

## House Resolution 111

A JOINT RESOLUTION recognizing March 18, 2003, as "Gideon Day" throughout the Commonwealth of Kentucky.

WHEREAS, Earl Gideon, a 51-year-old man with an eighth-grade education, was charged with breaking into a Florida poolroom on June 3, 1961, and stealing coins from a cigarette machine; and

WHEREAS, having plead innocent, Gideon's request for counsel was denied by the State of Florida trial judge; and

WHEREAS, Gideon was forced to defend himself against the case presented by the state's prosecuting attorney by attempting to cross-examine the witnesses against him, make legal arguments, and otherwise plead in a tribunal with procedures unfamiliar to lay persons; and

WHEREAS, Gideon was convicted of felony breaking and entering with intent to commit a misdemeanor, and was sentenced to five years in state prison; and

WHEREAS, Gideon submitted a handwritten petition to the United States Supreme Court from his Florida prison cell, arguing that the United States Constitution does not allow poor people to be convicted and sent to prison without legal representation; and his position was supported in an *amicus* brief filed by 22 state attorneys general; and

WHEREAS, on March 18, 1963, the Supreme Court unanimously ruled that Gideon's trial and conviction without the assistance of counsel was fundamentally unfair and violated the Sixth and Fourteenth Amendments to the United States Constitution, stating as an obvious truth that, "in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him"; and

WHEREAS, at his retrial with the assistance of counsel, Clarence Earl Gideon was found to be not guilty, partly as a result of appointed counsel's cross-examination of the taxi cab driver upon whose testimony Gideon had been convicted at the first trial; and

WHEREAS, as a result of the *Gideon* decision, all states are now obligated to provide court-appointed counsel to persons who have been charged with a crime and who are too poor to afford an attorney; and

WHEREAS, later Supreme Court decisions have further expanded the states' obligation to provide counsel to accused individuals who cannot afford to hire a private attorney including most recently misdemeanor defendants receiving a suspended sentence; and

WHEREAS; this obligation exists even as state budget revenues shrink and the pressure to cut expenditures grows; and

WHEREAS, 40 years after the Supreme Court's decision, implementation of the right to counsel is uneven across the nation in terms of quality of representation, funding, staffing, training, caseloads, and timeliness of appointment; and

WHEREAS, the importance of the promise of the Supreme Court's ruling in Gideon's case of equal justice has been reaffirmed by recent exonerations of the innocent as a result of DNA evidence, and revelations of deficient and under-funded indigent defense systems; and

WHEREAS, Kentucky has long recognized the right to counsel in

Section 10 of the Kentucky Constitution and the decisions of our appellate courts; and

WHEREAS, Kentucky's highest court in 1948 stated that "common justice demands" that an attorney must be appointed when a person charged with a felony cannot afford to hire his own counsel; and

WHEREAS, while members of the Kentucky Bar have long represented indigents accused of crimes at little or no fee for many years, Kentucky courts have held that forcing lawyers to represent poor persons charged with a crime without compensation is unconstitutional; and

WHEREAS, the Department of Public Advocacy was created in 1972, when House Bill 461 passed the General Assembly at the request of Governor Wendell Ford, in order to implement fully in Kentucky the mandates of the decision in Gideon's case; and

WHEREAS, most recently in 1999, a Blue Ribbon Group of experts found that the Kentucky public defender system was the poorest funded system in the country in terms of defender salaries, funding per case, and funding per capita; and

WHEREAS, much progress has been made since 1999, but that recent budget reductions coupled with an increase in caseload threaten to undermine that progress; and

WHEREAS, the Department of Public Advocacy today represents over 108,000 persons each year who cannot afford to hire an attorney to represent them; and

WHEREAS, Kentucky's public defenders, both public and private, number over 400 lawyers and staff, and include persons who have made representing the poor their career and vocation;

NOW, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The General Assembly hereby recognizes March 18, 2003, as "Gideon Day" throughout the Commonwealth of Kentucky.

Section 2. Kentucky hereby rededicates itself to the principle of equal justice for all regardless of income.

Section 3. Officials of Kentucky, including representatives of prosecutors' offices, public defenders' offices, the bar, the courts, and the schools, are encouraged to engage in appropriate commemorative activities to educate the public about the importance of equal access to justice in our great democracy and the mandates of the Supreme Court's decision in Gideon's case even in the face of periodic budgetary constraints.

Section 4. The House of Representatives hereby salutes public defenders and their staff throughout the Commonwealth of Kentucky for their dedication to public service.

Section 5. The Clerk of the House of Representatives shall cause commemorative copies of this Resolution to be printed and made available to government agencies, schools, and the public, to promote ongoing understanding of, and commitment to, the fulfillment of Gideon's promise. ■