

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 619 Session of 2019

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

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 9, 2019

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

1 misdemeanor prosecutions that could result in a term of
2 imprisonment, juvenile delinquency proceedings and all critical
3 proceedings subsequent to arrest; and

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

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

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

10 and

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

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

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

24 and

25 WHEREAS, The Public Defender Act further provides that:

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

1 which they may serve, when such attorneys volunteer to
2 act as assistants, without compensation, to enable him to
3 carry out the duties of his office[;];

4 and

5 WHEREAS, IN 2011, THE JOINT STATE GOVERNMENT COMMISSION <--
6 ISSUED A REPORT OF THE TASK FORCE AND ADVISORY COMMITTEE ON
7 SERVICES TO INDIGENT CRIMINAL DEFENDANTS IN WHICH THE JOINT
8 STATE GOVERNMENT COMMISSION CONCLUDED THAT THE "[L]ACK OF
9 SYSTEMATIC AND COMPLETE DATA HAMPERS ANALYSIS AND EVALUATION OF
10 OUR [INDIGENT DEFENSE SYSTEM]"; AND

11 WHEREAS, Funding for the criminal justice system in
12 Pennsylvania, including indigent criminal defense, is primarily
13 county-based; and

14 WHEREAS, The interests of justice and therefore of all
15 Pennsylvanians are best served when Pennsylvania's indigent
16 criminal defense system operates in an effective and ethical
17 manner, responsibly using sufficient funding to zealously
18 represent its clients; therefore be it

19 RESOLVED, That the House of Representatives direct the
20 Legislative Budget and Finance Committee to conduct a study to
21 collect and organize data regarding ~~historic~~ funding and <--
22 caseloads relating to indigent criminal defense in the
23 Commonwealth ~~during the most recent three years for which data~~ <--
24 ~~is available~~; and be it further

25 RESOLVED, That the study shall determine the sources of
26 funding and size of caseloads for indigent criminal defense in
27 each county, including WHERE DATA IS AVAILABLE: <--

- 28 (1) county-based public defenders;
29 (2) Federal public defenders appearing in State court;
30 (3) court-appointed counsel, including conflict counsel;

1 (4) private representation provided pro bono or at
2 reduced rates; and

3 (5) any other source of indigent criminal defense
4 representation that the committee determines to be
5 informative;

6 and be it further

7 RESOLVED, That the study shall determine the amount of
8 funding available and caseloads for indigent criminal defense
9 supported by each source of funding in each county annually,
10 including the rates paid to court-appointed counsel; and be it
11 further

12 RESOLVED, That the study shall determine the number of
13 attorneys supported by each source of funding in each county
14 annually and appearing on behalf of indigent criminal
15 defendants, including the number of public defenders, both full-
16 time and part-time; and be it further

17 RESOLVED, That the study shall determine each county's
18 caseload for indigent criminal defense supported by each source
19 of funding in each county annually by category, including WHERE <--
20 DATA IS AVAILABLE:

21 (1) capital murders;

22 (2) homicides;

23 (3) felonies;

24 (4) misdemeanors; and

25 (5) such other categories that the Committee determines
26 to be informative;

27 and be it further

28 RESOLVED, That the study shall determine each county's
29 caseload for indigent criminal defense supported by each source
30 of funding in each county annually by category, including WHERE <--

1 DATA IS AVAILABLE:

2 (1) jury trial;

3 (2) bench trial; and

4 (3) other disposition;

5 and be it further

6 RESOLVED, THAT, UPON COMPLETION OF THE STUDY, THE LEGISLATIVE <--

7 BUDGET AND FINANCE COMMITTEE SHALL SUBMIT A REPORT ON THE

8 RESULTS OF THE STUDY WITHIN 30 DAYS TO THE GOVERNOR, THE

9 JUDICIARY COMMITTEE OF THE SENATE AND THE JUDICIARY COMMITTEE OF

10 THE HOUSE OF REPRESENTATIVES; AND BE IT FURTHER

11 RESOLVED, That the study shall be completed by November 30,

12 2020, UNLESS EXTENDED BY A RESOLUTION IN A SUBSEQUENT SESSION. <--