

52:27E-1

1/25/88

LEGISLATIVE HISTORY CHECKLIST

NJSA: 52:27E-1

(Department of Public Advocate-- establishes)

CHAPTER 27

Laws Of: 1974

Bill No: A1409

Sponsor(s): Woodson and others

Date Introduced: March 18, 1974

Committee: Assembly: State Government and Federal & Interstate Relations

Senate: State Government and Federal & Interstate Relations

Amended during passage: Yes

Date of Passage: Assembly: March 25, 1974

Senate: May 6, 1974

Date of Approval: May 13, 1974

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: Yes

Following were printed:

Reports: Yes

Hearings: Yes

974.90 New Jersey. Legislature. Senate.
R424 State Government and Federal & Interstate Relations Committee.
1974 Public hearing on A-1409, held 4-15-74.
Trenton, 1974.

(Over)

52:27E-1 to 27E-47

October 4, 1974

See copies
2 & 3 for
enclosed mat
al.

LEGISLATIVE HISTORY OF R.S. 52:27E-1 to 52:27E-47
(Department of the Public Advocate Act of 1974)

Similar Bill

A1297

Feb. 15 - Introduced by Woodson, McManimon, Baer

Feb. 15 - State Gov't. & Fed. & Interstate Relations Committee.

L. 1974, Chapter 27 - A1409

Establishes a Department of Public Advocate, allocates
the office of Public Defender therein; appropriates \$250,000.

March 18 - Introduced by Woodson, McManimon, Baer, Salkind.

March 18 - State Gov't. & Fed. & Interstate Relations Committee.

March 21 - Reported with committee amendment.

March 21 - 2nd reading.

March 25 - Passed in Assembly, amended (78-0)

March 25 - Received in Senate.

March 25 - State Gov't. & Fed. & Interstate Relations Committee.

April 15 - Public hearing held.

April 29 - Reported with committee amendment.

April 29 - 2nd hearing.

May 6 - Passed in Senate, amended (22-14)

May 9 - Received in Assembly

May 9 - Senate amendment passed in Assembly (67-2)

May 13 - Approved-statement on bill (copy enclosed)

Hearings and Reports:

974.90 New Jersey Legislature Senate.
R424 State Government and Federal and Interstate
1974 Relations Committee.
Public hearing on Assembly.
Bill no. 1409 (Establishing a Department of
the Public Advocate)

974.90 Loos, Peter W.
R424 Memo on Assembly
1974b Bill no. 1409 (Public Advocate)
April 1, 1974

Governor's Messages

Press Release - May 13, 1974

974.90 Loos, Peter W.
R424 Memo on A-1409... April, 1974
1974b Trenton, 1974.

Periodical Articles

"The Proposed Department of the Public Advocate",
97 New Jersey Law Journal 252, April 11, 1974.

Newspaper Articles

"Advocate Agency in the Offing", Newark State Ledger,
January 18, 1974.

"Bill completed to raise post of public defender",
Newark Star Ledger, February 22, 1974.

"Vote Nears: Advocate agency put on Monday Assembly Log",
Newark Star Ledger, March 22, 1974.

"Advocate office moves a step closer to reality",
Newark Star Ledger, March 26, 1974.

"Key Senators seek test run on advocate", Bergen Record,
April 16, 1974.

"Senator Merlino denies trying to torpedo public advocate",
Trentonian, April 16, 1974.

"Ombudsman status weighed for public advocate", Newark
Star Ledger, April 17, 1974.

"Advocate Bill is amended", Bergen Record, April 30, 1974.

"N.J. Advocate Bill Freed for Vote", Trentonian, April 30, 1974.

"Advocate Bill Slowed in Senate", Camden Courier Post,
May 3, 1974.

"Advocate Bill squeaks by Senate", Newark Star Ledger,
May 7, 1974.

"Touch-up: Public Advocate amendments facing final clearance",
Newark Star Ledger, May 9, 1974.

"Public Advocate office becomes a reality", Newark Star
Ledger, May 14, 1974.

MS/ks
enclosure

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1409

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1974

By Assemblymen WOODSON, BAER and McMANIMON

Referred to Committee on State Government

AN ACT establishing and concerning a Department of the Public Advocate as a principal department in the Executive Branch of the State Government, allocating the Office of the Public Defender therein, revising part of the statutory law, and providing an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

ARTICLE I

1 1. Short title. This act shall be known and may be cited as the
2 "Department of the Public Advocate Act of 1974."

1 2. Establishment. There is hereby established in the Executive
2 Branch of the State Government a principal department which shall
3 be known as the Department of the Public Advocate.

4 As used in this act, unless the context clearly indicates otherwise,
5 the word "department" means the Department of the Public
6 Advocate established herein.

