THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 371  Session of 2023

INTRODUCED BY BAKER, HUGHES, COLLETT, HAYWOOD, SCHWANK, COMITTA, SANTARSIERO, KANE, KEARNEY, BARTOLOTTA, TARTAGLIONE, BREWSTER, COSTA, SAVAL AND MUTH, FEBRUARY 21, 2023

REFERRED TO JUDICIARY, FEBRUARY 21, 2023

AN ACT

Amending the act of November 22, 1978 (P.L.1166, No.274), entitled "An act establishing the Pennsylvania Commission on Crime and Delinquency, providing for its powers and duties establishing several advisory committees within the commission and providing for their powers and duties," providing for Indigent Defense Advisory Committee; and establishing the Indigent Defense Grant Program.

The General Assembly finds and declares that:

(1) crime and delinquency are essentially State and local problems;

(2) crime and delinquency are complex social phenomena requiring the attention and efforts of the criminal justice system, State and local governments and private citizens alike;

(3) the establishment of appropriate goals, objectives and standards for the reduction of crime and delinquency and for the administration of justice must be a priority concern;

(4) the functions of the criminal justice system must be coordinated more efficiently and effectively;

(5) the full and effective use of resources affecting
State and local criminal justice systems requires the complete cooperation of State and local government agencies; and

(6) training, research, evaluation, technical assistance and public education activities must be encouraged and focused on the improvement of the criminal justice system and the generation of new methods for the prevention and reduction of crime and delinquency.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of November 22, 1978 (P.L.1166, No.274), referred to as the Pennsylvania Commission on Crime and Delinquency Law, is amended by adding a section to read:

Section 7.3. Indigent Defense Advisory Committee.

(a) Establishment.--The Indigent Defense Advisory Committee is established within the commission.

(b) Composition.--The committee shall consist of a chairperson and the following members to be selected as follows:

(1) The executive director of the Interbranch Commission for Gender, Racial and Ethnic Fairness, or a designee, who shall serve as an ex officio and nonvoting member.

(2) The executive director of the Public Defender Association of Pennsylvania or a designee.

(3) The executive director of the Pennsylvania Commission on Sentencing, or a designee, who shall serve as an ex officio and nonvoting member.

(4) The executive director of the Pennsylvania District Attorneys Association, or a designee, who shall serve as an ex officio and nonvoting member.

(5) The Commonwealth Victim Advocate, or a designee, who
shall serve as an ex officio and nonvoting member.

(6) The executive director of the Pennsylvania Chiefs of Police Association, or a designee, who shall serve as an ex officio and nonvoting member.

(7) The executive director of the Juvenile Court Judges' Commission, or a designee, who shall serve as an ex officio and nonvoting member.

(8) An individual appointed by the President pro tempore of the Senate.

(9) An individual appointed by the Minority Leader of the Senate.

(10) An individual appointed by the Speaker of the House of Representatives.

(11) An individual appointed by the Minority Leader of the House of Representatives.

(12) The following members appointed by the Governor:

(i) One representative of public defenders appointed from a list of three qualified attorneys recommended by the Defender Association of Philadelphia.

(ii) One criminal defense attorney with public defender experience appointed from a list of three qualified individuals recommended by the Pennsylvania Association of Criminal Defense Lawyers.

(iii) One attorney with experience defending juveniles in delinquency proceedings, appointed from a list of three qualified individuals recommended by the Juvenile Defenders Association of Pennsylvania.

(iv) One member from the law school academic community with a background in public defense or legal services appointed from a list of qualified individuals.
recommended by each law school in this Commonwealth.

(v) One attorney with capital case indigent defense trial, appellate or postconviction experience associated with the Pennsylvania Innocence Project at Temple University Beasley School of Law.

(vi) One representative of county government from the second class or second class A counties appointed from a list of three qualified individuals recommended by the County Commissioners Association of Pennsylvania.

