender with the specific approval of the county
 828 or counties ~~comprising~~ composing the judicial circuit.

829 (c) The circuit public defender shall report to the council the name, title, duties,
 830 compensation, and benefit package of any employee or independent contractor authorized
 831 under this Code section.

832 17-12-32.

833 The governing authority of any county or municipality within the judicial circuit which
 834 provides additional personnel for the ~~office of~~ circuit public defender office may contract
 835 with the council to provide such additional personnel in the same manner as is provided for
 836 state paid personnel in this article. Any such personnel shall be considered state employees
 837 and shall be entitled to the same fringe benefits as other state paid personnel employed by
 838 the circuit public defender pursuant to this article. The governing authority of such county
 839 or municipality shall transfer to the council such funds as may be necessary to cover the
 840 compensation, benefits, travel, and other expenses for such personnel.

841 17-12-33.

842 (a) Any assistant public defender or other attorney at law employed full time by the circuit
843 public defender who is compensated in whole or in part by state funds shall not engage in
844 the private practice of law for profit or serve concurrently in any judicial office.

845 (b) Any assistant public defender or any other attorney at law employed by the circuit
846 public defender shall be a member of the State Bar of Georgia and shall be admitted to
847 practice before the appellate courts of this state. The assistant public defender shall serve
848 at the pleasure of the circuit public defender and shall have such authority, powers, and
849 duties as may be assigned by the circuit public defender.

850 17-12-34.

851 The governing authority of the county shall provide, in conjunction and cooperation with
852 the other counties in the judicial circuit and in a pro rata share according to the population
853 of each county, appropriate offices, utilities, telephone expenses, materials, and supplies
854 as may be necessary to equip, maintain, and furnish the office or offices of the circuit
855 public defender in an orderly and efficient manner. The provisions of an office, utilities,
856 telephone expenses, materials, and supplies shall be subject to the budget procedures
857 required by Article 1 of Chapter 81 of Title 36.

858 17-12-35.

859 A circuit public defender office may contract with and may accept funds and grants from
860 any public or private source so long as the council approves of such contract or acceptance.

861 17-12-36.

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

864 (1) The delivery system:

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

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

870 (2) The council, by majority vote of the entire council, determines that the delivery
871 system meets or exceeds its policies as the council adopts;

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

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

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

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

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

892 (e) ~~The In the event an alternative delivery system is approved, the council shall annually~~
893 ~~review the operation of such any system authorized under this Code section and determine~~
894 ~~whether such system is meeting the requirements as established by the council and is~~
895 ~~eligible to continue operating as an approved alternative delivery system. In the event the~~
896 ~~council determines that such system is not meeting the requirements as established by the~~
897 ~~council, the council shall provide written notice to such system of the deficiencies and shall~~
898 ~~provide such system an opportunity to cure such deficiencies. When such system has failed~~
899 ~~to cure the described deficiencies within an 18 month period, the council may replace such~~
900 ~~system as if such system had given notice of its intent to dissolve as set forth in subsection~~
901 ~~(h) of this Code section.~~

902 (f) In the event an alternative delivery system is approved, it shall keep and maintain
903 appropriate records, which shall include the number of persons represented; the offenses
904 charged; the outcome of each case; the expenditures made in providing services; and any
905 other information requested by the council.

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

909 ~~(h)~~(g) An approved alternative delivery system shall be paid by the council, from funds
910 available to the council, in an amount equal to the amount that would have been allocated
911 to the judicial circuit for the minimum salary of the circuit public defender, the assistant

912 circuit public defenders, the investigator, and the administrative staff, exclusive of benefits,
 913 if the judicial circuit was not operating an alternative delivery system.

914 (h) A judicial circuit with an approved alternative delivery system may dissolve its system
 915 and operate a circuit public defender office by giving notice of its request to dissolve to the
 916 council. The council will work with the judicial circuit to implement such a request;
 917 provided, however, that due to budgetary requirements, such request may take as long as
 918 18 months to implement.

919 (i) The director of an alternative delivery system, by whatever name, shall not be
 920 considered to be a circuit public defender and shall not be entitled to the same benefits
 921 provided to an individual who otherwise serves as the head of a public defender office
 922 under this chapter. Any attorney who is employed in an alternative delivery system, by
 923 whatever name, shall not be considered to be a public defender and shall not be entitled to
 924 the same benefits provided to an individual who otherwise works in a public defender
 925 office under this chapter.

926 17-12-37.

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

931 **SECTION 2.**

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