

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 767**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Judiciary May 5, 2008 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 767 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3680L.08C

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**AN ACT**

To repeal sections 478.387, 478.437, 478.463, 478.513, 478.750, 514.040, 600.011, 600.015, 600.017, 600.019, 600.021, 600.040, 600.042, 600.048, 600.086, 600.089, 600.090, and 600.096, RSMo, and to enact in lieu thereof twenty-two new sections relating to the public defender system, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 478.387, 478.437, 478.463, 478.513, 478.750, 514.040, 600.011, 2 600.015, 600.017, 600.019, 600.021, 600.040, 600.042, 600.048, 600.086, 600.089, 600.090, and 3 600.096, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known 4 as sections 478.387, 478.437, 478.463, 478.513, 478.750, 478.755, 478.760, 514.040, 600.011, 5 600.015, 600.017, 600.019, 600.021, 600.040, 600.042, 600.045, 600.048, 600.052, 600.086, 6 600.089, 600.090, and 600.096, to read as follows:

478.387. There shall be twenty-four circuit judges in the twenty-second judicial circuit 2 consisting of the city of St. Louis. **After the effective date of this section, the number of** 3 **circuit judges in the twenty-second judicial circuit shall be reduced by six circuit judges.** 4 **Such reduction shall be the first six vacancies or the first six completions of the current** 5 **terms of circuit judges occurring on or after the effective date of this section, or any** 6 **combination thereof, until the number of circuit judges is reduced by six.**

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

478.437. 1. The circuit court of the county of St. Louis, comprising circuit number twenty-one, shall be composed of nineteen divisions and nineteen judges and each of the judges shall separately try causes, exercise the powers and perform all the duties imposed upon circuit judges.

2. **Beginning October 1, 2008, there shall be two additional associate circuit judges in the twenty-first judicial circuit.**

478.463. 1. There shall be nineteen circuit judges in the sixteenth judicial circuit consisting of the county of Jackson. These judges shall sit in nineteen divisions. Divisions one, three, four, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and eighteen shall sit at the city of Kansas City and divisions two, five, sixteen and seventeen shall sit at the city of Independence. Division nineteen shall sit at both the city of Kansas City and the city of Independence. Notwithstanding the foregoing provisions, the judge of the probate division shall sit at both the city of Kansas City and the city of Independence.

2. **Beginning October 1, 2008, there shall be one additional associate circuit judge in the sixteenth judicial circuit. The additional associate circuit judge shall sit in the city of Independence.**

478.513. 1. There shall be five circuit judges in the thirty-first judicial circuit consisting of the county of Greene. These judges shall sit in divisions numbered one, two, three, four and five.

2. The circuit judge in division three shall be elected in 1980. The circuit judges in divisions one, four and five shall be elected in 1982. The circuit judge in division two shall be elected in 1984.

3. **Beginning October 1, 2008, there shall be two additional associate circuit judges in the thirty-first judicial circuit. These associate circuit judges shall be appointed by the governor to serve until the election of such associate circuit judges in 2010.**

478.750. [1. As of January 1, 1983,] There shall be two circuit judges in the forty-third judicial circuit consisting of the counties of Clinton, Caldwell, Daviess, Livingston, and DeKalb. [These judges shall sit in divisions numbered one and two.] **After the effective date of this section, the number of circuit judges in the forty-third judicial circuit shall be reduced by one circuit judge. Such reduction shall be the first vacancy or completion of a current term of a circuit judge occurring on or after the effective date of this section.**

2. [A circuit judge shall be elected for each division in 1982. Candidates for the office of circuit judge shall file by division.]

