

Laws

January 2018 PER

(Study Step 1: Agency Legal Directives, Plan and Resources)

Agency Responding	Commission on Indigent Defense
Date of Submission	March 16, 2018

Item #	Law Number	Jurisdiction	Type of Law	Statutory Requirement and/or Authority Granted	Customer/Client		Deliverable
					Does this law specify who (customer) the agency must or may serve?	If yes, who is/are the customer(s)?	Does the law specify a deliverable (service or product) the agency must or may provide?
1	US Constitution 6th Amendment	Federal	Statute	Guarantees a citizen the right to a speedy and public trial, an impartial jury, to be informed of the nature and cause of the accusation, to confront witnesses against him, to present witnesses in his favor, and to be represented by an attorney	Yes	Any person entitled to counsel under the Constitution of the United States determined to be financially unable to retain counsel	No
2	US Constitution 14th Amendment	Federal	Statute	Requires the state to provide equal protection and due process under the law.	Yes	Any person entitled to counsel under the Constitution of the United States determined to be financially unable to retain counsel	No
3	14-1-204	State	Statute	26.78 percent of 56 percent of \$100 filing fee in civil actions is paid to the Defense of Indigents Per Capita Fund administered by SCCID. SCCID distributes the funds to SC organizations that are grantees of the Legal Services Corporation. (SCCID acts as pass-through agency for distribution of funds.) Commission on Indigent Defense, Defense of Indigents per capita receives 14.56 percent of additional \$50 filing fee in civil actions. Commission on Indigent Defense, Division of Appellate Defense receives 1.81 percent of additional \$50 filing fee in civil actions.	No	Does not specify a customer	No
4	14-1-206	State	Statute	Persons convicted in general sessions court must pay assessment of 107.5 percent of fine amount. After specified deductions, Office of Indigent Defense receives 14.46 percent of remaining funds for the defense of indigents.	No	Does not specify a customer	No
5	14-1-207	State	Statute	Persons convicted in magistrates court must pay assessment of 107.5 percent of fine amount. After specified deductions, Office of Indigent Defense receives 14.46 percent of remaining funds for the defense of indigents.	No	Does not specify a customer	No

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6	14-1-208	State	Statute	Persons convicted in municipal court must pay assessment of 107.5 percent of fine amount. After specified deductions, Office of Indigent Defense receives 14.46 percent of remaining funds for the defense of indigents.	No	Does not specify a customer	No
7	16-3-26	State	Statute	Punishment for murder; notice to defense attorney of solicitor's intention to seek death penalty; appointment of attorneys for indigent; investigative, expert or other services.	Yes	Any person entitled to counsel under the Constitution of the United States determined to be financially unable to retain counsel	Yes - Other service or product
8	17-3-5	State	Statute	Definitions	No	Does not specify a customer	No
9	17-3-10	State	Statute	Persons entitled to counsel shall be so advised; when counsel shall be provided	Yes	Any person entitled to counsel under the Constitution of the United States determined to be financially unable to retain counsel	Yes - Other service or product
10	17-3-20	State	Statute	Requires that adequate legal counsel be appointed for persons charged with murder, who are determined to be financially unable to retain adequate counsel and that the attorney appointed be paid fees and costs as deemed appropriate by the court.	Yes	Persons charged with murder determined to be financially unable to retain adequate legal counsel. This section specifies a customer/deliverable for the agency as the attorney appointed will be either a public defender or private counsel who will be compensated with indigent defense funds of the Agency.	Yes - Other service or product
11	17-3-30	State	Statute	Affidavit of inability to employ counsel; payment of indigent's assets to state; application fee, waiver or reduction of fee; disposition of revenues; fund for screening applicants	Yes	Any person seeking appointed Counsel.	No - This relates to a customer of the agency for which the deliverable is handled by another entity
12	17-3-40	State	Statute	Creation of claim against assets and estate of person for whom counsel is provided	No	Does not specify a customer	No

