



## Resolution on right to adequate Indigent Defense Counsel

AS the Michigan Civil Rights Commission (“Commission”) was created under the Michigan Constitution of 1963 for the purpose of protecting the civil rights of all persons equally, and works to prevent discrimination through both enforcement of, and educational programs that promote voluntary compliance with, civil rights laws;

AND AS the right of a person accused of a crime to be represented by counsel is explicitly enshrined in both the Sixth Amendment to the U. S. Constitution<sup>1</sup> and Article I, Section 20 of the Michigan Constitution;<sup>2</sup>

AND AS the U.S. Supreme Court has stated that, “in our adversary system of criminal justice, any person hauled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him,”<sup>3</sup> and further that “it has long been recognized that the right to counsel is the *right to the effective assistance of counsel*,”<sup>4</sup>

AND AS the Michigan Supreme Court has stated “guaranteeing counsel without in turn assuring adequate performance would defeat the ultimate purpose of appointing counsel in the first place, that of giving defendant a fair trial,” and therefore that “[t]he right to counsel means *at least* the right to effective assistance of counsel;”<sup>5</sup>

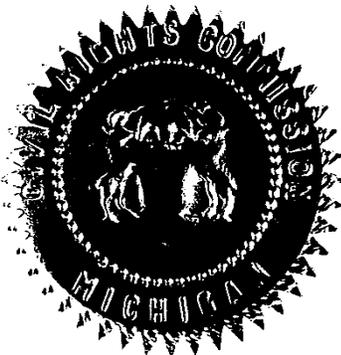
AND AS the Michigan Supreme Court has recognized that when “the system of reimbursement of assigned counsel . . . creates a conflict between the attorney's need to be paid fully for his services and obtaining the full panoply of rights for the client. Only the very conscientious will do the latter against his or her own interests;”<sup>6</sup>

AND AS the Commission finds that effective assistance cannot be provided when counsel lacks the investigators, expert witnesses, training and/or experience, that a case requires;

AND AS the Commission finds that effective assistance of counsel cannot be provided to all clients when counsel’s case load prevents devoting adequate time and attention to each case;

IT IS RESOLVED that in order to protect the civil and constitutional rights of all, Michigan must maintain a public defense delivery system that meets national standards and provides the effective assistance of counsel;

IT IS FURTHER RESOLVED that the *Eleven Principles of a Public Defense Delivery System* adopted by the State Bar of Michigan’s Representative Assembly in 2002, serve as the fundamental standards for a public defense delivery system to provide effective, efficient, quality, and ethical representation to those in criminal proceedings who cannot afford to hire an attorney.



Adopted on the 24th day of May, 2010, by the

MICHIGAN CIVIL RIGHTS COMMISSION

Matthew Wesaw, Chair  
Lisa Peeples-Hurst, Secretary  
Mark Bernstein  
Jared Rodriguez

J. Michael Zelle, Vice Chair  
Nabih H. Ayad, Treasurer  
Bertram L. Marks

<sup>1</sup> “In all criminal proceedings, the accused shall enjoy the right to . . . have the Assistance of Counsel for his defense.” *US Const Amend VI*.

<sup>2</sup> “In every criminal prosecution, the accused shall have the right to . . . have the assistance of counsel for his or her defense. . . .” Const 1963, art 1, §20.

<sup>3</sup> *Gideon* 372 US at 344.

<sup>4</sup> *United States v. Cronin*, 466 US 648, 654-655, 104 S Ct 2039, 80 L Ed 2d 657 (1984), quoting *United States v Ash*, 413 US 300, 309 (1973), and *McMann v. Richardson*, 397 US 759, 771, n. 14 (1970), emphasis added.

<sup>5</sup> *People v. Strodger*, 394 Mich 193, 211-212, 229 N.W.2d 318, emphasis added (1975)

<sup>6</sup> *RCBA*, 443 Mich at 115.