

Act No. 442  
Public Acts of 2016  
Approved by the Governor  
January 4, 2017  
Filed with the Secretary of State  
January 4, 2017  
EFFECTIVE DATE: January 4, 2017

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

Introduced by Rep. Guerra

# **ENROLLED HOUSE BILL No. 5845**

AN ACT to amend 2013 PA 93, entitled “An act to create the Michigan indigent defense commission and to provide for its powers and duties; to provide indigent defendants in criminal cases with effective assistance of counsel; to provide standards for the appointment of legal counsel; to provide for and limit certain causes of action; and to provide for certain appropriations and grants,” by amending section 15 (MCL 780.995).

*The People of the State of Michigan enact:*

Sec. 15. (1) Except as provided in section 5, if a dispute arises between the MIDC and an indigent criminal defense system concerning the requirements of this act, including a dispute concerning the approval of an indigent criminal defense system’s plan, cost analysis, or compliance with section 13 or 17, the parties shall attempt to resolve the dispute by mediation. The state court administrator, as authorized by the supreme court, shall appoint a mediator agreed to by the parties within 30 calendar days of the mailing date of the official notification of the third disapproval by the MIDC under section 13(4) to mediate the dispute and shall facilitate the mediation process. The MIDC shall immediately send the state court administrative office a copy of the official notice of that third disapproval. If the parties do not agree on the selection of the mediator, the state court administrator, as authorized by the supreme court, shall appoint a mediator of his or her choosing. Mediation shall commence within 30 calendar days after the mediator is appointed and terminate within 60 calendar days of its commencement. Mediation costs associated with mediation of the dispute shall be paid equally by the parties.

(2) If the parties do not come to a resolution of the dispute during mediation under subsection (1), all of the following apply:

(a) The mediator may submit his or her recommendation of how the dispute should be resolved to the MIDC within 30 calendar days of the conclusion of mediation for the MIDC's consideration.

(b) The MIDC shall consider the recommendation of the mediator, if any, and shall approve a final plan or the cost analysis, or both, in the manner the MIDC considers appropriate within 30 calendar days, and the indigent criminal defense system shall implement the plan as approved by the MIDC.

(c) The indigent criminal defense system that is aggrieved by the final plan, cost analysis, or both, may bring an action seeking equitable relief as described in subsection (3).

(3) The MIDC, or an indigent criminal defense system may bring an action seeking equitable relief in the circuit court only as follows:

(a) Within 60 days after the MIDC's issuance of an approved plan and cost analysis under subsection (2)(b).

(b) Within 60 days after the system receives grant funds under section 13(7), if the plan, cost analysis, or both, required a grant award for implementation of the plan.

(c) Within 30 days of the MIDC's determination that the indigent criminal defense system has breached its duty to comply with an approved plan.

(d) The action shall be brought in the judicial circuit where the indigent criminal defense service is located. The state court administrator, as authorized by the supreme court, shall assign an active or retired judge from a judicial circuit other than the judicial circuit where the action was filed to hear the case. Costs associated with the assignment of the judge shall be paid equally by the parties.

(e) The action shall not challenge the validity, legality, or appropriateness of the minimum standards approved by the department.

(4) If the dispute involves the indigent criminal defense system's plan, cost analysis, or both, the court may approve, reject, or modify the submitted plan, cost analysis, or the terms of a grant awarded under section 13(7) other than the amount of the grant, determine whether section 13 has been complied with, and issue any orders necessary to obtain compliance with this act. However, the system shall not be required to expend more than its local share in complying with this act.

(5) If a party refuses or fails to comply with a previous order of the court, the court may enforce the previous order through the court's enforcement remedies, including, but not limited to, its contempt powers, and may order that the state undertake the provision of indigent criminal defense services in lieu of the indigent criminal defense system.

(6) If the court determines that an indigent criminal defense system has breached its duty under section 17(1), the court may order the MIDC to provide indigent criminal defense on behalf of that system.

(7) If the court orders the MIDC to provide indigent criminal defense services on behalf of an indigent criminal defense system, the court shall order the system to pay the following amount of the state's costs that the MIDC determines are necessary in order to bring the indigent criminal defense system into compliance with the minimum standards established by the MIDC:

(a) In the first year, 10% of the state's costs.

(b) In the second year, 20% of the state's costs.

(c) In the third year, 30% of the state's costs.

(d) In the fourth year, 40% of the state's costs.

(e) In the fifth year, and any subsequent year, not more than the dollar amount that was calculated under subdivision (d).

(8) An indigent criminal defense system may resume providing indigent criminal defense services at any time as provided under section 13. When a system resumes providing indigent criminal defense services, it is no longer required to pay an assessment under subsection (7) but shall be required to pay no less than its share.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 98th Legislature are enacted into law:

(a) House Bill No. 5842.

(b) House Bill No. 5843.

(c) House Bill No. 5844.

(d) House Bill No. 5846.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor