

HOUSE BILL NO. 4137

February 06, 2019, Introduced by Reps. Webber, Neeley, LaGrand, Rendon, Filler, Wozniak, Calley, Guerra, Elder, Hauck, Brann and Love and referred to the Committee on Judiciary.

A bill to amend 2013 PA 93, entitled
"Michigan indigent defense commission act,"
by amending section 3 (MCL 780.983), as amended by 2018 PA 214.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. As used in this act:
- 2 (a) "Adult" means either of the following:
- 3 (i) An individual ~~17~~**18** years of age or older.
- 4 (ii) An individual less than ~~17~~**18** years of age at the time of
- 5 the commission of a felony if any of the following conditions

1 apply:

2 (A) During consideration of a petition filed under section 4
3 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
4 712A.4, to waive jurisdiction to try the individual as an adult and
5 upon granting a waiver of jurisdiction.

6 (B) The prosecuting attorney designates the case under section
7 2d(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
8 712A.2d, as a case in which the juvenile is to be tried in the same
9 manner as an adult.

10 (C) During consideration of a request by the prosecuting
11 attorney under section 2d(2) of chapter XIIA of the probate code of
12 1939, 1939 PA 288, MCL 712A.2d, that the court designate the case
13 as a case in which the juvenile is to be tried in the same manner
14 as an adult.

15 (D) The prosecuting attorney authorizes the filing of a
16 complaint and warrant for a specified juvenile violation under
17 section 1f of chapter IV of the code of criminal procedure, 1927 PA
18 175, MCL 764.1f.

19 (b) "Consumer Price Index" means the annual United States
20 Consumer Price Index for all urban consumers as defined and
21 reported by the United States Department of Labor, Bureau of Labor
22 Statistics.

23 (c) "Department" means the department of licensing and
24 regulatory affairs.

25 (d) "Effective assistance of counsel" or "effective
26 representation" means legal representation that is compliant with
27 standards established by the appellate courts of this state and the
28 United States Supreme Court.

29 (e) "Indigent" means meeting 1 or more of the conditions

1 described in section 11(3).

2 (f) "Indigent criminal defense services" means local legal
3 defense services provided to a defendant and to which both of the
4 following conditions apply:

5 (i) The defendant is being prosecuted or sentenced for a crime
6 for which an individual may be imprisoned upon conviction,
7 beginning with the defendant's initial appearance in court to
8 answer to the criminal charge.

9 (ii) The defendant is determined to be indigent under section
10 11(3).

11 (g) Indigent criminal defense services do not include services
12 authorized to be provided under the appellate defender act, 1978 PA
13 620, MCL 780.711 to 780.719.

14 (h) "Indigent criminal defense system" or "system" means
15 either of the following:

16 (i) The local unit of government that funds a trial court.

17 (ii) If a trial court is funded by more than 1 local unit of
18 government, those local units of government, collectively.

19 (i) "Local share" or "share" means an indigent criminal
20 defense system's average annual expenditure for indigent criminal
21 defense services in the 3 fiscal years immediately preceding the
22 creation of the MIDC under this act, excluding money reimbursed to
23 the system by individuals determined to be partially indigent.
24 Beginning on November 1, 2018, if the Consumer Price Index has
25 increased since November 1 of the prior state fiscal year, the
26 local share must be adjusted by that number or by 3%, whichever is
27 less.

28 (j) "MIDC" or "commission" means the Michigan indigent defense
29 commission created under section 5.

1 (k) "Partially indigent" means a criminal defendant who is
2 unable to afford the complete cost of legal representation, but is
3 able to contribute a monetary amount toward his or her
4 representation.

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