

The House Committee on Juvenile Justice offers the following substitute to HB 674:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapters 11 and 18 of Title 15 and Code Section 17-12-27 of the Official Code  
2 of Georgia Annotated, relating to juvenile proceedings, prosecuting attorneys, and assistant  
3 public defenders, respectively, so as to provide for state funded positions for assistant district  
4 attorneys and assistant public defenders in juvenile courts under certain circumstances  
5 including state appropriations; to change provisions relating to the authority to file a  
6 delinquency petition; to change provisions relating to the responsibilities of district attorneys  
7 in juvenile courts; to provide for related matters; to provide effective dates; to repeal  
8 conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

10 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile  
11 proceedings, is amended by revising Code Section 15-11-520, relating to who files a petition  
12 alleging delinquency, as follows:

13 "15-11-520.

14 A petition alleging delinquency shall be filed by an a prosecuting attorney ~~as set forth in~~  
15 ~~Code Section 15-18-6.1.~~"

**SECTION 2.**

17 Chapter 18 of Title 15 of the Official Code of Georgia Annotated, relating to prosecuting  
18 attorneys, is amended by revising Code Section 15-18-6.1, relating to responsibilities of  
19 district attorney in juvenile court, as follows:

20 "15-18-6.1.

21 (a)(1) The district attorney shall be responsible for representing the state in any appeal  
22 from the juvenile court.

23 (2) Except as provided in subsection (c) of this Code section, the district attorney shall  
24 be responsible for representing appointing assistant district attorneys to represent the state  
25

26 ~~in the prosecution of delinquency cases in the juvenile court as provided in subparagraph~~  
27 ~~(a)(1)(B) of Code Section 15-18-14.~~ The district attorney may designate assistant district  
28 attorneys, investigators, victim and witness assistance personnel, and other employees to  
29 assist in juvenile court.

30 (b) In counties with a solicitor-general for the state court, the solicitor-general may, with  
31 the approval of the district attorney, represent the state in prosecution of juvenile traffic  
32 offenses and in any delinquency case arising out of the operation of a motor vehicle or a  
33 watercraft.

34 (c) ~~If a district attorney cannot appoint assistant district attorneys as provided in~~  
35 ~~subparagraph (a)(1)(B) of Code Section 15-18-14 and he or she determines that as a result~~  
36 ~~of workload caseload, lack of staff, or other cause the district attorney determines that his~~  
37 ~~or her office cannot provide representation for the state in a juvenile court of a county,~~  
38 ~~other than for an appeal, the district attorney shall notify in writing the chief judge of~~  
39 ~~superior court, the judge or judges of the juvenile court, and the chairperson of the county~~  
40 ~~governing authority of such county of such determination. A copy of such notice shall be~~  
41 ~~provided to the Prosecuting Attorneys' Council of the State of Georgia. If the district~~  
42 ~~attorney determines that his or her office may resume representation in juvenile court, he~~  
43 ~~or she shall notify the chief judge of the superior court, the judge or judges of the juvenile~~  
44 ~~court, and the chairperson of the county governing authority in writing.~~

45 (d) Upon receipt of the notice set forth in subsection (c) of this Code section, the  
46 governing authority of such county may appoint one or more attorneys to represent the  
47 state in prosecuting delinquency cases in juvenile court. Such attorney shall be  
48 compensated in an amount to be fixed by the governing authority of such county. The  
49 governing authority shall determine and state in writing whether an attorney shall serve on  
50 a full-time or part-time basis. An attorney appointed to serve on a full-time basis shall not  
51 engage in the private practice of law. An attorney appointed to serve on a part-time basis  
52 may engage in the private practice of law, but shall not represent a child charged with  
53 committing a delinquent act in the juvenile court of the county in which he or she serves  
54 as part-time prosecutor nor may he or she appear in any matter in which he or she has  
55 exercised jurisdiction.

56 (e) An attorney appointed pursuant to subsection (d) of this Code section shall have all of  
57 the powers, duties, and authority of the district attorney with regard to delinquency cases  
58 and shall be subject to all laws and rules governing the conduct of prosecuting attorneys  
59 in this state. If such attorney is disqualified from interest or relationship to engage in  
60 prosecution, the provisions of Code Section 15-18-5 shall apply."

**SECTION 3.**

61  
62 Said chapter is further amended by revising paragraph (1) of subsection (a) of Code Section  
63 15-18-14, relating to the appointment of assistant district attorneys, as follows:

64 "(a)(1) Subject to the provisions of this Code section, the district attorney in each judicial  
65 circuit is authorized to appoint:

66 (A) One assistant district attorney for each superior court judge authorized for the  
67 circuit, excluding senior judges, plus one additional assistant district attorney to assist  
68 the district attorney in the performance of the duties of the district attorney's office and  
69 consistent with their constitutional and statutory duties to protect the rights of victims  
70 of crimes as now or in the future may be defined by applicable law;

71 (B)(i) Assistant district attorneys to perform the duties of prosecuting attorney in the  
72 juvenile court for the circuit. The number of assistant district attorneys shall depend  
73 on the number of superior court judges authorized for the circuit. If there are one or  
74 two superior court judges for the circuit, there shall be one assistant district attorney  
75 appointed. If there are at least three but fewer than seven superior court judges for the  
76 circuit, there shall be two assistant district attorneys appointed. If there are at least  
77 seven but fewer than ten superior court judges for the circuit, there shall be three  
78 assistant district attorneys appointed. If there are ten or more superior court judges  
79 for the circuit, there shall be four assistant district attorneys appointed.

