

AN ACT concerning State government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the State Public Defender Act.

Section 5. Legislative declaration. The General Assembly recognizes that zealous legal representation in criminal, juvenile delinquency, and dependency proceedings and related matters is a constitutional right of the people of the State of Illinois and that high-quality legal representation should be available regardless of a person's ability to pay. Therefore, it is the intent of the General Assembly to provide for an effective public defense system throughout the State and to encourage the active and substantial participation of the private bar in the representation of accused people.

Section 10. Definitions. As used in this Act, unless the context otherwise requires:

"Commission" means the State Public Defender Commission established under Section 40.

"Chief County Public Defender" has the meaning ascribed to it in Section 3-4000.1 of the Counties Code.

"State Public Defender" means the individual appointed as

State Public Defender under Section 30.

Section 15. Office of State Public Defender. The Office of State Public Defender is created as an agency of State government and as an independent agency within the judicial branch of government. The Office of State Public Defender shall be under the supervision and direction of the State Public Defender, and its records are subject to the Freedom of Information Act.

Section 20. Oath of office. The State Public Defender shall take the oath of office provided by law before assuming the duties of the Office of State Public Defender.

Section 25. Salary. The State Public Defender shall receive an annual salary equivalent to that of the Attorney General.

Section 30. Powers and duties of the State Public Defender.

(a) The State Public Defender or the State Public Defender's designee shall act as attorney when appointed by a court, without fee, for all otherwise unrepresented persons in any matter in which a county public defender or other attorney may be appointed, and who the court finds are unable to afford counsel. The Office of the State Public Defender shall be the

attorney, without fee, when so appointed by the court under the Juvenile Court Act of 1987.

(b) The initial State Public Defender shall be appointed for a 2-year term by a majority vote of the Illinois Supreme Court. Each subsequent State Public Defender shall be appointed for a 6-year term under Section 45. The State Public Defender shall adopt rules, instructions, and orders consistent with this Act, further defining the organization of the Office of the State Public Defender and the duties of the Office's employees.

(c) Before submitting a budget request to the General Assembly, the State Public Defender shall submit the budget request to the State Public Defender Commission for approval.

(d) The State Public Defender may:

(1) provide representation in counties located within its regional offices in addition to appointed counsel and county public defenders;

(2) provide county public defenders with the assistance of attorneys, expert witnesses, investigators, administrative staff, and social service staff;

(3) provide training and other resources to county public defenders;

(4) maintain a panel of private attorneys available to serve as counsel on a case-by-case basis;

(5) provide funding and such other support designed to improve, increase access to, and advance the cause of

indigent defense, including aiding county public defenders in providing effective assistance of counsel to their clients. Such funding and support shall supplement, not supplant, existing county public defender budgets and services. Before receiving any funds provided under this Section, a county must certify in writing to the State that it will not reduce county funds provided for public defense;

(6) establish programs, alone or in conjunction with law schools, for the purpose of using law students as legal assistants;

(7) ensure access to a digital discovery storage management system, case management software, and legal research subscriptions for county public defenders, taking into consideration compatibility with existing county and State-based systems; and

(8) cooperate and consult with State and county agencies, professional associations, and other groups concerning the causes of criminal conduct, the rehabilitation and support of persons charged with and convicted of crime, the administration of criminal justice, and the administration of juvenile delinquency and dependency matters, including collaboration with other court stakeholders to advocate for adequate funding of court systems.

(e) The State Public Defender shall establish a

recruitment and retention plan to ensure a skilled and diverse workforce is available to serve clients in every part of the State, including establishing competitive salary scales.

(f) The State Public Defender shall establish and supervise training programs for the State Public Defender's employees.

(g) The State Public Defender shall maintain a website to provide the public with information about the Office of State Public Defender and its organization, information on how to join the Client Community Advisory Board, information for people seeking employment in public defense, supplementary statistics and reports of public interest, reports to the Commission and State agencies, and agendas, minutes, and documents for Commission meetings.

(h) The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

(i) All required reports shall be simultaneously transmitted to the Supreme Court and to the Governor.

Section 35. Office of State Public Defender organization.

(a) Within the first year of the initial State Public Defender's term, the State Public Defender shall establish a

Public Defender Advisory Board, composed of attorneys providing public defense services in this State, including one or more public defenders from each Appellate Court District, which shall meet regularly to advise the Office of the State Public Defender regarding legal practice issues and resource needs around the State and establishing workload, staffing, and salary standards for the provision of public defense throughout the State.

(b) Within the first 2 years of the initial State Public Defender's term, the State Public Defender shall collaborate with the Public Defender Advisory Board to determine which judicial circuits or geographic regions require State public defenders, how many public defenders and staff are required to supplement existing county public defenders, staff, and appointed counsel in order for the State of Illinois to comply with its legal obligations, and what process should be used for guiding and tracking recommendations to judges regarding case assignments to State and county public defenders. Within the first year of the initial State Public Defender's term, the State Public Defender shall initiate a survey to determine the number of employees and contractors providing public defense services in the State and the types and numbers of matters they are handling.

