APPELLATE DEFENDER ACT
Act 620 of 1978

AN ACT relating to criminal procedure; to provide for the defense of persons accused or convicted of criminal offenses; to create the appellate defender commission; to provide for an appellate defender; to prescribe powers and duties; to provide facilities, personnel, and related assistance and services for the appellate defender and the commission; and to provide for the financing of the administration of this act.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

The People of the State of Michigan enact:

780.711 Short title.

Sec. 1. This act shall be known and may be cited as the "appellate defender act".

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.712 Appellate defender commission; creation; appointment, qualifications, and terms of members; compensation and expenses; development of system of indigent appellate defense services; development and adoption of minimum standards; roster of attorneys; appointment by trial court or referral; continuing legal education training program.

Sec. 2. (1) An appellate defender commission is created within the office of the state court administrator. The appellate defender commission consists of 7 members appointed by the governor for terms of 4 years. Of the 7 members, 2 members shall be recommended by the supreme court of this state, 1 member shall be recommended by the court of appeals of this state, 1 member shall be recommended by the Michigan judges association, 2 members shall be recommended by the state bar of Michigan, and 1 member, who shall not be an attorney, shall be selected from the general public by the governor. A member of the commission shall not be at the time of appointment a sitting judge, a prosecuting attorney, or a law enforcement officer.

(2) Initially 4 members of the commission shall be appointed for terms of 4 years and 1 member each for terms of 1, 2, and 3 years respectively.

(3) Members of the commission shall not receive a salary in that capacity but shall be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(4) The commission shall be responsible for the development of a system of indigent appellate defense services which shall include services provided by the office of the state appellate defender, provided for under section 3, and locally appointed private counsel.

(5) The commission shall be responsible for the development of minimum standards to which all indigent criminal defense appellate services shall conform. Within 180 days after appointment of the commission and whenever the commission deems it advisable after that period, the commission shall submit proposed standards to the supreme court. Upon approval of the proposed standards by the supreme court, the commission shall adopt the standards.

(6) The commission shall compile and keep current a statewide roster of attorneys eligible for and willing to accept appointment by an appropriate court to serve as criminal appellate defense counsel for indigents. The appointment of criminal appellate defense services for indigents shall be made by the trial court from the roster provided by the commission or shall be referred to the office of the state appellate defender.

(7) The commission shall provide a continuing legal education training program for its staff and the private attorneys who appear on the roster for purposes of appointment for indigent criminal defense appellate service.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.713 Appellate defender; appointment; dismissal; duties.

Sec. 3. (1) An appellate defender shall be appointed and serve at the pleasure of the appellate defender commission. An appellate defender shall not be dismissed except for cause determined after a hearing. Dismissal shall require a majority vote of the commission.

(2) The appellate defender shall appoint and supervise the work of a deputy appellate defender and assistant appellate defenders and supporting personnel as authorized by the commission.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.714 Appellate defender, deputy appellate defender, and assistant appellate defender; qualifications, duties, and restrictions; court employees.

Sec. 4. (1) The appellate defender, deputy appellate defender, and each assistant appellate defender shall:

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(a) Be an attorney licensed to practice law in this state.

(b) Take and subscribe to the oath required by the constitution before taking office.

(c) Perform duties as may be provided by law.

(d) Represent the indigent defendant only subsequent to a conviction or entry of a guilty plea or plea of nolo contendere at the trial court level.

(e) Not engage in the practice of law or as an attorney or counselor in a court of this state except in the exercise of his duties under this act.

(2) For purposes of this act the appellate defender, the deputy appellate defender, the assistant appellate defender, and support personnel shall be considered as court employees and not as classified civil service employees.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.715 Salaries and expenses; post audits; space and equipment.

Sec. 5. (1) The salaries of the appellate defender, deputy appellate defender, assistant appellate defenders, and supporting personnel shall be established by the commission.

(2) The appellate defender, deputy appellate defender, assistant appellate defenders, and supporting personnel shall be reimbursed for their reasonable actual and necessary expenses by the state treasurer upon the warrant of the state treasurer.

(3) Salaries and expenses attributable to the office of appellate defender shall be paid out of funds available for those purposes in accordance with the accounting laws of this state. The auditor general, under authority of section 53 of article 4 of the state constitution of 1963, shall perform post audits utilizing the same policies and criteria that are used to audit executive branch agencies.

(4) Within appropriations provided by law, the department of management and budget shall provide the office of appellate defender with suitable space and equipment in the city of Detroit and at other locations the commission considers necessary.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.716 Appellate defender; duties generally.

Sec. 6. The appellate defender shall:

(a) Conduct an appeal of a felony conviction or conduct other post conviction remedies on behalf of a person for whom the appellate defender is assigned as attorney by a court of a record.

(b) Provide investigatory and other services necessary for a complete appellate review or appropriate post conviction remedy.

(c) Accept only that number of assignments and maintain a caseload which will insure quality criminal defense appellate services consistent with the funds appropriated by the state. However, the number of cases assigned to the appellate defender office shall not be less than 25% of the total criminal defense appellate cases for indigents pending before the appellate courts of this state.

(d) Maintain a repository of briefs prepared by the appellate defender and make those briefs available to private attorneys providing criminal defense appellate services for indigents.

(e) Perform other duties required by law as directed by the commission.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.717 Special assistant appellate defenders; appointment; duties; payment on contract basis; practice of law not restricted.

Sec. 7. The appellate defender may appoint special assistant appellate defenders to represent indigent persons or to assist in the representation of an indigent person at any stage of appellate or post conviction proceedings, upon rules adopted by the commission. Special assistant appellate defenders shall be paid on a contract basis approved by the commission within funds available to the commission and shall not be subject to the restrictions on the practice of law contained in section 4.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.718 Office of appellate defender; funding.

Sec. 8. The office of the appellate defender shall be funded in the following manner:

(a) The legislature may annually appropriate funds necessary to insure the continued operation of the appellate defender commission and the office of the appellate defender.

(b) The appellate defender commission may receive grants from the federal government, from private or public foundations, or from any person whether individual or corporate.

(c) The cost of any transcript shall be borne by the county.

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History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

780.719 Record; report.

Sec. 9. The appellate defender shall keep a record of services rendered and expenses incurred and shall annually file a report of those services, expenses, and warrants with the commission and the legislature.

History: 1978, Act 620, Imd. Eff. Jan. 6, 1979.

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