

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 658 Session of 2019

INTRODUCED BY BROWNE, COSTA, HUGHES, BREWSTER, FONTANA, STREET, HAYWOOD AND KEARNEY, MAY 17, 2019

SENATOR BAKER, JUDICIARY, AS AMENDED, OCTOBER 6, 2020

AN ACT

1 Establishing the Center for Effective Indigent Defense Legal
2 Representation; AND providing for duties and responsibilities <--
3 of the board of directors; and making an appropriation. <--

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Center for
8 Effective Indigent Defense Legal Representation Act.

9 Section 2. Legislative findings.

10 The General Assembly finds the following:

11 (1) The United States Supreme Court ruled in Gideon v.
12 Wainwright, 372 U.S. 335 (1963) that free counsel for
13 criminal defendants who cannot afford to hire an attorney is
14 mandated upon the states by the Sixth Amendment to the
15 Constitution of the United States.

16 (2) Pennsylvania is the only state that does not
17 appropriate money toward assisting counties in complying with
18 the Gideon mandate.

1 (3) Pennsylvania should appropriate money to comply with
2 *Gideon* and in so doing establish and provide for a center to
3 support the delivery of services to indigent criminal
4 defendants in this Commonwealth.

5 Section 3. Definitions.

6 The following words and phrases when used in this act shall
7 have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Board." The board of directors of the center.

10 "Center." The Center for Effective Indigent Defense Legal
11 Representation.

12 "Executive director." The executive director of the center.

13 Section 4. Center for Effective Indigent Defense Legal
14 Representation.

15 (a) Establishment.--The Center for Effective Indigent
16 Defense Legal Representation is established.

17 (b) Operation.--A board member shall oversee the operation
18 of the center.

19 (c) Rules and regulations.--The board may promulgate rules
20 and regulations to carry out board duties and responsibilities
21 and the duties and responsibilities of the center under this
22 act.

23 Section 5. Board.

24 (a) Composition.--The board shall be representative of the
25 criminal defense bar of this Commonwealth and shall consist of
26 the following:

27 (1) A county chief public defender, appointed by the
28 Chief Justice of Pennsylvania from a list of three
29 recommendations from the Public Defender Association of
30 Pennsylvania.

1 (2) An attorney member of the Juvenile Defenders
2 Association of Pennsylvania, appointed by the Chief Justice
3 of Pennsylvania from a list of three recommendations from the
4 Juvenile Defenders Association of Pennsylvania.

5 (3) A member or a staff member of the Interbranch
6 Commission for Gender, Racial and Ethnic Fairness, appointed
7 by the Chief Justice of Pennsylvania from a list of three
8 recommendations from the Interbranch Commission for Gender,
9 Racial and Ethnic Fairness.

10 (4) An attorney member of the Pennsylvania Association
11 of Criminal Defense Lawyers with public defender experience,
12 appointed by the Governor from a list of three
13 recommendations from the Pennsylvania Association of Criminal
14 Defense Lawyers.

15 (5) Two members from the law school academic community
16 with a background in public defense legal services, appointed
17 by the Governor.

18 (6) An attorney with capital case indigent defense
19 trial, appellate or postconviction experience associated with
20 the Pennsylvania Innocence Project at Temple University
21 Beasley School of Law, appointed by the Governor from a list
22 of three recommendations from the Pennsylvania Innocence
23 Project at Temple University Beasley School of Law.

24 (b) Chairperson and vice chairperson.--The board members
25 shall annually elect, by a majority vote of the voting members,
26 a chairperson and vice chairperson.

27 (c) Quorum.--Four board members shall constitute a quorum
28 for the transaction of any business, and any act by a majority
29 of the board members present at any meeting in which there is a
30 quorum shall be deemed to be an act of the board.

1 (d) Compensation and expenses.--The board members shall not
2 receive a salary or per diem allowance for serving as board
3 members, but shall be reimbursed for actual and necessary
4 expenses incurred in the performance of their duties. Expenses
5 may include reimbursement of travel and living expenses while
6 engaged in center business.

7 (e) Terms of board members.--

8 (1) Each board member shall serve for a term of three
9 years and shall continue to serve after until a successor is
10 appointed, except that, of the board members first appointed:

11 (i) The county chief public defender appointed by
12 the Chief Justice of Pennsylvania and the attorney member
13 of the Pennsylvania Association of Criminal Defense
14 Lawyers appointed by the Governor shall serve for terms
15 to expire on June 30 of the year following appointment.

