



1 SB635

2 ~~98680-2~~

3 By Senator Bedford

4 RFD: Finance and Taxation General Fund

5 First Read: 24-APR-08



1 This bill would provide for a director,
2 staff, duties, and responsibilities of the Office
3 of Indigent Defense Services.

4 This bill would provide for an indigent
5 defense advisory board in each judicial circuit and
6 would provide for the composition, meetings,
7 compensation, powers, and duties of the board.

8 Existing law provides for a determination of
9 indigency and provides for defense counsel.

10 This bill would provide for the Office of
11 Indigent Defense Services to assign counsel in
12 capital cases subject to the approval of the Office
13 of Indigent Defense Services.

14 Existing law provides for compensation of
15 appointed counsel as provided by law or rule
16 promulgated by the Alabama Supreme Court.

17 This bill would provide for compensation as
18 provided by law or rule or regulation adopted by
19 the Alabama Indigent Defense Commission.

20 Existing law provides that the bill for
21 compensation of an appointed counsel representing
22 an indigent person at trial level to be approved by
23 a circuit judge and then submitted by the clerk of
24 the court to the Alabama Administrative Office of
25 Courts and then to the state Comptroller for audit
26 and forwarded to the State Treasurer for payment.



2
3
4
5
6
7
8 SYNOPSIS: Existing law provides for indigent defense
9 systems used in circuit, district, and municipal
10 courts with the presiding circuit judge
11 administering the systems within the circuits
12 pursuant to rule of the Supreme Court.

13 This bill would create the Alabama Indigent
14 Defense Commission to provide for the defense of
15 indigent persons in criminal and juvenile
16 proceedings and to further provide for legal
17 representation and related services in all other
18 cases subject to this act pursuant to rules and
19 procedures established by the commission and in
20 accordance with the budget management act.

21 This bill would provide for members, terms
22 of office, duties, and responsibilities of the
23 commission.

24 This bill would establish the Office of
25 Indigent Defense Services.



1 expended in preparation, with a maximum amount of
2 \$1,000.

3 This bill would repeal this provision.

4 Existing law provides for a circuit indigent
5 defense commission in any county or circuit, with
6 the approval of the presiding circuit judge, to
7 select a contract counsel as a method of providing
8 indigent defense and provides for each contract
9 counsel to receive compensation as set by the
10 commission.

11 This bill would allow the Alabama Indigent
12 Defense Commission to establish a contract counsel
13 program for all or part of the subject circuit,
14 after consultation with the circuit indigent
15 defense advisory board and if no advisory board,
16 the bar association of the affected circuit and the
17 presiding circuit court judge, and may provide for
18 the contract counsel to be employed under terms,
19 conditions, and compensation set by the Office of
20 Indigent Defense Services.

21 Under existing law, the employment contract,
22 compensation, and attorney-client communications of
23 the contract counsel are not to be construed to
24 supersede the provisions of the Alabama Rules of
25 Criminal Procedure.

26 This bill would repeal this provision.



1 This bill would require the bill for
2 ~~compensation of appointed counsel to be submitted~~
3 by the clerk of the court to the Office of Indigent
4 Defense Services for audit and approval and
5 forwarded to the state Comptroller for payment.

6 Existing law provides \$50 per hour for
7 appointed counsel representing an indigent person
8 on appeal and based on the number of hours spent by
9 the attorney, \$60 per hour in the prosecution of
10 the appeal and subsequent petition for writ of
11 certiorari with the bill for compensation of
12 appointed counsel to be submitted by the clerk of
13 the appellate court to the state Comptroller for
14 audit and, if approved, forwarded to the State
15 Treasurer for payment.

16 This bill would provide for the
17 determination of fees to be paid to attorneys
18 representing indigent defendants on appeal and
19 post-conviction proceedings to be made by the
20 Indigent Defense Commission with the bill for
21 compensation of appointed counsel to be submitted
22 by the clerk of the appellate court to the Office
23 of Indigent Defense Services for audit and approval
24 and forwarded to the state Comptroller for payment.

25 Under existing law, in post-conviction
26 proceedings, appointed counsel receives \$50 per
27 hour for time expended in court and \$30 per hour



1 This bill would provide for approval of
2 expenditures for attorneys by the Director of the
3 Office of Indigent Defense Services in compliance
4 with procedures adopted by the commission.

5 This bill would provide for the employees of
6 public defender offices to receive the same
7 benefits as state employees.

8 This bill would provide for the operating
9 expenses of public defender offices to be paid by
10 the state from funds appropriated annually from the
11 Fair Trial Tax Fund and the State General Fund.

12 This bill would repeal provisions for: The
13 determination as to indigent defense systems to be
14 used in circuit and district courts; the presiding
15 circuit judges to administer the circuit indigent
16 defense system; and withdrawals from the Fair Trial
17 Tax Fund to pay expenses of the state Comptroller
18 for administering the defense of indigents.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To create the Alabama Indigent Defense Commission as
25 an independent agency of the judicial branch of state
26 government; to provide for the duties and powers of the
27 commission; to provide for the appointment and terms of its



1 Also, under existing law, the indigent
2 defense commission in a judicial circuit, with the
3 approval of the presiding circuit judge, may select
4 a public defender system with salary set by the
5 commission and approved by the Director of the
6 Administrative Office of Courts.

7 This bill would provide that the Alabama
8 Indigent Defense Commission may establish a public
9 defender office for all or part of the subject
10 circuit, after consultation with the circuit
11 indigent defense advisory board and if no advisory
12 board, the bar association of the affected circuit
13 and the presiding circuit court judge, and may
14 provide for compensation. The commission may
15 appoint a public defender approved by the
16 commission for a term of six years.

17 This bill would provide for the commission
18 to approve the public defender to represent an
19 indigent defendant in a state appellate court. This
20 bill would provide for the keeping of reports on
21 matters related to the operation of the office of
22 the public defender.

23 Existing law provides that the Indigent
24 Defense Commission subject to approval by the
25 Administrative Director of Courts may approve
26 expenditures.



1 pay for his or her defense, it shall be the responsibility of
2 the court, subject to the establishment of the Indigent
3 Defense Commission as set forth in this act, to provide that
4 person with counsel and the other necessary expenses of
5 representation.

6 (2) Additionally, the further purposes of this act
7 are as follows:

8 a. Establish financial accountability for indigent
9 defense services.

10 b. Improve the quality of representation and ensure
11 the independence of counsel.

12 c. Deliver indigent defense services in the most
13 efficient and cost-effective manner without sacrificing
14 quality representation.

15 d. Establish uniform policies and procedures for the
16 delivery of indigent defense services and enhance oversight of
17 the determination of indigency, the oversight of the indigent
18 defense systems in the judicial circuits, and the delivery of
19 counsel and related services.

