

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
BILL NO. 2284

By: O'Donnell of the House

3  
4 and

Treat of the Senate

5  
6  
7  
8 An Act relating to legal practitioner training;  
9 amending 19 O.S. 2011, Section 138.1a, which relates  
10 to duties of the public defender; modifying duties to  
11 include certain training and continuing legal  
12 education requirements; amending 19 O.S. 2011,  
13 Section 215.28, as amended by Section 67, Chapter  
14 304, O.S.L. 2012 (19 O.S. Supp. 2016, Section  
15 215.28), which relates to the District Attorneys  
16 Council; modifying training and continuing legal  
17 education requirements to include certain topics;  
18 amending Section 4, Chapter 198, O.S.L. 2013 (22 O.S.  
19 Supp. 2016, Section 60.20), which relates to the  
20 Protection from Domestic Abuse Act; providing list of  
21 required training curriculum topics; amending 22 O.S.  
22 2011, Section 1355.4, which relates to the Indigent  
23 Defense Act; modifying training and continuing legal  
24 education requirements to include certain topics; and  
providing an effective date.

19 AUTHOR: Add the following Senate Coauthor: Pittman

20 AMENDMENT NO. 1. Page 1, strike the title to read

21 "[ legal practitioner training - duties of the public  
22 defender - District Attorneys Council - Protection  
23 from Domestic Abuse Act - effective date ]"

1 Passed the Senate the 26th day of April, 2017.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the Senate

5 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
6 2017.

7  
8 \_\_\_\_\_  
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10 of Representatives

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22 Defense Act; modifying training and continuing legal  
23 education requirements to include certain topics; and  
24 providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2011, Section 138.1a, is  
amended to read as follows:

Section 138.1a A. In each county of this state possessing a  
population of over three hundred thousand (300,000) according to the  
Federal Decennial Census of 1990, or any succeeding Federal

1 Decennial Census, there is hereby created the office of public  
2 defender, and such office shall be charged upon the order of any  
3 judge of a court of record of such county, with the protection of  
4 the rights of any defendant to a criminal action. The board of  
5 county commissioners of such county shall provide for necessary  
6 office supplies and equipment and arrange for sufficient office  
7 space in the county building, used by the courts of record of such  
8 county, to permit the efficient and effective operation of the  
9 office of public defender.

10 B. Subject to available funding, the board of county  
11 commissioners, along with the office of the public defender, shall  
12 provide and coordinate training and continuing legal education for  
13 attorneys employed by the office of the public defender. Curriculum  
14 for training required under this section shall include, but not be  
15 limited to:

- 16 1. Nationally recognized defense seminars; and
- 17 2. Evidence-based practices regarding behavioral health and  
18 treatment of defendants with substance abuse or mental health needs.

19 C. For purposes of liability under the Governmental Tort Claims  
20 Act, any public defender, assistant public defender or employee  
21 thereof, who is employed under this section shall be deemed a state  
22 employee.

23  
24

1 SECTION 2. AMENDATORY 19 O.S. 2011, Section 215.28, as  
2 amended by Section 67, Chapter 304, O.S.L. 2012 (19 O.S. Supp. 2016,  
3 Section 215.28), is amended to read as follows:

4 Section 215.28 A. There is hereby created the District  
5 Attorneys Council which shall be organized and administered as  
6 herein provided. Any reference in the Oklahoma Statutes to the  
7 District Attorneys Training Coordination Council shall mean the  
8 District Attorneys Council.

9 B. The chief executive officer of the office of the Council is  
10 the Executive Coordinator who shall be appointed and supervised by  
11 the Council. The Executive Coordinator shall serve at the pleasure  
12 of the Council. The Executive Coordinator shall be licensed to  
13 practice law in Oklahoma and shall have been a district attorney or  
14 assistant district attorney or have held an equivalent position in  
15 state or federal government for at least three (3) years prior to  
16 appointment. The Executive Coordinator may appoint an Assistant  
17 Coordinator, both of whom shall be in the unclassified service of  
18 the state. The Executive Coordinator and the Assistant Coordinator,  
19 who shall also be licensed to practice law in Oklahoma, shall devote  
20 full time to their duties and shall not engage in the private  
21 practice of law. The Executive Coordinator shall perform the  
22 functions and duties as may be assigned by the Council. The  
23 Executive Coordinator shall be named the project director and fiscal  
24 officer of any grant or fund received by the Council. The Executive

1 Coordinator and the Assistant Coordinator shall receive compensation  
2 for their services within the pay scale limits for district  
3 attorneys.

