

118TH CONGRESS
2D SESSION

S. 5526

To establish a Federal Public Defender Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2024

Mr. WELCH introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To establish a Federal Public Defender Commission, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Public Defense
5 Commission Act of 2024”.

6 **SEC. 2. PROVISION OF FEDERAL PUBLIC DEFENSE.**

7 (a) IN GENERAL.—Chapter 201 of title 18, United
8 States Code, is amended by striking section 3006A and
9 inserting the following:

1 **“§ 3006A. Appointment of Counsel for financially eli-**
2 **gible persons**

3 “(a) ELIGIBILITY.—Any person who is financially un-
4 able to obtain adequate representation shall be provided
5 representation in accordance with this section.

6 “(b) SCOPE.—Representation shall be provided by a
7 Federal Public Defender Organization or attorneys se-
8 lected from a panel of qualified attorneys as set forth in
9 this section and shall include investigative, expert, and
10 other services necessary for adequate representation.

11 “(c) MANDATORY APPOINTMENT.—Representation
12 shall be provided for any financially qualified person
13 who—

14 “(1) is charged in Federal court with a felony
15 or a Class A misdemeanor;

16 “(2) is a juvenile alleged to have committed an
17 act of juvenile delinquency, as defined in section
18 5031;

19 “(3) is charged with a violation of probation or
20 supervised release, or faces a modification, reduc-
21 tion, or enlargement of a condition of probation or
22 supervised release, or faces an extension or revoca-
23 tion of a term of probation or supervised release;

24 “(4) is under arrest, when such representation
25 is required by law;

1 “(5) is subject to a mental condition hearing
2 under chapter 313;

3 “(6) is in custody as a material witness;

4 “(7) faces loss of liberty in a case;

5 “(8) is entitled to the appointment of counsel
6 under section 4109;

7 “(9) is entitled to the appointment of counsel
8 under section 3599;

9 “(10) is appealing or responding to an appeal,
10 including a bail appeal, interlocutory appeal, petition
11 for rehearing, petition for en banc, or petition for
12 certiorari; or

13 “(11) is otherwise entitled to appointment of
14 counsel under the Sixth Amendment to the Constitu-
15 tion of the United States.

16 “(d) NONMANDATORY APPOINTMENT.—Representa-
17 tion may be provided for any financially qualified person
18 who—

19 “(1) is charged with a Class B or C mis-
20 demeanor, or an infraction for which a sentence to
21 confinement is authorized;

22 “(2) is seeking relief in non-capital cases under
23 section 2241, 2254, or 2255 of title 28;

1 “(3) is seeking clemency in non-capital cases,
2 including a pardon, commutation of sentence, remis-
3 sion of fine or restitution, or a reprieve;

4 “(4) is charged with civil or criminal contempt;

5 “(5) may be a witness before a grand jury, a
6 court, or other Federal tribunal which has the power
7 to compel testimony and where there is reason to be-
8 lieve, either prior to or during testimony, that the
9 witness could be subject to a criminal prosecution, a
10 civil or criminal contempt proceeding, or face loss of
11 liberty;

12 “(6) has been proposed by the United States
13 attorney for processing under a pretrial diversion
14 program, or is facing cancellation of a diversion
15 agreement;

16 “(7) is being held for international extradition
17 under chapter 209;

18 “(8) may be eligible for a reduced or modified
19 sentence; or

20 “(9) otherwise deserves appointment of counsel
21 for purposes of protection against criminal liability
22 or loss of liberty.

23 “(e) PROCEDURES.—

24 “(1) IN GENERAL.—When a United States at-
25 torney, magistrate judge, or other court official be-

1 comes aware that a person may meet the criteria set
2 forth in subsection (c) or (d) of this section for the
3 appointment of counsel, they shall notify the Federal
4 Public Defender for their district and advise the per-
5 son of the right to be represented by counsel and
6 that counsel will be appointed if such person is fi-
7 nancially unable to obtain counsel. The United
8 States attorneys, judiciary, and other court officials
9 shall cooperate and communicate with the Federal
10 Public Defender in the appropriate judicial district
11 to ensure that counsel is timely provided in all quali-
12 fied cases.

13 “(2) APPOINTMENT OF COUNSEL.—Unless the
14 person has retained counsel or knowingly and volun-
15 tarily waives representation by counsel, the court
16 shall determine the person’s financial eligibility for
17 appointed counsel at the initial appearance in court
18 or at the request of the Federal Public Defender.
19 Upon such determination that the person financially
20 qualifies for appointed counsel, the court shall direct
21 the Federal Public Defender for their district to ap-
22 point counsel in accordance with the provisions of
23 this section. Such appointment may be made retro-
24 active to include any representation furnished prior
25 to appointment. The Federal Public Defender shall

1 appoint separate counsel for all qualified persons
2 having interests that cannot properly be represented
3 by the same counsel, or when other good cause is
4 shown. If at any stage of the proceedings, the court
5 determines that a person has become financially un-
6 able to pay counsel who the person had retained, the
7 court shall direct the Federal Public Defender to
8 provide counsel consistent with the provisions of this
9 section.

10 “(3) TERMINATION OF COUNSEL.—If at any
11 time after the appointment of counsel, the court
12 finds that the person represented is financially able
13 to obtain counsel, the court may terminate the ap-
14 pointment of counsel as the interests of justice may
15 dictate.

16 “(4) SUBSTITUTE COUNSEL.—In the interests
17 of justice or at the direction of the court, a Federal
18 Public Defender may provide substitute counsel to
19 financially qualified persons at any stage of the pro-
20 ceedings.

21 “(5) DURATION.—A person for whom counsel is
22 appointed shall be represented at every stage of the
23 proceedings continuing through appeal, including an-
24 cillary matters appropriate to the proceedings.