478.755. **Beginning October 1, 2008, there shall be one additional associate circuit judge in the thirty-ninth judicial circuit. Such associate circuit judge shall be appointed by the governor to serve until the election of such associate circuit judge in 2010.**

2       **478.760. Beginning October 1, 2008, there shall be one additional associate circuit**  
3       **judge in the fortieth judicial circuit. Such associate circuit judge shall be appointed by the**  
4       **governor to serve until the election of such associate circuit judge in 2010.**

5               514.040. 1. Except as provided in subsection 3 of this section, if any court shall, before  
6       or after the commencement of any suit pending before it, be satisfied that the plaintiff is a poor  
7       person, and unable to prosecute his or her suit, and pay all or any portion of the costs and  
8       expenses thereof, such court may, in its discretion, permit him or her to commence and prosecute  
9       his or her action as a poor person, and thereupon such poor person shall have all necessary  
10      process and proceedings as in other cases, without fees, tax or charge as the court determines the  
11      person cannot pay; and the court may assign to such person counsel, who, as well as all other  
12      officers of the court, shall perform their duties in such suit without fee or reward as the court may  
13      excuse; but if judgment is entered for the plaintiff, costs shall be recovered, which shall be  
14      collected for the use of the officers of the court.

15              2. In any civil action brought in a court of this state by any offender convicted of a crime  
16      who is confined in any state prison or correctional center, the court shall not reduce the amount  
17      required as security for costs upon filing such suit to an amount of less than ten dollars pursuant  
18      to this section. This subsection shall not apply to any action for which no sum as security for  
19      costs is required to be paid upon filing such suit.

20              3. Where a party is represented in a civil action by:

21              **(1) A legal aid society or a legal services or other nonprofit organization funded in whole**  
22      **or substantial part by moneys appropriated by the general assembly of the state of Missouri,**  
23      **which has as its primary purpose the furnishing of legal services to indigent persons, or by**  
24      **private counsel working on behalf of or under the auspices of such society[.] ; or**

25              **(2) A legal aid clinic approved by a law school approved by the American Bar**  
26      **Association, or a nonprofit legal assistance program affiliated with such clinic, that utilizes**  
27      **the services of law students licensed to provide legal services to indigent persons under**  
28      **Missouri supreme court rule 13.01, et seq.**

29

30      All costs and expenses related to the prosecution of the suit may be waived without the necessity  
of a motion and court approval, provided that a determination has been made by such society [or]  
, organization, **or clinic** that such party is unable to pay the costs, fees and expenses necessary  
to prosecute or defend the action, and that a certification that such determination has been made  
is filed with the clerk of the court.

        600.011. The following words and phrases as used in this chapter have the following  
meanings, unless the context otherwise requires:

3 (1) ["Assigned counsel" means private attorneys who are hired by the state public  
4 defender director to handle the cases of eligible persons from time to time on a case basis;

5 (2) "Chief deputy director" means the attorney appointed by the commission to assist the  
6 state public defender director and to exercise the duties and powers of the director in his absence  
7 or upon his resignation;

8 (3) **"Assistant public defender", a staff attorney within a particular public  
9 defender office responsible for the handling of cases of eligible persons;**

10 (2) "Commission" [means] , the public defender commission;

11 (3) **"Contract counsel", private attorneys who are hired by the state public  
12 defender director to handle cases of eligible persons, either on a case-by-case or ongoing  
13 basis;**

14 (4) "Defender(s)", includes both attorneys which serve as staff attorneys in the state  
15 defender system and [assigned] **contract** counsel [who provide defense services on a case basis],  
16 but does not include secretarial, investigative, social service, or paraprofessional staff;

17 (5) **"Deputy director", the attorney or attorneys appointed by the commission to  
18 assist the state public defender director and to temporarily exercise the duties and powers  
19 of the director in his or her absence or upon his or her resignation, pending the  
20 commission's appointment of a new director;**

21 (6) **"Deputy district defender", an attorney who assists the district defender in the  
22 management and supervision of a public defender district office and performs the duty of  
23 the district defender in his or her absence;**

24 (7) "Director" [means] , the state public defender director;

25 [(6)] (8) **"District defender", the managing attorney in charge of a public defender  
26 district office;**

27 (9) **"Division director", an employee responsible for the supervision and  
28 management of multiple district offices or areas of statewide responsibility as assigned by  
29 the director, or both;**

30 (10) "Eligible person" [means] , a person who falls within the financial rules for legal  
31 representation at public expense prescribed by section 600.086;

32 [(7)] (11) "State public defender system" [means] , a system for providing defense  
33 services to every jurisdiction within the state by means of a centrally administered organization  
34 having a full-time staff.