(c) Within the first year of the initial State Public Defender's term, the State Public Defender shall establish a Client Community Advisory Board, composed of former clients

and impacted community members, which shall meet regularly to advise the Office of the State Public Defender regarding client legal issues and needs around the State.

(d) Within the first year of the initial State Public Defender's term, the State Public Defender shall collaborate with the Public Defender Advisory Board to devise an application process for whenever there is an open Chief County Public Defender position, including standards for job descriptions and application requirements, and a process for promotion of vacancies designed to recruit diverse, qualified candidates.

Within the first 2 years of the initial State Public Defender's term, the State Public Defender shall collaborate with the Public Defender Advisory Board to devise standards for retention and reappointment of Chief County Public Defenders as well as a process for investigations and hearings for removal of Chief County Public Defenders, including immediate suspension when warranted. In the event a Chief County Public Defender must be immediately removed or becomes unable to serve in their position, the State Public Defender is authorized to appoint an Acting Chief County Public Defender.

(e) Within the first year of the initial State Public Defender's term, the State Public Defender shall establish a working group to assess the availability of public defender representation and adequacy of resources in proceedings under

Article II of the Juvenile Court Act of 1987. The working group members shall include current public defenders, non-public defenders that provide legal representation to parents or respondents, or both, a representative of the Department of Children and Family Services with expertise in funding under Title IV-E of the Social Security Act (42 U.S.C. 670 through 679c), and nonprofit advocates with expertise in parent legal representation. The working group shall meet regularly to advise the Office of the State Public Defender regarding client legal issues and needs around the State. The working group shall deliver its first report and recommendations no later than 12 months after the appointment of the initial State Public Defender.

(f) Immediately upon being appointed, the initial State Public Defender shall establish a procedure for distributions from the Public Defender Fund described under Section 3-4014 of the Counties Code.

(1) The purpose of the Public Defender Fund is to supplement, not supplant, county public defense budgets and to aid county public defenders in providing effective assistance of counsel to their clients.

(2) State support, funding, and services provided to any county public defender office shall neither affect nor be offset by any reduction in existing or projected public defender office budgets from any other source.

(3) Appropriate uses of funds include, but are not

limited to:

(A) hiring investigators, social workers, or mental health clinicians;

(B) increasing compensation for attorney and non-attorney employees;

(C) funding expert witnesses, trial technology, investigation expenses, and any other case-related needs; and

(D) training attorney and non-attorney employees.

(4) Requests by counties for financial support from the Public Defender Fund shall originate solely from the Chief County Public Defender of any jurisdiction and shall be submitted directly to the Office of the State Public Defender. Financial support shall be paid to the county in which the requesting chief public defender practices, and the county treasurer shall cause that entire amount to be placed in the operating budget of the public defender for immediate use.

(5) County public defender offices shall provide the Office of State Public Defender with a report including a detailed accounting of the provided funds and an evaluation of the impact of the provided funds within a reasonable time frame established by the Office of State Public Defender.

(g) Following the planning phase described in subsections (a) through (f), the State Public Defender may establish

regional offices. The State Public Defender may appoint a deputy public defender for each regional office who shall serve as the administrator of that office. Each deputy public defender must be an attorney licensed to practice law in this State. Deputy public defenders shall serve at the pleasure of the State Public Defender.

(h) The Office of the State Public Defender may hire and train new State-employed personnel to carry out the Office's duties under this Act, including, but not limited to, attorneys licensed to practice law in this State, and administrative, investigative, and social services employees. Nothing in this Act shall be construed to invalidate, diminish, or otherwise interfere with any collective bargaining agreement or representation rights under the Illinois Public Labor Relations Act, if applicable.

(i) Deputy public defenders may employ, with the approval of the State Public Defender, assistant public defenders, investigators, social services staff, administrative staff, and other employees under their direct supervision, as described in subsection (h).

(j) Attorneys employed by the Office of the State Public Defender shall devote full time to their duties, except as provided in Section 50, and may not engage in the private practice of law.

Section 40. State Public Defender Commission.

(a) The State Public Defender Commission is created as an independent body within the judicial branch. The Commission shall be composed of 11 members, appointed as follows:

- (1) two members appointed by the Governor;
- (2) three members appointed by the Supreme Court;
- (3) one member appointed by the Speaker of the House of Representatives;
- (4) one member appointed by the Minority Leader of the House of Representatives;
- (5) one member appointed by the President of the Senate;
- (6) one member appointed by the Minority Leader of the Senate;
- (7) one member appointed by the Governor representing community-based organizations that support the success of people impacted by the criminal or juvenile delinquency and dependency legal systems; and
- (8) one member appointed by the Governor representing organizations advocating for civil rights or criminal or juvenile delinquency or dependency legal system reform.