1 3. Commissioner; appointment; term; salary. The administrator
2 and chief executive officer of the department shall be a commis-
3 sioner, who shall be known as the Public Advocate and who shall be
4 ***an attorney-at-law of this State and*** a person qualified by
5 training and experience to perform the duties of his office. The
6 Public Advocate shall be appointed by the Governor, with the
7 advice and consent of the Senate, and shall serve at the pleasure
8 of the Governor during the Governor's term of office and until
9 the appointment and qualification of the Public Advocate's suc-
9A cessor. He shall receive such salary as shall be provided by law.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

10 The Public Advocate may in the discretion of the Governor con-
11 currently hold another position established in or allocated to the
12 Department of the Public Advocate, notwithstanding any require-
13 ment of law that he devote his entire time to the duties of one posi-
14 tion or the other. In such case the Public Advocate shall receive
15 only the salary provided for the Public Advocate, and not the salary
16 for such other position.

1 4. Power and duties of Public Advocate. The Public Advocate, as
2 administrator and chief executive officer of the department, shall:

3 a. Administer the work of the department;

4 b. Appoint and remove such officers, investigators, stenographic
5 and clerical assistants and other personnel as may be required for
6 the conduct of the department, subject to the provisions of Title 11
7 of the Revised Statutes, Civil Service, and other applicable statutes,
8 except as provided otherwise herein;

9 c. Adopt, issue and promulgate, in the name of the department,
10 such rules and regulations as may be authorized by law;

11 d. Formulate and adopt rules and regulations for the efficient
12 conduct of the work and general administration of the department,
13 its officers and employees;

14 e. Institute or cause to be instituted such legal proceedings or
15 processes consistent with the rules governing the courts of New
16 Jersey and the practice of law therein as may be necessary properly
17 to enforce and give effect to any of his powers or duties;

18 f. Prepare schedules of rates to be paid for services rendered
19 other than by the staff, taking into account the nature of the
20 services, the time involved, the skill and experience required and
21 other pertinent factors;

22 g. Make such reports of the department's operation as the
23 Governor or the Legislature shall from time to time request, or as
24 may be required by law;

25 h. Perform, exercise and discharge the functions, powers and
26 duties of the department through such divisions as may be estab-
27 lished by this act or otherwise by law;

28 i. Organize and coordinate the work of the department in such
29 divisions, not inconsistent with the provisions of this act, and in
30 such bureaus and other organizational units as he may determine
31 to be necessary for efficient and effective operation;

32 j. Integrate within the department, so far as practicable, all staff
33 services of the department and of the several divisions and other
34 agencies therein;

35 k. Maintain suitable headquarters for the department and such

36 other quarters as he shall deem necessary to the proper functioning
37 of the department;

38 1. Except as otherwise provided by law, appoint division directors
39 who are qualified by training and experience to direct, under the
40 supervision of the Public Advocate, the several divisions and offices
41 established pursuant to this act. Except for the Public Defender,
42 such division directors shall serve at the pleasure of the Public
43 Advocate who shall fix their compensation within the limits of avail-
44 able appropriations;

45 m. Solicit and accept grants of funds from the Federal Govern-
46 ment and from private foundations, and allocate or restrict the use
47 of such funds as may be required by the grantor; and

48 n. Perform such other functions as may be prescribed in this act
49 or by any other law.

1 5. Appointment of Assistant Public Advocate. The Public Advo-
2 cate may appoint an Assistant Public Advocate to serve at the
3 pleasure of the Public Advocate. Such appointment shall be in
4 writing and filed with the Secretary of State. The Assistant Public
5 Advocate shall have and exercise the powers and perform the
6 functions and duties of the Public Advocate during the absence or
7 disability of the Public Advocate. The Assistant Public Advocate
8 shall also have and exercise such of the powers and perform such
9 of the functions and duties of the Public Advocate as he shall be
10 authorized and directed by the Public Advocate. Any such autho-
11 rization and direction shall be in writing, signed by the Public
12 Advocate and filed with the Secretary of State, and shall include
13 a designation of the period during which it shall be and remain in
14 force. No such authorization and direction shall be deemed to
15 preclude the Public Advocate from himself exercising the powers
16 and the performance of the duties included in said authorization
17 and direction. In the event that the Public Advocate shall die,
18 resign or be removed from office, or become disqualified to execute
19 the duties of his office, or a vacancy shall occur in the office of the
20 Public Advocate for any cause whatsoever, the person then holding
21 the office of Assistant Public Advocate shall continue to hold such
22 office and shall have and exercise the powers and perform the
23 functions and duties of the Public Advocate until the successor of
24 the Public Advocate shall be appointed and shall qualify.

25 The Assistant Public Advocate shall receive such salary as shall
26 be provided by law.

1 6. The Public Advocate shall appoint deputy public advocates
2 and other expert assistants in such number as he shall require to

3 assist him in the performance of the duties of his office. Deputies
4 shall be attorneys-at-law of this State. Deputies and other expert
5 assistants shall serve at the pleasure of the Public Advocate and
6 shall receive such salaries as he shall from time to time designate.