600.015. 1. There is hereby created the "Public Defender Commission". The  
2 commission shall be composed of seven members, four of whom shall be lawyers, appointed by  
3 the governor with the advice and consent of the senate. No more than four members shall be of  
4 the same political party.

5           2. Upon the expiration of the terms of the persons who are members of the commission  
6 on April 1, 1982, the term of office of each commissioner thereafter appointed shall be six years  
7 from the time of his **or her** appointment and qualification and until his **or her** successor shall  
8 qualify. Vacancies in the commission shall be filled by the governor for the unexpired term.  
9 Commissioners may succeed themselves.

10           3. The state public defender director shall, upon appointment, become an ex officio  
11 member of the commission without vote and shall participate in all meetings of the commission  
12 except during discussions relating to renewal of his **or her** term or to his removal from his office  
13 and such other matters as the commission may designate.

14           4. The commission shall meet on a regular basis and shall be presided over by a  
15 chairperson elected by its members.

16           5. Commission members shall receive no salaries, but shall receive their actual and  
17 necessary expenses incurred in connection with the performance of their duties.

600.017. The commission shall have the following powers together with all powers  
2 incident thereto or necessary for the performance thereof:

3           (1) To select the director[, **and** deputy directors [and public defenders];

4           (2) To draw up procedures, with the assistance of the director, for the selection of  
5 [public] **division directors, and district** defenders[, assistant public defenders, and deputy  
6 public defenders and staff assistants];

7           (3) Receive client complaints when not resolved by the [defender agency] **state public**  
8 **defender system**, review office performance, and monitor the performance of the director;

9           (4) Assist in insuring the independence of the state public defender system by educating  
10 the public regarding constitutional requirements and the function of the defenders;

11           (5) Remove the director or any deputy from office in the event that good cause is shown;

12           (6) Review the budget request prepared by the director, provide advice on the budget  
13 request before its submission, and provide support for the request before the legislature;

14           (7) Approve the fee schedule for payment of assigned counsel;

15           (8) Determine matters affecting the compensation, vacations and employment benefits  
16 of the state public defender director and the deputy directors;

17           (9) Collect or enforce or contract for the collection and enforcement of liens and  
18 judgments in accordance with the provisions of sections 600.011 to 600.048 and 600.086 to  
19 600.096 and establish any rules needed for processing any such liens and judgments; [and]

20           (10) **Establish maximum public defender caseload standards to ensure the system**  
21 **is adequately fulfilling the state's constitutional obligations to provide effective assistance**  
22 **of counsel and is complying with the rules of ethical and professional conduct applicable**  
23 **to attorneys licensed to practice law in Missouri. In setting such caseload standards, the**

24 **commission shall take into account national defender caseload standards, the particulars**  
25 **of local practice, the needs of the criminal justice system, and other factors the commission**  
26 **determines to be reasonably pertinent; and**

27 (11) Make any rules needed for the administration of the state public defender system.

600.019. 1. The "Office of State Public Defender" is hereby created and established as  
2 an independent department of the judicial branch of state government.

3 2. The commission shall appoint a director of the office of state public defender as head  
4 of the office. He **or she** shall qualify and be sworn into office by a judge of the supreme court.  
5 He **or she** shall be an attorney with substantial experience in the representation of persons  
6 accused of crime[. He] , shall have experience in administration of personnel, and shall be  
7 dedicated to the goals of providing quality legal representation for eligible persons and of  
8 improving the quality of defense services generally.

9 3. The director shall devote full time to the duties of his **or her** office and shall not  
10 otherwise engage in the practice of law. His **or her** term of office shall be four years and until  
11 the appointment and qualification of a successor. His **or her** term may be renewable at the  
12 discretion of the commission. He **or she** may be removed by the commission during his **or her**  
13 term in office for good cause shown after notice and hearing.

14 4. The salary of the director shall be set by the commission but shall not exceed that of  
15 a circuit judge.

