

§1804. Commission responsibilities

1. Executive director. The commission shall hire an executive director. The executive director must have experience in the legal field, including, but not limited to, the provision of indigent legal services.

[PL 2009, c. 419, §2 (NEW).]

2. Rulemaking. The commission shall adopt rules governing the delivery of indigent legal services by assigned counsel, contract counsel and public defenders. The rules adopted by the commission must include:

A. Standards governing eligibility for indigent legal services. The eligibility standards must take into account the possibility of a defendant's or civil party's ability to make periodic installment payments toward counsel fees and the cost of private legal services in the relevant geographic area; [PL 2023, c. 344, §1 (AMD).]

B. Standards prescribing minimum experience, training and other qualifications for contract counsel, assigned counsel and public defenders; [PL 2023, c. 344, §1 (AMD).]

C. Standards for assigned counsel, contract counsel and public defender case loads; [PL 2023, c. 344, §1 (AMD).]

D. Standards for the evaluation of assigned counsel, contract counsel and public defenders. The commission shall review the standards developed pursuant to this paragraph at least every 5 years, or earlier upon the recommendation of the executive director; [PL 2023, c. 344, §1 (AMD).]

E. Standards for independent, high-quality and efficient representation of clients whose cases present conflicts of interest; [PL 2023, c. 344, §1 (AMD).]

F. Standards for the reimbursement of expenses incurred by assigned counsel, contract counsel and public defenders, including attendance at training events provided by the commission; and [PL 2023, c. 344, §1 (AMD).]

G. Other standards considered necessary and appropriate to ensure the delivery of adequate indigent legal services. [PL 2009, c. 419, §2 (NEW).]
[PL 2023, c. 344, §1 (AMD).]

3. Duties. The commission shall:

A. Develop and maintain a system that employs public defenders, uses appointed private attorneys and contracts with individual attorneys or groups of attorneys. The commission shall consider other programs necessary to provide quality and efficient indigent legal services; [PL 2023, c. 344, §2 (AMD).]

B. Develop and maintain an assigned counsel voucher review and payment authorization system that includes disposition information; [PL 2017, c. 284, Pt. UUUU, §3 (AMD).]

C. Establish processes and procedures consistent with commission standards to ensure that office and contract personnel use information technology and case load management systems so that detailed expenditure and case load data are accurately collected, recorded and reported; [PL 2011, c. 420, Pt. C, §1 (AMD).]

D. Develop criminal defense, child protective and involuntary commitment representation training and evaluation programs for attorneys throughout the State to ensure an adequate pool of qualified attorneys; [PL 2009, c. 419, §2 (NEW).]

E. Establish minimum qualifications to ensure that attorneys are qualified and capable of providing quality representation in the case types to which they are assigned, recognizing that quality

representation in each of these types of cases requires counsel with experience and specialized training in that field; [PL 2009, c. 419, §2 (NEW).]

F. Establish rates of compensation for assigned counsel and contract counsel; [PL 2023, c. 344, §3 (AMD).]

G. Establish a method for accurately tracking, monitoring and enforcing case load standards for assigned counsel, contract counsel and public defenders; [PL 2023, c. 344, §4 (AMD).]

H. By January 15th of each year, submit to the Legislature, the Chief Justice of the Supreme Judicial Court and the Governor an annual report on the operation, needs and costs of the indigent legal services system. The report must include:

- (1) An evaluation of: contracts; services provided by contract counsel, assigned counsel and public defenders; any contracted professional services; and cost containment measures; and
- (2) An explanation of the relevant law changes to the indigent legal services covered by the commission and the effect of the changes on the quality of representation and costs.

The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation on matters related to the report; [PL 2023, c. 344, §5 (AMD).]

I. Approve and submit a biennial budget request to the Department of Administrative and Financial Services, Bureau of the Budget, including supplemental budget requests as necessary; [PL 2013, c. 159, §11 (AMD).]