All appointments shall be filed with the Secretary of State by the appointing authority within 3 months of the effective date of this Act and within 3 months of any subsequent vacancy. The terms of the original members shall be as follows: 5 members shall be appointed to 2-year terms and until a successor is appointed and qualified and 6 members

shall be appointed to 4-year terms and until a successor is appointed and qualified. Thereafter, all members shall be appointed to 4-year terms and until a successor is appointed and qualified. The chairperson, at the first meeting of the Commission, shall conduct a drawing by lot to determine whether each original member shall be appointed to a 2-year or 4-year term.

(b) Persons appointed to the Commission shall have significant experience in the defense of indigent clients in criminal or juvenile proceedings or shall have demonstrated a strong commitment to quality representation in indigent defense matters. No person shall be appointed to the Commission who, within the 2 years prior to appointment, has received compensation to be a judge, elected official, judicial officer, prosecutor, or law enforcement official, or who has served as an employee of such a person.

(c) No member may serve more than 2 full 4-year terms. Vacancies in the membership of the Commission are to be filled in the same manner as original appointments. A vacancy shall be declared upon any member missing 3 or more meetings in a row unless the chairperson finds there was good cause for the absences. Appointments to fill vacancies occurring before the expiration of a term are for the remainder of the unexpired term.

(d) Members of the Commission shall elect from the membership of the Commission a chairperson, vice-chairperson,

and secretary. No officer may serve more than one full 4-year term as an officer. The Commission shall meet quarterly. The chairperson shall determine the time and place of meetings. Additional meetings may be held upon petition to the chairperson by 7 or more members of the Commission or upon the call of the chairperson after 7 days written notice to the members.

(e) The first act of the Commission shall be to identify the operational costs and funding sources for establishing the Office of the State Public Defender.

(f) The Commission shall approve the Office of State Public Defender distribution of the Public Defender Fund under Section 3-4014 of the Counties Code.

(g) Members of the Commission may receive a stipend upon demonstrated need, based on a decision of the chairperson. Members of the Commission shall receive reimbursement for actual expenses incurred in the performance of the member's duties.

(h) Six members of the Commission constitute a quorum.

(i) Records and proceedings of the Commission shall be subject to the Open Meetings Act and Freedom of Information Act.

Section 45. Powers and duties of the State Public Defender Commission.

(a) The Commission shall appoint, by a vote of a majority

of its members, a State Public Defender for a 6-year term and until the State Public Defender's successor is appointed and qualified. The State Public Defender must be an attorney licensed to practice law in this State and whose practice of law has clearly demonstrated experience in the representation of persons accused of crime; who has been licensed to practice law in this State or in another state for at least 5 years; who has had administrative experience; and who is dedicated to the goals of providing high-quality representation for eligible persons and to improving the quality of defense services generally. The State Public Defender shall devote full time to the duties of the Office of State Public Defender and may not engage in the private practice of law.

(b) The State Public Defender shall draft, and the Commission shall approve and publish, standards for trial-level public defense to guarantee the right of indigent defendants to the assistance of counsel as provided under the Sixth Amendment of the United States Constitution. The standards shall include, but are not limited to:

(1) maximum workloads for felony, misdemeanor, traffic, juvenile, and post-conviction cases to be handled by attorneys who provide public defense services;

(2) minimum staffing levels for non-attorney staff, such as investigators, mitigators, social workers, and administrative support staff;

(3) supervision and experience standards relative to

case complexity;

(4) requirements to ensure that attorneys providing public defense services are independent, free of conflicts of interest, and free of economic disincentives or incentives that impair defense counsel's ability to provide effective representation;

(5) sufficient private office space, located at or near the courthouse where the public defender practices, and videoconferencing technology, to allow attorney-client confidentiality to be safeguarded for meetings between public defenders and their clients;

(6) adequate resources for expert witnesses, trial technology, investigation expenses, and any other case-related needs;

(7) continuous representation by one attorney throughout the pendency of the case to the extent possible; and

(8) ongoing, systematic evaluation of each public defense agency.

(c) The Commission shall approve or modify an operational budget and the Public Defender Fund expenditures submitted to the Commission by the State Public Defender.

(d) The Commission may remove the State Public Defender only for cause and after a hearing. The Commission may hold such a hearing on the Commission's own motion and may adopt rules establishing other procedures for the hearing.

(e) The State Public Defender shall submit reports to the Commission on the operation of the Office of State Public Defender at each quarterly meeting. The State Public Defender shall submit a comprehensive report to the Commission at the end of each fiscal year. The Commission may require the State Public Defender to submit additional or amended reports on any aspect of the operation of the Office of State Public Defender.

Section 50. Shared position. As used in this Section, "shared position" means a position in which individuals share the salary and employee benefits. For purposes of seniority, each individual shall receive credit at a rate equal to the percentage of time employed in a shared position. Attorneys sharing a position may not engage in the private practice of law.