20 e. Enhance the integrity and efficiency of the
21 judicial process related to indigent criminal cases.

22 f. Generate reliable statistical information in
23 order to evaluate the services provided and funds expended
24 hereunder.

25 Section 2. There is created as an independent state
26 agency, the Alabama Indigent Defense Commission.



1 members; to create the Office of Indigent Defense Services to
2 ~~operate at the direction of the Alabama Indigent Defense~~
3 Commission; to amend Sections 12-19-252, 15-12-1, 15-12-4,
4 15-12-5, 15-12-6, 15-12-21, 15-12-22, 15-12-23, 15-12-26,
5 15-12-27, 15-12-29, 15-12-40, 15-12-41, 15-12-42, 15-12-43,
6 15-12-44, 15-12-45, and 15-12-46 of the Code of Alabama 1975,
7 relating to the defense of indigents; to provide for the
8 director, staff, duties, and responsibilities of the Office of
9 Indigent Defense Services; to provide for an Indigent Defense
10 Advisory Board in each judicial circuit; to provide for the
11 assignment of counsel in capital cases; to provide further for
12 compensation of appointed counsels; to provide further for
13 contract counsel; to provide for the employment contract,
14 compensation, and attorney-client communications of the
15 contract to supersede the Alabama Rules of Criminal Procedure;
16 to provide further for a public defender system; to provide
17 further for expenditures, employees, and operating expenses of
18 the public defender offices; to make an appropriation; and to
19 repeal Sections 15-12-2, 15-12-3, and 15-12-24.1 of the Code
20 of Alabama 1975.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. The Legislature finds and declares the
23 following:

24 (1) The purpose of this act is to provide for the
25 defense of those persons who have been found by a court to be
26 unable to pay for their defense in a criminal or juvenile
27 proceeding. When a court determines that a person is unable to



1 (2) The two initial appointments by the Governor and
2 the initial appointments by the Lieutenant Governor, Speaker
3 of the House, and the President Pro Tempore of the Senate
4 shall be for three years.

5 (3) The two initial appointments by the Chief
6 Justice and the initial appointments by the Alabama State Bar
7 Association, the Alabama Criminal Defense Lawyers Association,
8 and the Alabama Lawyers Association shall be for two years.

9 (4) Initial appointments to the commission shall be
10 made within 90 days following the effective date of this act.
11 At the expiration of the terms of these initial appointments,
12 successor terms shall be for four years and shall be made by
13 the appointing authorities making the initial appointments as
14 designated in subsection (a). New terms of office shall
15 commence on the first day of the fiscal year for which the
16 appointments are made. No person shall serve for more than two
17 consecutive four-year terms plus any initial term of less than
18 four years.

19 (c) Persons appointed to the commission shall have
20 substantial experience in the defense of criminal cases or
21 other cases subject to this act or shall have demonstrated a
22 strong commitment to quality representation in indigent
23 defense matters. No active prosecutors, law enforcement
24 officials, or active employees of these persons may be
25 appointed to or serve on the commission. No active judicial
26 officials or active employees of these persons may be
27 appointed to or serve on the commission, except the judicial



1 Section 3. (a) The commission shall consist of the
2 following members:

3 (1) Two members appointed by the Chief Justice of
4 the Alabama Supreme Court who shall be members of the
5 judiciary.

6 (2) Two members appointed by the Governor.

7 (3) One member appointed by the Lieutenant Governor.

8 (4) One member appointed by the Speaker of the House
9 of Representatives.

10 (5) One member appointed by the President Pro
11 Tempore of the Senate.

12 (6) Two members who shall be attorneys appointed by
13 the Alabama State Bar Association, one with significant
14 experience in criminal defense and one with significant
15 experience in juvenile justice.

16 (7) Two members who shall be attorneys with
17 significant experience in criminal defense appointed by the
18 Alabama Criminal Defense Lawyers Association.

19 (8) One member who shall be an attorney appointed
20 by the President of the Alabama Lawyers Association.

21 (9) Two members appointed by the commission, one of
22 whom shall not be an attorney and one of whom shall have a
23 significant financial background.

24 (b) The terms of office of the members appointed
25 pursuant to subsection (a) shall be as follows:

26 (1) The two initial appointments by the commission
27 shall be for four years.



1 No later than 30 days after its first meeting, the commission
2 shall make the appointments specified in subdivision (9) of
3 subsection (a). At the next meeting of the commission
4 following the appointments, the members of the commission
5 shall elect a chair.

6 (h) Commission members shall serve without
7 compensation.

8 (i) Members of the commission shall be entitled to
9 reimbursement for expenses while on official business of the
10 commission or attending its meetings. Expenses shall be paid
11 out of funds available to the commission for travel and shall
12 be reimbursed in accordance with Sections 36-7-20 to 36-7-22,
13 inclusive, Code of Alabama 1975.

14 (j) The commission shall meet quarterly and at
15 other times upon the call of the chair. All meetings shall be
16 in accordance with the Alabama Open Meetings Act.

17 Section 4. (a) The commission shall develop and
18 improve programs to provide legal representation to indigents.

19 (b) The commission shall appoint the Director of the
20 Office of Indigent Defense Services, who shall be chosen on
21 the basis of training, experience, and other qualifications as
22 determined by the commission, and who shall serve at the
23 pleasure of the commission.

24 (c) The commission shall develop standards
25 governing the provision of defense services under this act.
26 The standards shall include, but not be limited to, standards
27 for:



1 members as provided in subdivision (1) of subsection (a). No
2 active employees of the Office of Indigent Defense Services
3 may be appointed to or serve on the commission.

4 (d) All members of the commission shall be entitled
5 to vote on any matters coming before the commission unless
6 otherwise prohibited by statute, court rules, or rules adopted
7 by the commission. Voting by proxy shall not be allowed.

8 (e) Each member of the commission shall serve until
9 his or her successor in office has been appointed. Vacancies
10 shall be filled by the appointing authority for the unexpired
11 term. Appointments shall be made within 90 days from the date
12 notice of the vacancy is mailed by first class mail by the
13 Director of the Office of Indigent Defense Services to the
14 appointing authority. If the appointing authority fails to
15 fill the vacancy within this 90-day period, the appointment
16 shall be made by a majority vote of the commission. Removal of
17 commission members shall be in accordance with policies and
18 procedures adopted by the commission.

19 (f) A quorum for purposes of conducting commission
20 business shall be a majority of the members of the commission.

21 (g) The commission shall elect a chair from the
22 members of the commission for a term of not more than four
23 years or the remainder of the term of the member elected
24 chair. A member may serve more than one term as chair. An
25 appointee of the Chief Justice shall convene the first meeting
26 and shall serve as acting chair until the appointments
27 specified in subdivision (9) of subsection (a) have been made.