1 “(6) MOTION FOR ADEQUATE COUNSEL.—If the
2 Federal Public Defender does not appoint counsel,
3 terminates counsel, substitutes counsel, or denies re-
4 sources necessary to the defense contrary to the per-
5 son’s constitutional rights, the person may raise the
6 issue with the court by ex parte motion. If the court
7 grants the request, the court shall direct the Federal
8 Public Defender for their district to appoint counsel
9 or provide resources.

10 “(7) STANDBY COUNSEL.—If the court finds a
11 person has knowingly and voluntarily waived the
12 right to representation by counsel, the court may di-
13 rect the Federal Public Defender for their district to
14 appoint standby counsel or otherwise provide re-
15 sources in accordance with the court’s order.

16 “(f) APPEAL.—A person for whom counsel is ap-
17 pointed under this section may appeal to an appellate
18 court or petition for writ of certiorari without prepayment
19 of fees and costs or security therefore and without filing
20 the affidavit required by section 1915(a) of title 28.

21 “(g) FEDERAL PUBLIC DEFENSE COMMISSION; PUR-
22 POSE; ESTABLISHMENT; GOVERNANCE.—

23 “(1) ESTABLISHMENT.—There is established an
24 independent commission within the Judicial Branch
25 of the United States called the Federal Public De-

1 fense Commission for the purpose of providing high-
2 quality criminal defense services to all financially
3 qualified persons.

4 “(2) PURPOSES.—The purposes of the Commis-
5 sion are to—

6 “(A) provide effective, competent, and con-
7 flict-free representation to all financially quali-
8 fied persons;

9 “(B) ensure the efficacy and fairness of
10 the Federal criminal legal system; and

11 “(C) advise and educate the Executive,
12 Legislative, and Judicial Branches about the ef-
13 fects of actual and proposed executive, judicial,
14 and legislative policies on persons impacted by
15 the Federal criminal legal system.

16 “(3) COMMISSION STRUCTURE.—The Commis-
17 sion shall be governed by the Executive Board that
18 is advised by the Advisory Board. The Commission
19 shall further be advised by Circuit Boards which im-
20 plement the Commission’s work in each Federal ju-
21 dicial circuit.

22 “(4) EXECUTIVE BOARD; COMPOSITION; AP-
23 POINTMENT; QUALIFICATIONS.—

24 “(A) COMPOSITION.—The Executive Board
25 shall consist of—

1 “(i) 7 voting members appointed pur-
2 suant to this section;

3 “(ii) the Defender and Panel Rep-
4 resentative Chairs and Vice Chairs of the
5 Advisory Board established pursuant to
6 this section who shall be ex-officio voting
7 members; and

8 “(iii) the Executive Director of the
9 Commission who shall be an ex-officio non-
10 voting member.

11 “(B) APPOINTED MEMBERS.—

12 “(i) INITIAL APPOINTMENT.—

13 “(I) IN GENERAL.—Not later
14 than 1 year after the date of enact-
15 ment of the Federal Public Defense
16 Commission Act of 2024, the Chief
17 Justice of the United States shall ap-
18 point the 7 non-partisan appointed
19 members from among a list of 12
20 nominees submitted by the existing
21 Defender Services Advisory Group
22 within the Administrative Office of
23 the United States Courts. The Chief
24 Justice may designate the Defender
25 Services Advisory Group to appoint

1 the initial appointed members of the
2 Executive Board. If the Chief Justice
3 fails to make the appointments within
4 1 year, the Defender Services Advi-
5 sory Group shall appoint the 7 ap-
6 pointed members.

7 “(II) LIST.—The Defender Serv-
8 ices Advisory Group shall provide a
9 list of 12 nominees to the Chief Jus-
10 tice not later than 180 days after the
11 date of the enactment of the Federal
12 Public Defense Commission Act of
13 2024.

14 “(ii) CHAIR AND VICE CHAIR; INITIAL
15 APPOINTMENT.—At the same time as the
16 initial appointments, the Chief Justice, or
17 the Defender Services Advisory Group if
18 the Chief Justice fails to make the ap-
19 pointments, shall designate 1 appointed
20 member as Chair and 1 as Vice Chair. The
21 Chair and Vice Chair are subject to re-
22 moval by the Chief Justice of the United
23 States, after consulting with the Judicial
24 Conference.

1 “(iii) VACANCIES AND SUBSEQUENT
2 APPOINTMENTS.—As vacancies arise
3 among the appointed members, the Chief
4 Justice shall within 90 days of each va-
5 cancy make an appointment from a list of
6 5 nominees submitted by the Advisory
7 Board. If the Chief Justice does not make
8 an appointment within 90 days of vacancy,
9 the Executive Board shall fill the vacancy
10 by making an appointment, by a majority
11 vote, from the list of 5 nominees submitted
12 by the Advisory Board to the Chief Jus-
13 tice.

14 “(iv) TERM OF OFFICE.—The 7 ap-
15 pointed members shall be appointed for 6-
16 year terms, except that the initial terms of
17 the first appointed members shall be stag-
18 gered so that the Chair and Vice Chair
19 serve terms of 6 years, 3 appointed mem-
20 bers serve terms of 4 years, and 2 ap-
21 pointed members serve terms of 2 years.

22 “(v) QUALIFICATIONS.—To be eligible
23 for appointment to the Executive Board,
24 any appointed member must have devoted
25 a substantial portion of their law practice

1 or professional career to the representation
2 of individuals charged with or convicted of
3 crimes for at least the 5-year period prior
4 to their appointment. No member of the
5 Board, at the time of membership, may be
6 any of the following:

7 “(I) An employee of a Federal
8 Public Defender Office or Community
9 Defender Organization.

10 “(II) A panel attorney.

11 “(III) A judge or employee of
12 any court.

13 “(IV) A prosecutor, an employee
14 of a prosecutor’s office, or anyone who
15 has held such position during a 5-year
16 period prior to appointment.

17 “(V) A law enforcement officer
18 or an employee of a law enforcement
19 agency or anyone who has held such
20 position during a 5-year period prior
21 to appointment.

22 “(VI) An employee of the Com-
23 mission.

1 “(vi) RESTRICTION ON TERMS.—No
2 appointed member of the Board may serve
3 more than 2 full 6-year terms.

4 “(C) MEETINGS.—The Executive Board
5 and Advisory Board will meet in joint session at
6 least twice a year in person and as often as
7 needed in the interim.

8 “(D) MEMBERSHIP AND TERMS OF OTHER
9 MEMBERS.—The Defender and Panel Rep-
10 resentative Chairs and Vice Chairs of the Advi-
11 sory Board shall serve as ex-officio voting mem-
12 bers of the Executive Board throughout their
13 terms once elected by the Advisory Board. The
14 Executive Director of the Commission shall
15 serve as an ex-officio, nonvoting member of the
16 Executive Board while serving as Executive Di-
17 rector.

18 “(E) REMOVAL OF MEMBERS.—Any mem-
19 ber of the Executive Board may, for malfea-
20 sance in office, persistent neglect of or inability
21 to discharge duties, or conviction for an offense
22 involving moral turpitude, be removed by a vote
23 of the majority of the Executive Board.

1 “(F) QUORUM.—Seven members of the
2 Executive Board shall constitute a quorum for
3 the purpose of transacting business.

4 “(5) ADVISORY BOARD; COMPOSITION AND AP-
5 POINTMENT.—

6 “(A) COMPOSITION.—The Advisory Board
7 shall consist of a Federal Public Defender and
8 a Panel Representative from each Federal judi-
9 cial circuit. Once convened, the Advisory Board
10 shall elect a Defender Chair, Defender Vice
11 Chair, a Panel Representative Chair, and Panel
12 Representative Vice Chair. The Chairs and Vice
13 Chairs shall serve as voting ex-officio members
14 of the Executive Board.

15 “(B) INITIAL APPOINTMENT.—At a time of
16 their own election, but no later than 1 year
17 after the date of enactment of the Federal Pub-
18 lic Defense Commission Act of 2024, the then-
19 current members of the Defender Services Advi-
20 sory Group shall become the initial Advisory
21 Board. Not later than 1 year after the date of
22 enactment of this Act, defender representatives
23 and panel representatives for the First Circuit,
24 Second Circuit, and District of Columbia Cir-

1 cuit shall be elected pursuant to subparagraph
2 (C).

3 “(C) VACANCIES.—If a vacancy arises that
4 was previously occupied by a Federal Public
5 Defender, that position shall be filled by a ma-
6 jority vote of the Federal Public Defenders
7 from that circuit. If a vacancy arises that was
8 previously occupied by a Panel Representative,
9 that position shall be filled by a majority vote
10 of the panel attorneys from that circuit.

11 “(D) TERM OF OFFICE.—Members of the
12 Advisory Board shall serve 3-year terms. Mem-
13 bers may serve no more than 2 consecutive
14 terms. Previous terms served on the Defender
15 Services Advisory Group shall not be treated as
16 terms on the Advisory Board for this purpose.
17 There shall be no limit on the number of non-
18 consecutive terms.

19 “(E) REMOVAL.—If a Federal Public De-
20 fender or Panel Representative is no longer em-
21 ployed a Federal Public Defender or no longer
22 serves as a panel attorney in their Federal judi-
23 cial circuit, they shall be removed from the Ad-
24 visory Board. Any member of the Advisory
25 Board may, for malfeasance in office, persistent

1 neglect of or inability to discharge duties, or
2 conviction of an offense involving moral turpi-
3 tude, be removed by a vote of the majority of
4 the Advisory Board.

5 “(6) CIRCUIT BOARDS; COMPOSITION; APPOINT-
6 MENT; QUALIFICATIONS.—

7 “(A) COMPOSITION.—Each Federal judi-
8 cial circuit shall have a Circuit Board. Member-
9 ship of each Circuit Board shall consist of 1
10 representative from each district in the judicial
11 circuit or, where a Federal Public Defender is
12 appointed for 2 or more districts, 1 representa-
13 tive from those districts. The Advisory Board
14 Federal Public Defender and Panel Representa-
15 tive for a corresponding circuit shall be ex-offi-
16 cio voting members of their Circuit Board. Once
17 convened, each Circuit Board shall elect a Chair
18 and a Vice Chair. The Circuit Board for the
19 United States Court of Appeals for the District
20 of Columbia Circuit shall have 5 members.

21 “(B) INITIAL APPOINTMENT.—Not later
22 than 1 year after enactment of the Federal
23 Public Defense Commission Act of 2024, the
24 Executive Board shall appoint initial Circuit
25 Boards for each Federal judicial circuit from a

list of at least 3 nominees for each judicial district submitted by that judicial circuit's Federal Public Defenders and Panel Representative.

“(C) VACANCIES.—As vacancies arise on each Circuit Board, each vacancy shall be filled by the remaining members, who shall by majority vote select a new member from a list of at least 3 nominees submitted by that Federal judicial circuit's Federal Public Defenders and Panel Representative.

“(D) TERM OF OFFICE.—Members of a Circuit Board shall serve 3-year terms. No member shall serve more than 2 consecutive terms. There shall be no limit on the number of non-consecutive terms.

“(E) QUALIFICATIONS.—

“(i) IN GENERAL.—To be eligible for appointment to a Circuit Board, a candidate must have devoted a substantial portion of their law practice or professional career to the representation of individuals charged with or convicted of crimes for at least the 5-year period prior to their candidacy, and they must exhibit a commit-

1 ment to upholding the mission of public
2 defense.

3 “(ii) ELIGIBILITY.—At the time of
4 membership, no Circuit Board non-ex-offi-
5 cio member may be any of the following:

6 “(I) An employee of a Federal
7 Public Defender Office or Community
8 Defender Organization.