Section 90. The Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7)

Sec. 7. Exemptions.

(1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect

to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying. Subject to this requirement, the following shall be exempt from inspection and copying:

(a) Records created or compiled by a State public defender agency or commission subject to the State Public Defender Act that contain: individual client identity; individual case file information; individual investigation records and other records that are otherwise subject to attorney-client privilege; records that would not be discoverable in litigation; records under Section 2.15; training materials; records related to attorney consultation and representation strategy; or any of the above concerning clients of county public defenders or other defender agencies and firms. This exclusion does not apply to deidentified, aggregated, administrative records, such as general case processing and workload information.

(a-5) ~~(a)~~ Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.

(b) Private information, unless disclosure is required by another provision of this Act, a State or federal law, or a court order.

(b-5) Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or

more law enforcement agencies regarding the physical or mental status of one or more individual subjects.

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.

(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;

(ii) interfere with active administrative enforcement proceedings conducted by the public body

that is the recipient of the request;

(iii) create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic crashes, traffic crash reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation, or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

(vi) endanger the life or physical safety of law enforcement personnel or any other person; or

(vii) obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

(d-5) A law enforcement record created for law enforcement purposes and contained in a shared electronic record management system if the law enforcement agency that is the recipient of the request did not create the record, did not participate in or have a role in any of the events which are the subject of the record, and only has access to the record through the shared electronic record management system.

(d-6) Records contained in the Officer Professional Conduct Database under Section 9.2 of the Illinois Police Training Act, except to the extent authorized under that Section. This includes the documents supplied to the Illinois Law Enforcement Training Standards Board from the Illinois State Police and Illinois State Police Merit Board.

(d-7) Information gathered or records created from the use of automatic license plate readers in connection with Section 2-130 of the Illinois Vehicle Code.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(e-5) Records requested by persons committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail if those materials are available in the library of the correctional

institution or facility or jail where the inmate is confined.

(e-6) Records requested by persons committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail if those materials include records from staff members' personnel files, staff rosters, or other staffing assignment information.

(e-7) Records requested by persons committed to the Department of Corrections or Department of Human Services Division of Mental Health if those materials are available through an administrative request to the Department of Corrections or Department of Human Services Division of Mental Health.

(e-8) Records requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, the disclosure of which would result in the risk of harm to any person or the risk of an escape from a jail or correctional institution or facility.

(e-9) Records requested by a person in a county jail or committed to the Department of Corrections or Department of Human Services Division of Mental Health, containing personal information pertaining to the person's victim or the victim's family, including, but not limited to, a victim's home address, home telephone number, work

or school address, work telephone number, social security number, or any other identifying information, except as may be relevant to a requester's current or potential case or claim.

(e-10) Law enforcement records of other persons requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, including, but not limited to, arrest and booking records, mug shots, and crime scene photographs, except as these records may be relevant to the requester's current or potential case or claim.

(f) Preliminary drafts, notes, recommendations, memoranda, and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged, or confidential, and that disclosure of the

trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

The information included under this exemption includes all trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor

agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings, and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) The following information pertaining to educational matters:

(i) test questions, scoring keys, and other examination data used to administer an academic examination;

(ii) information received by a primary or secondary school, college, or university under its procedures for the evaluation of faculty members by their academic peers;

(iii) information concerning a school or university's adjudication of student disciplinary

cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and

(iv) course materials or research materials used by faculty members.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including, but not limited to, power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

(l) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(m) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil, or administrative proceeding upon the request of an attorney advising the

public body, and materials prepared or compiled with respect to internal audits of public bodies.

(n) Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.

(o) Administrative or technical information associated with automated data processing operations, including, but not limited to, software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(p) Records relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(q) Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.

(r) The records, documents, and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated.

With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents, and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents, and information relating to a real estate sale shall be exempt until a sale is consummated.

(s) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice, or communications.

(t) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions, insurance companies, or pharmacy benefit managers, unless disclosure is otherwise required by State law.

(u) Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to

be used to create electronic signatures under the Uniform Electronic Transactions Act.

(v) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, but only to the extent that disclosure could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, to cybersecurity vulnerabilities, or to tactical operations.

(w) (Blank).

(x) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.

(y) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary

by the Illinois Power Agency or by the Illinois Commerce Commission.

(z) Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009.

(aa) Information the disclosure of which is exempted under the Viatical Settlements Act of 2009.

(bb) Records and information provided to a mortality review team and records maintained by a mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act.

(cc) Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act or the Cemetery Oversight Act, whichever is applicable.

(dd) Correspondence and records (i) that may not be disclosed under Section 11-9 of the Illinois Public Aid Code or (ii) that pertain to appeals under Section 11-8 of the Illinois Public Aid Code.

(ee) The names, addresses, or other personal information of persons who are minors and are also participants and registrants in programs of park districts, forest preserve districts, conservation

districts, recreation agencies, and special recreation associations.