4 C. 1. The Council shall be composed of the following members:

5 a. the Attorney General, or a designated representative  
6 of the Attorney General,

7 b. the President of the Oklahoma District Attorneys  
8 Association,

9 c. the President-elect of the Oklahoma District Attorneys  
10 Association,

11 d. one district attorney selected by the Court of  
12 Criminal Appeals for a three-year term, and

13 e. one district attorney selected by the Board of  
14 Governors of the Oklahoma Bar Association for a three-  
15 year term.

16 2. A member of the Council shall vacate the appointment upon  
17 termination of the member's official position as Attorney General or  
18 district attorney. A vacancy shall be filled in the same manner as  
19 the original appointment. A member appointed to fill a vacancy  
20 created other than by expiration of a term shall be appointed for  
21 the unexpired term of the member whom the appointed member is to  
22 succeed in the same manner as the original appointment. Any member  
23 may serve more than one term.

24

1 D. The Council shall designate from among its members a  
2 Chairman and Vice Chairman who shall serve for one-year terms and  
3 who may be reelected. Membership on the Council shall not  
4 constitute holding a public office. The Council shall not have the  
5 right to exercise any portion of the sovereign power of the state.  
6 A member of the Council shall not be disqualified from holding any  
7 public office or employment by reason of appointment or membership  
8 on the Council, nor shall the member forfeit the office or  
9 employment, by reason of appointment to the Council.

10 E. The Council shall meet at least four times in each year and  
11 shall hold special meetings when called by the Chairman, or, in the  
12 absence of the Chairman, by the Vice Chairman or when called by the  
13 Chairman upon the written request of two members of the Council.  
14 The Council shall establish its own procedures and requirements with  
15 respect to quorum, place and conduct of its meetings and other  
16 matters.

17 F. The members of the Council shall not receive a salary for  
18 duties performed as members of the Council but shall be entitled to  
19 be reimbursed for their travel expenses in accordance with the State  
20 Travel Reimbursement Act.

21 G. The Council shall make an annual report to the Governor, the  
22 President Pro Tempore of the Senate, the Speaker of the House of  
23 Representatives, and the President of the Oklahoma District  
24

1 Attorneys Association regarding its efforts to implement the  
2 purposes of this section.

3 H. The Council shall have the power to perform such functions  
4 as in its opinion shall strengthen the criminal justice system in  
5 Oklahoma, to provide a professional organization for the education,  
6 training and coordination of technical efforts of all state  
7 prosecutors and to maintain and improve prosecutor efficiency and  
8 effectiveness in enforcing the laws of this state including, but not  
9 limited to, the following:

10 1. Organize, supervise and perform functions consistent with  
11 this ~~act~~ section;

12 2. Convene regional or statewide conferences and training  
13 seminars for the purpose of implementing the provisions of this ~~act~~  
14 section;

15 3. Accept and expend monies, gifts, grants or services from any  
16 public or private source; contract or enter into agreements with  
17 educational institutions or state or federal agencies; and employ  
18 personnel as the Council in its judgment finds necessary to  
19 effectively carry out the provisions of this ~~act~~ section. Such  
20 employees shall be in the unclassified service of the state;

21 4. Serve in an advisory capacity to the district attorneys of  
22 the state;

23 5. Provide and coordinate training and continuing legal  
24 education for district attorneys and their assistants, including



1 participation in nationally recognized prosecutorial seminars  
2 conducted in other states. Subject to available funding, curriculum  
3 for training required under this paragraph shall include, but not be  
4 limited to:

- 5 a. dynamics of domestic violence,
- 6 b. the impact of domestic violence on victims and their  
7 children including victim trauma and the neurobiology  
8 of trauma,
- 9 c. identifying dominant aggressor,
- 10 d. tactics and behavior of batterers,
- 11 e. victim protection orders and full faith and credit  
12 under the Violence Against Women Act of 1994,
- 13 f. rights of victims, and
- 14 g. evidence-based practices regarding behavioral health  
15 and treatment of those with substance abuse or mental  
16 health needs;

17 6. Gather and disseminate information to district attorneys  
18 relative to their official duties, including changes in the law  
19 relative to their office;

20 7. Coordinate with law enforcement officers, the courts and  
21 corrections workers providing interdisciplinary seminars to augment  
22 the effectiveness of the criminal justice system;