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13	17-3-45	State	Statute	Affidavit of assets of persons seeking appointed counsel; application fee; claim against assets and estate of person provided counsel	Yes	Any person seeking appointed Counsel.	No - This relates to a customer of the agency for which the deliverable is handled by another entity
14	17-3-50	State	Statute	Determination of fees for appointed counsel and public defenders; maximum amounts; authorization to exceed maximum; payment for certain services	Yes	Appointed Private Counsel and Public Defenders	No - This relates to a customer of the agency for which the deliverable is handled by another entity
15	17-3-55	State	Statute	Carry-forward of unpaid obligations	No	Does not specify a customer	No
16	17-3-80	State	Statute	Appropriation for expenses of appointed private counsel and public defenders; restrictions and limitations	Yes	Appointed Private Counsel and Public Defenders	Yes - Other service or product
17	17-3-85	State	Statute	Fiscal year-end disposition of unexpended appropriations for payment of private appointed counsel for counties without public defender corporations	No	Does not specify a customer	No
18	17-3-90	State	Statute	Vouchers for payment for services by private appointed counsel and for reimbursement of expenses; approval and submission for payment	Yes	Appointed Private Counsel and Public Defenders	Yes - Other service or product
19	17-3-100	State	Statute	Discretionary authority of judge to appoint counsel not limited; remuneration and reimbursement.	No	Does not specify a customer	No
20	17-3-110	State	Statute	Power of Supreme Court to establish rules and regulations.	No	Does not specify a customer	No
21	17-3-310	State	Statute	Commission on Indigent Defense Created; Appointment of members; terms; powers and duties.	Yes	Indigent Defense Attorneys	Yes
22	17-3-320	State	Statute	Office of Indigent Defense; executive director; appointment; duties	No	Does not specify a customer	No
23	17-3-330 (A)(1-4); (B); (C)	State	Statute	Duties of Office of Indigent Defense: Distribute all funds appropriated by GA for defense of indigents; perform duties of Appellate Defense; compile statistics covering indigent defense in the State;	No	Does not specify a customer	No

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24	17-3-330 (A)(5)	State	Statute	Report annually to the General Assembly on the indigent defense system.	Yes	State Legislature	Yes - Providing a Report
25	17-3-340	State	Statute	Duties of Commission: Approve programs which provide legal representation to indigent persons and juveniles accused of violations of criminal law; Approve policies and standards for Circuit Public Defender Offices, minimum training for appointed counsel; Procedures for qualifications/performance of independent counsel; providing and compensating experts, investigators, etc.to provide effective representation; determining indigence and assessing and collecting costs of legal representation; compensation of appointed attorneys; removing circuit PD for cause; Uniform definition of "case" for determining caseload statistics; accepting contractual indigent defense representation.	No	Does not specify a customer	No
26	17-3-350	State	Statute	Immunity from civil liability for Commission members and Circuit PD Selection Panel members	No	Does not specify a customer	No
27	17-3-360	State	Statute	Division of Appellate Defense created; Administration and staffing; duties and responsibilities	Yes	Persons who the office determines, subject to court review, fall within indigency guidelines who file notice of intent to appeal or desire to appeal conviction in a trial court, a decision of a civil commitment or voluntary placement in a state, county, or municipal facility	Yes - Other service or product
28	17-3-370	State	Statute	Appointment of Counsel by Court: Court can still appoint counsel for disqualified person for conflict or when division deems it advisable not to provide representation	No	Does not specify a customer	No
29	17-3-380	State	Statute	Funding for the commission will be by appropriations in the state General Appropriations Act including federal funds as may be available.	No	Does not specify a customer	No