(ff) The names, addresses, or other personal information of participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations where such programs are targeted primarily to minors.

(gg) Confidential information described in Section 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

(hh) The report submitted to the State Board of Education by the School Security and Standards Task Force under item (8) of subsection (d) of Section 2-3.160 of the School Code and any information contained in that report.

(ii) Records requested by persons committed to or detained by the Department of Human Services under the Sexually Violent Persons Commitment Act or committed to the Department of Corrections under the Sexually Dangerous Persons Act if those materials: (i) are available in the library of the facility where the individual is confined; (ii) include records from staff members' personnel files, staff rosters, or other staffing assignment information; or (iii) are available through an administrative request to the Department of Human Services or the Department of Corrections.

(jj) Confidential information described in Section 5-535 of the Civil Administrative Code of Illinois.

(kk) The public body's credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and similar account information, the disclosure of which could result in identity theft or impersonation or defrauding of a governmental entity or a person.

(ll) Records concerning the work of the threat assessment team of a school district, including, but not limited to, any threat assessment procedure under the School Safety Drill Act and any information contained in the procedure.

(mm) Information prohibited from being disclosed under subsections (a) and (b) of Section 15 of the Student Confidential Reporting Act.

(nn) Proprietary information submitted to the Environmental Protection Agency under the Drug Take-Back Act.

(oo) Records described in subsection (f) of Section 3-5-1 of the Unified Code of Corrections.

(pp) Any and all information regarding burials, interments, or entombments of human remains as required to be reported to the Department of Natural Resources pursuant either to the Archaeological and Paleontological Resources Protection Act or the Human Remains Protection

Act.

(qq) Reports described in subsection (e) of Section 16-15 of the Abortion Care Clinical Training Program Act.

(rr) Information obtained by a certified local health department under the Access to Public Health Data Act.

(ss) For a request directed to a public body that is also a HIPAA-covered entity, all information that is protected health information, including demographic information, that may be contained within or extracted from any record held by the public body in compliance with State and federal medical privacy laws and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act and its regulations, 45 CFR Parts 160 and 164. As used in this paragraph, "HIPAA-covered entity" has the meaning given to the term "covered entity" in 45 CFR 160.103 and "protected health information" has the meaning given to that term in 45 CFR 160.103.

(tt) Proposals or bids submitted by engineering consultants in response to requests for proposal or other competitive bidding requests by the Department of Transportation or the Illinois Toll Highway Authority.

(1.5) Any information exempt from disclosure under the Judicial Privacy Act shall be redacted from public records prior to disclosure under this Act.

(2) A public record that is not in the possession of a

public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

(3) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 102-38, eff. 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752, eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23; 102-791, eff. 5-13-22; 102-982, eff. 7-1-23; 102-1055, eff. 6-10-22; 103-154, eff. 6-30-23; 103-423, eff. 1-1-24; 103-446, eff. 8-4-23; 103-462, eff. 8-4-23; 103-540, eff. 1-1-24; 103-554, eff. 1-1-24; 103-605, eff. 7-1-24; 103-865, eff. 1-1-25.)

Section 95. The Illinois Criminal Justice Information Act is amended by adding Section 16 as follows:

(20 ILCS 3930/16 new)

Sec. 16. Public defense performance metrics, data collection, analysis and public reporting.

(a) The State Public Defender Commission shall identify and implement a system of performance metrics to assess the

provision of indigent defense services in this State relative to the standards established by the Commission under Section 45 of the State Public Defender Act and national standards and benchmarks to ensure the State of Illinois complies with its obligations under the Sixth Amendment of the United States Constitution.

(b) The Commission has the authority and the duty to:

(1) establish procedures for the mandatory collection of data concerning the operation of the Office of the State Public Defender, the Commission, each indigent criminal defense system, and the overall operation of indigent criminal defense services in the State, including provision of resources to facilitate integration of State data collection with existing county and State-based data reporting and case management systems and requirements; and

(2) collect and receive from any department, division, board, bureau, commission or other agency of the State, or any political subdivision of the State or any public authority, including but not limited to agencies of the judicial branch, information and data including but not limited to:

(A) the types of and numbers of matters in which public defense services have been provided on an annual basis in categories to be determined by the Commission and in alignment with existing circuit

court data guidelines established by the
Administrative Office of the Illinois Courts;

(B) for each public defender agency and State's
Attorney's office:

(i) the number of administrators, attorneys,
and other staff who work at each agency, including
whether they are full-time or part-time and
whether they are employed or contracted; and the
salaries and other compensation paid to individual
administrators, attorneys and staff;

(ii) the funds and in-kind resources spent on
an annual basis for expert witnesses,
investigators, and other litigation costs;

(iii) the funds and in-kind resources spent on
an annual basis for office space, technology,
equipment and other fixed expenses;

(iv) the total numbers of matters, by
category, opened, disposed, and pending within
each annual period for each attorney and for the
agency in total;

(C) the criteria and procedures used to determine
whether a person is eligible to receive public
defender services, the number of persons considered
for and applicants denied such services, the reasons
for the denials, and the results of any review of such
denials; and

(D) the standards and criteria used by each county to determine whether individual attorneys are qualified to provide indigent legal services, and how those standards and criteria compare to those set by the State Public Defender Commission.

