



PHILADELPHIA BAR ASSOCIATION

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WRITTEN TESTIMONY OF WILLIAM P. FEDULLO
CHANCELLOR, PHILADELPHIA BAR ASSOCIATION
BEFORE THE PENNSYLVANIA SENATE JUDICIARY COMMITTEE

Tuesday, April 1, 2014

Harrisburg, PA

Chair Greenleaf, Chair Leach and Members of the Senate Judiciary Committee:

As Chancellor of the Philadelphia Bar Association, which represents approximately 13,000 members of the legal profession in Philadelphia, I write in support of Senate Bill 979, which would establish the Pennsylvania Center for Effective Indigent Defense Legal Representation.

The Sixth Amendment to the Constitution of the United States guarantees to every citizen the right to "have the assistance of counsel for his defense."

There is no qualifier in the Sixth Amendment providing for the ability to pay usual and customary fees as a condition to receiving this right. Every person charged with a crime has the same right to the assistance of counsel, without regard to the person's ability to pay.

We recently celebrated the sixtieth anniversary of the United States Supreme Court decision in *Gideon v. Wainwright*, 372 U.S. 335 (1963), which made clear the right to counsel in criminal proceedings whether or not the defendant can afford to pay. Seven years after the *Gideon* decision, in *McMann v. Richardson*, 397 U.S. 759 (1970), the Supreme Court held that "[T]he right to counsel is the right to the effective assistance of counsel."

Thus, the *McMann* decision makes it clear that adequate resources must be provided and standards must be established to ensure that those on the lower end of the economic scale are afforded the same level of quality representation as anyone else in our society facing the same charges.

There is no question that the Defender Association of Philadelphia and other public defenders across this commonwealth do a remarkable job with the resources at their disposal to provide competent representation to those who qualify for services.

Nevertheless, the disparity in funding is evident to anyone who has knowledge of the criminal justice system in our commonwealth. Pennsylvania is the only state in the nation that does not provide any financial support for indigent criminal defense.

The establishment of a Pennsylvania Center for Effective Indigent Defense Legal Representation, as contemplated in Senate Bill 979, is a significant step in the right direction.

The Pennsylvania District Attorney's Institute, which has been in operation since 1983, receives over \$1,000,000 annually in state and federal funding to provide district attorneys with educational materials and training seminars.

A similar organization for public defenders will improve the quality of criminal justice in the Commonwealth of Pennsylvania.

All parties involved in criminal proceedings – the judges hearing cases, the prosecutors who must interact with defense counsel and the criminal defendants – benefit from a highly competent, well trained defense bar.

Reflecting broad support in the legal community, the Board of Governors of the Philadelphia Bar Association unanimously passed the attached Resolution of the Philadelphia Bar Association in Support of SB 979, Legislation that Establishes a Pennsylvania Center for Effective Indigent Defense Legal Representation.

The Philadelphia Bar Association applauds the General Assembly for taking up the issue of improving the quality of indigent criminal defense representation and urges passage of Senate Bill 979.

Thank you for the opportunity to provide the position of the Philadelphia Bar Association to this Committee.

Respectfully,



William P. Fedullo
Chancellor, Philadelphia Bar Association