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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE RESOLUTION

No. 619 Session of  
2019

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INTRODUCED BY McCLINTON, A. DAVIS, D. MILLER, MURT, HOHENSTEIN,  
FREEMAN, HILL-EVANS, WARREN, ROEBUCK, GALLOWAY AND OTTEN,  
NOVEMBER 22, 2019

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REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 22, 2019

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A RESOLUTION

1 Directing the Legislative Budget and Finance Committee to  
2 conduct a study to collect and organize data regarding  
3 historic funding and caseloads relating to indigent criminal  
4 defense in this Commonwealth during the most recent three  
5 years for which data is available.

6 WHEREAS, The Sixth Amendment to the Constitution of the  
7 United States states, in part:

8 In all criminal prosecutions, the accused shall enjoy the  
9 right . . . to have the Assistance of Counsel for his  
10 defense[;];

11 and

12 WHEREAS, In the landmark case of *Gideon v. Wainwright*, 372  
13 U.S. 335 (1963), the United States Supreme Court ruled that free  
14 counsel for criminal defendants who cannot afford to hire an  
15 attorney is mandated upon the states by the Sixth Amendment of  
16 the Constitution of the United States; and

17 WHEREAS, The United States Supreme Court subsequently  
18 clarified that the guarantees described in *Gideon* include  
19 misdemeanor prosecutions that could result in a term of

1 imprisonment, juvenile delinquency proceedings and all critical  
2 proceedings subsequent to arrest; and

3 WHEREAS, The Constitution of Pennsylvania also guarantees to  
4 indigent criminal defendants a right to counsel; and

5 WHEREAS, Since 1776, the Constitution of Pennsylvania has  
6 provided that:

7 In all criminal prosecutions, the accused hath a right to  
8 be heard by himself and his counsel[;];

9 and

10 WHEREAS, The Commonwealth of Pennsylvania provides indigent  
11 criminal defendant representation through a variety of means,  
12 including a county-based public defender system, court-appointed  
13 counsel, conflict counsel, pro bono representation and others;  
14 and

15 WHEREAS, The Public Defender Act, the act of December 2, 1968  
16 (P.L.1144, No.358), mandates that:

17 In each county except the County of Philadelphia, there  
18 shall be a public defender, appointed as herein provided.  
19 Two or more counties may cooperate in the appointment of  
20 a public defender, as provided in the intergovernmental  
21 cooperation provisions of the Constitution of  
22 Pennsylvania or as provided by law[;];

23 and

24 WHEREAS, The Public Defender Act further provides that:

25 In lieu of, or in addition to assistant public defenders,  
26 the public defender may arrange for and make use of the  
27 services of attorneys at law admitted to practice before  
28 the Supreme and Superior Courts of this Commonwealth and  
29 the court of common pleas of the county or counties in  
30 which they may serve, when such attorneys volunteer to

1 act as assistants, without compensation, to enable him to  
2 carry out the duties of his office[;];

3 and

4 WHEREAS, Funding for the criminal justice system in  
5 Pennsylvania, including indigent criminal defense, is primarily  
6 county-based; and

7 WHEREAS, The interests of justice and therefore of all  
8 Pennsylvanians are best served when Pennsylvania's indigent  
9 criminal defense system operates in an effective and ethical  
10 manner, responsibly using sufficient funding to zealously  
11 represent its clients; therefore be it

12 RESOLVED, That the House of Representatives direct the  
13 Legislative Budget and Finance Committee to conduct a study to  
14 collect and organize data regarding historic funding and  
15 caseloads relating to indigent criminal defense in the  
16 Commonwealth during the most recent three years for which data  
17 is available; and be it further

18 RESOLVED, That the study shall determine the sources of  
19 funding and size of caseloads for indigent criminal defense in  
20 each county, including:

- 21 (1) county-based public defenders;
- 22 (2) Federal public defenders appearing in State court;
- 23 (3) court-appointed counsel, including conflict counsel;
- 24 (4) private representation provided pro bono or at  
25 reduced rates; and
- 26 (5) any other source of indigent criminal defense  
27 representation that the committee determines to be  
28 informative;

29 and be it further

30 RESOLVED, That the study shall determine the amount of

1 funding available and caseloads for indigent criminal defense  
2 supported by each source of funding in each county annually,  
3 including the rates paid to court-appointed counsel; and be it  
4 further

5 RESOLVED, That the study shall determine the number of  
6 attorneys supported by each source of funding in each county  
7 annually and appearing on behalf of indigent criminal  
8 defendants, including the number of public defenders, both full-  
9 time and part-time; and be it further

10 RESOLVED, That the study shall determine each county's  
11 caseload for indigent criminal defense supported by each source  
12 of funding in each county annually by category, including:

- 13 (1) capital murders;
- 14 (2) homicides;
- 15 (3) felonies;
- 16 (4) misdemeanors; and
- 17 (5) such other categories that the Committee determines  
18 to be informative;

19 and be it further

20 RESOLVED, That the study shall determine each county's  
21 caseload for indigent criminal defense supported by each source  
22 of funding in each county annually by category, including:

- 23 (1) jury trial;
- 24 (2) bench trial; and
- 25 (3) other disposition;

26 and be it further

27 RESOLVED, That the study shall be completed by November 30,  
28 2020.