1 (e) The commission shall determine the method of
2 providing indigent defense services in the appellate courts,
3 which may include state appellate defender offices for capital
4 and non-capital cases and post-conviction representation in
5 capital and non-capital cases. If a method is selected by the
6 commission whereby someone other than the trial counsel shall
7 serve as the appellate counsel of the appellant, the
8 commission, to the extent possible, shall see that the system
9 provides for the continuous representation of the appellant
10 from the time the trial counsel is permitted to withdraw. In
11 determining the method by which indigent defense services
12 shall be provided in the appellate courts, the commission
13 shall consult with the Supreme Court, the Court of Criminal
14 Appeals, and the Court of Civil Appeals.

15 (f) The commission shall annually approve and
16 recommend to the Legislature a unified budget for indigent
17 defense systems including the Office of Indigent Defense
18 Services.

19 (g) The commission shall adopt other rules and
20 procedures it deems necessary for the conduct of business by
21 the commission and the Office of Indigent Defense Services.

22 Section 5. (a) The Office of Indigent Defense
23 Services is established to carry out the administrative duties
24 of the commission. The commission shall appoint a director who
25 shall serve at the pleasure of the commission and establish
26 all other employee positions as are needed for the efficient
27 conduct of the business of the office. The director shall be



1 (1) Providing fiscal responsibility and
2 accountability in indigent defense representation.

3 (2) Maintaining and operating indigent defense
4 systems, whether appointed counsel, contract counsel, public
5 defender, or appellate defender offices or some combination of
6 the above.

7 (3) Prescribing minimum experience, training, and
8 other qualifications for appointed counsel, contract counsel,
9 and public defenders.

10 (4) Caseload management for appointed counsel,
11 contract counsel, and public defenders.

12 (5) Performance for appointed counsel, contract
13 counsel, and public defenders.

14 (6) Criteria for independent, competent, and
15 efficient representation of clients whose cases present
16 conflicts of interest.

17 (7) Providing and compensating experts and others
18 who provide services related to legal representation of
19 indigents.

20 (8) Determining indigency and partial indigency.

21 (d) The commission shall determine the methods for
22 delivering indigent defense services in the state courts in
23 each county or circuit, or parts of the county or circuit, and
24 in the appellate courts of the state. The methods established
25 for delivering defense services may include, but are not
26 limited to, appointed counsel systems, contract counsel
27 systems, and part-time or full-time public defender systems.



1 providing indigent defense services to persons determined to
2 be partially indigent, including policies and procedures
3 governing recoupment for the Fair Trial Tax Fund. In
4 accordance with the policies and procedures established by the
5 office, the court shall determine in each case whether a
6 person is an indigent defendant. If the court determines that
7 a person is an indigent defendant, counsel shall be appointed
8 as required by Section 15-12-5, Code of Alabama 1975.

9 (3) The office shall allocate and disburse funds
10 appropriated for legal representation and related services in
11 cases subject to this act pursuant to rules and procedures
12 established by the commission and in accordance with the
13 Budget Management Act. The office shall also have the
14 authority to approve monetary allocations requested by and for
15 appointed counsel, contract counsel, and public defender
16 offices.

17 (e) In addition to any other duties and
18 responsibilities that may be assigned to the director by the
19 commission, he or she shall have the following duties and
20 authority with respect to all indigent defense services,
21 subject to the direction of the commission:

22 (1) Prepare and submit budget recommendations for
23 state appropriations necessary for the maintenance and
24 operation of the state indigent defense services including the
25 operation of the commission, the office, local indigent
26 defense systems, appellate defender services, and, if
27 established, the appellate defender office, and request



1 responsible for the hiring and firing of all employees of the
2 office. The director and other employees shall be compensated
3 in an amount to be determined by the commission. Salaries
4 shall be paid at the same time and in the same manner that
5 salaries of other state employees are paid. The director and
6 other employees of the commission shall be entitled to annual
7 and sick leave, insurance, retirement, and other state
8 employee benefits, including cost-of-living raises and bonuses
9 authorized by the Legislature for state employees.

10 (b) The office may enter into contracts, own
11 property, and accept funds, grants, and gifts from any public
12 or private source to pay expenses incident to implementing its
13 purposes.

14 (c) The director shall attend all commission
15 meetings except those relating to removal of the director or
16 allegations of misconduct of the director. The director shall
17 not vote on any matter decided by the commission.

18 (d) (1) The office shall be responsible for
19 implementing in each judicial circuit the system determined
20 and established by the commission for providing legal
21 representation and related services for indigent defendants.

22 (2) The office shall develop policies and procedures
23 for determining whether a person is an indigent defendant, and
24 those policies and procedures shall be applied uniformly
25 throughout the state. This act may not be construed to prevent
26 the office from establishing guidelines for determining
27 partial indigency and establishing policies and procedures for



1 defendants, and consult with professional bodies concerning
2 the improvement of the administration of indigent defense
3 services.

4 (9) Offer or approve training programs for attorneys
5 and others involved in the legal representation of persons
6 subject to this act.

7 (10) Approve and administer the processing of all
8 claims from private counsel relative to appointments to handle
9 indigent defense cases, effective the first day of the fiscal
10 year next following the effective date of this act.

11 (11) Administer the processing of all contracts for
12 contract counsel relating to handling indigent criminal cases,
13 effective the first day of the fiscal year next following the
14 effective date of this act.

15 (12) Administer the processing of all monetary
16 allocations requested by and for a public defender office
17 relating to the annual operation of the requesting public
18 defender's office, effective the first day of the fiscal year
19 next following the effective date of this act.

20 (13) Perform other duties as the commission may
21 assign.

22 Section 6. Sections 12-19-252, 15-12-1, 15-12-4,
23 15-12-5, 15-12-6, 15-12-21, 15-12-22, 15-12-23, 15-12-26,
24 15-12-27, 15-12-29, 15-12-40, 15-12-41, 15-12-42, 15-12-43,
25 15-12-44, 15-12-45, and 15-12-46 of the Code of Alabama 1975,
26 are amended to read as follows:

27 "§12-19-252.



1 annually a sum certain necessary to be appropriated from the
2 ~~State General Fund and the Fair Trial Tax Fund pursuant to~~
3 Section 12-19-252, Code of Alabama 1975, and in accordance
4 with this act.

5 (2) Prepare reports and collect and compile
6 statistical data and all other information on the operations,
7 costs, and needs of the office, and any other information the
8 commission may require. The Director of the Indigent Defense
9 Commission shall prepare and submit an annual report on the
10 work of the commission to the Chief Justice.

11 (3) Assist the commission in developing rules and
12 standards for the delivery of services under this act.

13 (4) Administer and coordinate the operations of the
14 office and supervise compliance with standards adopted by the
15 commission.