9 “(II) A judge or employee of any
10 court.

11 “(III) A prosecutor, an employee
12 of a prosecutor’s office, or anyone who
13 has held such position during a 5-year
14 period prior to appointment.

15 “(IV) A law enforcement officer
16 or an employee of a law enforcement
17 agency or anyone who has held such
18 position during a 5-year period prior
19 to appointment.

20 “(V) An employee of the Com-
21 mission.

22 “(F) REMOVAL.—Any member of any Cir-
23 cuit Board may, for malfeasance in office, per-
24 sistent neglect of or inability to discharge du-
25 ties, or conviction of an offense involving moral

1 turpitude, be removed by a vote of the majority
2 of that Circuit Board.

3 “(h) COMPENSATION AND REIMBURSEMENT OF
4 BOARD MEMBERS.—

5 “(1) EXECUTIVE BOARD.—

6 “(A) CHAIR AND VICE CHAIR; RATES OF
7 PAY.—The Chair and Vice Chair of the Execu-
8 tive Board shall be full-time employees and
9 compensated at the same rate as judges of the
10 courts of appeals of the United States.

11 “(B) OTHER APPOINTED MEMBERS; RATES
12 OF PAY.—Other appointed members shall hold
13 part-time positions and shall be paid at the
14 daily rate at which judges of the courts of ap-
15 peals of the United States are compensated. No
16 appointed member, except the Chair and Vice
17 Chair, shall be paid for more than 90 days in
18 any calendar year.

19 “(C) TRAVEL EXPENSES.—Each member
20 of the Executive Board shall receive travel ex-
21 penses, including per diem in lieu of subsist-
22 ence, in accordance with applicable provisions
23 under subchapter I of chapter 57 of title 5.

24 “(2) ADVISORY BOARD.—

1 “(A) RATES OF PAY.—Members of the Ad-
2 visory Board who are also employees of the
3 Commission shall serve without additional com-
4 pensation. Members of the Advisory Board who
5 are also panel attorneys shall be paid at the
6 daily rate at which judges of the courts of ap-
7 peals of the United States are compensated. No
8 member shall be paid for more than 30 days in
9 any calendar year.

10 “(B) TRAVEL EXPENSES.—Each member
11 of the Advisory Board shall receive travel ex-
12 penses, including per diem in lieu of subsist-
13 ence, in accordance with applicable provisions
14 under subchapter I of chapter 57 of title 5.

15 “(3) CIRCUIT BOARDS.—

16 “(A) RATES OF PAY.—Except for those
17 who are also members of the Advisory Board,
18 members of the Circuit Boards shall hold part-
19 time positions and shall be paid at the daily
20 rate at which judges of the courts of appeals of
21 the United States are compensated. No member
22 shall be paid for more than 90 days in any cal-
23 endar year.

24 “(B) TRAVEL EXPENSES.—Each member
25 of a Circuit Board shall receive travel expenses,

1 including per diem in lieu of subsistence, in ac-
2 cordance with applicable provisions under sub-
3 chapter I of chapter 57 of title 5.

4 “(i) POWERS OF BOARDS.—

5 “(1) EXECUTIVE BOARD; POWERS.—The Execu-
6 tive Board may, by vote of a majority of the mem-
7 bers present and voting—

8 “(A) submit to Congress, in consultation
9 with the Executive Director, requests for appro-
10 priations for the provision of indigent defender
11 services in the Federal criminal justice system
12 and direct use of funds made available to the
13 Commission;

14 “(B) devise and conduct training programs
15 for those persons engaged in the fields of Fed-
16 eral criminal defense;

17 “(C) utilize, with their cooperation, the
18 services, equipment, personnel, information, and
19 facilities of other Federal, State, local, and pri-
20 vate agencies and instrumentalities with or
21 without compensation therefor;

22 “(D) procure for the Commission tem-
23 porary or intermittent services to the same ex-
24 tent as authorized by section 3109(b) of title 5;

1 “(E) without regard to section 3324 of
2 title 31, enter into and perform such contracts,
3 leases, cooperative agreements, and other trans-
4 actions as may be necessary to conduct the
5 functions of the Commission with any public
6 agency, or with any person, firm, association,
7 corporation, educational institution, or non-
8 profit organization;

9 “(F) accept and employ, in carrying out
10 the duties of the Commission, voluntary and
11 uncompensated services, notwithstanding the
12 provisions of section 1342 of title 31, except
13 that individuals providing such services shall
14 not be considered Federal employees except for
15 purposes of chapter 81 of title 5 with respect
16 to job-incurred disability and title 28 with re-
17 spect to tort claims;

18 “(G) request such information, data, and
19 reports from any Federal agency or judicial of-
20 ficer as the Commission may from time to time
21 require and as may be produced consistent with
22 other law;

23 “(H) remove a Federal Public Defender
24 upon recommendation by a Circuit Board;

1 “(I) retain private attorneys to provide ad-
 2 vice to the Commission in the conduct of its
 3 work, or to appear for or represent the Com-
 4 mission in any case or controversy in which it
 5 is a party or otherwise has a legal interest; and

6 “(J) delegate any powers in this subsection
 7 to the Executive Director or the Circuit Boards.

8 “(2) ADVISORY BOARD; POWERS.—The Advi-
 9 sory Board may consult with, advise, and obtain in-
 10 formation from the Executive Board, the Executive
 11 Director, and the Circuit Boards concerning the ad-
 12 ministration of Federal public defense, including any
 13 aspect or exercise of the powers or duties of the Ex-
 14 ecutive Board.

