

Deliverables

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

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

Item #	Deliverable	Applicable Laws	Is deliverable provided because...	Optional - Service or Product component(s) (If deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Associated Organizational Unit	Does the agency evaluate the outcome obtained by customers / individuals who receive the service or product (on an individual or aggregate basis?)	Does the agency know the annual # of potential customers?	Does the agency know the annual # of customers served?	Does the agency evaluate customer satisfaction?	Does the agency know the cost it incurs, per unit, to provide the service or product?	Does the law allow the agency to charge for the service or product?	Additional comments from agency (Optional)
1A	Legal Representation of indigent South Carolina citizens *See Note A for examples of services provided as part of "legal representation."	S.C. Code Ann. 16-3-26 . Crimes and Offenses; Offenses Against the Person. S.C. Code Ann. 17-3-80 . * Criminal Procedures; Defense of Indigents. S.C. Code Ann. 17-3-90 . Criminal Procedures; Defense of Indigents.	Require	Legal Services in Capital Murder Cases	Office of Circuit Public Defenders ; Death Penalty Trial Division	No	No	Yes	No	Yes	Yes	S.C. Code Ann. 17-3-30 requires the collection of a \$40 application fee for Public Defender services from an individual who executes an affidavit that he or she is unable to employ counsel. *Agency has recommended elimination of S.C. Code Ann. 17-3-80.
1B		S.C. Code Ann. 17-3-10 and 17-3-90 . Criminal Procedures; Defense of Indigents. S.C. Code Ann. 17-3-80 . * Criminal Procedures; Defense of Indigents. S.C. Code Ann. 63-19-830 and 63-19-1040 . Juvenile Justice Code; Detention Hearings, Screenings; Indigent Defense.	Require	Legal Services in criminal cases	Administration; Office of Circuit Public Defenders	No	No	Yes	No	Yes	Yes	S.C. Code Ann. 17-3-30 requires the collection of a \$40 application fee for Public Defender services from an individual who executes an affidavit that he or she is unable to employ counsel. Proviso 61.6 requires every person who is represented by a public defender or appointed counsel and is placed on Probation to be assessed a fee of five hundred dollars to be collected by the Clerk of Court and sent on a monthly basis to the Commission on Indigent Defense. *Agency has recommended elimination of S.C. Code Ann. 17-3-80.
1C		S.C. Code Ann. 17-3-20 and 17-3-90 . Criminal Procedures; Defense of Indigents. S.C. Code Ann. 17-3-80 . * Criminal Procedures; Defense of Indigents.	Require	Legal Services in murder cases	Administration; Office of Circuit Public Defenders	No	No	Yes	No	Yes	Yes	S.C. Code Ann. 17-3-30 requires the collection of a \$40 application fee for Public Defender services from an individual who executes an affidavit that he or she is unable to employ counsel. *Agency has recommended elimination of Statute 17-3-80
1D		S.C. Code Ann. 17-3-90 and 17-3-360 . Criminal Procedures; Defense of Indigents. S.C. Code Ann. 17-3-80 . * Criminal Procedures; Defense of Indigents.	Require	Legal Services in process of appealing a conviction from a trial court.	Division of Appellate Defense	No	No	Yes	No	Yes	No	*Agency has recommended elimination of S.C. Code Ann. 17-3-80.
1E		S.C. Code Ann. 17-3-90 . Criminal Procedures; Defense of Indigents. S.C. Code Ann. 44-48-90, et seq. Health; Sexually Violent Predator Act.	Require	Legal Services in Sexually Violent Predator Act cases.	Administration; Division of Appellate Defense	No	No	Yes	No	Yes	No	*Agency has recommended elimination of S.C. Code Ann. 17-3-80.
1F		S.C. Code Ann. 17-3-90 . Criminal Procedures; Defense of Indigents. S.C. Code Ann. 63-7-1620 . South Carolina Children's Code; Child Protection and Permanency. S.C. Code Ann. 17-3-80 . * Criminal Procedures; Defense of Indigents.	Require	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.	Administration	No	No	Yes	No	Yes	Yes	Proviso 61.7 (Defense of Indigents Civil Action Application Fee) requires the collection of a \$40 application fee for the appointment of counsel services from an individual who executes an affidavit that he or she is unable to employ counsel. *Agency has recommended elimination of S.C. Code Ann. 17-3-80.