16 (5) Subject to policies and procedures established
17 by the commission, hire professional, technical, and support
18 personnel as deemed necessary for the efficient operation of
19 the Office of Indigent Defense Services.

20 (6) Keep and maintain proper financial records.

21 (7) Apply for and accept on behalf of the Office of
22 Indigent Defense Services any funds that may become available
23 from government grants, private gifts, donations, bequests, or
24 otherwise from any source.

25 (8) Coordinate the services of the Office of
26 Indigent Defense Services with any and all federal, county, or
27 private programs established to provide assistance to indigent



1 "~~(2)~~(1) APPOINTED COUNSEL. Any attorney licensed to
2 practice law in the State of Alabama who is appointed by the
3 court to represent an indigent defendant.

4 "(2) COMMISSION. The Alabama Indigent Defense
5 Commission.

6 "(3) CONTRACT COUNSEL. Any attorney licensed to
7 practice law in the State of Alabama, or a firm, association,
8 corporation, or partnership of lawyers so licensed, executing
9 a contract for the provision of indigent defense services.

10 "~~(1)~~(4) INDIGENT DEFENDANT. Any person involved in a
11 criminal or juvenile proceeding in the trial or appellate
12 courts of the state for which proceeding representation of the
13 indigent person by counsel is constitutionally required or is
14 authorized or required by statute or court rule, who under
15 oath or affirmation states that he or she is unable to pay for
16 his or her defense, and who is found by the court to be
17 financially unable to pay for his or her defense. A child who
18 is found by the court to be in need of a guardian ad litem is
19 defined as an indigent person for the purposes of this
20 article.

21 "(5) INDIGENT DEFENSE SERVICES. Those services that
22 are necessary for the legal defense of an indigent defendant.

23 "~~(5)~~(6) INDIGENT DEFENSE SYSTEM. Any method or
24 mixture of methods for providing legal representation to an
25 indigent defendant, including use of appointed counsel, use of
26 contract counsel, or use of public defenders, ~~or any~~
27 ~~alternative method meeting constitutional requirements.~~



1 "There is hereby appropriated from the Fair Trial
2 ~~Tax Fund, annually, such amount as may be necessary to pay the~~
3 fees of counsel, court reporters, clerks, registers and such
4 other necessary expenses of indigent defense as are provided
5 by law.

6 "There is also hereby appropriated from the Fair
7 Trial Tax Fund, annually, such amount not exceeding \$50,000.00
8 as may be necessary to pay the quarterly withdrawals of the
9 State Comptroller for the expenses of administering such
10 indigent defense.

11 "In addition thereto, there is also appropriated
12 annually out of the General Fund in the State Treasury a sum
13 equal to the amount by which the cost of such necessary
14 expenses of indigent defense, as provided by law, exceeds the
15 amount available for such purpose in the Fair Trial Tax Fund.
16 Funding for the operation of the Indigent Defense Commission
17 shall be appropriated from the Fair Trial Tax Fund.

18 "If the county maintains a public defender, there
19 shall be paid a reasonable share of the cost of maintaining
20 ~~such~~ the office, the amount appropriated for ~~such~~ the purpose
21 to be prorated to the several counties maintaining public
22 ~~defender's~~ defender offices on the basis of the case load of
23 the respective public defender offices.

24 "§15-12-1.

25 "When used in this chapter, the following terms
26 shall have the following meanings:



1 the ~~commission~~ advisory board shall be filled by the presiding
2 judge.

3 "(c) Compensation and expenses of members. - Members
4 of the indigent defense ~~commission~~ advisory board shall serve
5 without compensation; except, that necessary travel expenses
6 in connection with ~~commission~~ advisory board business shall be
7 paid by the state Office of Indigent Defense Services in the
8 same manner as for state employees generally.

9 "(d) Meetings generally; quorum; chair. - The
10 indigent defense ~~commission~~ advisory board shall meet at least
11 once annually and shall meet whenever so requested by the
12 presiding circuit judge or the chair of the board. Three
13 members shall constitute a quorum for conducting business. One
14 member shall be designated a chair by majority vote of the
15 members.

16 "(e) Powers and duties. - The indigent defense
17 ~~commission~~ advisory board shall perform the following duties
18 and have the following powers:

19 ~~"(1) It shall advise the presiding circuit judge on~~
20 ~~the indigent defense system to be utilized in each county of~~
21 ~~the circuit.~~

22 ~~"(2) It shall advise the presiding circuit judge on~~
23 ~~the operation and administration of indigent defense systems~~
24 ~~within the circuit.~~

25 ~~"(3) It shall select the public defender by majority~~
26 ~~vote, if a public defender system is established within the~~
27 ~~circuit, determine the budget for the public defender and~~



1 "(7) OFFICE. The Office of Indigent Defense

2 Services.

3 "~~(4)~~(8) PUBLIC DEFENDER. Any attorney licensed to
4 practice law in the State of Alabama, other than contract
5 counsel or appointed counsel, who receives a salary for
6 representing an indigent defendant.

7 "§15-12-4.

8 "(a) Creation. - In each judicial circuit, the
9 presiding circuit judge shall ~~appoint~~ establish an indigent
10 defense ~~commission~~ advisory board.

11 "(b) Composition; qualifications, appointment, term
12 of office and removal of members; vacancies. - The indigent
13 defense ~~commission~~ advisory board shall be composed of five
14 members who are residents of the judicial circuit in which
15 they are appointed. ~~There shall be two members who are~~
16 ~~attorneys licensed to practice law in Alabama, one member who~~
17 ~~is a member of a county commission within the circuit, one~~
18 ~~member who is the mayor or a member of the governing body of a~~
19 ~~municipality within the circuit, and one member who is a~~
20 ~~nonlawyer citizen~~ , including the presiding circuit judge as
21 the chair, a district judge, a local bar president, and two
22 other attorneys having significant criminal defense experience
23 selected by the local bar. Each member shall serve for a term
24 of ~~six years~~ one year from the date of appointment, unless
25 removed for cause by the presiding circuit judge after notice
26 and a hearing, and members may be reappointed. Vacancies on



1 Indigent Defense Commission including five members of the
2 local advisory board.

3 "§15-12-5.

4 "(a) Judicial role in determining indigency. - The
5 trial judge first having cognizance of a criminal or juvenile
6 proceeding in his or her court shall determine if an accused
7 person or petitioner for postconviction relief is an indigent
8 defendant as defined in Section 15-12-1. Upon appeal from a
9 trial court to ~~the a state appellate courts court,~~ the trial
10 judge ~~or the presiding circuit judge who presided over the~~
11 proceedings on appeal shall determine if the appellant is an
12 indigent defendant as defined in Section 15-12-1. ~~In~~ If an
13 indigency determination is necessary in any proceeding
14 initiated originally in a state appellate court ~~or in any case~~
15 ~~appealed to a state appellate court without a determination of~~
16 ~~indigency,~~ the presiding judge or chief justice of the
17 appellate court shall determine if the appellant or petitioner
18 is an indigent defendant as defined in Section 15-12-1.

