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HOUSE BILL NO. 93

Offered January 9, 2008

Prefiled December 14, 2007

A BILL to amend and reenact § 19.2-163.01 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-163.01:1, relating to supplementing compensation of public defenders.

Patron—Moran

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-163.01 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-163.01:1 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. 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 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.

6. 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.

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

8. 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.

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

10. 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.

11. To authorize the executive director of the Commission, in consultation with 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.

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

13. To require and ensure that each public defender office collects and maintains caseload data and

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fields in a case management database on an annual basis.

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

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

C. The executive director shall, with the approval of the Commission, fix the compensation of each public defender and all other personnel in each public defender office. *However, nothing herein shall be construed to prevent the governing body of a county or city from supplementing the compensation of the local public defender office as provided in § 19.2-163.01:1.* The executive director shall also exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law.

§ 19.2-163.01:1. Supplementing compensation of public defender.

Notwithstanding any other provision of law, the governing body of any county or city may supplement the compensation of the public defender or any of his deputies or employees above the compensation fixed by the executive director, in such amounts as it may deem expedient. Such additional compensation shall be wholly payable from the funds of any such county or city.