(c) The Commission shall analyze and evaluate the collected data, and undertake any necessary research and studies, in order to consider and recommend measures to enhance the provision of indigent legal services relative to the standards established by the Commission under the State Public Defender Act and national standards and benchmarks.

(d) The Commission shall provide a written report on the performance metrics to the Governor, General Assembly, and Illinois Supreme Court, no later than December 15 of each year commencing in the calendar year following the effective date of this amendatory Act of the 104th General Assembly. The Commission shall publish the report on its website.

Section 100. The Counties Code is amended by changing Sections 3-4000, 3-4000.1, 3-4001, 3-4002, 3-4003, 3-4004, 3-4004.1, 3-4004.2, 3-4005, 3-4007, 3-4008.1, 3-4009, 3-4010.1, and 3-4014 as follows:

(55 ILCS 5/3-4000) (from Ch. 34, par. 3-4000)

Sec. 3-4000. Legislative declaration. The General Assembly recognizes that quality legal representation in criminal,

juvenile court proceedings and related matters is a
~~proceedings is a fundamental~~ fundamental constitutional right
of the people of the State of Illinois and that there should be
no distinction in the availability of quality legal
representation based upon a person's ability ~~inability~~ to pay.
Therefore, it is the intent of the General Assembly to provide
for an effective county public defense system ~~defender systems~~
throughout the State and encourage the active and substantial
participation of the private bar in the representation of
accused people ~~indigent defendants~~.

(Source: P.A. 87-111.)

(55 ILCS 5/3-4000.1) (from Ch. 34, par. 3-4000.1)

Sec. 3-4000.1. Definitions. In this Division, except when
a particular context clearly requires a different meaning, the
following definitions apply:

"Board" means the county board of commissioners.

"President" means the president, speaker, or chair of the
county board.

"Chief County Public Defender" means a county chief public
defender appointed to the office of public defender in one or
more counties under Section 3-4001, 3-4002, or 3-4003.

"State Public Defender" has the meaning ascribed to it in
Section 10 of the State Public Defender Act.

(Source: P.A. 87-111.)

(55 ILCS 5/3-4001) (from Ch. 34, par. 3-4001)

Sec. 3-4001. Chief County Public Defender ~~defender~~ in counties over 35,000. In each county of this State containing 35,000 or more inhabitants there is created the Office ~~office~~ of Public Defender and the person to be appointed to such office shall be known as the Chief County Public Defender. No person shall be eligible to ~~or~~ hold such office unless he is duly licensed as an attorney ~~and counsellor at law~~ in this State.

(Source: P.A. 86-962.)

(55 ILCS 5/3-4002) (from Ch. 34, par. 3-4002)

Sec. 3-4002. Chief County Public Defender ~~defender~~ in counties of less than 35,000. In each county of this State containing less than 35,000 inhabitants, the county board may, by resolution, create the Office ~~office~~ of Public Defender and the person appointed to such office shall be known as the Chief County Public Defender. No person shall be eligible to or hold such office unless he or she is duly licensed as an attorney ~~at law~~ in this State.

(Source: P.A. 86-962.)

(55 ILCS 5/3-4003) (from Ch. 34, par. 3-4003)

Sec. 3-4003. Chief County Public Defender ~~defender~~ in adjoining counties ~~adjoining counties~~. Any 2 or more adjoining counties of this State that are within the same judicial

circuit⁷ may, by joint resolution of the several county boards involved, create a common Office ~~office~~ of Public Defender for the counties so joined or allow representation in one county by the public defender appointed in the collaborating county. The person appointed to the Office ~~such office~~ shall be known as the Chief County Public Defender. No person shall be eligible to or hold the Office ~~such office~~ unless he or she is duly licensed as an attorney ~~at law~~ in this State.

(Source: P.A. 86-962.)