19 "(b) Criteria for determining indigency. - In
20 determining indigency, the judge shall recognize ability to
21 pay as a variable depending on the nature, extent and
22 liquidity of assets, the disposable net income of the
23 defendant, the nature of the offense, the effort and skill
24 required to gather pertinent information and the length and
25 complexity of the proceedings.

26 "(c) Investigation of indigency. - In determining
27 the fact of indigency a judge may require an investigation and



1 ~~supervise the operation of the public defender office. It may~~
2 ~~remove the public defender for cause after notice and a~~
3 ~~hearing.~~

4 ~~"(4) It shall select, in accordance with procedures~~
5 ~~promulgated by the Administrative Director of Courts, one or~~
6 ~~more contract counsel by majority vote, if a contract counsel~~
7 ~~system is established within the circuit, contract with such~~
8 ~~entities, subject to the approval of the presiding circuit~~
9 ~~judge, and determine the compensation to be paid to contract~~
10 ~~counsel under each contract, subject to the review of the~~
11 ~~Administrative Director of Courts and the approval of the~~
12 ~~State Comptroller. Notwithstanding this section or any other~~
13 ~~law to the contrary, no presiding judge or indigent defense~~
14 ~~commission shall by rule, regulation, or otherwise prohibit a~~
15 ~~circuit court judge or a district court judge from appointing~~
16 ~~any attorney licensed in Alabama to represent an indigent~~
17 ~~defendant.~~

18 "It shall recommend to the Director of the Office of
19 Indigent Defense Services and the commission the system or
20 systems of indigent defense to be utilized in each county of
21 the circuit. Five members of the local advisory board shall
22 have the right to be heard and entitled to vote on any matters
23 coming before the commission on the delivery of indigent
24 defense services in that circuit. Any systems or system of
25 indigent defense programs in any circuit or portion of the
26 circuit shall be approved by a majority of the Alabama



1 ~~as may be promulgated by the Supreme Court or regulation~~
2 ~~adopted by the Indigent Defense Commission.~~

3 "§15-12-21.

4 "(a) If it appears to the trial court that a
5 defendant is entitled to counsel, that the defendant does not
6 expressly waive the right to assistance of counsel, and that
7 the defendant is not able financially or otherwise to obtain
8 the assistance of counsel, the court shall appoint counsel to
9 represent and assist the defendant. It shall be the duty of
10 the appointed counsel, as an officer of the court and as a
11 member of the bar, to represent and assist the defendant to
12 the best of his or her ability.

13 "(b) If it appears to the trial court in a
14 delinquency case, need of supervision case, or other judicial
15 proceeding in which a juvenile is a party, that the juvenile
16 is entitled to counsel and that the juvenile is not able
17 financially or otherwise to obtain the assistance of counsel
18 or that appointed counsel is otherwise required by law, the
19 court shall appoint counsel to represent and assist the
20 juvenile or act in the capacity of guardian ad litem for the
21 juvenile. It shall be the duty of the appointed counsel, as an
22 officer of the court and as a member of the bar, to represent
23 and assist the juvenile to the best of his or her ability.

24 "(c) If it appears to the trial court that the
25 parents, guardian, or custodian of a juvenile who is a party
26 in a judicial proceeding, are entitled to counsel and the
27 parties are unable to afford counsel, upon request, the court



1 report by a district attorney, public defender, sheriff,
2 ~~probation officer, or other officer of the court. Provided,~~
3 ~~further, that the~~ The trial court judge shall, in all cases
4 requiring a determination of indigency, require the accused to
5 execute an affidavit of substantial hardship on a form
6 approved by ~~the Supreme Court~~ Alabama Indigent Defense
7 Commission. The completed affidavit of substantial hardship
8 and the subsequent order of the court either denying or
9 granting court appointed counsel to the accused shall become a
10 part of the official court record in the case.

11 " (d) Provision of defense counsel. - The judge
12 making a determination of indigency shall provide legal
13 representation for the indigent defendant. To the extent
14 possible, judges shall provide continuity in legal
15 representation. In capital cases, the trial court, after
16 consultation with the Office of Indigent Defense Services
17 shall assign at least two defense counsel in each case. At
18 least one member of each capital defense team, where
19 practicable, shall be a member of the bar in that circuit. All
20 attorneys appointed in capital cases shall meet all of the
21 requirements established by the commission for appointment in
22 capital cases.

23 "§15-12-6.

24 "Compensation of counsel appointed to represent
25 indigent defendants shall be paid by the state in such amounts
26 as otherwise provided by law. The procedure for approval and
27 payment for such services shall be as provided by law or rule



1 "(1) In cases where the original charge is a capital
2 offense or a charge which carries a possible sentence of life
3 without parole, there shall be no limit on the total fee.

4 "(2) Except for cases covered by subdivision (1), in
5 cases where the original charge is a Class A felony, the total
6 fee shall not exceed ~~three thousand five hundred dollars~~
7 ~~(\$3,500)~~ four thousand five hundred dollars (\$4,500).

8 "(3) In cases where the original charge is a Class B
9 felony, the total fee shall not exceed ~~two thousand five~~
10 ~~hundred dollars (\$2,500)~~ three thousand five hundred dollars
11 (\$3,500).

12 "(4) In cases where the original charge is a Class C
13 felony, the total fee shall not exceed ~~one thousand five~~
14 ~~hundred dollars (\$1,500)~~ two thousand dollars (\$2,000).

15 "(5) In juvenile cases, the total fee shall not
16 exceed ~~two thousand dollars (\$2,000)~~ two thousand five hundred
17 dollars (\$2,500).

18 "(6) In all other cases, the total fee shall not
19 exceed ~~one thousand dollars (\$1,000)~~ one thousand five hundred
20 dollars (\$1,500).

21 "Notwithstanding the above, the ~~court~~ trial court
22 for good cause shown may approve an attorney's fee in excess
23 of the maximum amount allowed. Counsel shall also be entitled
24 to be reimbursed for any expenses reasonably incurred in the
25 defense of his or her client, with any expense in excess of
26 three hundred dollars (\$300) to be approved in advance by the
27 trial court. ~~Preapproved expert fees shall be billed at the~~



1 shall appoint counsel to represent and assist the parents,
2 guardian, or custodian. It shall be the duty of the appointed
3 counsel, as an officer of the court and as a member of the
4 bar, to represent and assist the parties to the best of his or
5 her ability.