15 “(3) CIRCUIT BOARDS; POWERS.—Each Circuit
 16 Board, by an affirmative vote of a majority of its
 17 members, may—

18 “(A) adopt or revise the circuit plan for
 19 appointing appellate counsel consistent with the
 20 provisions of this section;

21 “(B) direct any Federal Public Defender of
 22 any district within the circuit to revise that dis-
 23 trict’s plan for appointing counsel consistent
 24 with the provisions of this section; and

1 “(C) hire staff as necessary to exercise its
2 powers and discharge its duties, subject to
3 staffing levels and budgets set by the Executive
4 Board.

5 “(4) COORDINATION WITH ADMINISTRATIVE OF-
6 FICE.—Upon request of the Executive Board or
7 their designees, the Administrative Office of the
8 United States Courts is authorized and directed to
9 make its services, equipment, personnel, facilities,
10 and information available to the greatest practicable
11 extent to the Commission in the execution of its
12 functions.

13 “(j) DUTIES OF BOARDS.—

14 “(1) EXECUTIVE BOARD; DUTIES.—

15 “(A) IN GENERAL.—The Executive
16 Board—

17 “(i) shall, by vote of a majority of the
18 members present and voting—

19 “(I) promulgate and distribute
20 bylaws governing the operation of the
21 Executive Board, which may include
22 provisions authorizing other officers of
23 the Executive Board and governing
24 proxy voting, remote meetings, and

1 the appointment of committees or ad-
2 visory groups;

3 “(II) establish and maintain a
4 Federal Public Defender Office for
5 each Federal judicial district;

6 “(III) appoint and fix the salary
7 and duties of the Executive Director;

8 “(IV) appoint and fix the duties
9 of a Federal Public Defender;

10 “(V) establish and maintain
11 standards for the provisions of indi-
12 gent defense services;

13 “(VI) approve staffing levels and
14 budgets for Federal Public Defender
15 Offices, the Executive Director’s Of-
16 fice, the Commission, and Circuit
17 Boards;

18 “(VII) establish, in consultation
19 with Circuit Boards, compensation
20 rates for panel attorneys providing
21 representation under this section to
22 cover reasonable expenses and a fair
23 hourly wage based on locality;

24 “(VIII) establish procedures to
25 obtain and reimburse investigators,

1 experts, and other providers of de-
2 fense services necessary for adequate
3 representation of financially qualified
4 persons; and

5 “(IX) consult with the Advisory
6 Board, Executive Director, and Cir-
7 cuit Boards as appropriate in exer-
8 cising its powers and discharging its
9 duties; and

10 “(ii) may establish a single Federal
11 Public Defender Office to serve 2 or more
12 adjacent Federal judicial districts or parts
13 of Federal judicial districts.

14 “(B) CURRENT OFFICES.—A Federal Pub-
15 lic Defender Office or Community Defender Of-
16 fice that is in existence on the date of enact-
17 ment of the Federal Public Defense Commis-
18 sion Act of 2024—

19 “(i) shall be considered established for
20 purposes of this subsection; and

21 “(ii) may continue to function as a
22 Federal Public Defender Office or Commu-
23 nity Defender Office, subject to subsection
24 (d)(1) of this Act.

1 “(2) ADVISORY BOARD; DUTIES.—The Advisory
2 Board, by an affirmative vote of the majority of its
3 members, shall—

4 “(A) elect a Defender Chair and Vice
5 Chair from among its members who are Federal
6 Public Defenders and elect a Panel Representa-
7 tive Chair and Vice Chair from among its mem-
8 bers who are Panel Representatives and are del-
9 egated to serve as ex-officio voting members of
10 the Executive Board;

11 “(B) promulgate and distribute bylaws
12 governing the operation of the Advisory Board,
13 which may include provisions authorizing other
14 officers of the Advisory Board and governing
15 proxy voting, remote meetings, and the appoint-
16 ment of committees or advisory groups; and

17 “(C) submit nominees for appointment to
18 the Executive Board in accordance with this
19 section.

20 “(3) CIRCUIT BOARDS; DUTIES.—Each Circuit
21 Board, by an affirmative vote of a majority of its
22 members, shall—

23 “(A) promulgate and distribute bylaws
24 governing the operation of the Circuit Board,
25 which may include provisions authorizing offi-

1 cers of the Circuit Board and governing proxy
2 voting, remote meetings, and the appointment
3 of committees or advisory groups;

4 “(B) nominate a Federal Public Defender
5 for each district, or 2 or more districts when
6 combined into a single Federal Public Defender
7 Office, within the circuit for appointment by the
8 Executive Board;

9 “(C) recommend to the Executive Board
10 the removal of any Federal Public Defender in
11 any district within that circuit for malfeasance
12 in office, persistent neglect or inability to dis-
13 charge duties, or conviction of an offense involv-
14 ing moral turpitude;

15 “(D) establish procedures for compensa-
16 tion of panel attorneys within the circuit ap-
17 pointed under this section;

18 “(E) establish procedures through which
19 panel attorneys within the circuit can appeal
20 decisions denying or reducing claims for pay-
21 ment and reimbursement;

22 “(F) establish procedures for selection, ap-
23 pointment, and compensation of appellate panel
24 attorneys;

1 “(G) establish procedures for appointing
2 panel attorneys to that circuit’s appellate panel;
3 and

4 “(H) establish procedures for reviewing
5 claims for payment and reimbursement sub-
6 mitted by that circuit’s appellate panel attor-
7 neys.

8 “(k) EXECUTIVE DIRECTOR OF THE FEDERAL PUB-
9 LIC DEFENSE COMMISSION.—

10 “(1) APPOINTMENT AND REMOVAL.—The Exec-
11 utive Director of the Commission shall be appointed
12 by and serve at the pleasure of the Executive Board.

13 “(2) QUALIFICATIONS.—The Executive Director
14 for the Commission shall be experienced in public
15 defense and the representation of indigent persons
16 charged with Federal crimes, be a member of the
17 highest bar of any State, and shall not, at the time
18 of their appointment or during their term of service,
19 be an appointed member of the Board.