(vii) One representative of county government from the third, fourth, fifth, sixth, seventh or eighth class counties appointed from a list of three qualified individuals recommended by the County Commissioners Association of Pennsylvania.

(viii) One advocate for current and former prison inmates appointed from a list of three individuals recommended by the Pennsylvania Prison Society.

(13) Three judges who routinely preside over criminal or juvenile cases and are representative of the geographic and demographic diversity of the Commonwealth, appointed by the Chief Justice of the Pennsylvania Supreme Court.

(14) The following members appointed by the Chief Justice of the Pennsylvania Supreme Court:

(i) One county chief public defender from a list of three recommendations from the Public Defender Association of Pennsylvania.

(ii) One public defender from the second class OR second class A counties from a list of four recommendations from the Public Defender Association of Pennsylvania.
(iii) One public defender from the third or fourth class counties from a list of four recommendations from the Public Defender Association of Pennsylvania.

(iv) Two public defenders from the fifth, sixth, seventh or eighth class counties from a list of four recommendations from the Public Defender Association of Pennsylvania.

(c) Chairperson and vice chairperson.--The chairperson of the committee shall be selected by the Governor from among the voting members of the committee. A vice chairperson shall be designated by the chairperson of the committee from among the voting members of the committee to preside at meetings in the absence of the chairperson.

(d) Term.--Members of the committee shall serve a four-year term. Members are eligible for reappointment for no more than two consecutive terms. Members appointed under subsection (b)(1), (2), (3), (4), (5), (6) and (7) shall serve by virtue of the member's office, and the term shall be concurrent with the member's service in the office. Vacancies on the committee shall be filled by the appointing authority within 60 days of the vacancy. For the purposes of this subsection, a vacancy occurs when a member resigns from the committee or no longer holds the employment that originally qualified the member for the appointment.

(e) Quorum.--A majority of the voting members of the committee shall constitute a quorum and a quorum shall be required for all actions. A vote of the majority of the voting members of the committee present shall be sufficient for all actions taken by the committee.

(f) Meetings.--The committee shall hold its first meeting no
later than 60 days from the effective date of this subsection.

Except for the first meeting, meetings related to the implementation and operation of the Indigent Defense Grant Program established under subsection (k) and meetings related to committee duties under subsection (i)(13), members appointed under subsection (b)(4), (5) and (6) may not participate in meetings and committee work related to committee duties under subsection (i)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12), unless requested by a majority of the voting members.

(g) Compensation and expenses.--The committee members shall not receive a salary or per diem allowance for serving as board members, but shall be reimbursed for actual and necessary expenses incurred in the performance of duties as members of the committee. Expenses may include reimbursement of travel and living expenses while engaged in committee business.

(h) Staff.--Staff support shall be made available to the committee by the executive director of the commission in order to adequately assist the committee in carrying out its duties and responsibilities.

(i) Duties and responsibilities.--With the review and approval of the commission, the committee shall have the following duties and responsibilities:

(1) Propose minimum standards for the delivery of effective indigent defense services throughout this Commonwealth that are consistent with the requirements of the Constitution of the United States and the Constitution of Pennsylvania.

(2) Propose minimum standards for attorneys providing indigent defense services to ensure that the ability,
training and experience of the attorneys match the cases
assigned to the attorneys.

(3) Submit proposed standards to the Pennsylvania
Supreme Court for adoption through a manner prescribed by the
Supreme Court.

(4) Identify, develop or provide appropriate Statewide
continuing legal education courses, practical training
programs and skill development resources, including
preservice training for newly hired public defenders, public
defender staff attorneys, assigned counsel and contract
public defenders and other counsel who provide indigent
defense services.

(5) Identify, develop or provide appropriate programs
for capital case defense skills training, adult criminal
defense training, juvenile delinquency defense training and
management and leadership training for chief defenders and
public defender office leaders and other counsel who provide
indigent defense services.