23 8. Require statistical reports from district attorneys' offices  
24 relating to functions and workload performance;

1           9. Recommend additional legislation necessary to upgrade the  
2 Oklahoma District Attorneys System to professional status;

3           10. Establish an equitable distribution plan for allocation of  
4 any funds or gifts received from public or private sources for state  
5 prosecution and distribute such funds in accordance with such plan;  
6 and

7           11. Appoint a larger Advisory Council made up of district  
8 attorneys and assistant district attorneys to discuss problems and  
9 hear recommendations concerning necessary research, minimum  
10 standards, educational needs, and other matters imperative to  
11 upgrading Oklahoma prosecution to professional status.

12           I. There is hereby created in the State Treasury a revolving  
13 fund for the Council, to be designated the "District Attorneys  
14 Council Revolving Fund". The fund shall consist of all monies  
15 received by the Council other than appropriated funds. The  
16 revolving fund shall be a continuing fund not subject to fiscal year  
17 limitations and shall be under the control and management of the  
18 Council. Expenditures from this fund shall be made pursuant to the  
19 purposes of this act and without legislative appropriation.  
20 Warrants for expenditures shall be drawn by the State Treasurer  
21 based on claims signed by the authorized employee or employees of  
22 the Council and approved for payment by the Director of the Office  
23 of Management and Enterprise Services.

24

1 J. The Council may accept operation and supervision of the Law  
2 Enforcement Assistance Administration grants presently being  
3 administered by the Oklahoma District Attorneys Association.

4 SECTION 3. AMENDATORY Section 4, Chapter 198, O.S.L.  
5 2013 (22 O.S. Supp. 2016, Section 60.20), is amended to read as  
6 follows:

7 Section 60.20 The Administrative Office of the Courts shall  
8 provide annual domestic violence, substance abuse, addiction and  
9 mental health educational training for members of the judiciary.  
10 Subject to available funding, curriculum for training required under  
11 this section shall include, but not be limited to:

- 12 1. Dynamics of domestic violence;
- 13 2. The impact of domestic violence on victims and their  
14 children including trauma and the neurobiology of trauma;
- 15 3. Identifying dominant aggressor;
- 16 4. Tactics and behavior of batterers;
- 17 5. Victim protection orders and full faith and credit under the  
18 Violence Against Women Act of 1994;
- 19 6. Rights of victims; and
- 20 7. Evidence-based practices regarding behavioral health and  
21 treatment of those with substance abuse or mental health needs.

22 SECTION 4. AMENDATORY 22 O.S. 2011, Section 1355.4, is  
23 amended to read as follows:

24

1 Section 1355.4 A. The chief executive officer of the Oklahoma  
2 Indigent Defense System shall be the Executive Director, who shall  
3 be appointed by the Board and serve at the pleasure of the Board.  
4 The Executive Director shall be an attorney who has practiced law  
5 for at least four (4) years preceding the appointment and who is  
6 licensed to practice law in this state or is eligible to become so  
7 licensed within one (1) year of the appointment. The Executive  
8 Director shall have experience in the representation of persons  
9 accused or convicted of crimes.

10 B. The Executive Director shall perform administrative  
11 functions which serve the Board.

12 C. The Executive Director shall have the following powers and  
13 duties:

14 1. To prepare and administer an annual budget approved by the  
15 Board and to process claims for the System;

16 2. To enter into contracts to provide counsel in cases in which  
17 the defendant is indigent and unable to employ counsel, to enter  
18 into contracts with individuals, educational institutions, or state  
19 or federal agencies for other purposes, and to approve or disapprove  
20 the provisions of any such contract;

21 3. To review and approve or disapprove claims for expenditures  
22 of monies;

23 4. To take such actions as shall strengthen the criminal  
24 justice system in this state;

1           5. To promote the education and training of all attorneys  
2 representing indigent criminal defendants including, subject to  
3 available funding, nationally recognized defense seminars and  
4 evidence-based practices regarding behavioral health and treatment  
5 of defendants with substance abuse or mental health needs;

6           6. To maintain and improve effective representation for the  
7 indigent criminal defendant;

8           7. To employ personnel as necessary to carry out the duties  
9 imposed upon the System by law and to set the salaries of such  
10 personnel, subject to the salary schedules adopted by the Board;

11           8. To solicit and maintain a current list of attorneys licensed  
12 to practice law in this state who are willing to accept case  
13 assignments from the System and who meet any other qualifications as  
14 set by the Board;

