

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2738

By Delegates Heckert, Roop, T. Clark, and D. Cannon

[Introduced February 21, 2025; referred to the
Committee on the Judiciary then Finance]

A BILL amend and reenact §29-21-8 of the Code of West Virginia, 1931, as amended; relating to inserting a proviso that expands the reasons that an executive director may create, merge, or dissolve a public defender corporation, and also amends to require the executive director to split existing public defender corporations into two separate, and independent public defender corporations, governed by the same board of directors, when the executive director determines that a public defender corporation employs six or more assistant public defenders, inclusive of the public defender.

Be it enacted by the Legislature of West Virginia:

ARTICLE 21. PUBLIC DEFENDER SERVICES.

§29-21-8. Public defender corporations; establishment thereof.

(a) (1) In each judicial circuit of the state, there is hereby created a public defender corporation of the circuit: *Provided*, That the executive director, with the approval of the Indigent Defense Commission, may authorize the creation, merger or dissolution of a public defender corporation in a judicial circuit where the creation, merger or dissolution of such a public defender corporation would improve the quality and availability of legal representation, address conflicts of interest, assure the prudent and resourceful expenditure of state funds and further the purposes of this article: *Provided, however*, That prior to the creation, merger or dissolution of a public defender corporation in accordance with this subsection, the commission shall provide a report to the Legislature pursuant to §29-21-3b (g) of this code for approval of the creation, merger, or dissolution of any public defender corporation: *Provided further*, That notwithstanding the provisions of this section of the code to the contrary, when the executive director determines that a public defender corporation employs six or more assistant public defenders, inclusive of the public defender, such corporation shall be split into two separate and distinct public defender corporations and shall operate independently of each other, and this newly created public defender corporation shall be governed by the same board of directors that governs the already existing public defender corporation in that judicial circuit, as provided in §29-21-15.

17 (2) The purpose of these public defender corporations is to provide legal representation in
18 the respective circuits in accordance with the provisions of this article. A public defender
19 corporation may employ full-time attorneys and employ part-time attorneys in whatever
20 combination that the public defender corporation deems most cost effective.

21 (b) If the executive director, with the approval of the Indigent Defense Commission,
22 determines there is a need to activate, merge or dissolve a corporation in a judicial circuit of the
23 state, pursuant to subsection (a) of this section, the Indigent Defense Commission shall first
24 consult with and give substantial consideration to the recommendation of the judge of a single-
25 judge circuit or the chief judge of a multijudge circuit.

NOTE: The purpose of this bill is to allow for the creation of a second public defender corporation when that public defender corporation employs six or more assistant public defenders inclusive of the chief public defender.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.