600.021. 1. The [commission] **director** shall employ persons to be [public] **division**  
2 **directors, district and deputy district** defenders [for a term of four years. A public defender  
3 shall employ such persons to be assistant public defenders, deputy public defenders,  
4 investigators, and any other employees as are necessary to discharge the function of the office,  
5 all of whom shall serve at the pleasure of the employing public defender. Circuit and regional  
6 public defenders holding office on April 1, 1982, shall continue to hold such office until the  
7 expiration of their terms under the direction of the director as otherwise described in this chapter.  
8 Public defenders may be appointed to serve additional terms by the commission] , **assistant**  
9 **public defenders, investigators, paralegals, and any other employees as are necessary to**  
10 **discharge the function of the public defender system, all of whom shall serve at the**  
11 **pleasure of the director.**

12 2. [Public] **District** defenders, [assistant public] **deputy district** defenders, and [deputy]  
13 **assistant** public defenders shall be attorneys, licensed to practice law in this state, and shall not  
14 otherwise engage in the practice of law except as authorized by this chapter or by commission  
15 rule. [Public defenders,] Assistant public defenders and [deputy public defenders] **non-attorney**  
16 **staff** may be employed on a full- or part-time basis.

17           3. [The compensation of persons appointed under this section shall be fixed by the  
18 commission.

19           4.] The commission may establish such local or regional offices as it deems necessary  
20 to properly carry out purposes of this chapter.

21           [5. The commission may appoint, on recommendation of the director, and fix the  
22 compensation of all other personnel necessary to the operation of the state public defender  
23 system.

24           6.] **4.** The commission may **authorize the director to** contract with private attorneys  
25 to provide defense services in such areas of the state and on such terms as it deems appropriate.

600.040. 1. The city or county shall provide office space and utility services, other than  
2 telephone service, for the [circuit or regional] **district** public defender and his **or her** personnel.  
3 If there is more than one county in a [circuit or region] **district**, each county shall contribute, on  
4 the basis of population, its pro rata share of the costs of office space and utility services, other  
5 than telephone service. The state shall pay, within the limits of the appropriation therefor, all  
6 other expenses and costs of the state public defender system authorized under this chapter,  
7 **including parking costs for public defender system employees.**

8           2. A complete budget for the state public defender system shall be provided through an  
9 annual appropriation subject to approval by the governor and the general assembly. The budget  
10 request for the state public defender system shall be approved by the commission and submitted  
11 directly to the governor and the general assembly by the director and shall not be subject to  
12 diminution or alteration by the judicial department of state government.

13           3. Any person who is a public defender or employee of a public defender shall be entitled  
14 to all benefits of the Missouri state employees' retirement system as defined in sections 104.310  
15 to 104.550, RSMo.

600.042. 1. The director shall:

2           (1) Direct and supervise the work of the deputy directors and other state public defender  
3 office personnel appointed pursuant to this chapter; and he **or she** and the [chief] deputy director  
4 **or directors** may participate in the trial and appeal of criminal actions at the request of the  
5 defender, **upon their own discretion**, or upon order of the commission;

6           (2) **Fix the compensation of all personnel necessary to the operation of the state**  
7 **public defender system, except that of the deputy directors;**

8           (3) Submit to the commission, between August fifteenth and September fifteenth of each  
9 year, a report which shall include all pertinent data on the operation of the state public defender  
10 system, the costs, projected needs, and recommendations for statutory changes. Prior to October  
11 fifteenth of each year, the commission shall submit such report along with such  
12 recommendations, comments, conclusions, or other pertinent information it chooses to make to

13 the chief justice, the governor, and the general assembly. Such reports shall be a public record,  
14 shall be maintained in the office of the state public defender, and shall be otherwise distributed  
15 as the commission shall direct;

16 [(3)] (4) With the approval of the commission, establish such divisions, facilities and  
17 offices and select such professional, technical and other personnel, including investigators, as  
18 he **or she** deems reasonably necessary for the efficient operation and discharge of the duties of  
19 the state public defender system under this chapter;

20 [(4)] (5) Administer and coordinate the operations of defender services and be  
21 responsible for the overall supervision of all personnel, offices, divisions and facilities of the  
22 state public defender system, except that the director shall have no authority to direct or control  
23 the legal defense provided by a defender to any person served by the state public defender system  
24 **other than to ensure that such defense meets ethical and constitutional obligations to**  
25 **provide effective assistance of counsel;**

26 [(5)] (6) Develop programs and administer activities to achieve the purposes of this  
27 chapter;

