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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2091 Session of  
2015

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INTRODUCED BY MCCLINTON, DAWKINS, BULLOCK, V. BROWN, SIMS,  
SCHLOSSBERG, KINSEY, J. HARRIS, NEILSON, SAVAGE AND ROZZI,  
MAY 23, 2016

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REFERRED TO COMMITTEE ON JUDICIARY, MAY 23, 2016

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AN ACT

1 Establishing the Pennsylvania Center for Effective Indigent  
2 Defense Legal Representation; providing for its duties and  
3 responsibilities; 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 Pennsylvania  
8 Center for 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 funds toward assisting counties in complying with  
18 the *Gideon* mandate.

1           (3) Pennsylvania should appropriate funds 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 of directors" or "directors." The board of directors  
10      of the Pennsylvania Center for Effective Indigent Defense Legal  
11      Representation.

12      "Center." The Pennsylvania Center for Effective Indigent  
13      Defense Legal Representation.

14      "Executive director." The Executive Director of the center.

15 Section 4. Pennsylvania Center for Effective Indigent Defense  
16                                      Legal Representation.

17      (a) Establishment.--The Pennsylvania Center for Effective  
18      Indigent Defense Legal Representation is established.

19      (b) Operation.--A board of directors representative of the  
20      criminal defense bar of this Commonwealth shall oversee the  
21      operation of the center.

22      (c) Rules and regulations.--The board of directors may  
23      promulgate rules and regulations to carry out its duties and  
24      responsibilities and the duties and responsibilities of the  
25      center under this act.

26 Section 5. Board of directors.

27      (a) Composition.--The board of directors shall consist of  
28      seven directors and be representative of the criminal defense  
29      bar of this Commonwealth. Directors shall be as follows:

30           (1) A county chief public defender, appointed by the

1 Chief Justice of Pennsylvania from a list of three  
2 recommendations from the Public Defender Association of  
3 Pennsylvania.

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

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

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

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

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

27 (b) Chairperson and vice chairperson.--The directors shall  
28 annually elect, by a majority vote of the voting members, a  
29 chairperson and vice chairperson.

30 (c) Quorum.--Four directors shall constitute a quorum for

1 the transaction of any business, and any act by a majority of  
2 the directors present at any meeting in which there is a quorum  
3 shall be deemed to be an act of the board of directors.

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

10 (e) Terms of directors.--

11 (1) Each director shall serve for a term of three years  
12 and shall continue to serve thereafter until a successor is  
13 appointed, except that, of the directors first appointed:

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

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

26 (iii) The member of or staff member of the  
27 Interbranch Commission for Gender, Racial and Ethnic  
28 Fairness appointed by the Chief Justice of Pennsylvania,  
29 the second member from the law school academic community  
30 appointed by the Governor, and the attorney with capital

1 case indigent defense trial, appellate or postconviction  
2 experience appointed by the Governor shall serve for  
3 terms to expire on June 30 of the third year following  
4 their appointment.

5 (2) Directors shall be eligible for reappointment.  
6 Vacancies on the board of directors shall be filled by the  
7 appointing authority within 60 days of the vacancy.

8 (3) A director may be removed for just cause by the  
9 appointing authority.

10 (f) General powers.--The board of directors shall exercise  
11 all powers necessary and appropriate to carry out its duties,  
12 including the following:

13 (1) To employ an executive director and other staff  
14 necessary to carry out the duties of the center and engage  
15 professional consultants, as it deems necessary, to assist in  
16 the performance of the responsibilities of the center.

17 (2) To fix the compensation of all employees and  
18 prescribe their duties.

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

20 (4) To prepare an annual budget for the operation of the  
21 center.

22 (5) To solicit funds from any source for the operation  
23 of the center.

24 Section 6. Executive director.

25 (a) Appointment.--The board of directors shall appoint an  
26 executive director for the center.

27 (b) Qualifications.--The executive director shall have the  
28 following qualifications:

29 (1) Extensive experience as a trial, appellate or  
30 postconviction counsel in capital, criminal or delinquency

1 matters.

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

4 (3) Proven leadership, management and administrative  
5 skills to direct the activities of the center, its staff and  
6 contractors.

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

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

10 (2) To make personnel decisions for the center with the  
11 approval of the board of directors.

12 (3) To develop an operational budget for the center and  
13 aid the board of directors in raising the necessary funds to  
14 sustain the operation of the center.

15 (4) To identify and develop resources.

16 (d) Term of office.--The executive director shall serve at  
17 the pleasure of the board of directors.

18 Section 7. Duties and responsibilities of center.

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

21 (1) To develop and provide continuing education,  
22 training and skill development programs and resources for  
23 public defender staff attorneys, assigned counsel and  
24 contract public defenders who represent indigent criminal  
25 defendants.

26 (2) To establish and maintain programs for capital case  
27 defense skills training, adult criminal defense training,  
28 juvenile delinquency defense training and management and  
29 leadership training for chief defenders and public defender  
30 office leaders.

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

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

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

11 Section 8. Appropriation.

12           The sum of \$1,000,000 is hereby specifically appropriated to  
13 the Pennsylvania Center for Effective Indigent Defense Legal  
14 Representation for the fiscal year 2015-2016 for the purpose of  
15 funding its general operations under this act. This  
16 appropriation shall be in addition to, and may not be used to  
17 replace, any moneys appropriated or otherwise made available by  
18 the Commonwealth or a political subdivision for any purpose that  
19 includes criminal defense funding.

20 Section 9. Effective date.

21           This act shall take effect July 1, 2015, or immediately,  
22 whichever is later.