

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill

HOUSE BILL 1710

4 **By: Representatives Mahony and Gibson**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §16-87-106 FOR
9 THE APPOINTMENT OF THE PUBLIC DEFENDER IN INDIGENT DEFENSE
10 CASES AND PROVIDE FOR THE AUTHORITY OF THE PUBLIC DEFENDER
11 COMMISSION IN HIRING PRACTICES; AND FOR OTHER PURPOSES."

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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Arkansas Code Annotated §16-87-106 is amended to read as
16 follows:

17 "16-87-106. Public defenders - Duties.

18 (a) (1) If the judge of any court determines that a person subject to
19 the jurisdiction of the court is entitled to representation and a public
20 defender has been created under the provisions of this chapter to represent
21 persons before the court, the court shall appoint the public defender to
22 represent the person, except in those cases where the public defender has a
23 conflict of interest, or is unable to provide indigent defense to a particular
24 court at that time. The commission shall provide an alternative appointment
25 procedure and compensation schedule for court appointed attorneys where the
26 public defender is not available.

27 (2) The public defender shall maintain records regarding the
28 conduct of his office and the performance of his duties pursuant to procedures
29 to be established by the Judicial Department of the State of Arkansas. The
30 records shall be available to the commission and the public, except for
31 records concerning matters that are privileged under existing law.

32 (b) The commission shall determine if the public defender or his staff
33 may be allowed to engage in the private practice of law outside of their
34 duties as created and defined by the terms of this chapter.

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1 SECTION 2. All provisions of this act of a general and permanent nature
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 3. If any provision of this act or the application thereof to
6 any person or circumstance is held invalid, such invalidity shall not affect
7 other provisions or applications of the act which can be given effect without
8 the invalid provision or application, and to this end the provisions of this
9 act are declared to be severable.

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11 SECTION 4. All laws and parts of laws in conflict with this act are
12 hereby repealed.

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14 *SECTION 5. It is hereby found and determined by the General Assembly*
15 *that the present law pertaining to the defense of indigent persons by public*
16 *defenders is in need of strengthening; this Act makes the necessary changes*
17 *in the public defender law; and that this Act should go into effect as soon as*
18 *possible in order to protect the constitutional rights of indigent defendants.*
19 *Therefore, an emergency is hereby declared to exist and this Act being*
20 *immediately necessary for the preservation of the public peace, health and*
21 *safety shall be in full force and effect from and after its passage and*
22 *approval.*

23 /s/ J. Mahony and B. Gibson
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