20 “(3) EXECUTIVE DIRECTOR; DUTIES.—The Ex-
21 ecutive Director shall—

22 “(A) employ, without regard to the provi-
23 sions of title 5 governing appointments in the
24 competitive service, attorneys and other per-

1 sonnel in such number consistent with the staff-
2 ing levels set by the Executive Board;

3 “(B) supervise the activities of persons em-
4 ployed by the Executive Director’s Office; and

5 “(C) perform such other duties as assigned
6 by the Executive Board.

7 “(1) EMPLOYEES OF THE FEDERAL PUBLIC DE-
8 FENSE COMMISSION.—

9 “(1) IN GENERAL.—Federal Public Defenders,
10 employees of Federal Public Defender Offices, the
11 Executive Director, employees of the Executive Di-
12 rector’s Office, and employees of Circuit Boards
13 shall be treated as employees of the Commission.

14 “(2) FEDERAL EMPLOYEES.—Employees of the
15 Commission shall be treated as employees of the
16 Federal Government solely for purposes of any of
17 the following provisions of title 5:

18 “(A) Chapter 45.

19 “(B) Chapter 63.

20 “(C) Subchapter 1 of chapter 81.

21 “(D) Chapter 83.

22 “(E) Chapter 84.

23 “(F) Chapter 85.

24 “(G) Chapter 87.

25 “(H) Chapter 89.

1 “(I) Subchapter VI of Chapter 55.

2 “(3) COMPENSATION.—

3 “(A) EXECUTIVE DIRECTOR.—The com-
4 pensation of Executive Director shall be equal
5 to the rate of basic pay payable to level IV of
6 the Executive Schedule under section 5315 of
7 title 5 and shall receive locality pay except that
8 the total financial compensation for the Execu-
9 tive Director may not exceed Level I of the Ex-
10 ecutive Schedule.

11 “(B) FEDERAL PUBLIC DEFENDERS.—The
12 compensation of each Federal Public Defender
13 shall be set by the Executive Board and may
14 not exceed the rate of basic pay payable to level
15 IV of the Executive Schedule under section
16 5315 of title 5 and shall receive locality pay ex-
17 cept that the total financial compensation for a
18 Federal Public Defender may not exceed Level
19 I of the Executive Schedule.

20 “(C) OTHER COMMISSION EMPLOYEES.—
21 The Executive Board shall establish procedures
22 for fixing the compensation for other Commis-
23 sion employees, not to exceed the rate of basic
24 pay payable to level II of the Executive Sched-
25 ule under section 5315 of title 5. Compensation

1 for employees of the Executive Director’s Office
2 may not exceed that of the Executive Director.
3 Compensation for employees of Federal Public
4 Defender Offices may not exceed that of the
5 Federal Public Defender for their district or
6 districts.

7 “(4) CONTRIBUTIONS.—The Commission shall
8 make contributions under the provisions referred to
9 in paragraph (2) at the same rates applicable to
10 agencies of the Federal Government.

11 “(5) THRIFT SAVINGS PLAN (TSP).—Employees
12 of the Commission may make an election under sec-
13 tion 8351 or section 8432 of title 5 to participate in
14 the Thrift Savings Plan for Federal employees.

15 “(6) OUTSIDE PRACTICE OF LAW PROHIB-
16 ITED.—No full-time employee of the Commission
17 may engage in the outside practice of law.

18 “(7) MALPRACTICE AND NEGLIGENCE SUITS.—
19 The Commission shall, to the extent the Commission
20 considers appropriate, provide representation for and
21 hold harmless, or provide liability insurance for, any
22 person who is an officer or employee of the Commis-
23 sion for money damages for injury, loss of liberty,
24 loss of property, or personal injury or death arising
25 from malpractice or negligence of any such officer or

1 employee in furnishing representational services
2 under this section, while acting within the scope of
3 that person's office or employment.

4 “(m) FEDERAL PUBLIC DEFENDER OFFICES AND
5 FEDERAL PUBLIC DEFENDERS.—

6 “(1) ESTABLISHMENT.—No later than 1 year
7 after the date of enactment of the Federal Public
8 Defense Commission Act of 2024, the Commission
9 shall establish a Federal Public Defender Office in
10 each Federal judicial district. Notwithstanding the
11 preceding sentence, the Commission may establish a
12 single Federal public defender office to serve 2 or
13 more adjacent districts or parts of districts. In the
14 event that adjacent districts or parts of districts are
15 located in different circuits, the plan for furnishing
16 representation shall be approved by the Executive
17 Board, with the advice of the Advisory Board. A
18 Federal Public Defender Office or Community De-
19 fender Office that is in existence on the date of en-
20 actment of the Federal Public Defense Commission
21 Act of 2024 shall be considered established for pur-
22 poses of subsection and may continue to function.

23 “(2) FEDERAL PUBLIC DEFENDERS.—Each
24 Federal Public Defender Office shall be headed by a
25 Federal Public Defender appointed in accordance

1 with this section. A Federal Public Defender or Ex-
2 ecutive Director of a Community Defender Organi-
3 zation who was appointed before the date of enact-
4 ment of the Federal Public Defense Commission Act
5 of 2024 will continue to serve in that capacity unless
6 removed in accordance with this section.