(55 ILCS 5/3-4004) (from Ch. 34, par. 3-4004)

Sec. 3-4004. Appointment of Chief County Public Defender in counties under 3,000,000 ~~1,000,000~~. When a vacancy occurs in the position of Chief County Public Defender in a county with a population under 3,000,000, the Chief Judge of the Circuit Court in which the county is located, or counties if the Chief Public Defender serves in 2 or more counties, shall notify the State Public Defender. The State Public Defender shall convene and co-chair a Local Nominating Committee composed of between 4 and 6 members. The second co-chair of the committee shall be the Chief Judge or a Circuit Judge serving as their designee. The State Public Defender and the Circuit Judges shall each appoint one-half of the other committee members, who shall be familiar with the practice of public defense in the relevant county and judicial circuit, including criminal defense or representation of clients under the

Juvenile Court Act of 1987, or both. Membership shall be diverse, include a variety of public defense stakeholders, and be free from interests that would pose a conflict with the effective operation of the public defender office. Members may include, but are not limited to, representatives from legal professional associations, law schools, the public defense community, the private defense bar, the judiciary, county government, community organizations, and former public defender clients and their family members. No person shall be appointed to the Committee who, within the 2 years prior to appointment, has received compensation to be a prosecutor or law enforcement official, or who has served as an employee of such a person. The Local Nominating Committee shall recommend one or more candidates to the State Public Defender Commission, whose members shall then appoint a properly qualified Chief County Public Defender from the candidate or candidates submitted. Whenever a vacancy occurs in the office, it shall be filled in the same manner, ~~As soon as may be after this Division becomes applicable to a county with a population under 1,000,000, the judges of the Circuit Court of the circuit in which the county is located shall, by a majority vote of the entire number of those judges, appoint to the office of Public Defender a properly qualified person, who shall hold office, his death or resignation not intervening, at the pleasure of the judges competent to appoint. Whenever a vacancy occurs in the office it shall be filled in the same~~

~~manner,~~ and the person appointed to fill the vacancy shall begin a new 10-year term ~~have the same tenure of office.~~

(Source: P.A. 86-962; 87-111.)

(55 ILCS 5/3-4004.1) (from Ch. 34, par. 3-4004.1)

Sec. 3-4004.1. Appointment of Chief County Public Defender in counties over 3,000,000 ~~1,000,000~~. When a vacancy occurs in the position of Chief County Public Defender in a county with a population over 3,000,000 ~~Whenever a vacancy shall occur in the position of Public Defender in counties over 1,000,000,~~ a properly qualified person shall be appointed to the position by the President with the advice and consent of the Board.

(Source: P.A. 87-111.)

(55 ILCS 5/3-4004.2) (from Ch. 34, par. 3-4004.2)

Sec. 3-4004.2. Qualifications of Chief County Public Defender and terms of employment. In in counties with an appointed Chief County Public Defender, over 1,000,000. ~~In counties with a population over 1,000,000,~~ the following qualifications and terms of employment shall apply:

(a) The Chief County Public Defender shall be ~~The president shall select as Public Defender only a person with the following qualifications:~~ an attorney whose practice of law has clearly demonstrated experience in the representation of persons accused of crime; who has been licensed to practice law in this State or in another state

for at least 5 years; who has had administrative experience; and who is dedicated to the goals of providing high quality representation for eligible persons and to improving the quality of defense services generally.

(b) The Chief County Public Defender shall devote full time to the duties of the public defender system and shall not otherwise engage in the practice of law.

(c) In counties over 3,000,000, the Chief County ~~The~~ Public Defender once approved by the Board shall serve for 6 years and may be removed by the President only for good cause or dereliction of duty after notice and a hearing before the Board. ~~The effective date of this amendatory Act of 1991 shall be deemed the commencement of the term of the current public defender.~~

(c-5) In counties under 3,000,000, once approved, the Chief County Public Defender shall serve for 10 years and may be removed only for good cause or dereliction of duty after notice and a hearing before the State Public Defender Commission.

(d) (Blank). ~~The Public Defender's compensation shall be set at a level that is commensurate with his qualifications and experience and professionally appropriate with the responsibility of the position. The Public Defender's compensation shall be comparable with that paid to circuit court judges, but in no event shall be more than that of the State's Attorney of the county.~~

(e) At the expiration of a term, the Chief County Public Defender may be reappointed to one or more subsequent terms.

(f) Terms and qualifications apply to Chief County Public Defenders appointed after the effective date of this amendatory Act of the 104th General Assembly. Removal only for cause or dereliction of duty applies to all Chief County Public Defenders serving on the effective date of this amendatory Act of the 104th General Assembly.

(Source: P.A. 87-111.)

(55 ILCS 5/3-4005) (from Ch. 34, par. 3-4005)

Sec. 3-4005. Oath of office. The person appointed as Chief County Public Defender, before entering on the duties of his office, shall take and subscribe an oath of office in writing before one of the judges qualified to administer it ~~competent to appoint~~, which oath shall be filed in the office of the County Clerk.

(Source: P.A. 86-962.)

(55 ILCS 5/3-4007) (from Ch. 34, par. 3-4007)

Sec. 3-4007. Compensation.