6 " (d) Counsel appointed in cases described in
7 subsections (a), (b), and (c), including cases tried de novo
8 in circuit court on appeal from a juvenile proceeding, shall
9 be entitled to receive for their services a fee to be approved
10 by the ~~trial court~~ Office of Indigent Defense Services. The
11 amount of the fee shall be based on the number of hours spent
12 by the attorney in working on the case and shall be computed
13 ~~at the rate of fifty dollars (\$50) per hour for time expended~~
14 ~~in court and thirty dollars (\$30) per hour for time reasonably~~
15 ~~expended out of court in the preparation of the case.~~
16 ~~Effective October 1, 2000, the amount of the fee shall be~~
17 ~~based on the number of hours spent by the attorney in working~~
18 ~~on the case and shall be computed at the rate of sixty dollars~~
19 ~~(\$60) per hour for time expended in court and forty dollars~~
20 ~~(\$40) per hour for time reasonably expended out of court in~~
21 ~~the preparation of the case~~ eighty-five dollars (\$85) per hour
22 for time spent in the defense of noncapital cases and one
23 hundred dollars (\$100) per hour for time spent in defense of
24 capital cases. The total fees paid to any one attorney in any
25 one case, from the time of appointment through the trial of
26 the case, including motions for new trial, shall not exceed
27 the following:



1 ~~for audit and, if approved by the Comptroller, The bill for~~
2 compensation of appointed counsel shall be submitted to the
3 clerk of the court and then to the Office of Indigent Defense
4 Services. An audit shall be made and if approved, that office
5 ~~shall be forwarded forward such bill to the State Treasurer~~
6 state Comptroller for payment.

7 "§15-12-22.

8 "(a) In all criminal cases wherein a defendant has
9 been convicted of a serious criminal or a juvenile offense in
10 which an appeal lies directly to the Supreme Court or Court of
11 Criminal Appeals and the defendant expresses his or her desire
12 to appeal the conviction, the court shall cause to be entered
13 upon its minutes a recital of notice of appeal, and the court
14 shall then ascertain and make findings in reference to the
15 appeal concerning those items listed in Section 15-12-20.

16 "(b) If it appears that the defendant desires to
17 appeal and is unable financially or otherwise to obtain the
18 assistance of counsel on appeal and the defendant expresses
19 the desire for assistance of counsel, the trial court shall
20 appoint counsel to represent and assist the defendant on
21 appeal. The presiding judge of the court to which the appeal
22 is taken shall have authority to appoint counsel in the event
23 the trial court fails to appoint and in the event it becomes
24 necessary to further provide for counsel. It shall be the duty
25 of the appointed counsel, as an officer of the court and as a
26 member of the bar, to represent and assist the defendant in
27 the appeal.



DILL STATUS

1 ~~time the court is notified that all work by the expert has~~
2 ~~been completed, and shall be paid forthwith. Once an expert~~
3 ~~has been paid for services on a particular case, that expert~~
4 ~~shall not be allowed to receive further payment on the case.~~
5 ~~Retrials of any case shall be considered a new case. The~~
6 ~~reasonableness of the reimbursable expenses of an attorney~~
7 ~~shall be determined by the trial court at the time~~
8 ~~reimbursement is requested. Such expenses shall not include~~
9 ~~normal overhead expenses. Fees and expenses of all experts or~~
10 ~~investigators, or both, and others rendering defense service~~
11 ~~to be used by counsel for an indigent defendant shall be~~
12 ~~approved in advance by the trial court. Retrials of any case~~
13 ~~shall be considered a new case for billing purposes. Upon~~
14 ~~review, the director may authorize interim payment of the~~
15 ~~attorney fees or expenses, or both.~~

16 "(e) Within a reasonable time after the conclusion
17 of the trial or ruling on a motion for a new trial or after an
18 acquittal or other judgment disposing of the case, not to
19 exceed 90 days, counsel shall submit ~~to the trial court~~ a bill
20 for services rendered, not to exceed the amount provided in
21 subsection (d). If counsel has submitted a bill in excess of
22 the amount allowed in subsection (d), a sworn affidavit shall
23 be attached to the bill stating the basis of the claim of the
24 counsel for additional money hours spent in defense of the
25 case, and setting out the good cause required by subsection
26 (d). ~~The bill, after approval by the trial court, shall be~~
27 ~~submitted by the clerk of the court to the state Comptroller~~



1 ~~attorney in working on the prosecution of the appeal and shall~~
2 ~~be computed at the rate of sixty dollars (\$60) per hour for~~
3 ~~time reasonably expended in the prosecution of the appeal, and~~
4 ~~any subsequent petition for writ of certiorari.~~

5 "~~(3)~~ The a. Except in the appeal of capital
6 convictions or other cases for which the defendant has been
7 sentenced to life without the possibility of parole, the total
8 fees awarded to any one attorney in any appeal ~~and any~~
9 ~~subsequent petition for writ of certiorari, to the court of~~
10 criminal appeals shall not, ~~however,~~ exceed ~~two thousand~~
11 ~~dollars (\$2,000)~~ two thousand five hundred dollars (\$2,500),
12 and shall be in addition to any fees awarded on the trial
13 court level. In those cases where the state takes a pretrial
14 appeal, appointed counsel shall be entitled to bill separately
15 for services on the pretrial and post-trial appeals, up to ~~two~~
16 ~~thousand dollars (\$2,000)~~ two thousand five hundred dollars
17 (\$2,500) for each appeal. In those cases where a petition for
18 writ of certiorari is filed in the Alabama Supreme Court,
19 counsel shall be entitled to bill separately for all services
20 rendered after the Court of Criminal Appeals overrules the
21 application for rehearing, or after the decision of the Court
22 of Criminal Appeals in the case of a pretrial appeal, up to a
23 separate limit of ~~two thousand dollars (\$2,000)~~ two thousand
24 five hundred dollars (\$2,500) over and above any funds
25 received for services rendered in the Court of Criminal
26 Appeals. The counsel shall also be entitled to be reimbursed
27 for any expenses reasonably incurred, other than normal



1 "(c) If it appears that a juvenile who is a party to
2 ~~an appeal is otherwise required by law or by rule of court to~~
3 be represented by appointed counsel, the trial court shall
4 appoint counsel to represent and assist the juvenile on
5 appeal. The presiding judge of the court to which the appeal
6 is taken shall have authority to appoint counsel in the event
7 the trial court fails to appoint and in the event it becomes
8 necessary to further provide for counsel. It shall be the duty
9 of the counsel, as an officer of the court and as a member of
10 the bar, to represent and assist the juvenile in the appeal.

11 "(d) Counsel appointed to defend any indigent
12 defendant for the appeal from a decision in any criminal or
13 juvenile proceeding, excluding cases tried de novo in circuit
14 court on appeal from a juvenile proceeding, shall be entitled
15 to receive for their services a fee to be approved by the
16 ~~appellate court~~ Office of Indigent Defense Services.