7 “(3) FEDERAL PUBLIC DEFENDER; POWERS.—
8 Each Federal Public Defender may—

9 “(A) employ, without regard to the provi-
10 sions of title 5 governing appointments in the
11 competitive service, attorneys and other per-
12 sonnel in such number consistent with the staff-
13 ing levels set by the Executive Board;

14 “(B) without regard to section 3324 of
15 title 31, enter into and perform such contracts,
16 leases, cooperative agreements, and other trans-
17 actions as may be necessary to discharge the
18 duties of the Federal Public Defender Office
19 with any public agency, or with any person,
20 firm, association, corporation, educational insti-
21 tution, or nonprofit organization, subject to ap-
22 proval by the Executive Director;

23 “(C) accept and employ, in carrying out
24 the duties of the Federal Public Defender Of-
25 fice, voluntary and uncompensated services,

1 notwithstanding the provisions of section 1342
2 of title 31, except that individuals providing
3 such services shall not be considered Federal
4 employees except for purposes of chapter 81 of
5 title 5 with respect to job-incurred disability
6 and title 28 with respect to tort claims;

7 “(D) devise and conduct seminars, work-
8 shops, and training programs of instruction in
9 criminal defense and post-conviction law and
10 techniques for persons engaged in the fields of
11 Federal criminal defense and post-conviction
12 law in the district or districts served by the
13 Federal Public Defender Office; and

14 “(E) serve on any advisory board, working
15 group, council, or other professional or govern-
16 mental committee addressing issues related to
17 criminal defense, penal or correctional policy, or
18 the provision of indigent criminal defense serv-
19 ices.

20 “(4) FEDERAL PUBLIC DEFENDER; DUTIES.—

21 “(A) IN GENERAL.—Each Federal Public
22 Defender is responsible for providing and ap-
23 pointing qualified, competent, conflict-free
24 counsel in accordance with this section. Not
25 later than 1 year after the date of enactment of

the Federal Public Defense Commission Act of 2024, each Federal Public Defender shall prepare a plan to provide for the appointment of such counsel for the district or districts served by their Federal Public Defender Office. At minimum, the plan shall—

“(i) ensure that each person eligible for appointment of counsel is appointed qualified, competent, and conflict-free counsel who has access to the resources and services necessary to provide high-quality representation to that person;

“(ii) appoint qualified counsel to assist the district’s or districts’ panel attorneys and coordinate the appointment of qualified, competent, and conflict-free counsel;

“(iii) establish procedures for appointing qualified trial attorneys within their district or districts; and

“(iv) ensure that panel attorneys shall be appointed in an appropriate portion of cases in accordance with the district’s plan.

“(B) PROCEDURES.—Each Federal Public Defender shall develop procedures to ensure

1 that private counsel for any person who is fi-
2 nancially unable to obtain services other than
3 counsel necessary for adequate representation
4 may request from the Federal Public Defender
5 a determination of financial eligibility. Upon a
6 judicial finding that the person is financially
7 unable to obtain such services, the Federal Pub-
8 lic Defender shall authorize payment for such
9 services.

10 “(n) ANNUAL AND COMPREHENSIVE REPORTS.—

11 “(1) EXECUTIVE BOARD.—The Executive
12 Board shall—

13 “(A) submit to Congress, the President,
14 and the Judicial Conference of the United
15 States an annual report regarding the operation
16 of the Commission pursuant to this title and
17 the delivery of Federal criminal defense services
18 pursuant to this section; and

19 “(B) submit to Congress, the President,
20 and the Judicial Conference of the United
21 States a report every 7 years containing a com-
22 prehensive review and evaluation of the imple-
23 mentation of the operation of the Commission,
24 including whether further structural changes
25 are appropriate, pursuant to this title and the

1 delivery of Federal criminal defense services
2 pursuant to this section.

3 “(2) CIRCUIT BOARDS.—Each Circuit Board
4 shall submit to the Executive Board an annual re-
5 port regarding the operation of the Circuit Board
6 and the delivery of Federal criminal defense services
7 in that circuit and each judicial district within the
8 circuit.

9 “(o) DEFINITIONS.—In this section:

10 “(1) ADVISORY BOARD.—The term ‘Advisory
11 Board’ means Federal Public Defense Advisory
12 Board.

13 “(2) APPOINTED MEMBER.—The term ‘ap-
14 pointed member’ means a member of the Executive
15 Board who is not the Defender or the Panel Rep-
16 resentative Chair or Vice Chair of the Advisory
17 Board, or the Executive Director of the Federal
18 Public Defense Commission.

19 “(3) COMMISSION.—The term ‘Commission’
20 means Federal Public Defense Commission.

21 “(4) CIRCUIT BOARD.—The term ‘Circuit
22 Board’ means the Circuit Federal Public Defense
23 Board in each judicial circuit.

1 “(5) EXECUTIVE BOARD.—The term ‘Executive
2 Board’ means Federal Public Defense Executive
3 Board of Directors.

4 “(6) FEDERAL PUBLIC DEFENDER.—The term
5 ‘Federal Public Defender’—

6 “(A) means the individual appointed by the
7 Commission to oversee the districts; and

8 “(B) includes Executive Directors of Com-
9 munity Defender Offices.

10 “(7) FINANCIALLY QUALIFIED PERSON.—The
11 term ‘financially qualified person’ means an indi-
12 vidual who qualifies for representation under this
13 section.

14 “(8) PANEL ATTORNEY.—The term ‘panel at-
15 torney’ means a private attorney authorized by the
16 Commission to represent individuals pursuant to the
17 provisions of this section.

18 “(9) PANEL REPRESENTATIVE.—The term
19 ‘panel representative’ means a panel attorney se-
20 lected to serve on the Defender Services Advisory
21 Board.”.

22 (b) MEMBERSHIP ON COMMITTEES AND CON-
23 FERENCES.—

24 (1) IN GENERAL.—The Chief Justice of the Su-
25 preme Court of the United States may add the Ex-

1 executive Director of the Federal Public Defense Com-
 2 mission, or their designee, to any advisory commit-
 3 tees of the Judicial Conference of the United States.

4 (2) CIRCUIT JUDICIAL COUNCILS.—Each judi-
 5 cial circuit may include 1 or more Federal Public
 6 Defenders or Panel Representatives for judicial dis-
 7 tricts located within the circuit on any judicial coun-
 8 cil of the circuit.

