

HOUSE BILL No. 5843

September 8, 2016, Introduced by Rep. Howrylak and referred to the Committee on Criminal Justice.

A bill to amend 2013 PA 93, entitled
"Michigan indigent defense commission act,"
by amending section 9 (MCL 780.989).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9. (1) The MIDC has the following authority and duties:

2 (a) Developing and overseeing the implementation, enforcement,
3 and modification of minimum standards, rules, and procedures to
4 ensure that indigent criminal defense services providing effective
5 assistance of counsel are consistently delivered to all indigent
6 adults in this state consistent with the safeguards of the United
7 States constitution, the state constitution of 1963, and this act.

8 (b) Investigating, auditing, and reviewing the operation of
9 indigent criminal defense services to assure compliance with the

1 commission's minimum standards, rules, and procedures. However, an
2 indigent criminal defense service that is in compliance with the
3 commission's minimum standards, rules, and procedures shall not be
4 required to provide indigent criminal defense services in excess of
5 those standards, rules, and procedures.

6 (c) Hiring an executive director and determining the
7 appropriate number of staff needed to accomplish the purpose of the
8 MIDC consistent with annual appropriations.

9 (d) Assigning the executive director the following duties:

10 (i) Establishing an organizational chart, preparing an annual
11 budget, and hiring, disciplining, and firing staff.

12 (ii) Assisting the MIDC in developing, implementing, and
13 regularly reviewing the MIDC's standards, rules, and procedures,
14 including, but not limited to, recommending to the MIDC suggested
15 changes to the criteria for an indigent adult's eligibility for
16 receiving criminal trial defense services under this act.

17 (e) Establishing procedures for the receipt and resolution of
18 complaints, and the implementation of recommendations from the
19 courts, other participants in the criminal justice system, clients,
20 and members of the public.

21 (f) Establishing procedures for the mandatory collection of
22 data concerning the operation of the MIDC, ~~each individual attorney~~
23 ~~providing indigent criminal defense services,~~ each indigent
24 criminal defense system, and the operation of indigent criminal
25 defense services.

26 (g) Establishing rules and procedures for indigent criminal
27 defense systems to apply to the MIDC for grants to bring the

1 system's delivery of indigent criminal defense services into
2 compliance with the minimum standards established by the MIDC.

3 (h) Establishing procedures for annually reporting to the
4 governor, legislature, and supreme court. The report required under
5 this subdivision shall include, but not be limited to,
6 recommendations for improvements and further legislative action.

7 (2) Upon the appropriation of sufficient funds, the MIDC shall
8 establish minimum standards to carry out the purpose of this act,
9 and collect data from all indigent criminal defense systems. ~~and~~
10 ~~individual attorneys providing indigent criminal defense services~~
11 ~~to adults.~~ The MIDC shall propose goals for compliance with the
12 minimum standards established under this act consistent with the
13 metrics established under this section and appropriations by this
14 state.

15 (3) In establishing and overseeing the minimum standards,
16 rules, and procedures described in subsection (1), the MIDC shall
17 emphasize the importance of indigent criminal defense services
18 provided to juveniles under the age of 17 who are tried in the same
19 manner as adults or who may be sentenced in the same manner as
20 adults and to adults with mental impairments.

21 (4) The MIDC shall be mindful that defense attorneys who
22 provide indigent criminal defense services are partners with the
23 prosecution, law enforcement, and the judiciary in the criminal
24 justice system.

25 (5) The commission shall establish procedures for the conduct
26 of its affairs and promulgate policies necessary to carry out its
27 powers and duties under this act.

1 (6) Commission policies shall be placed in an appropriate
2 manual, made publicly available on a website, and made available to
3 all attorneys and professionals providing indigent criminal defense
4 services, the supreme court, the governor, the senate majority
5 leader, the speaker of the house of representatives, the senate and
6 house appropriations committees, and the senate and house fiscal
7 agencies.

8 Enacting section 1. This amendatory act takes effect 90 days
9 after the date it is enacted into law.

10 Enacting section 2. This amendatory act does not take effect
11 unless all of the following bills of the 98th Legislature are
12 enacted into law:

13 (a) Senate Bill No.____ or House Bill No.____ (request no.
14 06080'16).

15 (b) Senate Bill No.____ or House Bill No.____ (request no.
16 06475'16).

17 (c) Senate Bill No.____ or House Bill No.____ (request no.
18 06476'16).

19 (d) Senate Bill No.____ or House Bill No.____ (request no.
20 06477'16).