16 P.S. § 9960.1

**Short title**

This act shall be known and may be cited as the “Public Defender Act.”

16 P.S. § 9960.2

**Definitions**

As used in this act:

**“Court”** means the court of record which has obtained jurisdiction of a person charged with being a juvenile delinquent, or of a defendant charged with an indictable offense or will obtain jurisdiction of the defendant if he be held for the grand jury.

**“County”** means the county in which jurisdiction over the defendant lies or will lie.

16 P.S. § 9960.3

**Public defender; establishment**

In each county except the County of Philadelphia, there shall be a public defender, appointed as herein provided. Two or more counties may cooperate in the appointment of a public defender, as provided in the intergovernmental cooperation provisions of the Constitution of Pennsylvania or as provided by law.

16 P.S. § 9960.4

**Public defender; appointment**

The public defender shall be appointed by the Board of County Commissioners.

16 P.S. § 9960.5

**Personnel of office; compensation; qualification**

(a) The public defender, with the approval of the appointive body, may provide for as many full or part time assistant public defenders, clerks, investigators, stenographers and other employees as he may deem necessary to enable him to carry out the duties of his office. The salary board shall fix the salary of the public defender and of the personnel authorized by this section.

(b) In lieu of, or in addition to assistant public defenders, the public defender may arrange for and make use of the services of attorneys at law admitted to practice before the Supreme and Superior Courts of this Commonwealth and the court of common pleas of the county or counties in which they may serve, when such attorneys volunteer to act as assistants, without compensation, to enable him to carry out the duties of his office.

(c) The public defender and assistant public defenders, if any, shall be attorneys at law admitted to practice before the Supreme and Superior Courts of this Commonwealth. Residency within a judicial district shall not be a requirement for the appointment of a public defender.

16 P.S. § 9960.6

**Duties**

(a) The public defender shall be responsible for furnishing legal counsel, in the following types of cases, to any person who, for lack of sufficient funds, is unable to obtain legal counsel:

(1) Where a person is charged with juvenile delinquency;

(2) Critical pretrial identification procedures;

(3) Preliminary hearings;

(4) State habeas corpus proceedings;

(5) State trials, including pretrial and posttrial motions;

(6) Superior Court appeals;

(7) Pennsylvania Supreme Court appeals;

(8) Postconviction hearings, including proceedings at the trial and appellate levels;

(9) Criminal extradition proceedings;

(10) Probation and parole proceedings and revocation thereof;

(11) In any other situations where representation is constitutionally required.

(b) The public defender, after being satisfied of the person's inability to procure sufficient funds to obtain legal counsel to represent him, shall provide such counsel.

Every person who requests legal counsel shall sign an affidavit that he is unable to procure sufficient funds to obtain legal counsel to represent him and shall provide, under oath, such other information as may be required by the court, the public defender, or the Pennsylvania Rules of Criminal Procedure.

(c) The public defender, when appointed by the court, shall furnish legal counsel to persons who are or may be subject to commitment in a proceeding under the act of October 20, 1966 (3rd Sp. Sess., P.L. 96, No. 6),[1](https://1.next.westlaw.com/Document/NBF4F46A0342C11DA8A989F4EECDB8638/View/FullText.html?originationContext=previousnextsection&contextData=(sc.Document)&transitionType=StatuteNavigator&needToInjectTerms=False&ppcid=c7251284e224468f938fa04813d76498#co_footnote_IFD4516F0E3A311EB86CC80F7F32A769F) known as the “Mental Health and Mental Retardation Act of 1966.”