J. Develop an administrative review and appeal process for attorneys who are aggrieved by a decision of the executive director, or the executive director's designee, determining:

- (1) Whether an attorney meets the minimum eligibility requirements to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements;
- (2) Whether an attorney previously found eligible is no longer eligible to receive assignments or to receive assignments in specialized case types pursuant to any commission rule setting forth eligibility requirements; and
- (3) Whether to grant or withhold a waiver of the eligibility requirements set forth in any commission rule.

All decisions of the commission, including decisions on appeals under subparagraphs (1), (2) and (3), constitute final agency action. All decisions of the executive director, or the executive director's designee, other than decisions appealable under subparagraphs (1), (2) and (3), constitute final agency action; [PL 2017, c. 284, Pt. UUUU, §5 (AMD).]

K. Pay appellate counsel; [PL 2017, c. 284, Pt. UUUU, §6 (AMD).]

L. Establish processes and procedures to acquire investigative and expert services that may be necessary for a case, including contracting for such services; [PL 2019, c. 427, §3 (AMD).]

M. Establish procedures for handling complaints about the performance of counsel providing indigent legal services; [PL 2021, c. 481, §2 (AMD).]

N. Develop a procedure for approving requests by counsel for authorization to file a petition as described in section 1802, subsection 4, paragraph D; [PL 2023, c. 394, Pt. A, §1 (AMD).]

O. Establish a system to audit financial requests and payments that includes the authority to recoup payments when necessary. The commission may summon persons and subpoena witnesses and compel their attendance, require production of evidence, administer oaths and examine any person under oath as part of an audit. Any summons or subpoena may be served by registered mail with

return receipt. Subpoenas issued under this paragraph may be enforced by the Superior Court; and [PL 2023, c. 394, Pt. A, §2 (AMD).]

P. Develop and maintain a registry of names, telephone numbers and other contact information for attorneys who provide legal services to persons who are incarcerated. The commission shall on a weekly basis provide these names, telephone numbers and other contact information to all sheriffs' offices and to the Department of Corrections. On the Monday following transmission of the information, the sheriffs' offices and the Department of Corrections have constructive notice that communications to and from these attorneys by residents of jails and correctional facilities are subject to the attorney-client privilege. The attorneys' names, telephone numbers and other contact information are confidential. [PL 2023, c. 394, Pt. A, §3 (NEW).]

[PL 2023, c. 394, Pt. A, §§1-3 (AMD).]

4. Powers. The commission may:

A. Establish and maintain a principal office and other offices within the State as it considers necessary; [PL 2009, c. 419, §2 (NEW).]

B. Meet and conduct business at any place within the State; [PL 2009, c. 419, §2 (NEW).]

C. Use voluntary and uncompensated services of private individuals and organizations as may from time to time be offered and needed; [PL 2009, c. 419, §2 (NEW).]

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish rates of compensation for assigned counsel and contract counsel under subsection 3, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and [PL 2021, c. 398, Pt. FFF, §1 (AMD); PL 2021, c. 481, §5 (AMD).]

E. Appear in court and before other administrative bodies represented by its own attorneys. [PL 2009, c. 419, §2 (NEW).]

[PL 2021, c. 398, Pt. FFF, §1 (AMD); PL 2021, c. 481, §5 (AMD).]

SECTION HISTORY

PL 2009, c. 419, §2 (NEW). PL 2011, c. 141, §1 (AMD). PL 2011, c. 420, Pt. C, §1 (AMD). PL 2013, c. 159, §§11-13 (AMD). PL 2013, c. 368, Pt. RRR, §1 (AMD). PL 2013, c. 368, Pt. RRR, §4 (AFF). PL 2017, c. 284, Pt. UUUU, §§1-7 (AMD). PL 2019, c. 427, §§3, 4 (AMD). PL 2021, c. 398, Pt. FFF, §1 (AMD). PL 2021, c. 481, §§1-5 (AMD). PL 2021, c. 720, §1 (AMD). PL 2023, c. 344, §§1-5 (AMD). PL 2023, c. 394, Pt. A, §§1-3 (AMD).

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