28 [(6)] (7) Keep and maintain proper financial records with respect to the [providing]  
29 **provision** of all public defender services for use in the calculating of direct and indirect costs of  
30 any or all aspects of the operation of the state public defender system;

31 [(7)] (8) Supervise the training of all public defenders, [assistant public defenders,  
32 deputy public defenders] and other personnel and establish such training courses as shall be  
33 appropriate;

34 [(8)] (9) With approval of the commission, promulgate necessary rules, regulations and  
35 instructions consistent with this chapter defining the organization of [his office] **the state public**  
36 **defender system** and the responsibilities of [public] **division directors, district** defenders,  
37 [assistant public] **deputy district** defenders, [deputy] **assistant** public defenders and other  
38 personnel;

39 [(9)] (10) With the approval of the commission, apply for and accept on behalf of the  
40 public defender system any funds which may be offered or which may become available from  
41 government grants, private gifts, donations or bequests or from any other source[. Such moneys  
42 shall be deposited in the state general revenue fund];

43 [(10)] (11) Contract for legal services with private attorneys [on a case-by-case basis and  
44 with assigned counsel] as the commission deems necessary considering the needs of the area, for  
45 fees approved and established by the commission;

46 [(11)] (12) With the approval and on behalf of the commission, contract with private  
47 attorneys for the collection and enforcement of liens and other judgments owed to the state for  
48 services rendered by the state public defender system;



49           **(13) Ensure that public defender caseloads remain within the maximum public**  
50 **defender caseload standards established by the commission. Where the number of eligible**  
51 **cases exceeds the maximum caseload standards, the director shall contract the excess cases**  
52 **to private counsel to the extent funds are available to do so. If available funds are**  
53 **insufficient, the director shall notify the court that the public defender is unavailable.**  
54 **Persons determined to be eligible for public defender services thereafter shall be placed on**  
55 **a waiting list for public defender services under section 600.045.**

56           2. No rule or portion of a rule promulgated under the authority of this chapter shall  
57 become effective unless it has been promulgated pursuant to the provisions of section 536.024,  
58 RSMo.

59           3. The director and defenders shall, within guidelines as established by the commission  
60 and as set forth in subsection 4 of this section, accept requests for legal services from eligible  
61 persons entitled to counsel under this chapter or otherwise so entitled under the constitution or  
62 laws of the United States or of the state of Missouri and provide such persons with legal services  
63 when, in the discretion of the director or the defenders, such provision of legal services is  
64 appropriate.

65           4. The director and defenders provide legal services to an eligible person:

66           (1) Who is detained or charged with a felony, including appeals from a conviction in  
67 such a case;

68           (2) Who is detained or charged with a misdemeanor **in which the prosecuting attorney**  
69 **has requested a jail sentence and which** will probably result in confinement in the county jail  
70 upon conviction, including appeals from a conviction in such a case;

71           (3) Who is detained or charged with a violation of probation or parole;

72           (4) Who has been taken into custody pursuant to section 632.489, RSMo, including  
73 appeals from a determination that the person is a sexually violent predator and petitions for  
74 release, notwithstanding any provisions of law to the contrary; **and**

75           (5) [For whom the federal constitution or the state constitution requires the appointment  
76 of counsel; and

77           (6) For whom,] **Who is charged** in a case in which he **or she** faces a loss or deprivation  
78 of liberty, **and in which the federal or the state constitution or** any law of this state requires  
79 the appointment of counsel; however, the director and the defenders shall not be required to  
80 provide legal services to persons charged with violations of county or municipal ordinances, **or**  
81 **misdemeanor offenses except as provided in this section.**

82           5. The director may:

83           (1) Delegate the legal representation of any person to any member of the state bar of  
84 Missouri;

85 (2) Designate persons as representatives of the director for the purpose of making  
86 indigency determinations and assigning counsel.