(6) Establish a virtual defender training library
consisting of all programs approved by the committee.

(7) Adopt standards by which counties shall collect and
report, at a minimum, the following to the committee:

(i) The caseload and workload of each attorney in
the county's public defender office.

(ii) The caseload and workload of attorneys who are
assigned to represent an indigent defendant as conflict
counsel or contract counsel in the county.

(iii) The total expenditures and per capita spending
for indigent criminal defense services in the county.

(8) Adopt standards for the use of case management.
systems or software by county public defender offices.

(9) Develop, in partnership with the Administrative Office of Pennsylvania Courts and the Juvenile Court Judges' Commission, data requests that include, at a minimum, the following:

(i) The total number of criminal cases involving a public defender by category of criminal offense and by county.

(ii) The total number of criminal cases adjudicated or closed involving a public defender by category of disposition type and by county.

(iii) The total number of juvenile delinquency cases involving a public defender by category of offense and by county.

(iv) The total number of juvenile delinquency cases adjudicated or closed involving a public defender by category of disposition type and by county.

(v) The total number of criminal cases with a court appointed attorney, not a public defender.

(vi) The total number of juvenile delinquency cases with a court appointed attorney, not a public defender.

(vii) The total number of criminal and juvenile delinquency cases appealed involving a public defender by county.

(10) Partner with other departments or agencies for the collection of data related to the delivery of indigent defense services, as may be required by the committee.

(11) Analyze the data to identify trends and overall effectiveness of indigent defense services in the State and the impact of the standards adopted on the effectiveness of
(12) Prepare a report which includes, at a minimum, the actions of the committee, details of grants awarded, summaries of data collected with statistics regarding the delivery of indigent defense services and recommendations for improvement of the indigent defense system in this Commonwealth. The report shall be submitted two years from the effective date of this section and biennially thereafter. The report shall be published on the commission's publicly accessible Internet website. A copy of the report shall be submitted to the Governor, the chair and minority chair of the Judiciary Committee of the Senate, the chair and minority chair of the Judiciary Committee of the House of Representatives, the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives and the Pennsylvania Supreme Court.

(13) Perform functions related to the direct approval and disbursement of grants under the Indigent Defense Grant Program established under subsection (k) in an advisory capacity only.

(j) Confidentiality of data.--County-specific data received and collected by the committee shall remain confidential. The committee may release aggregate data at the committee's discretion when preparing and submitting its biennial report.

(k) Indigent Defense Grant Program.--The Indigent Defense Grant Program is established in the commission. The following shall apply:

(1) Money available to the program shall include appropriations and transfers from the General Fund, special
funds, Federal funds and other sources of revenue made
available to the program and the commission.

(2) Program funding may only be used for the grant and
training activities authorized under this section, and no
money may be transferred or diverted to any other purpose by
administrative action.

(3) The committee shall have the opportunity to review
and comment on grant applications and shall ensure that grant
funding or services provided under the program are
geographically dispersed throughout this Commonwealth.

(4) Grant money allocated through the program shall be
used to supplement and not supplant existing county spending
on indigent defense services.

(5) Nothing shall preclude a grant recipient from making
an application in a subsequent year for the same purpose and
amount awarded in a prior year.

(6) Grants awarded shall be consistent with the
standards established by the committee and the standards
adopted by the Pennsylvania Supreme Court.

(7) The commission may randomly audit and monitor grant
recipients to ensure the appropriate use of grant funds and
compliance with the provisions of this section.

(8) The commission may use up to 10% of the money
appropriated each year for the costs of supporting the
committee and administering the program, which may include
the costs relating to the employment of personnel, providing
technical assistance to grantees and evaluating the impact of
initiatives supported by the grants.

(1) Definitions.--As used in this section, the term
"indigent defense services" means the legal representation
provided to indigent adult defendants and juvenile respondents through either a public defender's office, contracted counsel or conflict counsel.

Section 2. This act shall take effect in 30 days.