



STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

RICK SNYDER
GOVERNOR

BRIAN CALLEY
LT. GOVERNOR

EXECUTIVE ORDER
No. 2011 - 12

INDIGENT DEFENSE ADVISORY COMMISSION
EXECUTIVE OFFICE OF THE GOVERNOR

WHEREAS, Section 20 of Article I of the Michigan Constitution of 1963 provides that in every criminal prosecution, the accused shall have the right to the assistance of counsel for his or her defense, and as provided by law, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal; and

WHEREAS, the Sixth and Fourteenth Amendments to the United States Constitution guarantee indigent criminal defendants the right to counsel in all critical stages of a prosecution where the prosecution may result in the actual deprivation of the defendant's liberty, unless such right is voluntarily and intelligently waived; and

WHEREAS, the Sixth and Fourteenth Amendments to the United States Constitution guarantee defendants in criminal prosecutions the right to effective assistance of counsel; and

WHEREAS, a primary interest of the state of Michigan is ensuring that criminal defendants receive effective representation and are accorded due process in every criminal prosecution, and that every court in Michigan serves as the state's backbone for a safe, secure, and just society; and

WHEREAS, it is the desire of this administration to ensure that government-funded criminal defense attorneys are effective, adequately funded, and properly trained; and

WHEREAS, the goals of this administration, the Michigan Constitution of 1963, and the United States Constitution are furthered by the creation of a commission to advise the Governor and the Legislature on the best, most cost-effective ways to promote these objectives;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, do hereby order the establishment of the Indigent Defense Advisory Commission ("Commission").

I. CHARGE TO THE COMMISSION

The Commission is established as an advisory body to the Governor and the Legislature and is charged with the following responsibilities:

A. The Commission shall analyze existing data that is needed to assist policymakers in making decisions on the appropriate funding and staffing levels to ensure effective public criminal defense services.

B. The Commission shall make recommendations to the Governor and the Legislature for improvements to the system of providing legal representation for indigent criminal defendants, as follows:

1. The improvements must be fiscally responsible, cost-effective, and take into account the current economic conditions of the state and local units of government.
2. The improvements must be responsive to jurisdictional variances and local community needs.
3. The improvements must ensure that indigent defense is free from undue political interference and conflicts of interest.
4. The improvements must seek to ensure that the right to counsel is delivered by effective counsel at each critical stage of the proceedings in a manner that is consistent throughout the state.
5. The improvements must aspire to ensure that government-funded criminal defense attorneys are sufficiently trained and supervised, appropriately qualified, and adequately compensated.

II. COMMISSION STRUCTURE AND FUNCTIONS

A. The Commission shall consist of 14 members, 10 appointed by the Governor, as follows:

- Two members representing the interests of the judiciary;
- One member representing the interests of prosecuting attorneys;
- One member representing the interests of criminal defense attorneys;
- One member representing the interests of the State Bar of Michigan;
- One member representing the interests of local government; and
- Four members representing the general public.

The Commission shall also consist of 4 legislators, appointed as follows:

- One member representing the Senate majority caucus, appointed by the Senate Majority Leader;
- One member representing the Senate minority caucus, appointed by the Senate Majority Leader;
- One member representing the House majority caucus, appointed by the Speaker of the House;
- One member representing the House minority caucus, appointed by the Speaker of the House.

B. Commission members shall serve at the pleasure of the Governor. The Governor shall appoint one member of the Commission as Chairperson, who shall serve as Chairperson at the pleasure of the Governor. A vacancy on the Commission shall be filled in the same manner as the original appointment. The Commission may select one of its members to serve as Vice-Chair. The Chairperson may form committees, consisting of a subset of Commission members, when necessary.

C. The Commission may receive grants, resources, and in-kind services from private and government entities, including the State Bar of Michigan.

D. Commission members shall serve without compensation. Commission members shall attend Commission meetings in person, and shall not delegate their responsibilities to other persons. Commission members may receive reimbursement for necessary travel and expenses according to relevant statutes, rules, and procedures of the Civil Service Commission, and the Department of Technology, Management and Budget, subject to available funding.

E. Appointees shall serve during the life of the Commission. The Commission shall report to the Governor and the Legislature on its recommendations no later than July 15, 2012. The Commission shall dissolve by December 31, 2012.

F. In forming and making its recommendations to the Governor and the Legislature, the Commission shall obtain input from any sources it deems appropriate and may conduct public hearings and take testimony for that purpose. The Commission may, as appropriate, make inquiries into costs, efficiencies, and processes associated with indigent defense.


III. MISCELLANEOUS

A. All state departments and agencies shall cooperate with the Commission in the performance of its responsibilities. The Commission may request, and state agencies and departments shall provide, such policy and technical information as is required by the Commission in the discharge of its responsibilities. This shall include free access to any books, records, or documents in the custody of the department or agency that is within the scope of the inquiry, study, or review of the Commission.

- B. All Commission proceedings shall be open to the public.
- C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order.
- D. Nothing in this order is intended to extend or modify, in any way, *Gideon v. Wainwright*, 372 US 335 (1963), *Strickland v. Washington*, 466 US 686 (1984), or their progeny.
- E. This Executive Order shall become effective upon filing.

Given under my hand and the Great Seal of the state of Michigan this 13th day of October in the year of our Lord, two thousand eleven.





RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:



SECRETARY OF STATE

FILED WITH SECRETARY OF STATE
ON 10/13/2011 AT 10:17 AM