

Legislation Text

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TO THE PRESIDENT AND MEMBERS OF THE COUNCIL OF THE CITY OF PHILADELPHIA:

As the sponsor of Bill No. 150001 has pointed out repeatedly and forcefully, it is crucial that the Administration and Council *together* “ensure that standards are being met and adequate representation will be given to those indigent individuals requiring the services of conflict counsel.” It is precisely because I believe that the words of the sponsor are correct and should be taken seriously that I am returning this bill to your Honorable Body unsigned. This bill does not really address the issue. I would, however, respectfully propose to work with the sponsor and members on *further* legislation to clarify standards, and streamline the contracting and approval process.

This bill merely singles out for special scrutiny any contracts that include conflict counsel services with Community Legal Services, the Defender Association, and the Support Center for Child Advocates. These are three of the finest organizations in the field of indigent defense and legal services. The Support Center for Child Advocates already does extensive conflicts work, but does not need further scrutiny because of the consistently high quality of its work. To the extent another of the organizations singled out in this bill may take on conflicts work, there is little doubt they too would perform it to the highest levels of excellence.

The question we must answer with respect to this bill is *what does it accomplish?* Council review of any contract with these organizations is not the problem—we, Council and the Administration alike, should all welcome the opportunity to keep these peerless legal advocates in service to our City and to the constitutional rights of indigent defendants. There has never been an issue with the quality of the services these organizations provide, and there seems to be no reason to specially engage Council’s scrutiny of them among all other possible providers.

I am concerned that an unintended consequence of the bill could be to make it more difficult to improve the status quo. The five attorneys supporting this bill during public comment at the February 5 Council meeting may well all provide diligent and zealous advocacy in any court appointments they accept. But I do not believe that the economic and career concerns they variously expressed comport with the sponsor’s concern for the *constitutional* rights of indigent defendants. One speaker even stated that “something with [this] sort of *economic* impact certainly should be approved by Council.” But the primary question here is not economic; it is about providing high quality legal services to protect the constitutional rights of those indigent defendants who require conflict counsel.

Business opportunities and career growth are obviously good, and no one would oppose them. However, I am concerned that this bill could unintentionally provide an avenue for those with a vested interest in the status quo to push back on any opportunity to improve it.

For the following reasons, I am unable to approve this bill. However, I believe that the sponsor, other members, and my Administration can and should collaborate on legislation to implement standards to be required in conflict counsel contracts. I am therefore allowing it to become law without my signature in the expectation that appropriate standards can be agreed upon.

Respectfully,
Michael A Nutter

Statement of the Hon. Dennis M. O'Brien on Bill No. 150001, Transcript of Committee on Law and Government, Jan. 28, 2015, 18:6-9.

² Public Comment on Bill No. 150001, Transcript of Stated Meeting, Feb. 5, 2015, 60:13-15 (emphasis added). Another speaker stated in his remarks that "court appointments is what's going to help me grow my business." *Id.* at 66:7-8. Yet another asserted that some court appointed counsel might have had careers and moved up at the Defender Association or the District Attorney's Office, but are now "in private practice making money...." *Id.* at 69:5-6.