1 7. Division of Administration. There is hereby established in the
2 Department of the Public Advocate the Division of Administration
3 to be under the supervision of the Director of the Division of
4 Administration.

1 8. It shall be the duty of the Division of Administration to pre-
2 pare a budget for the department, fulfill personnel requirements,
3 provide public information concerning department activities,
4 ***and*** conduct such research as the Public Advocate determines
5 to be relevant and necessary to the department's functions ***[and*
6 *to draft such legislation as may from time to time be required]***.

1 9. Section 3 of P. L. 1967, c. 43 (C. 2A:158A-3) is amended to
2 read as follows:

3 3. There is hereby established in the Executive Branch of the
4 State Government the Office of the Public Defender. For the pur-
5 pose of complying with the provisions of Article V, Section IV,
6 paragraph 1 of the New Jersey Constitution, the Office of the Public
7 Defender is hereby allocated within the Department of *[Institutions*
8 *and Agencies]* *the Public Advocate*, but, notwithstanding said allo-
9 cation, the office shall be independent of any supervision or control
10 by the department or by any board or officer thereof.

1 10. Allocation of the Office of Public Defender to the Department
2 of the Public Advocate as provided herein shall not alter or change
3 the term, tenure of office, rights, obligation, duties or responsibilities
4 otherwise provided by law for the Public Defender.

1 11. Office of Inmate Advocacy: established. There is hereby
2 established in the Office of the Public Defender the Office of Inmate
3 Advocacy.

1 12. Inmate: defined. As used in this article, "inmate" shall
2 mean any person who is committed to or confined in a jail, prison,
3 lockup, penitentiary, reformatory, training school or other similar
4 facility within the State of New Jersey.

1 13. Office of Inmate Advocacy: duties. The Office of Inmate
2 Advocacy may represent the interests of ***[prisoners]***
3 ***inmates*** in such disputes and litigation, as will, in the discretion
4 of the Public Defender, best advance the interests of ***[prison-*
5 *ers]*** ***inmates*** as a class on an issue of general application
6 to them, and may ***[negotiate]*** ***act*** as representative of
7 ***[prisoners]*** ***inmates*** with any principal department or

8 other instrumentality of State, county or local government. ***The*
 9 *provisions of this section shall not be construed to expand the*
 10 *authority or responsibility of the Public Defender to represent*
 11 *inmates as individuals.***

1 14. Professional responsibilities. The primary duty of all staff
 2 members and of others engaged by the department on a ***[con-**
 3 **tract]*** *temporary** or case basis shall be to the individual client,
 4 with like effect and to the same purpose as though privately en-
 5 gaged by the client and without regard to the use of public funds
 6 to provide the service. This responsibility shall not preclude the
 7 designation or assignment of different individuals to perform
 8 various parts of the service from time to time, the duty in such
 9 cases to be the same as would exist in the case of a privately en-
 10 gaged law firm.

1 15. Attorney-client privilege. All communications between the in-
 2 dividual client and any attorney in or engaged by the Department
 3 of the Public Advocate shall be fully protected by the attorney-
 4 client privilege to the same extent and degree as though counsel has
 5 been engaged privately. This privilege shall in no way preclude the
 6 use by the department of material in its files, otherwise privileged,
 7 for the preparation and disclosure of statistical, case study and
 8 other sociological data, provided always that in any such use there
 9 shall be no disclosure of the identity or the means for discovering
 10 the identity of particular clients.

1 16. Standard of performance. In providing legal services to
 2 clients pursuant to this act, every attorney, whether a member of
 3 the staff or engaged by the department on a ***[contract]*** *tempo-*
 4 *rary** or case basis, shall adhere to the standards of performance
 5 established from time to time by the Supreme Court of New Jer-
 6 sey in the execution of its duty to supervise the practice of law;
 7 and the department shall furnish to such court materials and data
 8 as may be requisite to the measurement of the adequacy of the
 9 performance hereunder.

ARTICLE II

1 17. Division of Rate Counsel: established. There is hereby
 2 established in the Department of the Public Advocate the Division
 3 of Rate Counsel to be under the supervision of the Director of the
 4 Division of Rate Counsel.

1 18. Director, Division of Rate Counsel: staff. The Director of
 2 the Division of Rate Counsel shall be an attorney-at-law of this
 3 State and may employ such assistants on a full-time basis as are
 4 necessary to protect the public interest. When exceptional circum-

stances arise, the Director of the Division of Rate Counsel, with the approval of the Public Advocate, may on a temporary basis retain such other expert assistants as are necessary to protect the public interest, pursuant to a reasonable fee schedule established in advance by the Public ~~Advocate~~ *Advocate*.

Cases shall be assigned to staff attorneys or to attorneys hired by case on a basis calculated to provide competent representation in the light of the nature of the case, the services to be performed, the experience of the particular attorney and other relevant factors.