(a) The Chief County Public Defender ~~public defender~~ shall be paid out of the county treasury, and, subject to appropriation, shall be paid by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General

Revenue Fund as provided in subsection (b), as the sole compensation for his or her services a salary in an amount fixed by the County Board. ~~When a Public Defender in a county of 30,000 or more population is receiving not less than 90% of the compensation of the State's Attorney of such county, that Public Defender shall not engage in the private practice of law.~~

(b) ~~The State must pay 66 2/3% of the public defender's annual salary.~~ If the Chief County Public Defender ~~public defender~~ is employed full-time in that capacity, his or her salary must be at least 95% ~~90%~~ of that county's State's Attorney's ~~attorney's~~ annual compensation and will be eligible for the same amount of State reimbursement as that county's State's Attorney under Section 4-2001. State funding for assistant public defenders must be at least equal to that for Assistant State's Attorneys, including supplements for counties housing certain State institutions as described in Section 4-2001. Subject to appropriation, these amounts furnished by the State shall be payable monthly by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund to the county in which each Chief County Public Defender is employed.

(c) In cases where 2 or more adjoining counties have joined to form a common office of Public Defender or otherwise collaborate under Section 3-4003, the salary of the Chief County Public Defender shall be set and paid as provided by a

joint resolution of the various county boards involved and the counties shall be entitled to the same State reimbursements described in subsection (b).

(Source: P.A. 97-72, eff. 7-1-11.)

(55 ILCS 5/3-4008.1) (from Ch. 34, par. 3-4008.1)

Sec. 3-4008.1. Assistant public defenders ~~Assistants in counties over 1,000,000.~~ The Chief County Public Defender ~~in counties with a population over 1,000,000~~ shall appoint assistants, all duly licensed practitioners, as that Chief County Public Defender shall deem necessary for the proper discharge of the duties of the office, who shall serve at the pleasure of the Chief County Public Defender. The Chief County Public Defender shall also, in like manner, appoint clerks and other employees necessary for the transaction of the business of the office. The compensation of and the appropriate number of assistants, clerks, and employees shall be fixed by the County Board and paid out of the county treasury.

(Source: P.A. 87-111.)

(55 ILCS 5/3-4009) (from Ch. 34, par. 3-4009)

Sec. 3-4009. Office quarters; expenses. ~~The County Boards Board~~ shall provide suitable office quarters for the use of the Chief County Public Defender and other public defender office employees, and shall pay out of the county treasury for necessary office, travel and other expenses incurred in the

defense of cases, including, but not limited to, social workers, investigators, expert witnesses, mitigators, and administrative staff. ~~In counties of less than 500,000 population, such payment shall be made after the circuit court of the county approves such expenses as being necessary and proper.~~ In cases where 2 or more adjoining counties have joined to form a common office of Public Defender or otherwise collaborate under Section 3-4003, the expenses incurred under this Section shall be paid as provided for in a joint resolution of the various county boards involved.

(Source: P.A. 86-962.)

(55 ILCS 5/3-4010.1) (from Ch. 34, par. 3-4010.1)

Sec. 3-4010.1. Records; reports ~~in counties over 1,000,000.~~ The Chief County Public Defender ~~public defender~~ in counties with a population over 35,000 ~~1,000,000~~ shall keep a record of the services rendered by the office of the public defender ~~him~~ and prepare and file quarterly with the president and Commission a written report of those services. If 2 or more adjoining counties have joined to form a common Office of public defender or otherwise collaborate under Section 3-4003, the Chief County Public Defender so appointed shall file his or her quarterly report with each of the several county boards involved.

(Source: P.A. 87-111.)

(55 ILCS 5/3-4014)

Sec. 3-4014. Public Defender Fund.

(a) (Blank).

(b) The Public Defender Fund is created as a special fund in the State treasury. All money in the Public Defender Fund shall be used, subject to appropriation, by the State Public Defender ~~Illinois Supreme Court~~ to provide funding to counties with a population of 3,000,000 or less for use by public defenders for ~~and~~ public defender services and related expenses pursuant to this Section 3-4014.

(Source: P.A. 102-1104, eff. 12-6-22; 103-8, eff. 7-1-23.)

Section 105. The Public and Appellate Defender Immunity Act is amended by changing Section 5 as follows:

(745 ILCS 19/5)

Sec. 5. Immunity. No state or county public defender, assistant state or county public defender, appellate defender, or assistant appellate defender, acting within the scope of his or her employment or contract, nor any person or entity employing, supervising, assisting, or contracting for the services of a state or county public defender, assistant state or county public defender, appellate defender, or assistant appellate defender, is liable for any damages in tort, contract, or otherwise, in which the plaintiff seeks damages by reason of legal or professional malpractice, except for

willful and wanton misconduct.

(Source: P.A. 91-877, eff. 6-30-00.)

(55 ILCS 5/3-4008 rep.)

(55 ILCS 5/3-4010 rep.)

(55 ILCS 5/3-4011 rep.)

(55 ILCS 5/3-4013 rep.)

Section 110. The Counties Code is amended by repealing Sections 3-4008, 3-4010, 3-4011, and 3-4013.

Section 999. Effective date. This Act takes effect January 1, 2027, except Section 40 and this Section take effect July 1, 2026.