

SCS SB 37 -- STATE PUBLIC DEFENDER SYSTEM

SPONSOR: Goodman (Jones, 89)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on General Laws by a vote of 11 to 0.

This substitute changes the laws regarding the State Public Defender System. In its main provisions, the substitute:

- (1) Redefines positions in the State Public Defender System to reflect its current administrative structure and specifies that the deputy director will exercise the director's authority only when the director is temporarily absent or has resigned;
- (2) Increases the membership of the Public Defender Commission to eight members by adding an assistant public defender who has at least one year of service;
- (3) Specifies that the commission will select only the director and deputy director and will establish procedures for selecting division directors and district defenders. The director will supervise all other employees and establish salaries. Employees will serve at the director's pleasure. The commission may authorize the director to contract with private attorneys to provide defense services;
- (4) Requires the commission to establish maximum public defender caseload standards and allows the director to participate in cases at his or her discretion and to ensure that caseload standards are met;
- (5) Allows an amount equal to 20% of its current annual appropriation to be retained in the Legal Defense and Defender Fund at the end of the fiscal year;
- (6) Specifies that the system may provide defense services to clients in which the prosecuting attorney has requested a jail sentence;
- (7) Requires the state to pay the parking costs for public defender system employees;
- (8) Establishes a system for handling an overload of cases based on a waiting list for defender services. Courts may use both public and private defenders to the extent that funds are available to ensure that all persons subject to incarceration receive legal defense; and
- (9) Requires state and local governments to disclose information

and financial records regarding an individual seeking indigent defense services free of charge to any employee of the system instead of only to specified employees. Photographs, recordings, and electronic files must also be provided to the public defender system without charge.

FISCAL NOTE: Estimated Income on General Revenue Fund of More than \$100,000 in FY 2010, FY 2011, and FY 2012. No impact on Other State Funds in FY 2010, FY 2011, and FY 2012.

PROPONENTS: Supporters say that the public defender system is in crisis and there are not enough services to meet constitutional requirements for giving indigent defendants a fair trial. If a fair and speedy trial is not possible, a defendant must be released or the state must pay for private attorneys to defend him or her. The bill will make the operation of the system more efficient and increase funding. Missouri is currently second to last in the nation in per capita spending on these types of cases.

Testifying for the bill were Senator Goodman; Doug Copeland, Public Defender Commission; and State Public Defender System.

OPPONENTS: Those who oppose the bill say that reform of the system should only proceed after a full audit and study has been conducted.

Testifying against the bill was Michael Wright.

OTHERS: Others testifying on the bill say some reform of the system is necessary. Currently, there is not enough funding for the system to meet its obligations. Recommendations were made to use an independent commission with both prosecutors and defense attorneys to come up with a comprehensive reform proposal.

Testifying on the bill was Missouri Bar; Missouri Association of Criminal Defense Lawyers; and Mike Shortridge.