19. Division of Rate Counsel: ~~duties~~ *jurisdiction*. The Division of Rate Counsel shall represent and protect the public interest as defined in section 31 of this act in proceedings before and appeals from any State department, commission, authority, council, agency or board charged with the regulation or control of any business, industry or utility regarding a requirement that the business, industry or utility provide a service or regarding the fixing of a rate, toll, fare or charge for a product or service. The Division of Rate Counsel may initiate any such proceedings when the director determines that a discontinuance or change in a required service or a rate, toll, fare or charge for a product or service is in the public interest.

20. *a.* Payment of expenses of Division of Rate Counsel. Whenever the Division of Rate Counsel represents the public interest in a proceeding initiated by application of a business, industry or utility *other than an insurance company or non-profit service plan subject to the provisions of Title 17 of the Revised Statutes or Title 17B of the New Jersey Statutes* for authority to increase the rate, toll, fare or charge charged by it for any product or service or *in a proceeding initiated by application of a business, industry or utility* to discontinue or change any required service, the Director of the Division of Rate Counsel ~~shall~~ *may* assess the business, industry or utility *up to* $\frac{1}{10}$ of 1% of its revenues derived in the calendar year last preceding the institution of such proceeding from its intrastate sales of the product supplied or intrastate service rendered, the rate, toll, fare or charge for which, *or the discontinuance or charge for which*, is the subject matter of such proceeding, or \$500.00, whichever is greater. The assessment shall not exceed ~~[\$500,000]~~, *\$500,000.00* unless the compensation and expenses of counsel, experts and assistants employed by the division in such proceeding exceed ~~[\$500,000]~~, *\$500,000.00* in which case the director shall send the business, industry or utility an

22 itemized statement setting forth the amount, as of the date of such
 23 statement, of the compensation and expenses. ****[Any and all**
 24 amounts paid by the business, industry, or utility pursuant to this
 25 act shall be deemed to be operating expenses. **]****

26 ***b. Whenever the Division of Rate Counsel represents the*
 27 *public interest in a proceeding initiated by an insurance company*
 28 *or nonprofit service plan subject to Title 17 of the Revised Statutes*
 29 *or Title 17B of the New Jersey Statutes for authority to increase*
 30 *or change the charges for insurance, the director shall send each*
 31 *insurer, nonprofit service plan or rating organization involved in*
 32 *such proceeding a statement of the compensation and expenses of*
 33 *counsel, experts and assistants employed by the division in such*
 34 *proceeding, together with an appropriate allocation to such insur-*
 35 *ance company, nonprofit service plan or rating organization of its*
 36 *fair share thereof.***

37 ****c.**** All assessments or statements of compensation and ex-
 38 penses shall be paid by the business, industry or utility to the
 39 Department of the Treasury within 30 days after the date of
 40 assessment. The State Treasurer, upon receipt of any payment
 41 by the business, industry or utility pursuant to the provisions of
 42 this act, shall cause the same to be deposited in the General State
 43 Fund.

44 ***d. Any and all amounts paid by the business, industry or*
 45 *utility pursuant to this act shall be deemed to be operating*
 46 *expenses.***

1 **21. Transfer of powers and duties of Attorney General pertain-**
 2 **ing to public utility rate hearings.**

3 All the functions, powers and duties heretofore exercised by the
 4 Attorney General pertaining to the employment, on a temporary
 5 basis of legal counsel, experts and assistants to protect the public
 6 interest pursuant to P. L. 1951, c. 357 (C. 48:2-31.1, et seq.) and all
 7 amendments and supplements thereto, are hereby transferred to and
 8 vested in the Division of Rate Counsel.

ARTICLE III

1 **22. Division of Mental Health Advocacy:** established. There is
 2 hereby established in the Department of the Public Advocate the
 3 Division of Mental Health Advocacy under the supervision of the
 4 Director of the Division of Mental Health Advocacy.

1 **23.** The Director of the Division of Mental Health Advocacy
 2 may******, *with the approval of the Public Advocate,*** employ such
 3 assistants on a full-time basis as are necessary. When exceptional
 4 circumstances arise, the Director of the Division of Mental Health

5 Advocacy, with the approval of the Public Advocate, may on a
6 temporary basis retain such other expert assistants as are neces-
7 sary pursuant to a reasonable fee schedule established in advance
7A by the Public Advocate.

8 Cases shall be assigned to staff attorneys or attorneys hired by
9 case on a basis calculated to provide competent representation
10 in light of the nature of the case, the services to be performed,
11 the experience of the particular attorney and other relevant
12 factors.

1 24. Indigent mental hospital admittee: defined. As used herein
2 "indigent mental hospital admittee" means a person who has been
3 admitted to and is a patient in a mental hospital, an institution for
4 the care and treatment of the mentally ill, or a similar facility,
5 whether public or private, State, county or local, or who is the
6 subject of an action for admission as provided by R. S. 30:4-27 and
7 who does not have the present financial ability to secure competent
8 legal representation and to provide all other necessary expenses of
9 representation.