**1.Validity**

Statute requiring a county public defender to determine the financial eligibility of a criminal defendant, for representation by the county public defender's office, does not violate separation of powers; the courts still have a role in the process of determining eligibility.  [Dauphin County Public Defender's Office v. Court of Common Pleas of Dauphin County, 849 A.2d 1145, 578 Pa. 59](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=2004522566&pubNum=0000651&originatingDoc=NBF4F46A0342C11DA8A989F4EECDB8638&refType=RP&originationContext=notesOfDecisions&contextData=%28sc.Document%29&transitionType=NotesOfDecisionItem&ppcid=114c3426bdaa4ff4ae44e21cc09d5394), Sup.2004.  [Constitutional Law](https://1.next.westlaw.com/Browse/Home/KeyNumber/92/View.html?docGuid=NBF4F46A0342C11DA8A989F4EECDB8638&ppcid=114c3426bdaa4ff4ae44e21cc09d5394&originationContext=notesOfDecisions&transitionType=NotesOfDecisionItem&contextData=%28sc.Document%29) Key Number[2374](https://1.next.westlaw.com/Browse/Home/KeyNumber/92k2374/View.html?docGuid=NBF4F46A0342C11DA8A989F4EECDB8638&ppcid=114c3426bdaa4ff4ae44e21cc09d5394&originationContext=notesOfDecisions&transitionType=NotesOfDecisionItem&contextData=%28sc.Document%29);  [Criminal Law](https://1.next.westlaw.com/Browse/Home/KeyNumber/110/View.html?docGuid=NBF4F46A0342C11DA8A989F4EECDB8638&ppcid=114c3426bdaa4ff4ae44e21cc09d5394&originationContext=notesOfDecisions&transitionType=NotesOfDecisionItem&contextData=%28sc.Document%29) Key Number[1840](https://1.next.westlaw.com/Browse/Home/KeyNumber/110k1840/View.html?docGuid=NBF4F46A0342C11DA8A989F4EECDB8638&ppcid=114c3426bdaa4ff4ae44e21cc09d5394&originationContext=notesOfDecisions&transitionType=NotesOfDecisionItem&contextData=%28sc.Document%29)

#### 5.Financial resources

Court of common pleas did not have authority to dictate, to county public defender's office, the income levels above which a criminal defendant would not be permitted to show that he or she did not have the financial resources with which to hire private counsel, as basis for establishing financial eligibility for representation by public defender's office.  [Dauphin County Public Defender's Office v. Court of Common Pleas of Dauphin County, 849 A.2d 1145, 578 Pa. 59](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=2004522566&pubNum=0000651&originatingDoc=NBF4F46A0342C11DA8A989F4EECDB8638&refType=RP&originationContext=notesOfDecisions&contextData=%28sc.Document%29&transitionType=NotesOfDecisionItem&ppcid=114c3426bdaa4ff4ae44e21cc09d5394), Sup.2004.  [Criminal Law](https://1.next.westlaw.com/Browse/Home/KeyNumber/110/View.html?docGuid=NBF4F46A0342C11DA8A989F4EECDB8638&ppcid=114c3426bdaa4ff4ae44e21cc09d5394&originationContext=notesOfDecisions&transitionType=NotesOfDecisionItem&contextData=%28sc.Document%29) Key Number[1840](https://1.next.westlaw.com/Browse/Home/KeyNumber/110k1840/View.html?docGuid=NBF4F46A0342C11DA8A989F4EECDB8638&ppcid=114c3426bdaa4ff4ae44e21cc09d5394&originationContext=notesOfDecisions&transitionType=NotesOfDecisionItem&contextData=%28sc.Document%29)

**§ 9960.7. Appointment of other attorneys by court of common pleas**

For cause, the court of common pleas may, on its own motion or upon the application of the public defender, the defendant, or person charged with being a juvenile delinquent, appoint an attorney other than the public defender to represent the person charged at any stage of the proceedings. The attorney so appointed shall be awarded reasonable compensation, and reimbursement for expenses necessarily incurred, to be fixed by the judge of the court of common pleas sitting at the trial or hearing of the case and paid by the county.

16 P.S. § 9960.8

**Penalties; restitution**

(a) False affidavits and false statements made by any person for the purpose of securing counsel or services under the provisions of this act shall subject the persons making such false affidavits or statements to the penalties prescribed by law for perjury.

(b) Any person who has been convicted of making a false affidavit or false statement for the purpose of securing counsel or services under this act shall make restitution as the court shall determine to the county and the Commonwealth of Pennsylvania of all moneys paid on the basis of the false affidavit or false statement.

16 P.S. § 9960.9

**Facilities**

The board of commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of that office.

16 P.S. § 9960.10a

**Expenses for parole proceedings**

The county which imposed the sentence from which the defendant was paroled shall be responsible for reimbursing the public defender's office of any other county for reasonable expenses incurred for representing that defendant in a parole revocation proceeding and appeals therefrom.