

Council Resolution 13-04

Georgia Public Defender Standards Council

Whereas, the Georgia Public Defender Standards Council (herein “Standards Council”) is desirous of adopting a policy assisting Municipal courts in the implementation of subsections (f), (g) and (h) of O.C.G.A. § 36-32-1; and

Whereas, subsections (f), (g) and (h) of O.C.G.A. § 36-32-1 read as follows:

(f) Any municipal court operating within this state and having jurisdiction over the violation of municipal ordinances and over such other matters as are by specific or general law made subject to the jurisdiction of municipal courts shall not impose any punishment of confinement, probation, or other loss of liberty, or impose any fine, fee, or cost enforceable by confinement, probation, or other loss of liberty, as authorized by general law or municipal or county ordinance, unless the court provides to the accused the right to representation by a lawyer, and provides to those accused who are indigent the right to counsel at no cost to the accused. Such representation shall be subject to all applicable standards adopted by the Georgia Public Defender Standards Council for representation of indigent persons in this state.

(g) Any municipal court operating within this state that has jurisdiction over the violation of municipal or county ordinances or such other statutes as are by specific or general law made subject to the jurisdiction of municipal courts, and that holds committal hearings in regard to such alleged violations, must provide to the accused the right to representation by a lawyer, and must provide to those accused who are indigent the right to counsel at no cost to the accused. Such representation shall be subject to all applicable standards adopted by the Georgia Public Defender Standards Council for representation of indigent persons in this state.

(h) Any municipality or municipal court may contract with the office of the circuit public defender of the judicial circuit in which such municipality is located as a means of complying with the municipality’s or municipal court’s legal obligation to provide defense counsel at no cost to indigent persons appearing before the court in relation to violations of municipal ordinances, county ordinances, or state laws.; and

Whereas, O.C.G.A. § 17-12-8 (c) reads as follows:

(c) The initial minimum standards promulgated by the council pursuant to this Code section and which are determined by the General Oversight Committee for the Georgia Public Defender Standards Council for the Georgia Public Defender Standards Council to have a fiscal impact shall be submitted to the General Assembly at the regular session for 2005 and shall become effective only when ratified by joint resolution of the General Assembly and upon the approval of the resolution by the Governor or upon its becoming law without such approval. The power of the council to promulgate such initial minimum standards shall be deemed to be dependent upon such ratification; provided, however, the minimum standards promulgated by the council shall be utilized as a guideline prior to ratification. Any subsequent amendments or additions to the initial minimum standards promulgated by the council pursuant to this Code section and which are determined by the General Oversight Committee for the Georgia Public Defender Standards Council to have a fiscal impact shall be ratified at the next regular session of the General Assembly and shall become effective only when ratified by joint resolution of the General Assembly and upon the approval of the resolution by the Governor or upon its becoming law without such approval.

It is Resolved by the Georgia Public Defender Standards Council as follows:

Until the Standards that have been adopted by the Standards Council are ratified in accordance with O.C.G.A. § 12-12-8 (c), municipal courts that comply with the provisions of subsections (f) and (g) of O.C.G.A § 36-32-1¹ relating to providing to the accused the right to representation by a lawyer and providing to those accused who are indigent the right to counsel at no cost to the accused, are determined by the

¹ A typographical error is in the original resolution. For the purposes of clarity the error has been corrected and the resolution will be formally corrected at the next meeting of the Standards Council.

Georgia Public Defender Standards Council for the representation of indigent persons
Resolution 13-04
Page 3

Standards Council for the purposes of O.C.G.A. § 36-32-1² to be in compliance with all applicable standards adopted by the Georgia Public Defender Standards Council for representation of indigent persons in this state.

This 10th of December 2004.

Attested:

Emmet J. Bondurant
Chairman

Natasha Perdew Silas
Secretary

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