1 25. Legal representation and medical consultation *[sources for
2 indigent mental hospital admittees]*. The Division of Mental
3 Health Advocacy may provide such legal representation and medi-
4 cal consultation as the director deems appropriate for any indigent
5 mental hospital admittee in any proceeding concerning the ad-
6 mittee's admission to, retention in, or release from confinement in
7 such a hospital, institution or facility.

1 26. Class actions *[on behalf of mental hospital admittees]*. The
2 Division of Mental Health Advocacy may**, *with the approval of*
3 *the Public Advocate,*** represent the interests of indigent mental
4 hospital admittees in such disputes and litigation, as will, in the
5 discretion of the Director of the Division of Mental Health
6 Advocacy, best advance the interests of indigent mental hospital
7 admittees as a class on an issue of general application to them,
8 and may **[negotiate]** **act** as representative of indigent
9 mental hospital admittees with any principal department or other
10 instrumentality of State, county or local government.

1 27. Eligibility for services. Eligibility for the services of the
2 Division of Mental Health Advocacy shall be determined on the
3 basis of the need of the client. Need shall be measured according to
4 the financial ability of the client to engage and compensate compe-
5 tent private counsel and to provide all other necessary expenses of
6 representation. Such ability shall be recognized to be a variable
7 depending on the nature, extent and liquidity of assets and on the

8 disposable net income of the client on the one hand, and on the
 9 nature of the case, the effort and skill required to gather pertinent
 10 information, render advice, conduct trial or render other legal
 11 services, and probable expenses to be incurred, on the other hand.
 12 In the event that a determination of eligibility cannot be made
 13 before the time when the first services are to be rendered, or if an
 14 initial determination is found to be erroneous, the division shall
 15 undertake the same provisionally, and if it shall subsequently
 16 determine that the client is ineligible it shall so inform the client,
 17 and the client shall thereupon with the approval of the court be
 18 obliged to engage his own counsel and to reimburse the division for
 19 the cost of the services rendered to that time.

1 28. Financial status of defendant; investigation. The Division of
 2 Mental Health Advocacy shall make such investigation of the
 3 financial status of each client as the circumstances warrant. The
 4 division, pursuant to rules and regulations promulgated by the de-
 5 partment for the purpose, may obtain information from any public
 6 record, office of the State or of any subdivision or agency thereof on
 7 request and without payment of the fees ordinarily required by law.

ARTICLE IV

1 29. Division of Public Interest Advocacy: established. There is
 2 hereby established in the Department of the Public Advocate the
 3 Division of Public Interest Advocacy under the supervision of the
 4 Director of the Division of Public Interest Advocacy, who shall
 5 be an attorney-at-law of this State.

1 30. Division of Public Interest Advocacy: jurisdiction. The Divi-
 2 sion of Public Interest Advocacy may represent the public interest
 3 in such administrative and court proceedings, other than those
 4 under the jurisdiction of the Division of Rate Counsel pursuant to
 5 Article II herein, as the Public Advocate deems shall best serve
 6 the public interest.

1 31. Public interest: defined. As used in this act, public interest
 2 shall mean an interest or right arising from the Constitution,
 3 decisions of court, common law or other laws of the United States
 4 or of this State inhering in the citizens of this State or in a broad
 5 class of such citizens.

1 32. Decision to represent particular public interest. The Public
 2 Advocate shall have sole discretion to represent or refrain from
 3 representing the public interest in any proceeding. He shall con-
 4 sider in exercising his discretion the importance and the extent of
 5 the public interest involved and whether that interest would be
 6 adequately represented without the action of the department. If the

7 Public Advocate determines that there are inconsistent public
 8 interests involved in a particular matter, he may choose to repre-
 9 sent one such interest based on the considerations in this section,
 10 to represent no interest in that matter, or to represent one such
 11 interest through the Division of Public Interest Advocacy and
 12 another or others through other divisions of the department or
 13 through outside counsel engaged on a case basis.

1 33. Division of Public Interest Advocacy: ***[powers]*** ****[*juris-**
 2 **diction*]**** ***power****. The Division of Public Interest Advocacy
 3 may represent and protect the public interest by:

4 a. Intervening in ***or instituting*** proceedings before any
 5 department, commission, agency or board of the State leading to
 6 an administrative adjudication or administrative rule as defined
 7 in section 2 of P. L. 1968, c. 410 (C. 52:14B-2).

8 b. Instituting litigation on behalf of a broad public interest
 9 ***when authorized to do so by the Public Advocate***.

ARTICLE V

1 34. Division of Citizen Complaints and Dispute Settlement.
 2 There is hereby established in the Department of the Public
 3 Advocate the Division of Citizen Complaints and Dispute Settle-
 4 ment under the supervision of the Director of the Division of Citizen
 5 Complaints and Dispute Settlement.

