

115TH CONGRESS
1ST SESSION

H. R. 969

To amend title 18, United States Code, to establish a corporation to advocate on behalf of individuals in noncapital criminal cases before the Supreme Court of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2017

Mr. SEAN PATRICK MALONEY of New York (for himself, Mr. CUMMINGS, and Mr. JEFFRIES) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to establish a corporation to advocate on behalf of individuals in noncapital criminal cases before the Supreme Court of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clarence Gideon Full
5 Access to Justice Act” or the “Gideon Act”.

1 **SEC. 2. DEFENDER OFFICE FOR SUPREME COURT ADVOCACY.**
 2 **CACY.**

3 (a) IN GENERAL.—Chapter 201 of title 18, United
 4 States Code, is amended by inserting after section 3006A
 5 the following:

6 **“§ 3006B. Defender Office for Supreme Court Advocacy**
 7 **cacy**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘Board’ means the Board of Directors
 10 established under subsection (d) for the Office;
 11 fice;

12 “(2) the term ‘consult’ includes, with respect to
 13 covered cases—

14 “(A) giving advice;

15 “(B) drafting or editing briefs;

16 “(C) providing assistance with moot
 17 courts; and

18 “(D) organizing or coordinating the drafting,
 19 editing, and filing of amicus curiae briefs;

20 “(3) the term ‘covered case’ means a noncapital
 21 case involving an issue of Federal criminal statutory
 22 or constitutional law;

23 “(4) the term ‘Director’ means the Director of
 24 the Office selected in accordance with subsection (e);
 25 and

1 “(5) the term ‘Office’ means the Defender Of-
2 fice for Supreme Court Advocacy established under
3 subsection (b).

4 “(b) ESTABLISHMENT; PURPOSES.—There is estab-
5 lished in the District of Columbia a private nonmember-
6 ship nonprofit corporation, which shall be known as the
7 Defender Office for Supreme Court Advocacy, for the pur-
8 pose of—

9 “(1) advocating on behalf of individuals in cov-
10 ered cases before—

11 “(A) the Supreme Court of the United
12 States; and

13 “(B) when resources permit, the highest
14 court of a State; and

15 “(2) providing assistance to attorneys advo-
16 cating on behalf of individuals in covered cases de-
17 scribed in paragraph (1).

18 “(c) PRINCIPAL OFFICE.—The Office shall maintain
19 its principal office in the District of Columbia.

20 “(d) BOARD OF DIRECTORS.—

21 “(1) IN GENERAL.—The Office shall have a
22 Board of Directors consisting of 18 voting mem-
23 bers—

24 “(A) 6 of whom shall be Federal Public
25 Defenders or Executive Directors of Community

1 Defender Organizations described in section
2 3006A, elected by the Federal Public Defenders
3 and the Executive Directors of Community De-
4 fender Organizations in each district;

5 “(B) 6 of whom shall be attorneys from a
6 panel described in section 3006A(b), elected by
7 the panel attorney district representatives; and

8 “(C) 6 of whom shall be State or local
9 public defenders from geographically diverse
10 States, who shall be elected by the individuals
11 elected under subparagraphs (A) and (B) not
12 later than 6 months after the date of the first
13 meeting of the Board.

14 “(2) STAGGERED TERMS.—

15 “(A) IN GENERAL.—A member of the
16 Board shall serve a term of 4 years, except that
17 the first members elected to the Board under
18 subparagraph (A) or (B) of paragraph (1) shall
19 be divided into Class A and Class B.

20 “(B) CLASSES.—Class A and Class B shall
21 each consist of—

22 “(i) 3 members elected under para-
23 graph (1)(A); and

24 “(ii) 3 members elected under para-
25 graph (1)(B).

1 “(C) TERMS.—

2 “(i) INITIAL TERMS.—For the initial
3 members of the Board—

4 “(I) members of Class A shall
5 serve a term of 2 years;

6 “(II) members of Class B shall
7 serve a term of 4 years; and

8 “(III) members elected under
9 paragraph (1)(C) shall serve a term of
10 4 years.

11 “(ii) SUBSEQUENT TERMS.—All sub-
12 sequent terms shall be for a term of 4
13 years.

