

Document: O.C.G.A. § 17-12-20

O.C.G.A. § 17-12-20

Copy Citation

Current through Act 375 of the 2026 Regular Session of the General Assembly but not including corrections and changes made by the Office of Legislative Counsel.

Official Code of Georgia Annotated TITLE 17 Criminal Procedure (Chs. 1 – 22) CHAPTER 12 Legal Defense For Indigents (Arts. 1 – 6) Article 2 Public Defenders (§§ 17-12-20 – 17-12-37)

17-12-20. Public defender selection panel for each circuit; appointment of public defender; removal; vacancies.

(a) On and after July 1, 2011, there is created in each judicial circuit in this state a circuit public defender supervisory panel to be composed of three members, all of whom shall be attorneys who regularly practice in that particular judicial circuit. The chief judge of the superior court of the circuit shall appoint one member. The Governor shall appoint one member. In a single county judicial circuit, the chairperson of the governing authority or sole commissioner shall appoint one member; in multicounty judicial circuits, the chairpersons of the governing authorities or sole commissioners shall caucus and appoint one member. When a caucus is needed to appoint a member of the supervisory panel, the chairperson or sole commissioner of the largest county by population in the judicial circuit shall convene the caucus. Members of the circuit public defender supervisory panel shall be individuals with significant experience working in the criminal justice system or who have demonstrated a strong commitment to the provision of adequate and effective representation of indigent defendants. A prosecuting attorney as defined in paragraph (6) of Code Section 19-13-51, any employee of a prosecuting attorney's office, or an employee of the Prosecuting Attorneys' Council of the State of Georgia shall not serve as a member of the circuit public defender supervisory panel after July 1, 2005. On and after July 1, 2008, no employees of the council shall serve as a member of the circuit public defender supervisory panel. Members of the circuit public defender supervisory panel shall reside in the judicial circuit in which they serve. The circuit public defender supervisory panel members shall serve for a term of five years. Any vacancy for an appointed member shall be filled by the appointing authority within 60 days of the vacancy occurring.

(b)

(1) By majority vote of its membership, the circuit public defender supervisory panel shall annually elect a chairperson and secretary. The chairperson shall conduct the meetings and deliberations of the panel and direct all activities. The secretary shall keep accurate records of all the meetings and deliberations and perform such other duties as the chairperson may direct. The panel may be called into session upon the direction of the chairperson or by the council.

(2) By majority vote of its membership, the circuit public defender supervisory panel shall nominate not more than five people to serve as the circuit public defender in the circuit. The director shall select the circuit public defender from the panel's list of nominees. A circuit public defender shall serve a term for up to four years and may be appointed for successive terms but shall not be reappointed if he or she was removed pursuant to subsection (c) of this Code section.

(c) A circuit public defender may be removed for cause by the director. If a circuit public defender wants to appeal such removal, he or she may appeal the decision to the council. By a vote of two-thirds of the members of the entire council, the council may overturn the director's decision. Any appeal regarding a removal request shall be submitted to the council within 15 days of the effective date of the removal, and the council shall take action in hearing the appeal at its next regularly scheduled meeting and take final action within 30 days thereafter. A circuit public defender who has been removed by the director who has filed an appeal with the council shall continue to serve as the circuit public defender until the council reaches a decision on the appeal.

(d) A circuit public defender supervisory panel may convene at any time during its circuit public defender's term of office and shall convene at least annually for purposes of reviewing the circuit public defender's job performance and the performance of the circuit public defender office. The director and circuit public defender shall be notified at least two weeks in advance of the convening of the circuit public defender supervisory panel. The circuit public defender shall be given the opportunity to appear before the circuit public defender supervisory panel and present evidence and testimony. The chairperson shall determine the agenda for the annual review process, but, at a minimum, such review shall include usage of state and local funding, expenditures, and budgeting matters. The chairperson shall make an annual report on or before the thirtieth day of September of each year concerning the circuit public defender supervisory panel's findings regarding the job performance of the circuit public defender and his or her office to the director on a form provided to the panel by the director. If at any time the circuit public defender supervisory panel finds that the circuit public defender is performing in a less than satisfactory manner or finds information of specific misconduct, the circuit public defender supervisory panel may by majority vote of its members adopt a resolution seeking review of its findings and remonstrative action by the director. Such resolution shall specify the reason for such request. All evidence presented and the findings of the circuit public defender supervisory panel shall be forwarded to the director within 15 days of the adoption of the resolution. The director shall initiate action on the circuit public defender supervisory panel's resolution within 30 days of receiving the resolution. The director shall notify the circuit public defender supervisory panel, in writing, of any actions taken pursuant to submission of a resolution under this subsection.

(e) If a vacancy occurs for the position of circuit public defender, the director shall appoint an interim circuit public defender to serve until the director has appointed a replacement. Within 30 days of the vacancy occurring, the circuit public defender supervisory panel shall meet and nominate not more than five people to serve as a replacement circuit public defender. The director shall select the replacement circuit public defender from the panel's list of nominees.

History

Code 1981, § 17-12-20, enacted by Ga. L. 2003, p. 191, § 1; Ga. L. 2004, p. 631, § 17; Ga. L. 2004, Ex. Sess., p. ES3, § 17/HB 1EX; Ga. L. 2008, p. 846, § 28/HB 1245; Ga. L. 2011, p. 91, § 10/HB 238; Ga. L. 2013, p. 141, § 17/HB 79; Ga. L. 2015, p. 519, § 7-10/HB 328.

▼ Annotations

Notes

Editor's notes.

Ga. L. 2004, p. ES3, § 27/HB 1EX, provides that: "Section 17 of this Act shall become effective on January 1, 2005; provided, however, that for purposes of the appointment of the members of the circuit public defender selection panels in conformity with Section 17 of this Act as may be necessary or appropriate to prepare for and phase in full implementation of Article 2 of Chapter 12 of Title 17 of the Official Code of Georgia Annotated as enacted by Ga. L. 2003, p. 191, Section 17 of this Act shall become effective upon approval of this Act by the Governor or upon its becoming law without such approval." The Act was approved by the Governor on June 15, 2004.

Opinion Notes

OPINIONS OF THE ATTORNEY GENERAL

Editor's notes.

In light of the similarity of the statutory provisions, opinions under Ga. L. 1968, p. 999, § 6, are included in the annotations for this Code section.

Public defender may practice private civil law,

but not private criminal law. 1974 Op. Att'y Gen. No. U74-60 (decided under Ga. L. 1968, p. 999, § 6.)

Judge of the recorder's court is engaged in the practice of criminal law