1 35. There is hereby established in the Division of Citizen Com-
 2 plaints and Dispute Settlement the Office of Citizen Complaints.

1 36. Definitions. a. "Agency" means and includes the State of
 2 New Jersey, and its principal departments, and any division,
 3 bureau, board, commission, agency, office, authority or institution
 4 of the Executive Branch of the State Government, and any officer,
 5 employee, or member thereof acting or purporting to act in the
 6 exercise of his official duties, except the Governor and his personal
 7 staff. "Agency" shall not include any portion of the legislative or
 8 judicial branches of government, or any unit of county or municipal
 9 government.

10 b. "Administrative act" means and includes any action,
 11 omission, decision, recommendation, practice or procedure of an
 12 agency, but does not include the preparation, presentation or in-
 13 troduction of legislation.

1 37. Powers and duties. The office shall, under the direction and
 2 supervision of the Director of the Division of Citizen Complaints
 3 and Dispute Settlement, in addition to other powers and duties,
 4 vested in it by this act, or any other law:

5 a. Receive and forward to appropriate agencies of the State for

6 determination complaints from any citizen relating to the admini-
7 strative action or inaction of agencies.

8 b. Investigate any complaint from any citizen relating to the
9 administrative action or inaction of any agency, whether or not such
10 action or inaction is final, where the complaint indicates that the
11 action or inaction may have been:

12 (1) Unreasonable, unfair, oppressive or discriminatory, although
13 in accordance with law;

14 (2) Unaccompanied by an adequate explanation;

15 (3) Performed in an inefficient manner.

16 c. Maintain records indicating the final disposition of any com-
17 plaint forwarded by the office to an agency.

1 38. Notice to complainant and agency***¶**; investigation of com-
2 plaints**¶***. The Office of Citizen Complaints shall determine whether
3 a complaint is or is not an appropriate subject for investigation
4 under section ***¶38*** *37* of this act, and shall inform the com-
5 plainant of that decision, stating its reasons therefor. If the office
6 decides to investigate a complaint, it shall also notify the affected
7 agency of its decision.

1 39. Procedure after investigation. If, after investigation, the
2 Office of Citizen Complaints finds that:

3 a. A matter should be further considered by the agency;

4 b. An administrative action or inaction should be modified or
5 canceled;

6 c. A statute or regulation on which an administrative action or
7 inaction is based should be altered;

8 d. Reasons or more complete reasons should be given for an
9 administrative action or inaction; or

10 e. Any other action should be taken by the agency;

11 it shall report its findings and recommendations to the Public
12 Advocate who may request the agency to notify him, within a
13 specified time, of the action taken on such recommendations. The
14 Public Advocate may refer the findings and recommendations of the
15 Office of Citizen Complaints to the Division of Public Interest
16 Advocacy, or if appropriate, to the Division of Rate Counsel.

1 40. Notice to the complainant. After a reasonable time has
2 elapsed, the Office of Citizen Complaints shall notify the com-
3 plainant of the action taken by the office and by the agency which
4 was the subject of the complaint.

1 41. Office of Dispute Settlement. There is hereby established in
2 the Division of Citizen Complaints and Dispute Settlement the
3 Office of Dispute Settlement.

1 42. The Office of Dispute Settlement may in the discretion of the
 2 Public Advocate provide mediation, conciliation and other third
 3 party services to community and civic groups, associations and
 4 organizations, and to municipal and county governmental agencies
 5 for the purpose of aiding such parties in resolving disputes which
 6 involve the public interest, provided that such groups, associations,
 7 organizations and governmental agencies request such services.

ARTICLE VI

1 **[43. References in laws, regulations, contracts to the Attorney
 2 General. All the functions, powers and duties heretofore exercised
 3 by the Attorney General pertaining to the appointment of special
 4 counsel pursuant to P. L. 1944, c. 20 (C. 52:17A-13) are hereby
 5 transferred to and vested in the Public Advocate.

6 With respect to the other functions, powers and duties hereby
 7 transferred to the Department of the Public Advocate, whenever in
 8 any law, rule, regulation, contract, document, judicial or administra-
 9 tive proceeding, reference is made to the Department of Law and
 10 Public Safety or to the Attorney General, the same shall mean and
 11 refer to the Department of the Public Advocate and the Public
 12 Advocate, respectively.]**

1 **43. *Any action brought by the Public Advocate or any*
 2 *persons authorized herein to institute or participate in actions*
 3 *before the courts or agencies of this State shall be brought in the*
 4 *name of the person serving as the Public Advocate or in the name*
 5 *of an affected individual or group, but shall not be brought in the*
 6 *name of the State or the people thereof.***

1 **44. *The provisions of this act in and of themselves shall not*
 2 *be construed so as to create any new causes of action, or to authorize*
 3 *any suit against the Legislature or either House or the officers*
 4 *thereof.***

1 **[44.]** **45.** Applicability of "State Agency Transfer
 2 Act." This act shall be subject to the provisions of the "State
 3 Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1, et seq.).