17 "(1) The amount of the fee shall be based on the
18 number of hours spent by the counsel in working on the appeal
19 and ~~shall be computed at the rate of fifty dollars (\$50) per~~
20 hour shall be eighty-five dollars (\$85) per hour for time
21 spent in the appeal of noncapital convictions and one hundred
22 dollars (\$100) per hour for time spent in the appeal of
23 capital convictions for time reasonably expended in the
24 prosecution of the appeal, and any subsequent petition for
25 writ of certiorari.

26 "~~(2) Effective October 1, 2000, the amount of the~~
27 ~~fee shall be based on the number of hours spent by the~~



1 convicted of serious criminal offenses including proceedings
2 for habeas corpus or other post conviction remedies, and in
3 post-trial motions or appeals in the proceedings, the trial or
4 presiding judge or chief justice of the court in which the
5 proceedings may be commenced or pending may appoint counsel to
6 represent and assist those persons charged or convicted if it
7 appears to the court that the person charged or convicted is
8 unable financially or otherwise to obtain the assistance of
9 counsel and desires the assistance of counsel and it further
10 appears that counsel is necessary in the opinion of the judge
11 to assert or protect the right of the person.

12 " (b) In proceedings filed in the district or circuit
13 court involving juvenile offenses including proceedings for
14 habeas corpus or other post conviction remedies, and in
15 post-trial motions or appeals in the proceedings, the trial or
16 presiding judge or chief justice of the court in which the
17 proceedings may be commenced or pending may appoint counsel to
18 represent and assist those juveniles so charged or convicted
19 if it appears to the court that the juvenile charged or
20 convicted is unable financially or otherwise to obtain the
21 assistance of counsel and it further appears that counsel is
22 necessary in the opinion of the judge to assert or protect the
23 rights of the person, or court appointed counsel is otherwise
24 required by law or rule of court.

25 " (c) It shall be the duty of such counsel as
26 provided in subsections (a) and (b) to represent and assist
27 the person in the proceedings.



1 overhead expenses, in preparing and handling the appeal, to be
2 approved in advance by the appellate court Office of Indigent
3 Defense Services.

4 "b. In the appeal of capital convictions or other
5 cases for which the defendant has been sentenced to life
6 without the possibility of parole, the total fees awarded to
7 any one attorney shall not exceed fifteen thousand dollars
8 (\$15,000) and shall be in addition to any fees awarded at the
9 trial court level. Any amounts billed in those cases in which
10 the state has taken a pretrial appeal shall not be counted
11 against the fifteen thousand dollars (\$15,000) limit imposed.
12 Counsel shall be reimbursed for any expenses reasonably
13 incurred in preparing and handling the appeal, to be approved
14 for reasonableness by the Office of Indigent Defense Services.

15 "(e) Within a reasonable time after the disposition
16 of the appeal, not to exceed 90 days, counsel shall submit to
17 the appellate court a bill for services rendered, not to
18 exceed the amount provided in subsection (d), and the bill,
19 when approved by the presiding judge or chief justice of the
20 appellate court, shall be submitted by the clerk of the
21 appellate court to the state Comptroller Office of Indigent
22 Defense Services for audit review and approval and, if
23 approved, by the Comptroller, forwarded office shall forward
24 the bill to the State Treasurer state Comptroller for payment.

25 "§15-12-23.

26 "(a) In proceedings filed in the district or circuit
27 court involving the life and liberty of those charged with or



1 expenses in excess of three hundred dollars (\$300) to be
2 approved in advance by the Office of Indigent Defense
3 Services. Fees and expenses of all experts, investigators, and
4 others providing defense services shall be approved in advance
5 by the Office of Indigent Defense Services. Upon review, the
6 Office of Indigent Defense Services may authorize interim
7 payment of the attorney fees or expenses, or both.

8 " ~~(e)~~ (f) Claim for the fee shall be submitted,
9 approved, and paid in the same manner as provided in
10 subsection (e) of Section 15-12-22.

11 "§15-12-26.

12 " ~~(a) In any county or circuit where a contract~~
13 ~~counsel system is chosen as a method of providing indigent~~
14 ~~defense, the circuit indigent defense commission shall choose~~
15 ~~one or more contract counsel. The commission may establish~~
16 that a contract counsel system be used as the method to
17 provide indigent defense services within the circuit or part
18 thereof.

19 " (b) Each contract counsel chosen shall be employed
20 pursuant to a contract containing terms and conditions as
21 deemed necessary between the attorney, firm, association,
22 corporation, or partnership, as the case may be, and the
23 ~~circuit indigent defense commission. The contract shall be~~
24 ~~subject to the approval of the presiding circuit judge. Unless~~
25 ~~the contract is disapproved by the presiding circuit judge~~
26 ~~within 30 days of the execution of the contract on behalf of~~



1 "(d) The counsel appointed in the proceedings shall
2 ~~be entitled to receive for his or her services a fee to be~~
3 approved by the ~~judge appointing him or her~~ Office of Indigent
4 Defense Services. The amount of the fee shall be based on the
5 number of hours spent by counsel ~~in working on the proceedings~~
6 ~~and shall be computed at the rate of fifty dollars (\$50) per~~
7 ~~hour for time expended in court and thirty dollars (\$30) per~~
8 ~~hour for time reasonably expended in preparation of the~~
9 ~~proceedings. Effective October 1, 2000, the~~. The fee shall be
10 ~~computed at the rate of sixty dollars (\$60)~~ eighty-five
11 dollars (\$85) per hour for time spent in post-conviction
12 representation of noncapital convictions and one hundred
13 dollars (\$100) per hour for time expended in court and forty
14 dollars (\$40) per hour for time reasonably expended in
15 preparation of the proceedings. The spent in post-conviction
16 representation of capital convictions. Except in capital
17 convictions, the total fees to counsel for the proceedings
18 shall not exceed one thousand dollars (\$1,000) one thousand
19 five hundred dollars (\$1,500). In capital convictions, the
20 total fees shall not exceed fifteen thousand dollars (\$15,000)
21 for work performed at the trial court level. Fees awarded for
22 work performed in appeals in capital convictions to the Court
23 of Criminal Appeals and the Alabama Supreme Court shall not
24 exceed fifteen thousand dollars (\$15,000).

25 "(e) Counsel shall also be entitled to be reimbursed
26 for any expenses reasonably incurred at the trial court level
27 in representing the defendant in the proceedings, with any



1 ~~the circuit indigent defense commission, the contract shall be~~
2 ~~deemed approved Indigent Defense Commission.~~

3 "§15-12-27.