**600.045. Where the public defender is unavailable to accept additional cases of  
2 eligible persons due to having reached the established maximum caseload standard, the  
3 court served by that public defender office and the public defender shall proceed in the  
4 following manner:**

5 (1) The public defender shall continue to make indigency determinations in  
6 accordance with section 600.086 and inform the court of the indigency status of defendants  
7 requesting defender services;

8 (2) If, after consultation with the prosecuting attorney, the court determines that  
9 a case can be disposed of without the imposition of a jail or prison sentence, the court may  
10 proceed without the provision of counsel to the defendant;

11 (3) If a jail or prison sentence remains a possible disposition of the case, the court  
12 shall place the case on a waiting list for defender services;

13 (4) The court shall determine the order in which cases shall be placed on its waiting  
14 list for defender services, taking into account the seriousness of the case, the incarceration  
15 status of the defendant, and such other special circumstances as may be brought to the  
16 attention of the court by the prosecuting attorney, the public defender, or other interested  
17 parties;

18 (5) The commission and the supreme court may make such rules and regulations  
19 as each deems appropriate to implement this section in the most effective and efficient  
20 manner within the constitutional guarantees of a defendant's right to effective assistance  
21 of counsel and the laws of this state;

22 (6) Nothing in this section shall prevent the court from utilizing non-public  
23 defender resources to obtain counsel for a defendant on the waiting list for public defender  
24 services or from appointing private counsel in appropriate cases to the extent otherwise  
25 permitted by law;

26 (7) Private counsel appointed to represent an eligible defendant or undertaking  
27 such representation on a pro bono basis due to the unavailability of public defender  
28 services may seek payment of litigation expenses from the public defender system. Such  
29 litigation expenses shall not include counsel fees and shall be limited to those expenses  
30 approved in advance by the director as reasonably necessary for the effective presentation  
31 of the defense in the case at hand.

600.048. 1. It shall be the duty of every person in charge of a jail, police station,  
2 constable's or sheriff's office, or detention facility provided by any county to post in a  
3 conspicuous place a notice stating in effect:

4 (1) That every person held in custody under a charge or suspicion of a crime is entitled  
5 to have a lawyer;

6 (2) That if any such person is held in custody in connection with any of the cases or  
7 proceedings set out in section 600.042, and wants a lawyer to represent him **or her** and is unable,  
8 without substantial financial hardship to [himself] **self** or his **or her** dependents, to obtain a  
9 lawyer, the state will provide a lawyer to represent him [if he requests such representation] **or**  
10 **her upon request**; and

11 (3) That if the state provides **such** a lawyer [for him, he] , **the client** may be liable to the  
12 state for the cost of the services and expenses of the lawyer who handles [his] **the** case if he **or**  
13 **she** is or will be able to pay all or any part of such costs. The notice shall also contain a listing  
14 of the cases and proceedings for which defender services are available under section 600.042,  
15 and the telephone number of a person or answering service to call to request that a person  
16 designated by the state public defender system visit and interview him **or her**, and [give him]  
17 **provide** further information.

18 2. A person who is charged or detained in any case listed in section 600.042 or who  
19 appears in court without counsel at any stage of a case, or any other person on behalf of such  
20 person, may request that legal representation be furnished to him **or her** by the state. The court  
21 or any person representing the state public defender system to whom such request is made shall  
22 first [give him] **provide** a copy of the notice referred to in subsection 1 of this section or call the  
23 posted notice to [his] **the charged or detained person's** attention and permit him **or her** to read  
24 it or [explain it] **have it explained** to him **or her**. If such person renews a request for state  
25 public defender system services, he **or she** shall be required to complete and sign an affidavit in  
26 accordance with section 600.086[. He] **and** shall be orally informed of the punishment for  
27 intentionally falsifying such affidavit.

28 3. It shall be the duty of every person in charge of a jail, police station, constable's or  
29 sheriff's office, or detention facility to make a room or place available therein where any person  
30 held in custody under a charge or suspicion of a crime will be able to talk privately with his **or**  
31 **her** lawyer, [his] lawyer's representative, or any authorized person responding to [his] **a** request  
32 for an interview concerning his **or her** right to counsel.