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1G		S.C. Code Ann. 17-3-90 . Criminal Procedures; Defense of Indigents. S.C. Code Ann. 17-27-20 and 17-27-60 . Court Costs and expenses for indigents. Rule 71.1 S.C. Rules of Civil Procedure. Appointment of Counsel for Hearing (S.C. Code Ann. 17-27-110;). S.C. Code Ann. 17-27-160 . Appointment of counsel for PCR in Capital case. S.C. Code Ann. 17-3-80.* Criminal Procedures; Defense of Indigents.	Require	Post Conviction Relief; Legal services, costs and expenses in Post-Conviction Relief actions.	Administration	No	No	Yes	No	Yes	Yes	Proviso 61.7 (Defense of Indigents Civil Action Application Fee) requires the collection of a \$40 application fee for the appointment of counsel services from an individual who executes an affidavit that he or she is unable to employ counsel. *Agency has recommended elimination of S.C. Code Ann. 17-3-80.
1H		S.C. Code Ann. 17-3-90 . Criminal Procedures; Defense of Indigents. S.C. Code Ann. 63-7-2560 . Representation by Counsel; guardian ad litem. S.C. Code Ann. 63-9-320(2) Persons not required to give consent or relinquishment for adoption of child. S.C. Code Ann. 17-3-80.* Criminal Procedures; Defense of Indigents.	Require	Legal services in Termination-of-Parental-Rights Actions and Adoption Actions.	Administration	No	No	Yes	No	Yes	Yes	Proviso 61.7 (Defense of Indigents Civil Action Application Fee) requires the collection of a \$40 application fee for the appointment of counsel services from an individual who executes an affidavit that he or she is unable to employ counsel. *Agency has recommended elimination of S.C. Code Ann. 17-3-80.
2	Annual Report on Indigent Defense System	S.C. Code Ann. 17-3-330 . Criminal Procedures; Defense of Indigents.	Require		Administration	No	Yes	Yes	No	No	No	
3	Court costs and expenses from indigent South Carolina citizens	S.C. Code Ann. 17-27-60 . Criminal Procedures; Uniform Post-Conviction Procedures Act.	Require		Administration; Office of Circuit Public Defenders	No	No	Yes	No	No	Yes	S.C. Code Ann. 17-3-30 requires the collection of a \$40 application fee for Public Defender services from an individual who executes an affidavit that he or she is unable to employ counsel.
4	Capital case post-conviction relief procedures - provides for appointment of counsel for indigent applicants	S.C. Code Ann. 17-27-160 . Criminal Procedures; Uniform Post-Conviction Procedures Act.	Require		Administration	No	No	Yes	No	Yes	No	

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5	Training	S.C. Code Ann. 16-3-26 . Crimes and Offenses; Offenses Against the Person. S.C. Code Ann. 17-3-10, -20, -90, -310, -360 . S.C. Code Ann. 17-27-60 . Criminal Procedures; Uniform Post-Conviction Procedures Act. S.C. Code Ann. 44-48-90 , et seq. Health; Sexually Violent Predator Act. S.C. Code Ann. 63-19-830 and 63-19-1040 . Juvenile Justice Code; Detention Hearings, Screenings; Indigent Defense. S.C. Code Ann. 63-7-1620 . South Carolina Children's Code; Child Protection and Permanency.	Require	Regular training programs include an annual multi-session basic training program for new indigent defense attorneys, an ongoing series of workshops for juvenile defense attorneys, and other continuing legal education seminars and workshops pertinent to the provision of indigent defense services.	Administration	No	No	Yes	Yes	Yes	No	Training is provided for indigent defense attorneys including public defenders employed by or contracted with the various circuit public defender offices or contracted directly with the Agency to provide indigent defense services.

Note A: Services provided as part of "legal representation," include, but are not limited to:

- (1) work directly with clients to establish trusting, professional relationships which includes (a) maintaining regular contact through correspondence, phone calls, and in-person meetings; (b) visiting incarcerated clients at correctional facilities on a steady basis to discuss case strategies, fact developments, and trial preparation; (c) ensuring all communications with clients remain private; and (d) upholding ethical duties of loyalty and confidentiality to clients throughout all legal representation;
- (2) representing the accused during criminal investigative proceedings, such as (a) attending police line-ups; (b) monitoring physical examinations, such as finger-nail scraping and blood, urine, and DNA testing; (c) being present at the time an accused person is arrested; and (d) arranging for the setting of bail and posting of bond, which allows their clients to be conditionally released pending trial.;
- (3) researching the facts and laws involved in the criminal case, through pre-trial discovery, interviewing key witnesses, and conducting legal research to prepare for court appearances.
- (4) assisting the accused during critical pre-trial phases, such as pretrial conferences with judges and prosecutors, and suppression motions.
- (5) engaging in plea negotiations with the prosecutor, to obtain a reduced sentence or to have the charges dropped;
- (6) actively defending the accused in court during trial by participating in jury selections, raising defenses that may be available and advantageous for the defendant (such as self-defense, defense of property, etc.); making opening statements, examining witnesses on the witness stand, presenting evidence to judges and juries, and making closing arguments at the conclusion of trials.
- (7) attending post-trial sentencing hearings for clients who negotiate plea bargains, or are found guilty at trial. A public defender also may file an appeal if errors in court proceedings prejudiced his client's rights to a fair trial. Appeal work includes tasks such as ordering trial transcripts and filing appellate briefs and motions. A public defender may request oral arguments before appellate judges, which she must prepare for and attend if her request is granted.