4 "Any provision of this chapter to the contrary
5 notwithstanding, each contract counsel shall receive
6 compensation as set by the ~~circuit indigent defense~~
7 ~~commission, reviewed by the Administrative Director of Courts,~~
8 ~~and approved by the State Comptroller, to be paid from the~~
9 ~~Fair Trial Tax Fund or other funds as provided by law Indigent~~
10 ~~Defense Commission.~~

11 "§15-12-29.

12 "Sections 15-12-26, 15-12-27, and 15-12-28 shall not
13 be construed to preclude judges from appointing counsel for
14 indigent defendants, or from assigning representation of an
15 indigent defendant to other contract counsel where there is a
16 conflict of interest involving the contract counsel, or if the
17 contract counsel is unable to provide prompt and adequate
18 representation. ~~Sections 15-12-26, 15-12-27, and 15-12-28~~
19 ~~shall not be construed to supersede any provision of the~~
20 ~~Alabama Rules of Criminal Procedure or any other provision of~~
21 ~~law relating to public defenders.~~

22 "§15-12-40.

23 ~~"In any county or circuit where a public defender~~
24 ~~system is chosen as a method of providing indigent defense,~~
25 ~~the indigent defense commission shall choose a public~~
26 ~~defender.~~



1 "(a) The commission may establish a public defender
2 office as the method to provide indigent defense services
3 within the circuit.

4 "(b) For each new term, and to fill any vacancy, the
5 commission shall have the authority to select and appoint a
6 public defender for the circuit. Attorneys appointed hereunder
7 as public defenders shall be licensed to practice law in
8 Alabama at the time of the appointment or by the time they
9 assume office.

10 "§15-12-41.

11 "(a) The public defender shall be appointed for a
12 fixed term not to exceed six years, subject to reappointment
13 by the commission, and may be removed from office for cause by
14 the indigent defense commission.

15 "(b) The indigent defense commission may require
16 that the public defender serve full time or part time.

17 "§15-12-42.

18 "The public defender shall have the following powers
19 and duties:

20 "(1) Within his or her geographic jurisdiction, the
21 public defender shall provide defense services to indigent
22 ~~defendants charged with misdemeanors and felonies and referred~~
23 ~~to him by the court~~ persons as defined in Section 15-21-1.

24 "(2) The public defender shall, at the request and
25 with the consent of a municipal governing body and the
26 ~~indigent defense commission~~ Indigent Defense Commission,



1 "The public defender shall keep such records and
2 make such reports on matters related to the operation of the
3 office of the public defender as are required by the indigent
4 ~~defense commission, except, that~~ director. The attorney-client
5 communications involving the defender or attorneys employed by
6 him or her shall remain confidential.

7 "§15-12-45.

8 ~~"The indigent defense commission, subject to the~~
9 ~~approval of the Administrative Director of Courts, (a) The~~
10 director, in compliance with procedures adopted by the
11 commission, may approve expenditures for attorneys,
12 investigators, other personnel and nonpersonnel expenses of
13 the public defender. Authorized employees of the public
14 defender offices shall be entitled to annual and sick leave,
15 insurance, retirement, and other state employee benefits,
16 including cost-of-living raises and bonuses authorized by the
17 Legislature for state employees.

18 "(b) The operating expenses and staff salaries and
19 benefits for the offices of the public defenders shall be
20 approved in advance by the Office of Indigent Defense Services
21 as part of an annual budget for the subject public defender's
22 office and, once the budget is approved, shall be paid by the
23 state from funds appropriated annually from the Fair Trial Tax
24 Fund or other funds appropriated by the Legislature for this
25 purpose. The expenses shall include, but not be limited to,
26 the salary, benefits, and expenses of all eligible employees



1 represent indigent defendants in a municipal court within his
2 ~~or her geographic jurisdiction.~~

3 "(3) The public defender ~~may~~, with consent of the
4 ~~indigent defense commission~~, may represent an indigent
5 defendant in a state appellate court.

6 ~~"(4) The public defender may, if empowered by the~~
7 ~~presiding circuit judge and the indigent defense commission,~~
8 ~~administer the system of appointing private counsel for~~
9 ~~indigent defendants within his geographic jurisdiction.~~

10 "§15-12-43.

11 "(a) The public defender shall receive a salary set
12 by the ~~indigent defense commission and approved by the~~
13 ~~Administrative Director of Courts~~ commission. The salary shall
14 not exceed the state salary paid to a district attorney in the
15 circuit and shall be paid in the same manner as employees of
16 the state.

17 "(b) All salary and expenses of a public defender
18 shall be paid by the state out of the ~~fair trial tax fund~~ Fair
19 Trial Tax Fund or other funds appropriated by the Legislature
20 for such purposes; except, that in counties authorized to
21 impose a court cost for defender services, the county shall
22 fund defender services from the revenues of said court cost,
23 and the state shall pay a reasonable share of the cost of
24 maintaining such office, such reasonable share to be
25 determined by the ~~Administrative Director of Courts~~ Indigent
26 Defense Commission.

27 "§15-12-44.



1 Defense Commission in retaining the initial Director of
2 Indigent Defense Services of the commission. The Director of
3 the Administrative Office of Courts shall recruit and
4 interview prospective candidates and shall submit at least
5 three names to the commission for its consideration. The
6 commission may hire its initial Director of Indigent Defense
7 Services from the list or may request the chair of the
8 commission and the Director of the Administrative Office of
9 Courts to submit additional names.

10 Section 9. Persons holding the position of public
11 defender or appellate defender on the effective date of this
12 act shall be entitled to serve the remainder of their terms of
13 office.

14 Section 10. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.



1 and positions, training and education, travel, research,
2 equipment, and supplies.

3 "(c) Each public defender may employ assistant
4 public defenders, investigators, and other staff, full time or
5 part time, as authorized by the Indigent Defense Commission.
6 Assistants, investigators, and other staff shall be appointed
7 by the public defender and serve at the pleasure of the public
8 defender.

9 "§15-12-46.

10 "Nothing in this article shall be construed to
11 ~~exclude establishment of appointed counsel systems parallel to~~
12 ~~a public defender system or to preclude judges from appointing~~
13 counsel for indigent defendants where there is a conflict of
14 interest involving the public defender or if the public
15 defender is unable to provide prompt and adequate
16 representation."

17 Section 7. Section 15-12-2 of the Code of Alabama
18 1975, providing for the determination as to indigent defense
19 systems to be used in circuit, district, and municipal courts;
20 Section 15-12-3 of the Code of Alabama 1975, providing for the
21 presiding circuit judges to administer the circuit indigent
22 defense system; and Section 15-12-24.1 of the Code of Alabama
23 1975, providing for withdrawals from the Fair Trial Tax Fund
24 to pay expenses of the state Comptroller for administering the
25 defense of indigents are specifically repealed.

26 Section 8. The Director of the Administrative Office
27 of Courts shall assist the Chair of the Alabama Indigent