16 (ii) The attorney member of the Juvenile Defenders
17 Association of Pennsylvania appointed by the Chief
18 Justice of Pennsylvania and the first member from the law
19 school academic community appointed by the Governor shall
20 serve for a term to expire on June 30 of the second year
21 following appointment.

22 (iii) The member of or staff member of the
23 Interbranch Commission for Gender, Racial and Ethnic
24 Fairness appointed by the Chief Justice of Pennsylvania,
25 the second member from the law school academic community
26 appointed by the Governor, and the attorney with capital
27 case indigent defense trial, appellate or postconviction
28 experience appointed by the Governor shall serve for
29 terms to expire on June 30 of the third year following
30 appointment.

1 (2) Board members shall be eligible for reappointment.
2 Vacancies on the board shall be filled by the appointing
3 authority within 60 days of the vacancy.

4 (3) A board member may be removed for just cause by the
5 appointing authority.

6 (f) General powers.--The board shall exercise all powers
7 necessary and appropriate to carry out its duties, including the
8 following:

9 (1) To employ an executive director and other staff
10 necessary to carry out the duties of the center and engage
11 professional consultants, as it deems necessary, to assist in
12 the performance of the responsibilities of the center.

13 (2) To fix the compensation of all employees and
14 prescribe their duties.

15 (3) To oversee the operation of the center.

16 (4) To prepare an annual budget for the operation of the
17 center.

18 (5) To solicit money from any source for the operation
19 of the center.

20 Section 6. Executive director.

21 (a) Appointment.--The board shall appoint an executive
22 director for the center.

23 (b) Qualifications.--The executive director shall have the
24 following qualifications:

25 (1) Extensive experience as a trial, appellate or
26 postconviction counsel in capital, criminal or delinquency
27 matters.

28 (2) Experience as a trainer or presenter at or an
29 organizer of attorney training programs.

30 (3) Proven leadership, management and administrative

1 skills to direct the activities of the center, its staff and
2 contractors.

3 (c) Responsibilities.--The responsibilities of the executive
4 director shall include the following:

5 (1) To oversee the daily operation of the center.

6 (2) To make personnel decisions for the center with the
7 approval of the board.

8 (3) To develop an operational budget for the center and
9 aid the board in raising the necessary money to sustain the
10 operation of the center.

11 (4) To identify and develop resources.

12 (d) Term of office.--The executive director shall serve at
13 the pleasure of the board.

14 Section 7. Duties and responsibilities of center.

15 (a) General rule.--The center shall have the following
16 duties and responsibilities:

17 (1) To develop and provide continuing education,
18 training and skill development programs and resources for
19 public defender staff attorneys, assigned counsel ~~and~~, <--
20 contract public defenders AND OTHER COUNSEL who represent <--
21 indigent criminal defendants.

22 (2) To establish and maintain programs for capital case
23 defense skills training, adult criminal defense training,
24 juvenile delinquency defense training and management and
25 leadership training for chief defenders ~~and~~, public defender <--
26 office leaders AND OTHER COUNSEL WHO REPRESENT INDIGENT <--
27 CRIMINAL DEFENDANTS.

28 (3) To establish a virtual defender training library
29 consisting of all of the programs generated by the training
30 programs sponsored through the center.

1 (4) To contract with one or more nonprofit organizations
2 to assist the center in providing any of its duties and
3 responsibilities, including any of the education, training
4 and skill development programs.

5 (b) Affiliation.--The center shall be an independent agency
6 of the Commonwealth and may become affiliated with a law school
7 located in this Commonwealth.

8 ~~Section 8. Appropriation.~~ <--

9 ~~The sum of \$1,000,000 is hereby specifically appropriated to~~
10 ~~the Center for Effective Indigent Defense Legal Representation~~
11 ~~for the fiscal year 2019-2020 for the purpose of funding its~~
12 ~~general operations under this act. This appropriation shall be~~
13 ~~in addition to, and may not be used to replace, any money~~
14 ~~appropriated or otherwise made available by the Commonwealth or~~
15 ~~a political subdivision for any purpose that includes criminal~~
16 ~~defense funding.~~

17 Section 9 8. Effective date. <--

18 ~~This act shall take effect July 1, 2019, or immediately,~~ <--
19 ~~whichever is later.~~ THIS ACT SHALL TAKE EFFECT IMMEDIATELY. <--