

MICHIGAN INDIGENT DEFENSE COMMISSION ACT (EXCERPT)
Act 93 of 2013

***** 780.985.amended THIS AMENDED SECTION IS EFFECTIVE DECEMBER 23, 2018 *****

780.985.amended Michigan indigent defense commission; establishment; powers and duties; functions; delivery of services; minimum standards; final department action; judicial review; best practices; performance metrics; annual report.

Sec. 5. (1) The Michigan indigent defense commission is established within the department.

(2) The MIDC is an autonomous entity within the department. Except as otherwise provided by law, the MIDC shall exercise its statutory powers, duties, functions, and responsibilities independently of the department. The department shall provide support and coordinated services as requested by the MIDC including providing personnel, budgeting, procurement, and other administrative support to the MIDC sufficient to carry out its duties, powers, and responsibilities.

(3) The MIDC shall propose minimum standards for the local delivery of indigent criminal defense services providing effective assistance of counsel to adults throughout this state. These minimum standards must be designed to ensure the provision of indigent criminal defense services that meet constitutional requirements for effective assistance of counsel. However, these minimum standards must not infringe on the supreme court's authority over practice and procedure in the courts of this state as set forth in section 5 of article VI of the state constitution of 1963.

(4) The commission shall convene a public hearing before a proposed standard is recommended to the department. A minimum standard proposed under this subsection must be submitted to the department for approval or rejection. Opposition to a proposed minimum standard may be submitted to the department in a manner prescribed by the department. An indigent criminal defense system that objects to a recommended minimum standard on the ground that the recommended minimum standard would exceed the MIDC's statutory authority shall state specifically how the recommended minimum standard would exceed the MIDC's statutory authority. A proposed minimum standard is final when it is approved by the department. A minimum standard that is approved by the department is not subject to challenge through the appellate procedures in section 15. An approved minimum standard for the local delivery of indigent criminal defense services within an indigent criminal defense system is not a rule as that term is defined in section 7 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.207.

(5) Approval of a minimum standard proposed by the MIDC is considered a final department action subject to judicial review under section 28 of article VI of the state constitution of 1963 to determine whether the approved minimum standard is authorized by law. Jurisdiction and venue for judicial review are vested in the court of claims. An indigent criminal defense system may file a petition for review in the court of claims within 60 days after the date of mailing notice of the department's final decision on the recommended minimum standard. The filing of a petition for review does not stay enforcement of an approved minimum standard, but the department may grant, or the court of claims may order, a stay upon appropriate terms.

(6) The MIDC shall identify and encourage best practices for delivering the effective assistance of counsel to indigent defendants charged with crimes.

(7) The MIDC shall identify and implement a system of performance metrics to assess the provision of indigent defense services in this state relative to national standards and benchmarks. The MIDC shall provide an annual report to the governor, legislature, supreme court, and the state budget director on the performance metrics not later than December 15 of each year.

History: 2013, Act 93, Imd. Eff. July 1, 2013;—Am. 2016, Act 439, Imd. Eff. Jan. 4, 2017;—Am. 2018, Act 214, Eff. Dec. 23, 2018.