

No. 358

AN ACT

SB 1769

To provide for the office of public defender, authorizing assistants and other personnel, and to provide adequate representation for persons who have been charged with an indictable offense or with being a juvenile delinquent, who for lack of sufficient funds are unable to obtain legal counsel.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as the “Public Defender Act.”

Section 2. Definitions.—As used in this act:

“Court” means the court of record which has obtained jurisdiction of a person charged with being a juvenile delinquent, or of a defendant charged with an indictable offense or will obtain jurisdiction of the defendant if he be held for the grand jury.

“County” means the county in which jurisdiction over the defendant lies or will lie.

Section 3. Public Defender; Establishment.—In each county except the County of Philadelphia, there shall be a public defender, appointed as herein provided. Two or more counties may cooperate in the appointment of a public defender, as provided in the inter-governmental cooperation provisions of the Constitution of Pennsylvania or as provided by law.

Section 4. Public Defender; Appointment.—The public defender shall be appointed by the Board of County Commissioners.

Section 5. Personnel of Office; Compensation; Qualification.—(a) The public defender, with the approval of the appointive body, may provide for as many full or part time assistant public defenders, clerks, investigators, stenographers and other employes as he may deem necessary to enable him to carry out the duties of his office. The salary board shall fix the salary of the public defender and of the personnel authorized by this section.

(b) In lieu of, or in addition to assistant public defenders, the public defender may arrange for and make use of the services of attorneys at law admitted to practice before the Supreme and Superior Courts of this Commonwealth and the court of common pleas of the county or counties in which they may serve, when such attorneys volunteer to act as assistants, without compensation, to enable him to carry out the duties of his office.

(c) The public defender and assistant public defenders, if any, shall be attorneys at law admitted to practice before the Supreme and Superior Courts of this Commonwealth. Residency within a

judicial district shall not be a requirement for the appointment of a public defender.

Section 6. Duties.—(a) The public defender shall be responsible for furnishing legal counsel, in the following types of cases, to any person who, for lack of sufficient funds, is unable to obtain legal counsel:

(1) Where a person is charged with juvenile delinquency;

(2) Where a person is charged with an indictable offense and has been held for grand jury action. In accordance with the provisions of the Pennsylvania Rules of Criminal Procedure, representation shall be provided at earlier stages of the prosecution in capital cases, and may be provided at earlier stages of the prosecution for a person charged with any other indictable offense;

(3) Postconviction proceedings;

(4) Criminal habeas corpus proceedings;

(5) Criminal extradition proceedings;

(6) Probation and parole proceedings and revocation thereof.

(b) The public defender, after being satisfied of the person's inability to procure sufficient funds to obtain legal counsel to represent him, shall provide such counsel.

Every person who requests legal counsel shall sign an affidavit that he is unable to procure sufficient funds to obtain legal counsel to represent him and shall provide, under oath, such other information as may be required by the court, the public defender, or the Pennsylvania Rules of Criminal Procedure.

Section 7. Appointment of Other Attorneys by Court of Common Pleas.—For cause, the court of common pleas may, on its own motion or upon the application of the public defender, the defendant, or person charged with being a juvenile delinquent, appoint an attorney other than the public defender to represent the person charged at any stage of the proceedings. The attorney so appointed shall be awarded reasonable compensation, and reimbursement for expenses necessarily incurred, to be fixed by the judge of the court of common pleas sitting at the trial or hearing of the case and paid by the county.

Section 8. Penalties; Restitution.—(a) False affidavits and false statements made by any person for the purpose of securing counsel or services under the provisions of this act shall subject the persons making such false affidavits or statements to the penalties prescribed by law for perjury.

(b) Any person who has been convicted of making a false affidavit or false statement for the purpose of securing counsel or services under this act shall make restitution as the court shall determine to the county and the Commonwealth of Pennsylvania of all moneys paid on the basis of the false affidavit or false statement.

Section 9. Facilities.—The board of commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of that office.

Section 10. Incompatible Offices.—No public defender shall be eligible to a seat in the Legislature or to any other public elected

office for which compensation is provided, under the laws and Constitution of the Commonwealth, excepting an office or commission in the militia of the Commonwealth during his continuance in office.

Section 11. *Specific Repeals.*—The following acts and parts of acts and all amendments thereto are repealed to the extent specified:

(1) The act of March 22, 1907 (P. L. 31), entitled "An act to provide for the assignment of counsel in murder cases, and for the allowance of expenses and compensation in such cases," absolutely as to all counties except the County of Philadelphia.

(2) Subdivision (p) of Article XXI, act of July 28, 1953 (P. L. 723), known as the "Second Class County Code," absolutely.

(3) Subdivision (r) of Article XIX, act of August 9, 1955 (P. L. 323), known as "The County Code," absolutely.

(4) The act of November 16, 1959 (P. L. 1505), entitled "An act to provide for the assignment of counsel in criminal cases in certain counties and for the allowance of compensation in such cases," absolutely.

Section 12. *Other Repeals.*—All acts and parts of acts, local, general or special are hereby repealed in so far as they are inconsistent herewith.

Section 13. *Effective Date.*—This act shall take effect January 1, 1969.

APPROVED—the 2d day of December, A. D. 1968.

RAYMOND P. SHAFER.

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No. 359

AN ACT

SB 1791

Implementing the provision of subsection (b) of section 7 of Article V of the Constitution of Pennsylvania authorizing the General Assembly to establish classes of magisterial districts and salaries of district justices of the peace for counties of the second class.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. *Short Title.*—This act shall be known and may be cited as the "Magisterial Districts Act for Counties of the Second Class."

Section 2. *Definitions.*—As used in this act:

(1) "Court" means the Supreme Court of Pennsylvania or the court of common pleas for the fifth judicial district under the direction of the Supreme Court of Pennsylvania.