

## **The Georgia Public Defender Standards Council's Legislative Proposals for the 2006 General Assembly**

The Georgia Public Defender Standards Council (Standards Council) seeks the support of the State Bar of Georgia's Advisory Committee on Legislation (ACL) for its 2006 legislative proposals in the following areas:

- Supplemental budget request;
- The ratification of the standards adopted by the Standards Council;
- The staggering of terms for Standards Council members;
- Changing the circuit public defender's state salary to be based on 90% of district attorney's salary instead of set amount; and
- HB 316, providing for additional assistant public defenders for the juvenile division.

### **FUNDING<sup>1</sup>**

During the 2005 session of the General Assembly, the Standards Council received from the State \$42.079 million for funding. For the FY06 supplemental budget, the Standards Council is requesting \$162,206 to fund additional public defenders needed for new superior court judgeships authorized during the 2005 session. With the additional state funds, IOLTA (\$1.73 million) and Clerks & Sheriffs Interest Fund (\$989,146), the total budget for FY06 will be \$44,798,208. This budget request covers funding for the central administrative office, the Office of the Mental Health Advocate, the Office of the Capital Defender, the 42 circuit public defender offices, and 8 conflict defender offices. The details for the FY06 supplemental budget request are included in this packet.

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<sup>1</sup> The Georgia Indigent Defense Act of 2003, for which the State Bar received the Harrison Tweed Award from the American Bar Association, established a statewide circuit-based public defender system with the Standards Council as the oversight agency. The offices have been operational since January 1, 2005. The mechanism for state funding for this new system came by way of HB 1EX, which was passed during the special session of the 2004 General Assembly. HB 1EX increased civil filing fees by \$15 in all courts (except for juvenile courts); established an additional 10% surcharge on all criminal fines; added another 10% surcharge on bails and bonds with a \$50 cap; and established an application fee of \$50. These additional fees were established as a revenue source for funding indigent defense services required by the 2003 Act.

HB 1EX also established a cap on how much the Standards Council may request in its budget. The Standards Council's FY07 budget is required to be within the actual collections generated by HB 1EX.

Of all the additional fees imposed, the counties were allowed by HB 1EX to keep the \$50 application fees for their lower courts. All other fees are to be remitted to the State treasury. Because the Georgia Indigent Defense Act of 2003 (the Act) requires circuit public defender offices to cover only superior court<sup>1</sup> and juvenile delinquency proceedings, the counties continue to fund a substantial portion of total indigent defense representation throughout the state.

A copy of the amended Act is included in this packet as well as a summary of HB 1EX.

The Standards Council does not know of any specific opponents of the supplemental funding proposal at this time. The Association County Commissioners of Georgia supports full State funding of indigent defense.

The Council requests the ACL's support for the Council's supplemental funding proposal for FY 2006. The Council will present its FY 2007 funding proposal at the next meeting of the ACL.

### **STANDARDS**

The Act was amended in 2004 to create a legislative General Oversight Committee. The General Oversight Committee decides which of the standards adopted by the Standards Council has a fiscal impact. Those deemed to have a fiscal impact must be ratified by joint resolution of the General Assembly and enacted into law in order to be effective as a standard. Until then, the proposed standards are considered guidelines.<sup>2</sup> The General Oversight Committee has met 4 times and is in the process of determining which of the adopted standards has fiscal impacts.

The following standards adopted by the Standards Council that may be considered to have a fiscal impact and therefore must be ratified are:

- Determining indigence;
- Definition of "a case";
- Limiting case loads and determining size of legal staff in the circuit public defender offices;
- Performance;
- Juvenile Performance;
- Death Penalty Defense; and
- Removal of a Circuit Public Defender for Cause.

The copies of the standards are included in this packet. Because the Council is currently developing a weighted caseload standard, the Standards Council is not promoting the ratification of the current caseload standard.

The Council requests ACL's support of legislative ratification of each of the Council's adopted standards, with the exception of the current caseload standard.

### **Staggering of Council Member Terms**

Currently, O.C.G.A. § 17-12-3 provides that all council members are to serve four year terms. However, to ensure continuity the Standards Council proposes authorizing the council members from the even-numbered districts to serve an initial term of six years and terms of four years thereafter. A copy of the proposed language is included in this packet.

### **Circuit Public Defender's State Salary**

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<sup>2</sup> O.C.G.A. § 17-12-8 (c).

Presently, the circuit public defenders have a specified salary of \$87,593.58 [O.C.G.A. § 17-12-25]. This amount is 90% of the current state salary for district attorneys. The Standards Council proposes changing the set salary to 90% of the district attorney's state salary to keep pace with the district attorneys in case of future pay increases. A copy of the proposed language is included in this packet.

**HB 316**

The Standards Council also requests the ACL's support of HB 316. HB 316 was introduced last Session to provide for additional assistant public defenders to handle juvenile delinquency proceedings. The language of HB 316 was added to another bill (HB 366); however, it was taken out before HB 366's passage. A copy of the House Judiciary Non-civil Committee's version of HB 316 is included in this package. The FY 2007 budget proposal includes funding for the additional assistant public defenders anticipated by HB 316.

The Standards Council has submitted its proposals to the Chair of the State Bar's Indigent Defense Committee and a copy of the documentation reflecting the submission is attached.

The Standards Council respectfully requests the ACL to endorse the foregoing legislative proposals.

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