9 (3) UNITED STATES SENTENCING COMMIS-
 10 SION.—Section 991(a) of title 28, United States
 11 Code, is amended—

12 (A) in the first sentence, by striking “one
 13 nonvoting member” and inserting “two non-
 14 voting members”; and

15 (B) by striking the fifth sentence and in-
 16 serting the following: “The Attorney General,
 17 or the Attorney General’s designee, and the De-
 18 fender Chair of the Advisory Board of the Fed-
 19 eral Public Defense Commission or their des-
 20 ignee, shall be ex-officio, nonvoting members of
 21 the Commission.”.

22 (c) TECHNICAL AND CONFORMING AMENDMENT.—
 23 The table of sections for chapter 201 of title 18, United
 24 States Code, is amended by striking the item relating to
 25 section 3006A and inserting the following:

“3006A. Appointment of Counsel for financially eligible persons.”.

1 (d) TRANSITION AND MISCELLANEOUS PROVI-
2 SIONS.—

3 (1) FEDERAL PUBLIC DEFENDER OFFICES.—

4 (A) IN GENERAL.—Notwithstanding any
5 other provision of law, a Federal Public De-
6 fender organization or Community Defender
7 Organization in existence, before the date of en-
8 actment of this Act, shall continue in operation.
9 The Federal Public Defender, Executive Direc-
10 tor, or other head of each organization in office
11 on the date of enactment of the Act, may con-
12 tinue to serve in that capacity unless removed
13 pursuant to section 3006A of title 18, United
14 States Code.

15 (B) EXISTING COMMUNITY DEFENDER OR-
16 GANIZATIONS.—An existing Community De-
17 fender Organization may petition in writing to
18 become a Federal Public Defender Office for its
19 district, subject to approval by the Executive
20 Board. Not later than 5 years after the date of
21 enactment of this Act, all existing Community
22 Defender Organizations must become a Federal
23 Public Defender Office. The Commission may
24 expend necessary funds and other necessary as-
25 sistance, including grants previously adminis-

1 tered by the Administrative Office of the United
2 States Courts, for Community Defender Orga-
3 nizations to continue their function and to be-
4 come Federal Public Defender Offices.

5 (C) RETIREMENT.—Any period of service
6 of an employee of an existing Community De-
7 fender Organization that becomes a Federal
8 Public Defender Office under subparagraph (B)
9 shall be deemed creditable service for purposes
10 of section 8332 or 8411 of title 5, United
11 States Code, and service under section
12 8905(b)(1)(A) of that title.

13 (D) ANNUAL AND SICK LEAVE.—The an-
14 nual and sick leave to the credit of an employee
15 of an existing Community Defender Organiza-
16 tion that becomes a Federal Public Defender
17 Office shall be transferred to the employee's
18 credit under the Federal Public Defender Of-
19 fice.

20 (2) RESPONSIBILITY OF ADMINISTRATIVE OF-
21 FICE OF THE UNITED STATES COURTS TO ENSURE
22 ORDERLY TRANSITION.—After the date of enactment
23 of this Act, the Administrative Office of the United
24 States Courts shall take every step within its power
25 to ensure that the Federal Public Defense Commis-

1 sion is established and to provide for an orderly
2 transition of all defender services functions to the
3 Commission. The Administrative Office is authorized
4 and directed to expend funds from the defender
5 services account, and other authorized funds, to fa-
6 cilitate the establishment of the Commission and the
7 orderly transition of all defender services functions
8 to the Commission. The Administrative Office is di-
9 rected to provide structure and continued services as
10 needed for the Commission to fulfill its purposes.

11 (3) AUTHORIZATION OF APPROPRIATIONS.—
12 There are authorized to be appropriated to the Com-
13 mission, out of money in the Treasury not otherwise
14 appropriated, sums necessary to carry out the provi-
15 sions of this Act, including funds for the establish-
16 ment of the Federal Public Defense Commission, the
17 transition from the Administrative Office of the
18 United States Courts to the Commission, the ongo-
19 ing operation of the Commission, and continuing
20 education and training of persons providing defense
21 services under this section. When so specified in ap-
22 propriation Acts, such appropriations shall remain
23 available until expended. Payments from such appro-
24 priations shall be made under the supervision of the
25 Executive Director of the Commission.

1 (4) APPLICABILITY IN THE DISTRICT OF CO-
 2 LUMBIA.—The provisions of this section shall apply
 3 in the United States District Court for the District
 4 of Columbia and the United States Court of Appeals
 5 for the District of Columbia Circuit and territories
 6 of the United States. The provisions of this section
 7 shall not apply to the Superior Court of the District
 8 of Columbia and the District of Columbia Court of
 9 Appeals.

10 (5) COUNSEL FOR FINANCIALLY UNABLE DE-
 11 FENDANTS.—Section 3599 of title 18, United States
 12 Code, is amended—

13 (A) by striking subsections (b), (c), (d),
 14 (f), and (g);

15 (B) by redesignating subsection (e) as sub-
 16 section (c); and

17 (C) by striking subsection (a) and insert-
 18 ing the following:

19 “(a) Notwithstanding any other provision of law to
 20 the contrary, in every criminal action in which a defendant
 21 is charged with a crime which may be punishable by death,
 22 a defendant who is or becomes financially unable to obtain
 23 adequate representation or investigative, expert, or other
 24 reasonably necessary services at any time either—

25 “(1) before judgment; or

1 “(2) after the entry of a judgment imposing a
2 sentence of death but before the execution of that
3 judgment;

4 shall be entitled to the appointment of one or more quali-
5 fied capital attorneys and the furnishing of such other
6 services in accordance with section 3006A.

7 “(b) In any post conviction proceeding under section
8 2254 or 2255 of title 28 seeking to vacate or set aside
9 a death sentence, any defendant who is or becomes finan-
10 cially unable to obtain adequate representation or inves-
11 tigative, expert, or other reasonably necessary services
12 shall be entitled to the appointment of one or more attor-
13 neys and the furnishing of such other services in accord-
14 ance with section 3006A.”.

○