15           9. To solicit and maintain a separate list of persons eligible  
16 for appointment to capital cases, who meet the qualifications set by  
17 the System;

18           10. To establish reasonable hourly rates of compensation for  
19 attorneys appointed in accordance with the Indigent Defense Act,  
20 subject to approval by the Board;

21           11. To establish maximum caseloads for attorneys employed by  
22 the System, subject to approval by the Board;

23           12. To reduce caseloads through reassignment of cases to  
24 private attorneys, as necessary;

1       13. To approve the sharing of office space, equipment, or  
2 personnel among the separate indigent defense programs within the  
3 System;

4       14. To prepare and submit to the Board an annual report for the  
5 preceding fiscal year regarding the efforts of the System to  
6 implement the purposes of the Indigent Defense Act, and to file that  
7 report with the Governor, the President Pro Tempore of the Senate,  
8 the Speaker of the House of Representatives, the Chief Justice of  
9 the Oklahoma Supreme Court, and the Presiding Judge of the Oklahoma  
10 Court of Criminal Appeals;

11       15. To conduct regional or statewide conferences and training  
12 seminars for the purpose of implementing the provisions of the  
13 Indigent Defense Act;

14       16. To provide System personnel who serve in an advisory  
15 capacity to the indigent defenders and defense attorneys who  
16 represent indigents pursuant to contract or who agree to accept  
17 cases assigned by the System to represent indigents of this state;

18       17. To gather and disseminate information to indigent  
19 defenders, including, but not limited to, changes in the law;

20       18. To recommend additional legislation necessary to upgrade  
21 the Oklahoma Indigent Defense System or to improve the justice  
22 system; and

23       19. To operate a cost-effective system by:  
24

- 1           a.    implementing procedures to track System expenditures  
2                   to show costs by case and client and to track time and  
3                   expenses by attorney if the attorney is employed by  
4                   the System,
- 5           b.    adopting written policies regarding when employees are  
6                   to be in travel status and making efforts to reduce  
7                   travel costs, and
- 8           c.    reviewing assignment of indigency status to identify  
9                   clients who have available resources, and collecting  
10                  costs of representation when feasible.

11           D.  1.  The Executive Director is hereby authorized to develop,  
12           establish, and maintain lists of approved contractors who have  
13           agreed to provide expert services to the System.  The lists shall  
14           include any expert who desires to furnish services to the System and  
15           who has filed a schedule of fees for services with, and on a form  
16           approved by, the Executive Director.  Any deviation in excess of the  
17           published schedule of fees shall require the prior written approval  
18           of the Executive Director.  Any attorney appointed or assigned cases  
19           in accordance with the Indigent Defense Act may request expert  
20           services from the list of experts maintained by the Executive  
21           Director.  The Executive Director or designee may, in said person's  
22           sole discretion, approve requests for expert services; provided,  
23           however, that nothing contained in the Indigent Defense Act shall be  
24

1 construed to render the Executive Director a member of the defense  
2 team in any System client's case for strategic purposes.

3 2. Attorneys appointed or assigned cases in accordance with the  
4 Indigent Defense Act may request investigative or other nonexpert  
5 witness services from the Executive Director on a form provided by  
6 the Executive Director. The Executive Director or designee may, in  
7 said person's sole discretion, approve requests for such services at  
8 a reasonable hourly rate of compensation; provided, however, that  
9 nothing contained in the Indigent Defense Act shall be construed to  
10 render the Executive Director a member of the defense team in any  
11 System client's case for strategic purposes.

12 3. Services obtained under this section may be obtained as sole  
13 source contracts and are specifically exempt from the requirements  
14 of soliciting no less than three quotations found in paragraph 7 of  
15 subsection A of Section 85.45j of Title 74 of the Oklahoma Statutes.

16 E. Each individual performing the services provided for in  
17 subsection D of this section may, with the approval of the Executive  
18 Director, be reimbursed for necessary travel expenses up to the  
19 amount permitted by the State Travel Reimbursement Act.

20 F. Requests for expenses not included in subsections D and E of  
21 this section shall require ~~pre-approval~~ preapproval by the Executive  
22 Director.

23 SECTION 5. This act shall become effective November 1, 2017.  
24



1 Passed the House of Representatives the 14th day of March, 2017.

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3 \_\_\_\_\_  
4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2017.

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8 \_\_\_\_\_  
9 Presiding Officer of the Senate