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SENATE BILL NO. 562

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact §§ 19.2-163.01 and 19.2-163.02 of the Code of Virginia, relating to the Indigent Defense Commission; powers and duties.

Patrons—Stolle, Howell and Norment; Delegates: Albo, Kilgore, Melvin and Moran

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-163.01 and 19.2-163.02 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-163.01. Virginia Indigent Defense Commission established; powers and duties.

A. The Virginia Indigent Defense Commission (hereinafter Indigent Defense Commission or Commission) is established *within the judicial branch of government. The Commission shall be supervisory and shall have sole responsibility for the powers, duties, operations, and responsibilities set forth in this section.*

The Commission shall have the following powers and duties:

1. To publicize and enforce the qualification standards for attorneys seeking eligibility to serve as court-appointed counsel for indigent defendants pursuant to § 19.2-159.

2. To develop initial training courses for attorneys who wish to begin serving as court-appointed counsel, and to review and certify legal education courses that satisfy the continuing requirements for attorneys to maintain their eligibility for receiving court appointments.

3. To maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as court-appointed counsel for indigent defendants based upon the official standards and to disseminate the list by July 1 of each year and updates throughout the year to the Office of the Executive Secretary of the Supreme Court for distribution to the courts. In establishing and updating the list, the Commission shall consider all relevant factors, including but not limited to, the attorney's background, experience, and training and the Commission's assessment of whether the attorney is competent to provide quality legal representation.

4. To establish official standards of practice *and conduct* for court-appointed counsel *and public defenders* to follow in representing their clients, and guidelines for the removal of an attorney from the official list of those qualified to receive court appointments and to notify the Office of the Executive Secretary of the Supreme Court of any attorney whose name has been removed from the list.

5. To develop initial training courses for public defenders and to review and certify legal education courses that satisfy the continuing requirements for public defenders to maintain their eligibility ~~and to establish standards of practice for public defenders.~~

~~6. To establish and thereafter maintain, in conjunction with the Virginia State Bar, the Supreme Court and the Virginia State Crime Commission, standards of conduct for indigent defense counsel in Virginia.~~

~~7. To periodically review and report to the Virginia State Crime Commission, the House and the Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the caseload handled by each public defender office.~~

~~8-7. To maintain all public defender and regional capital defender offices established by the General Assembly.~~

~~98. To hire and employ and, at its pleasure, remove an executive director, counsel, and such other persons as it deems necessary, and to authorize the executive director to appoint, after prior notice to the Commission, a deputy director, and for each of the above offices a public defender or capital defender, as the case may be, who shall devote his full time to his duties and not engage in the private practice of law.~~

~~109. To authorize the public defender or capital defender to employ such assistants as authorized by the Commission.~~

~~110. To authorize the public defender or capital defender to employ such staff, including secretarial and investigative personnel, as may be necessary to carry out the duties imposed upon the public defender office.~~

~~111. To authorize the public defender or capital defender to secure such office space as needed, to purchase or rent office equipment, to purchase supplies and to incur such expenses as are necessary to carry out the duties imposed upon him.~~

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59 1312. To *approve requests for appropriations and* receive and expend moneys appropriated by the
60 General Assembly of Virginia and to receive other moneys as they become available to it and expend
61 the same in order to carry out the duties imposed upon it.

62 1413. To require and ensure that each public defender office collects and maintains caseload data and
63 fields in a case management database on an annual basis.

64 1514. To report annually on or before October 1 to the Virginia State Crime Commission, the House
65 and Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate
66 Committee on Finance on the state of indigent criminal defense in the Commonwealth, including
67 Virginia's ranking amongst the 50 states in terms of pay allowed for court-appointed counsel appointed
68 pursuant to § 19.2-159 or subdivision B 2 of § 16.1-266.

69 B. *The Commission shall adopt rules and procedures for the conduct of its business. The*
70 *Commission may delegate to the executive director such powers and duties conferred upon the*
71 *Commission as it deems appropriate, including powers and duties involving the exercise of discretion.*
72 *The Commission shall ensure that the executive director complies with all Commission and statutory*
73 *directives. Such rules and procedures may include the establishment of committees and the delegation of*
74 *authority to the committees. The Commission shall review and confirm by a vote of the Commission its*
75 *rules and procedures and any delegation of authority to the executive director at least every three years.*

76 D. The executive director shall, with the approval of the Commission, fix the compensation of each
77 public defender and all other personnel in each public defender office. *The executive director shall also*
78 *exercise and perform such other powers and duties as may be lawfully delegated to him and such*
79 *powers and duties as may be conferred or imposed upon him by law.*

80 § 19.2-163.02. Membership of Indigent Defense Commission; expenses.

81 The Virginia Indigent Defense Commission shall consist of 12 members as follows: the chairmen of
82 the House and Senate Committees for Courts of Justice *or their designees*; the chairman of the Virginia
83 State Crime Commission *or his designee*; the Executive Secretary of the Supreme Court or his designee;
84 two attorneys officially designated by the Virginia State Bar; two persons appointed by the Governor;
85 two persons appointed by the Speaker of the House of Delegates; and two persons appointed by the
86 Senate Committee on Rules. At least one of the appointments made by the Governor, one of the
87 appointments made by the Speaker, and one of the appointments made by the Senate Committee on
88 Rules, shall be an attorney in private practice with a demonstrated interest in indigent defense issues.
89 Persons who are appointed by virtue of their office shall hold terms coincident with their terms of
90 office. If the chairman of the Virginia State Crime Commission is (i) the chairman of the House
91 Committee for Courts of Justice, then the vice-chairman of the Committee shall serve in the position
92 designated for the Committee chairman or (ii) the chairman of the Senate Committee for Courts of
93 Justice, then the Senate Committee on Rules, upon the recommendation of the chairman of the
94 Committee, shall appoint a member of the Committee to serve in the position designated for the
95 Committee chairman. All other members shall be appointed for terms of three years and may be
96 reappointed.

97 The Commission shall elect a chairman and a vice-chairman from among its membership *annually.*
98 *The chairman or his designee shall preside at all regular and called meetings of the Commission and*
99 *shall have no additional duties or authority unless set by statute or by resolution of the Commission and*
100 *annually confirmed by the Commission.* A majority of the members shall constitute a quorum. The
101 Commission shall meet at least four times each year. The meetings of the Commission shall be held at
102 the call of the chairman or whenever ~~the majority~~ *three* of the members so request.

103 Members shall be paid reasonable and necessary expenses incurred in the performance of their duties.
104 Legislative members shall receive compensation as provided in § 30-19.12 and nonlegislative citizen
105 members shall receive compensation for their services as provided in §§ 2.2-2813 and 2.2-2825.