

SCS SB 37 -- STATE PUBLIC DEFENDER SYSTEM

(Vetoed by the Governor)

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

(1) Redefines certain positions in the State Public Defender System to reflect its current administrative structure and specifies that the deputy director will exercise the director's duties only when the director is temporarily absent or has resigned;

(2) Increases the membership of the Public Defender Commission from seven to eight members by adding an actively serving assistant public defender who has at least one year of service in that position. A member who serves as an assistant public defender will receive his or her regular salary, and no adverse employment action can be taken against him or her for any vote taken or comment made during a commission meeting;

(3) Specifies that the commission will select only the director and deputy directors and will establish procedures for selecting division directors and district defenders but not for other public defenders or staff. The director will establish salaries and supervise all other employees who will serve at the director's pleasure. The commission may authorize the director to contract with private attorneys to provide defense services;

(4) Removes the provision that public defenders serve a term of four years;

(5) 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 caseloads remain within the maximum caseload standards;

(6) Allows an amount equal to 20% of the current annual appropriation to the Legal Defense and Defender Fund to be retained at the end of the fiscal year. Currently, the amount retained cannot exceed \$150,000;

(7) Specifies that the system may only provide defense services to an eligible client who is detained or charged with a misdemeanor when the prosecuting attorney has requested a jail sentence and a conviction would probably result in confinement in a county jail;

(8) Requires the state to pay the parking costs for public defender system employees;

(9) 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

(10) Requires state and local governments to disclose, upon request and without fee, 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.