

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. _____ Department or Agency: Office of Indigent Defense Services

Rule No. 355-9-1-.11

Rule Title: Minimum Qualifications and Requirements for a Public Defender

X New _____ Amend _____ Repeal _____ Adopt by Reference _____

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? NO

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? YES

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date 9/29/14

(DATE FILED)
(STAMP)

DEPARTMENT OF FINANCE
Office of Indigent Defense Services

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Finance – Office of Indigent Defense Services

RULE NO. & TITLE:

- (1) 355-9-1-.10 – Caseload Management Standards
- (2) 355-9-1-.11 – Minimum Qualifications and Requirements for a Public Defender
- (3) 355-9-1-.12 – Standards for Establishing Contract Counsel System

INTENDED ACTION: New Rules for OIDS

SUBSTANCE OF PROPOSED ACTION: The new rules (1) establish caseload standards for attorneys providing indigent defense services, (2) establishes and sets out the minimum qualifications for a Public Defender, (3) establishes and sets out standards for implementing a contract counsel system.

TIME, PLACE, MANNER OF PRESENTING VIEWS:


Views on this intended action may be presented by telephone to Mose Stuart at (334) 242-4516. Written views may be submitted to:

Mose Stuart
Department of Finance – Legal Division
Third Floor, State Capitol Building
Montgomery, Alabama 36130
By email: mose.stuart@finance.alabama.gov

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Monday, December 8, 2014

CONTACT PERSON AT AGENCY: Mose Stuart



Mose Stuart
Senior Associate Counsel

355-9-1-.11 Minimum Qualifications and Requirements for a Public Defender. Should a Board determine that the method for delivering indigent defense services in its county or circuit is by the establishment of a Public Defender's office and the selection and appointment of a Public Defender, it shall do so in accordance with the Act. The minimum qualifications and requirements for the position of Public Defender shall be:

- (a) The individual sought to be appointed must be a member in good standing with the Alabama State Bar and any other bar association of which the individual is a member;
- (b) The individual sought to be appointed must have a minimum of eight (8) years of criminal practice experience, preferably with criminal trial experience;
- (c) The individual sought to be appointed must have the ability to effectively administer the Public Defender's office;
- (d) The individual sought to be appointed may not be related to a judge in the same county or judicial circuit within the 4th degree of consanguinity (first cousin), inclusive;
- (e) The individual sought to be appointed must be a resident of the county in which he or she will serve as Public Defender before taking office.

Author: R. McKinney

Authority: Code of Ala. 1975, § 41-4-322(h).

History: Filed September 29, 2014