

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Bill No. 735, Page 1, Section A, Line 2, by inserting after all of said section and
2 line the following:

3
4 "600.042. 1. The director shall:

5 (1) Direct and supervise the work of the deputy directors and other state public defender
6 office personnel appointed pursuant to this chapter; and he or she and the deputy director or
7 directors may participate in the trial and appeal of criminal actions at the request of the defender;

8 (2) 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 recommendations,
12 comments, conclusions, or other pertinent information it chooses to make to the chief justice, the
13 governor, and the general assembly. Such reports shall be a public record, shall be maintained in the
14 office of the state public defender, and shall be otherwise distributed as the commission shall direct;

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

19 (4) Administer and coordinate the operations of defender services and be responsible for the
20 overall supervision of all personnel, offices, divisions and facilities of the state public defender
21 system, except that the director shall have no authority to direct or control the legal defense
22 provided by a defender to any person served by the state public defender system;

23 (5) Develop programs and administer activities to achieve the purposes of this chapter;

24 (6) Keep and maintain proper financial records with respect to the provision of all public
25 defender services for use in the calculating of direct and indirect costs of any or all aspects of the
26 operation of the state public defender system;

27 (7) Supervise the training of all public defenders and other personnel and establish such
28 training courses as shall be appropriate;

29 (8) With approval of the commission, promulgate necessary rules, regulations and
30 instructions consistent with this chapter defining the organization of the state public defender system
31 and the responsibilities of division directors, district defenders, deputy district defenders, assistant
32 public defenders and other personnel;

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

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

1 (10) Contract for legal services with private attorneys on a case-by-case basis and with
 2 assigned counsel as the commission deems necessary considering the needs of the area, for fees
 3 approved and established by the commission;

4 (11) With the approval and on behalf of the commission, contract with private attorneys for
 5 the collection and enforcement of liens and other judgments owed to the state for services rendered
 6 by the state public defender system;

7 (12) Prepare a plan to establish district offices, the boundaries of which shall coincide with
 8 existing judicial circuits. Any district office may contain more than one judicial circuit within its
 9 boundaries, but in no event shall any district office boundary include any geographic region of a
 10 judicial circuit without including the entire judicial circuit. The director shall submit the plan to the
 11 chair of the house judiciary committee and the chair of the senate judiciary committee, with fiscal
 12 estimates, by December 31, 2014. The plan shall be implemented by December 31, [2018] 2021.

13 2. No rule or portion of a rule promulgated under the authority of this chapter shall become
 14 effective unless it has been promulgated pursuant to the provisions of section 536.024.

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

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

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

23 (2) Who is detained or charged with a misdemeanor which will probably result in
 24 confinement in the county jail upon conviction, including appeals from a conviction in such a case,
 25 unless the prosecuting or circuit attorney has waived a jail sentence;

26 (3) Who is charged with a violation of probation when it has been determined by a judge
 27 that the appointment of counsel is necessary to protect the person's due process rights under section
 28 559.036;

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

32 (5) For whom the federal constitution or the state constitution requires the appointment of
 33 counsel; and

34 (6) Who is charged in a case in which he or she faces a loss or deprivation of liberty, and in
 35 which the federal or the state constitution or any law of this state requires the appointment of
 36 counsel; however, the director and the defenders shall not be required to provide legal services to
 37 persons charged with violations of county or municipal ordinances, or misdemeanor offenses except
 38 as provided in this section.

39 5. The director may:

40 (1) Delegate the legal representation of [any] an eligible person to any member of the state
 41 bar of Missouri;

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

44 600.090. 1. (1) If a person is determined to be eligible for the services provided by the
 45 state public defender system and if, at the time such determination is made, he is able to provide a
 46 limited cash contribution toward the cost of his representation without imposing a substantial
 47 hardship upon himself or his dependents, such contribution shall be required as a condition of his
 48 representation by the state public defender system.

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

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

8 2. (1) The reasonable value of the services rendered to a defendant pursuant to sections
9 600.011 to 600.048 and 600.086 to 600.096 may in all cases be a lien on any and all property to
10 which the defendant shall have or acquire an interest. The public defender shall effectuate such lien
11 whenever the reasonable value of the services rendered to a defendant appears to exceed one
12 hundred fifty dollars and may effectuate such lien where the reasonable value of those services
13 appears to be less than one hundred fifty dollars.

14 (2) To effectuate such a lien, the public defender shall, prior to the final disposition of the
15 case or within ten days thereafter, file a notice of lien setting forth the services rendered to the
16 defendant and a claim for the reasonable value of such services with the clerk of the circuit court.
17 The defendant shall be personally served with a copy of such notice of lien. The court shall rule on
18 whether all or any part of the claim shall be allowed. The portion of the claim approved by the
19 court as the value of defender services which has been provided to the defendant shall be a
20 judgment at law. The public defender shall not be required to pay filing or recording fees for or
21 relating to such claim.

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

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

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

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

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

42 6. The state treasurer shall be the custodian of the legal defense and defender fund, moneys
43 in the legal defense and defender fund shall be deposited the same as are other state funds, and any
44 interest accruing to the legal defense and defender fund shall be added to the legal defense and
45 defender fund. The legal defense and defender fund shall be subject to audit, the same as other state
46 funds and accounts, and shall be protected by the general bond given by the state treasurer.

47 7. Upon the request of the director of the office of state public defender, the commissioner
48 of administration shall approve disbursements from the legal defense and defender fund. The legal

1 defense and defender fund shall be funded annually by appropriation, but any unexpended
2 remaining balance in the fund at the end of the appropriation period [not in excess of one hundred
3 and fifty thousand dollars] shall be exempt from the provisions of section 33.080, specifically as
4 they relate to the transfer of fund balances to the general revenue, and shall be the amount of the
5 fund at the beginning of the appropriation period next immediately following."; and
6

7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.