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30	17-3-510	State	Statute	Circuit Public Defender Selection Panel, county representation, nomination of Circuit Public Defender, election of Circuit Public Defender	No	Does not specify a customer	No
31	17-3-520	State	Statute	Circuit Public Defender, qualification, responsibilities	No	Does not specify a customer	No
32	17-3-530	State	Statute	Chief county public defenders, responsibilities and duties	No	Does not specify a customer	No
33	17-3-540	State	Statute	Maintenance and staffing of county public defender offices	No	Does not specify a customer	No
34	17-3-550	State	Statute	Funding	No	Does not specify a customer	No
35	17-3-560	State	Statute	Administration of Funds	No	Does not specify a customer	No
36	17-3-570	State	Statute	Administration of Personnel	No	Does not specify a customer	No
37	17-3-580	State	Statute	Public Defenders, requirements as to employment	No	Does not specify a customer	No
38	17-3-590	State	Statute	Office space and equipment	No	Does not specify a customer	No
39	17-3-600	State	Statute	Existing contracts for providing indigent defense services: Contracts for indigent services in existence at time Act enacted remain effective until expire or one year from effective date of act, whichever is sooner.	No	Does not specify a customer	No
40	17-27-10	State	Statute	Short Title - Uniform Post-Conviction Relief Act	No	Does not specify a customer	No
41	17-27-20	State	Statute	Persons who may institute proceeding; exclusiveness of remedy	Yes	Person convicted or sentenced for a crime	Yes - Other service or product
42	17-27-30	State	Statute	Jurisdiction of Court	No	Does not specify a customer	No
43	17-27-40	State	Statute	Commencement of Proceedings by filing application	No	Does not specify a customer	No
44	17-27-45	State	Statute	Filing procedures for post-conviction relief actions	No	Does not specify a customer	No
45	17-27-50	State	Statute	Form and contents of application	No	Does not specify a customer	No
46	17-27-60	State	Statute	Court costs and expenses for indigents	Yes	Indigent Post-Conviction Relief applicants	Yes - Other service or product
47	17-27-70	State	Statute	Court procedures on receipt of application	No	Does not specify a customer	No
48	17-27-80	State	Statute	Hearing on application; final judgment	No	Does not specify a customer	No
49	17-27-90	State	Statute	Grounds for relief	No	Does not specify a customer	No
50	17-27-100	State	Statute	Appeals	No	Does not specify a customer	No
51	17-27-110	State	Statute	Rules - Supreme Court may adopt rules deemed necessary. Note: Supreme Court has passed Rule 71.1 South Carolina Rule of Civil Procedure requiring appointment of counsel for indigent applicants in certain PCR actions.	No	Does not specify a customer	No

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52	17-27-120	State	Statute	Construction. Chapter to be interpreted to make law uniform in states that adopt it.	No	Does not specify a customer	No
53	17-27-130	State	Statute	Waiver of attorney-client privilege by allegation of ineffective prior counsel; access to files.	No	Does not specify a customer	No
54	17-27-150	State	Statute	Discovery in post-conviction relief proceeding	No	Does not specify a customer	No
55	17-27-160	State	Statute	Capital case post-conviction relief procedures - provides for appointment of counsel for indigent applicants	Yes	Indigent Post-Conviction Relief applicants in Capital cases	Yes - Other service or product
56	63-7-1620	State	Statute	Legal representation in child abuse and neglect cases. Provides for appointment of legal counsel for children, parents/legal guardians of children, or other persons subject to any judicial proceeding who cannot afford legal representation.	Yes	Children, parents/legal guardians of children, or other persons subject to any judicial proceeding who cannot afford legal representation.	Yes - Other service or product
57	63-7-2560	State	Statute	Representation by Counsel; guardian ad litem - (A)In Termination-of-Parental-Rights actions, requires that the family court appoint counsel to represent parents, guardians, or other persons entitled to legal counsel, who are unable to afford legal representation. (B) Requires appointment of attorney for the guardian ad litem to protect the child's interests in certain circumstances.	Yes	Parents or legal guardians of children, or other persons subject to any judicial proceeding, who cannot afford legal representation.	Yes - Other service or product
58	63-9-320	State	Statute	Persons not required to give consent or relinquishment. In adoption matters, requires that the family court appoint legal counsel to represent an incompetent indigent parent unless good cause is shown to waive that appointment.	Yes	Parents of children, who are subject to a Termination of Parental Rights proceeding and who cannot afford legal representation.	Yes - Other service or product
59	63-19-810	State	Statute	Taking a child into custody. Sets forth rules for detention and release of children accused of violations of criminal laws, requirements for notification of certain persons, information to be provided to those persons, and restrictions of use of such information.	No	Does not specify a customer	No
60	63-19-830	State	Statute	Detention hearings, screenings. Requires court to appoint counsel for child at detention hearing if none is retained. Prohibits child from proceeding without talking to attorney at least once.	Yes	Children charged in delinquency proceedings.	Yes - Other service or product

