

MICHIGAN INDIGENT DEFENSE COMMISSION ACT (EXCERPT)
Act 93 of 2013

780.993 Investigation, audit, and review of indigent criminal defense services; cooperation and participation with MIDC; development of plan and cost analysis; award of grant; submission of plan; annual plan; approval or disapproval of plan and cost analysis by MIDC; report; maintenance of local share; necessity for excess funding; appropriation of additional funds; grants to local units of government; compliance with minimum standards; zero grant; funds received by MIDC as state funds; financial protocols; unexpended grant funds; reimbursement.

Sec. 13.

(1) All indigent criminal defense systems and, at the direction of the supreme court, attorneys engaged in providing indigent criminal defense services shall cooperate and participate with the MIDC in the investigation, audit, and review of their indigent criminal defense services.

(2) An indigent criminal defense system may submit to the MIDC an estimate of the cost of developing the plan and cost analysis for implementing the plan under subsection (3) to the MIDC for approval. If approved, the MIDC shall award the indigent criminal defense system a grant to pay the approved costs for developing the plan and cost analysis under subsection (3).

(3) No later than 180 days after a standard is approved by the department, each indigent criminal defense system shall submit a plan to the MIDC for the provision of indigent criminal defense services in a manner as determined by the MIDC and shall submit an annual plan for the following state fiscal year on or before October 1 of each year. A plan submitted under this subsection must specifically address how the minimum standards established by the MIDC under this act will be met and must include a cost analysis for meeting those minimum standards. The standards to be addressed in the annual plan are those approved not less than 180 days before the annual plan submission date. The cost analysis must include a statement of the funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards.

(4) The MIDC shall approve or disapprove all or any portion of a plan or cost analysis, or both a plan and cost analysis, submitted under subsection (3), and shall do so within 90 calendar days of the submission of the plan and cost analysis. If the MIDC disapproves any part of the plan, the cost analysis, or both the plan and the cost analysis, the indigent criminal defense system shall consult with the MIDC and, for any disapproved portion, submit a new plan, a new cost analysis, or both within 60 calendar days of the mailing date of the official notification of the MIDC's disapproval. If after 3 submissions a compromise is not reached, the dispute must be resolved as provided in section 15. All approved provisions of an indigent criminal defense system's plan and cost analysis must not be delayed by any disapproved portion and must proceed as provided in this act. The MIDC shall not approve a cost analysis or portion of a cost analysis unless it is reasonably and directly related to an indigent defense function.

(5) The MIDC shall submit a report to the governor, the senate majority leader, the speaker of the house of representatives, and the appropriations committees of the senate and house of representatives requesting the appropriation of funds necessary to implement compliance plans after all the systems compliance plans are approved by the MIDC. For standards approved after January 1, 2018, the MIDC shall include a cost analysis for each minimum standard in the report and shall also provide a cost analysis for each minimum standard approved on or before January 1, 2018, if a cost analysis for each minimum standard approved was not provided and shall do so not later than October 31, 2018. The amount requested under this subsection must be equal to the total amount required to achieve full compliance as agreed upon by the MIDC and the indigent criminal defense systems under the approval process provided in subsection (4). The information used to create this report must be made available to the governor, the senate majority leader, the speaker of the house of representatives, and the appropriations committees of the senate and house of representatives.

(6) The MIDC shall submit a report to the governor, the senate majority leader, the speaker of the house of representatives, and the appropriations committees of the senate and house of representatives not later than October 31, 2021 that includes a recommendation regarding the appropriate level of local share, expressed in both total dollars and as a percentage of the total cost of compliance for each indigent criminal defense system.

(7) Except as provided in subsection (9), an indigent criminal defense system shall maintain not less than its local share. If the MIDC determines that funding in excess of the indigent criminal defense system's share is necessary in order to bring its system into compliance with the minimum standards established by the MIDC, that excess funding must be paid by this state. The legislature shall appropriate to the MIDC the additional funds necessary for a system to meet and maintain those minimum standards, which must be provided to indigent criminal defense systems through grants as described in subsection (8). The legislature may appropriate funds that apply to less than all of the minimum standards and may provide less than the full amount of the funds requested under subsection (5). Notwithstanding this subsection, it is the intent of the legislature to fund all of the minimum standards contained in the report under subsection (5) within 3 years of the date on which the minimum standards were adopted.