1 **[45.]** **46.** All acts and parts of acts inconsistent with
 2 any of the provisions of this act are, to the extent of such incon-
 3 sistency, superseded and repealed.

1 **47. *The Public Advocate shall present a detailed report of the*
 2 *operation of Article IV and sections 11, 12 and 13 of this act to the*
 3 *Governor and to each member of the Legislature on December 1*
 4 *of each year.*

5 *Article IV and sections 11, 12 and 13 of this act shall terminate*
 6 *and be of no further force and effect on December 1, 1978 unless*
 7 *extended by act of the Legislature.***

1 **[46.]** **48.** If any section, subsection, paragraph, sentence
2 or other part of this act is adjudged unconstitutional or invalid,
3 such judgment shall not affect, impair or invalidate the remainder
4 of this act, but shall be confined in its effect to the section, sub-
5 section, paragraph, sentence or other part of this act directly
6 involved in the controversy in which said judgment shall have been
7 rendered.

1 **[47.]** **49.** Appropriation. There is hereby appropriated
2 to the Department of the Public Advocate the sum of \$250,000.00,
3 for the fiscal year ending June 30, 1974.

1 **[48.]** **50.** P. L. 1951, c. 357 is ***[hereby]*** repealed.

1 **[49.]** **51.** Effective date. This act shall take effect 30
2 days after enactment. Anticipatory action may be taken in advance
3 thereof, including the making of authorized appointments, and
4 confirmation or approval thereof, and; within the limits of funds
5 available to the department, the expenditure of funds for payment
6 of salaries and expenses incident thereto.

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3 year ending June 30, 1974.

1 48. P. L. 1951, c. 357 is hereby repealed.

1 49. Effective date. This act shall take effect 30 days after enact-
2 ment. Anticipatory action may be taken in advance thereof, in-
3 cluding the making of authorized appointments, and confirmation
4 or approval thereof, and; within the limits of funds available to the
5 department, the expenditure of funds for payment of salaries and
6 expenses incident thereto.

STATEMENT

This bill establishes a Department of the Public Advocate to represent the public interest in various proceedings, and provides for an appropriation of \$250,000.00 for fiscal year 1974.

This bill transfers the Office of the Public Defender, which is now in the Department of Institutions and Agencies, to the Department of the Public Advocate without in any way altering the rights or responsibilities of the Public Defender or of the Office of the Public Defender. A companion bill, however, will expand the jurisdiction of the Office of the Public Defender to include persons charged as juvenile delinquents or juveniles in need of supervision, persons charged with parole violations and indigent disorderly persons.

The Public Advocate may represent prison inmates as a class in order to modify rules relating to their treatment. The function of rate counsel, presently performed by private attorneys at great public expense, is assumed by a full-time staff in the department. The Public Advocate may represent indigent persons being committed to mental institutions, and may represent such persons as a class in order to modify rules relating to their treatment. The Public Advocate may intervene in any administrative proceeding, and may institute litigation, in behalf of the citizens of New Jersey in order to ensure that important perspectives of the public interest, which would otherwise be unrepresented, will be brought to the attention of appropriate administrative agencies and courts. The department will also assume an ombudsman function, investigating citizen complaints related to the functioning of State government, and making recommendations where appropriate. The department may also provide mediation and conciliation services to public and private bodies requesting the services in order to resolve disputes involving the public interest.

A1409(1974)

ASSEMBLY STATE GOVERNMENT AND FEDERAL AND
INTERSTATE RELATIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1409

STATE OF NEW JERSEY

DATED: MARCH 21, 1974

This bill establishes a Department of the Public Advocate to represent the public interest in various proceedings, and provides for an appropriation of \$250,000.00 for fiscal year 1974.

This bill transfers the Office of the Public Defender, which is now in the Department of Institutions and Agencies, to the Department of the Public Advocate without in any way altering the rights or responsibilities of the Public Defender or of the Office of the Public Defender.

The Public Advocate may represent prison inmates as a class in order to modify rules relating to their treatment. The function of rate counsel, presently performed by private attorneys at public expense, is assumed by a full-time staff in the department. The Public Advocate may represent indigent persons being committed to mental institutions, and may represent such persons as a class in order to modify rules relating to their treatment. The Public Advocate may intervene in any administrative proceeding, and may institute litigation, in behalf of the citizens of New Jersey in order to ensure that important perspectives of the public interest, which would otherwise be unrepresented, will be brought to the attention of appropriate administrative agencies and courts. The department will also assume a role similar to that of an ombudsman by investigating citizen complaints related to the administration and functioning of State government and by making recommendations where appropriate. The department may also provide mediation and conciliation services to public and private bodies requesting the services in order to resolve disputes involving the public interest.