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61	63-19-1040	State	Statute	Indigent defense. In determining indigence for appointment of legal counsel for child in delinquency proceeding, court must determine financial ability of parents to retain counsel. If parents could afford to retain counsel but refuse, court appoints counsel and may order parents of reimburse Indigent Defense Fund or pay court-appointed attorney an amount determined by the court.	Yes	Children charged in delinquency proceedings.	Yes - Other service or product
62	44-48-10	State	Statute	Short Title - Sexually Violent Predator Act	No	Does not specify a customer	No
63	44-48-20	State	Statute	Legislative Findings	No	Does not specify a customer	No
64	44-48-30	State	Statute	Definitions	No	Does not specify a customer	No
65	44-48-40	State	Statute	Notification to team, victim and AG regarding release, hearing or parole, effective date of parole or release; immunity.	No	Does not specify a customer	No
66	44-48-50	State	Statute	Multidisciplinary team; appointments; review of records; membership	No	Does not specify a customer	No
67	44-48-60	State	Statute	Prosecutor's review committee; scope of review; membership requirements.	No	Does not specify a customer	No
68	44-48-70	State	Statute	Petition for probable cause determination.	No	Does not specify a customer	No
69	44-48-80	State	Statute	Determination of probable cause; taking person into custody; hearing; evaluation. Requires notification of right to counsel.	No	Does not specify a customer	No
70	44-48-90	State	Statute	Trial; trier of fact; continuation of trial; assistance of counsel; access of examiners to person; payment of expenses. Requires court to appoint counsel for indigent person and to authorize reasonable payment for expenses for professional expert services.	Yes	Indigent person subject to Act	Yes - Other service or product
71	44-48-100	State	Statute	Standard for determining predator status, control, care, and treatment of person, release, mistrial procedures; persons incompetent to stand trial.	No	Does not specify a customer	No
72	44-48-110	State	Statute	Periodic mental examination of committed persons, report, petition for release; hearing; trial to consider release. Provides for right to counsel; payment for expert services.	No	Does not specify a customer	No
73	44-48-120	State	Statute	Petition for release; hearing ordered by court; examination by qualified expert, burden of proof. Provides for payment for expert services.	No	Does not specify a customer	No
74	44-48-130	State	Statute	Grounds for denial of petition for release.	No	Does not specify a customer	No

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75	44-48-140	State	Statute	Restricted release of confidential information and records to agencies and Attorney General.	No	Does not specify a customer	No
76	44-48-150	State	Statute	Evidentiary records; court order to open sealed records.	No	Does not specify a customer	No
77	44-48-160	State	Statute	Registration of persons released from commitment.	No	Does not specify a customer	No
78	44-48-170	State	Statute	Involuntary detention or commitment; constitutional requirements.	No	Does not specify a customer	No
79	2016-2017 SC Appropriations Act, Parts 1A & 1B, Section 61	State	Proviso	Budgetary Expenditure and Proviso Authority	No	Does not specify a customer	No