80 (ii) Funding for this subparagraph shall come from appropriations made to the  
81 Prosecuting Attorneys' Council of the State of Georgia and the Georgia Public  
82 Defender Standards Council for the purpose of having state funded assistant district  
83 attorneys and assistant public defenders working in juvenile courts. The Prosecuting  
84 Attorneys' Council of the State of Georgia shall apportion and distribute any such  
85 appropriated funds among the judicial circuits for purposes of this subparagraph based  
86 upon priorities and criteria established by rules and regulations developed by the  
87 Prosecuting Attorneys' Council of the State of Georgia for assistant district attorneys.  
88 Such priorities and criteria shall include, but shall not be limited to:

89 (I) Whether a district attorney desires to be responsible for representing the state  
90 in juvenile court; provided, however, that once a district attorney has elected to  
91 proceed with such representation for a fiscal year, he or she may only change such  
92 selection for a subsequent fiscal year;

93 (II) The caseload, present staff, and funding resources available to each district  
94 attorney; and

95 (III) Such other conditions and criteria as deemed reasonable and necessary by the  
96 Prosecuting Attorneys' Council of the State of Georgia;

97 ~~(B)~~(C) Subject to the availability of funding and at the option of the Department of  
 98 Human Services, at least one assistant district attorney to perform duties described  
 99 specifically under Code Sections 19-11-23 and 19-11-53 and generally under Article  
 100 1 of Chapter 11 of Title 19, the 'Child Support Recovery Act,' Article 2 of Chapter 11  
 101 of Title 19, the 'Uniform Reciprocal Enforcement of Support Act,' and Article 3 of  
 102 Chapter 11 of Title 19, the 'Uniform Interstate Family Support Act.' The district  
 103 attorney retains the authority to appoint one or more assistant district attorneys, who  
 104 shall be county employees, to perform the aforementioned statutory duties, so long as  
 105 such appointments are pursuant to a contract for such services with the Department of  
 106 Human Services. Once the election to make this position a state position is made, under  
 107 this statutory provision, it shall be irrevocable. Contractual funds shall be paid by the  
 108 Department of Human Services to the Prosecuting Attorneys' Council of the State of  
 109 Georgia in accordance with the compensation provisions of this Code section, or at the  
 110 election of the appointed attorney, to the appointed attorney's judicial circuit, in  
 111 accordance with the compensation provisions of that judicial circuit; and  
 112 ~~(C)~~(D) Subject to funds being appropriated by the General Assembly or otherwise  
 113 available for such purpose, such additional assistant district attorneys as may be  
 114 authorized by the Prosecuting Attorneys' Council of the State of Georgia. In  
 115 authorizing additional assistant district attorneys, the Prosecuting Attorneys' Council  
 116 of the State of Georgia shall consider the case load, present staff, and resources  
 117 available to each district attorney, and shall make such authorizations as will contribute  
 118 to the efficiency of individual district attorneys and the effectiveness of prosecuting  
 119 attorneys throughout the state in their efforts against criminal activity in the state."

#### 120 SECTION 4.

121 Code Section 17-12-27 of the Official Code of Georgia Annotated, relating to the  
 122 appointment of assistant public defenders, is amended by revising subsection (a) as follows:

123 "(a) Subject to the provisions of this Code section, the circuit public defender in each  
 124 judicial circuit is authorized to appoint:

125 (1)(A) One assistant public defender for each superior court judge authorized for the  
 126 circuit, excluding the chief judge and senior judges; and

127 (B)(i) Assistant public defenders to represent indigent persons in the juvenile court  
 128 for the circuit. The number of assistant public defenders shall depend on the number  
 129 of superior court judges authorized for the circuit. If there are one or two superior  
 130 court judges for the circuit, there shall be one assistant public defender appointed. If  
 131 there are at least three but fewer than seven superior court judges for the circuit, there  
 132 shall be two assistant public defenders appointed. If there are at least seven but fewer

133 than ten superior court judges for the circuit, there shall be three assistant public  
134 defenders appointed. If there are ten or more superior court judges for the circuit,  
135 there shall be four assistant public defenders appointed.

136 (ii) Funding for this subparagraph shall come from appropriations made to the  
137 council and the Prosecuting Attorneys' Council of the State of Georgia for the purpose  
138 of having state funded assistant public defenders and assistant district attorneys  
139 working in juvenile courts. The director shall apportion and distribute any such  
140 appropriated funds among the judicial circuits for purposes of this subparagraph based  
141 upon priorities and criteria established by rules and regulations developed by the  
142 council for assistant public defenders. Such priorities and criteria shall include, but  
143 shall not be limited to:

144 (I) The caseload, present staff, and funding resources available to each circuit  
145 public defender; and

146 (II) Such other conditions and criteria as deemed reasonable and necessary by the  
147 director; and

148 (2) Subject to funds being appropriated by the General Assembly or otherwise available,  
149 additional assistant public defenders as may be authorized by the council. In authorizing  
150 additional assistant public defenders, the council shall consider the caseload, present staff,  
151 and resources available to each circuit public defender and shall make authorizations as  
152 will contribute to the efficiency of individual circuit public defenders and the  
153 effectiveness of providing adequate legal defense for indigent defendants."

154 **SECTION 5.**

155 This Act shall become effective upon its approval by the Governor or upon its becoming law  
156 without such approval for the purpose of promulgating rules and regulations; for all other  
157 purposes this Act shall become effective on July 1, 2014.

158 **SECTION 6.**

159 All laws and parts of laws in conflict with this Act are repealed.