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BILL



ANALYSIS

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Senate Bill 1187 (as enacted)
Sponsor: Senator Marty Knollenberg
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 443 of 2018

Date Completed: 2-14-19

CONTENT

The bill amends the Michigan Indigent Defense Commission Act to revise the membership of the Michigan Indigent Defense Commission (MIDC).

The Act specifies that the MIDC is comprised of 18 members appointed by the Governor, including the following members:

- One representing the funding unit of a circuit court from a list of three names submitted by the Michigan Association of Counties.
- One representing the funding unit of a district court from a list of three names submitted by the Michigan Townships Association.
- One representing the funding unit of a district court from a list of three names submitted by the Michigan Municipal League.
- One from a list of three names submitted by the State Budget Office.

Instead of one member representing the funding unit of a circuit court, under the bill, *two* members will represent the funding unit of a circuit court from a list of *six* names submitted by the Michigan Association of Counties.

Additionally, instead of one member from a list of names submitted by the Michigan Townships Association *and* one member from a list of names submitted by the Michigan Municipal League, the bill adds only one member representing the funding unit of a district court from a list of three names submitted by the Michigan Townships Association *or* the Michigan Municipal League. Each organization must alternate in submitting a list of names for each appointment after the bill's effective date.

The bill will take effect on March 21, 2019.

MCL 780.987

BACKGROUND

Article I, Section 20 of the Michigan Constitution provides: "In every criminal prosecution, the accused shall have the right to...the assistance of counsel for his or her defense...and as provided by law, when the trial court orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal". Similarly, the Sixth Amendment to the United States Constitution provides that "In all criminal prosecutions, the accused shall enjoy the

right...to have the Assistance of Counsel for his defense". The right to assistance of counsel also applies to the states through the Due Process Clause of the Fourteenth Amendment.¹

To ensure that government-funded criminal defense attorneys are effective, adequately funded, and properly trained, Governor Rick Snyder issued Executive Order 2011-12, which established the Indigent Defense Advisory Commission. The Advisory Commission was charged with analyzing data to assist in determining the appropriate funding and staffing levels to ensure effective public defense services, and with making recommendations to the Governor and the Legislature for improvements to the indigent criminal defense system. The Executive Order also required the Advisory Commission to submit a report on its recommendations to the Governor and the Legislature by July 15, 2012.

Among other things, the report included a recommendation that the Legislature create a permanent commission on indigent defense with the authority to establish and enforce minimum standards for the delivery of effective assistance of counsel to indigent criminal defendants.²

Public Act 93 of 2013 enacted the Michigan Indigent Defense Commission Act. The Act creates the MIDC, which is responsible for developing and overseeing the implementation, enforcement, and modification of the minimum standards, rules, and procedures for the delivery of indigent criminal defense services providing effective assistance of counsel to indigent adults throughout Michigan. Originally, the Commission consisted of 15 members; however, Public Act 214 of 2018 revised the membership, and added three members representing counties and townships.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill will have no fiscal impact on State or local government. Although the bill changes the composition of the Michigan Indigent Defense Commission, it does not increase the overall number of commissioners from the total of 18. Members of the MIDC do not receive compensation in their capacity as commissioners, but must be reimbursed for their actual and necessary expenses by the State Treasurer.

Fiscal Analyst: Elizabeth Raczkowski

¹ See *Gideon v. Wainwright*, 372 US 335 (1963).

² The Advisory Commission's full report can be found on the Michigan Indigent Defense Commission website: <https://michiganidc.gov>.