14 “(D) MEMBERSHIP OF EACH CLASS.—The
15 membership of each class shall be determined
16 by the members of the Board at the first meet-
17 ing of the Board of Directors.

18 “(E) VACANCIES.—Interim elections may
19 be held to fill any vacancies.

20 “(3) BYLAWS.—The Board shall establish by-
21 laws to govern the operations of the Office.

22 “(e) DIRECTOR.—

23 “(1) IN GENERAL.—The Board of Directors
24 shall appoint a Director for the Office.

1 “(2) REQUIREMENT.—The Director appointed
2 under paragraph (1) shall not be a member of the
3 Board of Directors.

4 “(f) GENERAL REQUIREMENTS FOR DIRECTOR.—
5 The Director shall be learned and experienced in the law
6 applicable to Federal criminal appellate practice.

7 “(g) FUNCTIONS OF THE OFFICE.—

8 “(1) GRANTS OF PETITIONS FOR WRITS OF
9 CERTIORARI IN THE SUPREME COURT OF THE
10 UNITED STATES.—

11 “(A) IN GENERAL.—On the granting of a
12 petition for a writ of certiorari by the Supreme
13 Court of the United States in a covered case,
14 the Office shall—

15 “(i) consult with any counsel in a cov-
16 ered case in which the defendant was pre-
17 viously represented by counsel appointed
18 under section 3006A; and

19 “(ii) when resources permit, be avail-
20 able to consult with counsel in any other
21 covered case.

22 “(B) ARGUING CASE.—In any covered
23 case, an attorney described in clause (i) or (ii)
24 of subparagraph (A) may—

1 “(i) advocate on behalf of an indi-
2 vidual before the Supreme Court of the
3 United States; or

4 “(ii) permit the Office to advocate on
5 behalf of an individual before the Supreme
6 Court of the United States.

7 “(2) FILING OF AMICUS CURIAE BRIEFS.—The
8 Office may file an amicus curiae brief—

9 “(A) in any covered case in the Supreme
10 Court of the United States; and

11 “(B) when resources permit, in a covered
12 case in the highest courts of States.

13 “(3) CALL FOR THE VIEWS OF THE OFFICE;
14 LEAVE TO PARTICIPATE IN ORAL ARGUMENT.—In
15 any covered case—

16 “(A) upon request by the Supreme Court
17 of the United States—

18 “(i) the Office may provide the views
19 of the Office on the covered case; and

20 “(ii) an employee of the Office may
21 participate in oral argument as amicus cu-
22 riae; and

23 “(B) upon request by the highest court of
24 a State, and when resources permit—

1 “(i) the Office may provide the views
2 of the Office on the covered case; and

3 “(ii) an employee of the Office may
4 participate in oral argument as *amicus cu-*
5 *riae*.

6 “(4) MONITORING COURT DECISIONS AND FIL-
7 ING PETITIONS FOR CERTIORARI.—The Office
8 may—

9 “(A) monitor issues in covered cases—

10 “(i) on which the courts of appeals of
11 the United States are divided; or

12 “(ii) that involve significant Federal
13 criminal statutory or constitutional issues;
14 and

15 “(B) draft, edit, and file a petition for cer-
16 tiorari in the Supreme Court of the United
17 States on behalf of an individual seeking review
18 by the Supreme Court of the United States of
19 a covered case.

20 “(5) TRAINING.—The Office may provide train-
21 ing to carry out the purpose and functions of the Of-
22 fice.

23 “(6) OTHER FUNCTIONS.—In addition to the
24 functions described in paragraphs (1) through (5),
25 the Director may allocate any funds made available

1 to the Office for any other function that the Direc-
2 tor determines is necessary to carry out the purposes
3 of the Office, including, when resources permit, ad-
4 vocacy in a covered case before the highest court of
5 a State.

6 “(h) EMPLOYEES.—The Director, subject to general
7 policies established by the Office, has the authority to ap-
8 point and remove such employees of the Office as the Di-
9 rector determines necessary to carry out the purposes of
10 the Office.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of sections for chapter 201 of title 18, United
13 States Code, is amended by inserting after the item relat-
14 ing to section 3006A the following:

“3006B. Defender Office for Supreme Court Advocacy.”.

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