**600.052. 1. The public defender shall not be available for appointment by the court  
2 in noncapital state post-conviction proceedings under Missouri supreme court rule 24.035  
3 or 29.15.**

4 **2. Nothing in this section shall prevent the court from utilizing non-public defender**  
5 **resources to obtain counsel for a movant in such a proceeding or from making pro bono**  
6 **appointments of private counsel in appropriate cases to the extent otherwise permitted by**  
7 **law. Nothing in this section shall prevent the public defender from entering on such a case**

8 **at his or her own discretion where caseloads permit and a determination has been made**  
9 **by the public defender that legitimate grounds for relief exist and manifest injustice is**  
10 **likely to result if counsel is not made available to the movant.**

600.086. 1. A person shall be considered eligible for representation under sections  
2 600.011 to 600.048 and 600.086 to 600.096 when it appears from all the circumstances of the  
3 case including his **or her** ability to make bond, his **or her** income, and the number of [persons  
4 dependent on him for support] **dependents such person has**, that the person does not have the  
5 means at his **or her** disposal or available to him or her to obtain counsel [in his behalf] and is  
6 indigent as hereafter determined.

7 2. Within the parameters set by subsection 1 of this section, the commission may  
8 establish and enforce such further rules for courts and defenders in determining indigency as may  
9 be necessary.

10 3. The determination of indigency of any person seeking the services of the state public  
11 defender system shall be made by the defender or anyone serving under him **or her** at any stage  
12 of the proceedings. Upon motion by either party, the court in which the case is pending shall  
13 have authority to determine whether the services of the public defender may be utilized by the  
14 defendant. Upon the courts finding that the defendant is not indigent, the public defender shall  
15 no longer represent the defendant. Any such person claiming indigency shall file with the court  
16 an affidavit which shall contain the factual information required by the commission under rules  
17 which may be established by the commission in determining indigency.

18 4. Any person who intentionally falsifies such affidavit in order to obtain state public  
19 defender system services shall be guilty of a class A misdemeanor.

20 5. The director or anyone serving under him **or her** may institute an investigation into  
21 the financial status of any person seeking the services of the state public defender system at such  
22 times as the circumstances shall warrant. In connection therewith he **or she** shall have the  
23 authority to require any person seeking the services of the state public defender system or the  
24 parents, guardians or other persons responsible for the support of a person seeking the services  
25 of the state public defender system who is a minor or those persons holding property in trust or  
26 otherwise for such person to execute and deliver such written authorization as may be necessary  
27 to provide the director or anyone serving under him **or her** with access to records of public or  
28 private sources, otherwise confidential, or any other information which may be relevant to the  
29 making of a decision as to eligibility under this chapter. [The director, chief deputy director,  
30 each public defender and each assistant and deputy public defender or designee are] **Any**  
31 **employee of the public defender system is** authorized to obtain information from any office  
32 of the state or any subdivision, or agency thereof or political subdivision on request and [without  
33 payment of any fees.] any office of the state or any subdivision, or agency thereof or political

34 subdivision from which [the director, chief deputy director, public defender and each assistant  
35 and deputy public defender or designee] **a public defender employee** requests information  
36 pursuant to this section shall supply such information, without payment of any fees.

37 6. The burden shall lie on the accused or the defendant to convince the defender or the  
38 court of his eligibility to receive legal services, in any conference, hearing or question thereon.

600.089. If the public defender commission has obtained a judgment against an offender  
2 in the custody of the department of corrections, and the offender is later paroled and becomes  
3 financially able to pay all or some part of such judgment, he **or she** shall be required, as a  
4 condition of his **or her** continued parole, to pay over to the public defender commission such  
5 amounts as he **or she** can reasonably pay, either by a single payment or by installments of  
6 reasonable amounts, in accordance with the schedule of charges for public defender services  
7 prepared pursuant to section 600.090.

600.090. 1. (1) If a person is determined to be eligible for the services provided by the  
2 state public defender system and if, at the time such determination is made, he is able to provide  
3 a limited cash contribution toward the cost of his representation without imposing a substantial  
4 hardship upon himself or his dependents, such contribution shall be required as a condition of  
5 his representation by the state public defender system.

6 (2) If at any time, either during or after the disposition of his case, such defendant  
7 becomes financially able to meet all or some part of the cost of services rendered to him, he shall  
8 be required to reimburse the commission in such amounts as he can reasonably pay, either by a  
9 single payment or by installments of reasonable amounts, in accordance with a schedule of  
10 charges for public defender services prepared by the commission.