SENATE STATE GOVERNMENT AND FEDERAL
AND INTERSTATE RELATIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1409

STATE OF NEW JERSEY

DATED: APRIL 29, 1974

This bill establishes a Department of the Public Advocate to represent the public interest in various proceedings, and provides for an appropriation of \$250,000.00 for fiscal year 1974.

This bill transfers the Office of the Public Defender, which is now in the Department of Institutions and Agencies, to the Department of the Public Advocate without in any way altering the rights or responsibilities of the Public Defender or of the Office of the Public Defender.

The Public Advocate may represent prison inmates as a class in order to modify rules relating to their treatment. The function of rate counsel, presently performed by private attorneys at public expense, is assumed by a full-time staff in the department. The Public Advocate may represent indigent persons being committed to mental institutions, and may represent such persons as a class in order to modify rules relating to their treatment. The Public Advocate may intervene in any administrative proceeding in behalf of the citizens of New Jersey in order to ensure that important perspectives of the public interest, which would otherwise be unrepresented, will be brought to the attention of appropriate administrative agencies and courts. The department will also assume a role similar to that of an ombudsman by investigating citizen complaints related to the administration and functioning of State government and by making recommendations where appropriate. The department may also provide mediation and conciliation services to public and private bodies requesting the services in order to resolve disputes involving the public interest.

FISCAL NOTE TO
ASSEMBLY, No. 1409

STATE OF NEW JERSEY

DATED: APRIL 16, 1974

Assembly Bill No. 1409 is an act establishing and concerning a Department of the Public Advocate as a principal department in the Executive Branch of the State government.

The Office of the Public Defender estimates that enactment of this legislation would require a State expenditure of \$250,000.00 for the remainder of the current fiscal year, \$2,087,426.00 in fiscal 1974-75 and \$2,262,587.00 in fiscal 1975-76.

The Executive Branch proposes to implement part of this legislation by setting up two "pilot projects", namely

(a) Mental Health Advocacy and (b) Municipal Courts—indigents charged as "disorderly persons". The results of these programs could cause costs to vary significantly from those estimated above.

No reference has been made to the possible increase in municipal court costs or costs for the Attorney General as a result of enactment of this legislation.

The fiscal note is based on an estimate of costs rather than actual cost information.

In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

FROM THE OFFICE OF THE GOVERNOR

MAY 13, 1974

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

A-1409

Governor Brendan Byrne signed into law Monday a bill creating a new State Department of the Public Advocate, an agency that will represent the public interest in a number of areas.

The administration measure, sponsored by Assembly Speaker S. Howard Woodson, D-Mercer, was signed at a public ceremony in the Governor's office.

"I am pleased that the Legislature has acted expeditiously in establishing this new department," said Byrne.

"This department creates for the first time in any state a cabinet-level agency responsible for representing the public interest," he added. "I look forward to this department becoming a true spokesman for the public interest, as well as being responsive to the public will."

Byrne also announced he will submit today the nomination of Stanley C. Van Ness, presently the Director of the Office of Public Defender, to head the new department.

Under the new law, the public defender, now an arm of the Department of Institutions and Agencies, would become a division in the new department.

Other aspects of the new department are:

-- the Division of Rate Counsel to represent the public interest in rate cases before such agencies as the state Board of Public Utility Commissioners and the Department of Insurance.

-- the Division of Mental Health Advocacy to represent persons contesting commitment to a mental institution.

-- the Division of Public Interest Advocacy with power to intervene in any of the state's administrative or rule-making proceedings in matters affecting the broad public interest.

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MAY 28 1974

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Trenton, N.J.

-- the Division of Citizen Complaints to receive and consider by private citizens against agencies of state government.

Van Ness, of Lawrence Township, has been the State Public Defender since November 1968, when he was appointed by former Governor Richard J. Hughes. He was reappointed by former Governor William T. Cahill in July 1972.

Previously, he served two years as counsel to Governor Hughes.

Van Ness is a 1955 graduate of Rutgers University and received his law degree from the Rutgers School of Law in 1963.

He is Associate Editor of the New Jersey Law Journal, Vice Chairman of the State Law Enforcement Planning Agency; a member of the board of the National Legal Aid and Defender Association; a Trustee of the New Jersey Bar Institute; a Trustee of the Wallace-Eljabar Foundation, a member of the Board of Directors of the Mercer County Improvement Authority.

Van Ness also is a member of the Supreme Court Committee on Criminal Procedures; a member of the New Jersey Bar Association Committee on Corrections; a member of the Trenton Boys Club Board of Directors; and is former President of the Greater Trenton Human Relations Council.

His professional affiliations include the American Bar Association; the New Jersey Bar Association; the Mercer County Bar Association; the National Legal Aid and Defenders Association; the Rutgers Law School Alumni Association, and the American Judicature Society.

Van Ness and his wife, Patricia, have one son, David, 13.