Deliverables - Potential Harms
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Item #	Deliverable	Is deliverable provided because...	Optional - Service or Product component(s) (If deliverable is too broad to complete the remaining columns, list each product/service associated with the deliverable, and complete the remaining columns)	Greatest potential harm to the public if deliverable is not provided	1-3 recommendations to the General Assembly, other than \$ and providing the deliverable, for how the General Assembly can help avoid the greatest potential harm	Other state agencies whose mission the deliverable may fit within
1A	Legal Representation of indigent South Carolina citizens *See Note A for examples of services provided as part of "legal representation."	Require	Legal Services in Capital Murder Cases	The indigent citizens of South Carolina would be denied their Constitutional Rights under the 6th Amendment, the right to counsel; and 14th Amendment to equal protection under the law.	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
1B		Require	Legal Services in criminal cases	The indigent citizens of South Carolina would be denied their Constitutional Rights under the 6th Amendment, the right to counsel; and 14th Amendment to equal protection under the law.	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
1C		Require	Legal Services in murder cases	The indigent citizens of South Carolina would be denied their Constitutional Rights under the 6th Amendment, the right to counsel; and 14th Amendment to equal protection under the law.	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
1D		Require	Legal Services in process of appealing a conviction from a trial court.	The indigent citizens of South Carolina would be denied their right to counsel under Section 17-3-360 of the South Carolina Code of Laws	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
1E		Require	Legal Services in Sexually Violent Predator Act cases.	The indigent citizens of South Carolina would be denied their right to counsel under Section 44-48-90 of the South Carolina Code of Laws	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
1F		Require	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.	The indigent citizens of South Carolina would be denied their right to counsel under Section 63-7-1620 of the South Carolina Code of Laws	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
1G		Require	Post Conviction Relief; Legal services, costs and expenses in Post-Conviction Relief actions.	The indigent citizens of South Carolina would be denied their right to counsel under Sections, 17-27-60, 17-27-110 and 17-27-160 of the South Carolina Code of Laws	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
1H		Require	Legal services in Termination-of-Parental-Rights Actions and Adoption Actions.	The indigent citizens of South Carolina would be denied their right to counsel under Section 63-7-2560 and 63-9-320 of the South Carolina Code of Laws	1. Ensure that only those citizens who are indigent, receive appointed counsel. 2. Ensure that indigency screening and appointment of counsel occurs as early as possible.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.

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2	Annual Report on Indigent Defense System	Require		The General Assembly would not be able to make educated Budgetary, Policy or Programmatic decisions on the Commission on Indigent Defense	1. Maintain current system of the Annual Report submission to House of Representatives and the Senate through the Budgetary hearings process.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.
3	Court costs and expenses from indigent South Carolina citizens	Require		The indigent citizens of South Carolina would be denied their right to counsel and access to resources to provide a proper defense as established in Section 17-3-50 of the South Carolina Code of Laws	1. Require the Judiciary to follow the existing standards established in Section 17-3-50 of the South Carolina Code of Laws.	Currently there are no other state agencies have a mission that the Legal Services deliverable would fit within.
4	Capital case post-conviction relief procedures - provides for appointment of counsel for indigent applicants	Require		The indigent citizens of South Carolina would be denied their right to counsel under Section 17-27-160 of the South Carolina Code of Laws	1. Require the Judiciary to follow the existing standards established in Section 17-27-160 of the South Carolina Code of Laws.	Currently there are no other state agencies have a mission that the Legal Services deliverable would fit within.
5	Training	Require		Indigent Defense clients would not receive effective assistance of counsel	1. Ensure that indigent defense clients continue to receive effective assistance of counsel.	Currently there are no other state agencies with a mission that the Legal Services deliverable would fit within.

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- (1) work directly with clients to establish trusting, professional relationships which includes (a) maintaining regular contact through correspondence, phone calls, and in-person meetings; (b) visiting incarcerated clients at correctional facilities on a steady basis to discuss case strategies, fact developments, and trial preparation; (c) ensuring all communications with clients remain private; and (d) upholding ethical duties of loyalty and confidentiality to clients throughout all legal representation;
- (2) representing the accused during criminal investigative proceedings, such as (a) attending police line-ups; (b) monitoring physical examinations, such as finger-nail scraping and blood, urine, and DNA testing; (c) being present at the time an accused person is arrested; and (d) arranging for the setting of bail and posting of bond, which allows their clients to be conditionally released pending trial;
- (3) researching the facts and laws involved in the criminal case, through pre-trial discovery, interviewing key witnesses, and conducting legal research to prepare for court appearances.
- (4) assisting the accused during critical pre-trial phases, such as pretrial conferences with judges and prosecutors, and suppression motions.
- (5) engaging in plea negotiations with the prosecutor, to obtain a reduced sentence or to have the charges dropped;
- (6) actively defending the accused in court during trial by participating in jury selections, raising defenses that may be available and advantageous for the defendant (such as self-defense, defense of property, etc.); making opening statements, examining witnesses on the witness stand, presenting evidence to judges and juries, and making closing arguments at the conclusion of trials.
- (7) attending post-trial sentencing hearings for clients who negotiate plea bargains, or are found guilty at trial. A public defender also may file an appeal if errors in court proceedings prejudiced his client's rights to a fair trial. Appeal work includes tasks such as ordering trial transcripts and filing appellate briefs and motions. A public defender may request oral arguments before appellate judges, which she must prepare for and attend if her request is granted.