(8) An indigent criminal defense system must not be required to provide funds in excess of its local share. The MIDC shall provide grants to indigent criminal defense systems to assist in bringing the systems into compliance with minimum standards established by the MIDC.

(9) An indigent criminal defense system is not required to expend its local share if the minimum standards established by the MIDC may be met for less than that share, but the local share of a system that expends less than its local share under these circumstances is not reduced by the lower expenditure.

(10) This state shall appropriate funds to the MIDC for grants to the local units of government for the reasonable costs associated with data required to be collected under this act that is over and above the local unit of government's data costs for other purposes.

(11) Within 180 days after receiving funds from the MIDC under subsection (8), an indigent criminal defense system shall comply with the terms of the grant in bringing its system into compliance with the minimum standards established by the MIDC for effective assistance of counsel. The terms of a grant may allow an indigent criminal defense system to exceed 180 days for compliance with a specific item needed to meet minimum standards if necessity is demonstrated in the indigent criminal defense system's compliance plan. The MIDC has the authority to allow an indigent criminal defense system to exceed 180 days for implementation of items if an unforeseeable condition prohibits timely compliance.

(12) If an indigent criminal defense system is awarded no funds for implementation of its plan under this act, the MIDC shall nevertheless issue to the system a zero grant reflecting that it will receive no grant funds.

(13) The MIDC may apply for and obtain grants from any source to carry out the purposes of this act. All funds received by MIDC, from any source, are state funds and must be appropriated as provided by law.

(14) The MIDC shall ensure proper financial protocols in administering and overseeing funds utilized by indigent criminal defense systems, including, but not limited to, all of the following:

(a) Requiring documentation of expenditures.

(b) Requiring each indigent criminal defense system to hold all grant funds in a fund that is separate from other funds held by the indigent criminal defense system.

(c) Requiring each indigent criminal defense system to comply with the standards promulgated by the governmental accounting standards board.

(15) If an indigent criminal defense system does not fully expend a grant toward its costs of compliance, its grant in the second succeeding fiscal year must be reduced by the amount equal to the unexpended funds. Identified unexpended grant funds must be reported by indigent criminal defense systems on or before October 31 of each year. Funds subject to extension under subsection (11) must be reported but not included in the reductions described in this subsection. Any grant money that is determined to have been used for a purpose outside of the compliance plan must be repaid to the MIDC, or if not repaid, must be deducted from future grant amounts.

(16) If an indigent criminal defense system expends funds in excess of its local share and the approved MIDC grant to meet unexpected needs in the provision of indigent criminal defense services, the MIDC shall recommend the inclusion of the funds in a subsequent year's grant if all expenditures were reasonably and directly related to indigent criminal defense functions.

(17) The court shall collect contribution or reimbursement from individuals determined to be partially indigent under applicable court rules and statutes. Reimbursement under this subsection is subject to section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.22. The court shall remit 100% of the funds it collects under this subsection to the indigent criminal defense system in which the court is sitting. Twenty percent of the funds received under this subsection by an indigent criminal defense system must be remitted to the department in a manner prescribed by the department and reported to the MIDC by October 31 of each year. The funds received by the department under this subsection must be expended by the MIDC in support of indigent criminal defense systems in this state. The remaining 80% of the funds collected under this subsection may be retained by the indigent criminal defense system for purposes of reimbursing the costs of collecting the funds under this subsection and funding indigent defense in the subsequent fiscal year. The funds collected under this subsection must not alter the calculation of the local share made pursuant to section 3(i).

History: 2013, Act 93, Imd. Eff. July 1, 2013 ;-- Am. 2016, Act 441, Imd. Eff. Jan. 4, 2017 ;-- Am. 2018, Act 214, Eff. Dec. 23, 2018