11 (3) No difficulty or failure in the making of such payment shall reduce or in any way  
12 affect the rendering of public defender services to such persons.

13 2. (1) The reasonable value of the services rendered to a defendant pursuant to sections  
14 600.011 to 600.048 and 600.086 to 600.096 may in all cases be a lien on any and all property to  
15 which the defendant shall have or acquire an interest. The public defender shall effectuate such  
16 lien whenever the reasonable value of the services rendered to a defendant appears to exceed one  
17 hundred fifty dollars and may effectuate such lien where the reasonable value of those services  
18 appears to be less than one hundred fifty dollars.

19 (2) To effectuate such a lien, the public defender shall, prior to the final disposition of  
20 the case or within ten days thereafter, file a notice of lien setting forth the services rendered to  
21 the defendant and a claim for the reasonable value of such services with the clerk of the circuit  
22 court. The defendant shall be personally served with a copy of such notice of lien. The court  
23 shall rule on whether all or any part of the claim shall be allowed. The portion of the claim  
24 approved by the court as the value of defender services which has been provided to the defendant

25 shall be a judgment at law. The public defender shall not be required to pay filing or recording  
26 fees for or relating to such claim.

27 (3) Such judgment shall be enforceable in the name of the state on behalf of the  
28 commission by the prosecuting attorney of the circuit in which the judgment was entered.

29 (4) The prosecuting attorney may compromise and make settlement of, or, with the  
30 concurrence of the director, forego any claims for services performed for any person pursuant  
31 to this chapter whenever the financial circumstances of such person are such that the best  
32 interests of the state will be served by such action.

33 3. The commission may contract with private attorneys for the collection and  
34 enforcement of liens and other judgments owed to the state for services rendered by the state  
35 public defender system.

36 4. The lien created by this section shall be from the time filed in the court by the  
37 defender a charge or claim against any assets of the defendant; provided further that the same  
38 shall be served upon the person in possession of the assets or shall be recorded in the office of  
39 the recorder of deeds in the county in which the person resides or in which the assets are located.

40 5. Funds collected pursuant to this section and section 600.093 shall be credited to the  
41 "Legal Defense and Defender Fund" which is hereby created. The moneys credited to the legal  
42 defense and defender fund shall be used for the purpose of training public defenders, assistant  
43 public defenders, deputy public defenders and other personnel pursuant to subdivision (7) of  
44 subsection 1 of section 600.042, and may be used to pay for expert witness fees, the costs of  
45 depositions, travel expenses incurred by witnesses in case preparation and trial, expenses  
46 incurred for changes of venue and for other lawful expenses as authorized by the public defender  
47 commission.

48 6. The state treasurer shall be the custodian of the legal defense and defender fund,  
49 moneys in the legal defense and defender fund shall be deposited the same as are other state  
50 funds, and any interest accruing to the legal defense and defender fund shall be added to the legal  
51 defense and defender fund. The legal defense and defender fund shall be subject to audit, the  
52 same as other state funds and accounts, and shall be protected by the general bond given by the  
53 state treasurer.

54 7. Upon the request of the director of the office of state public defender, the  
55 commissioner of administration shall approve disbursements from the legal defense and defender  
56 fund. The legal defense and defender fund shall be funded annually by appropriation, but any  
57 unexpended balance in the fund at the end of the appropriation period not in excess of [one  
58 hundred and fifty thousand dollars] **an amount equal to twenty percent of the current annual**  
59 **legal defense and defender fund appropriation** shall be exempt from the provisions of section  
60 33.080, RSMo, specifically as they relate to the transfer of fund balances to the general revenue,

61 and shall be the amount of the fund at the beginning of the appropriation period next  
62 immediately following.

600.096. An office of the state, or any department, division, agency or political  
2 subdivision thereof, including a prosecutor's office and a police department, shall furnish copies,  
3 upon request, of any reports, **photographs, recordings**, documents, statements [or], transcripts,  
4 **or electronic files** prepared by the state, or any department, division, agency or political  
5 subdivision thereof concerning a person represented by the state public defender system to the  
6 defender representing such person without charge.

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