

SECOND REGULAR SESSION

# HOUSE BILL NO. 2513

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DEGROOT.

4540H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To amend chapter 476, RSMo, by adding thereto one new section relating to an assigned counsel pilot program.

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

Section A. Chapter 476, RSMo, is amended by adding thereto one new section, to be  
2 known as section 476.1200, to read as follows:

**476.1200. 1. As used in this section, the following terms mean:**

2 **(1) "Assigned counsel", a private attorney who volunteers to be appointed by the**  
3 **supreme court to represent an indigent defendant under the assigned counsel pilot**  
4 **program;**

5 **(2) "Indigent defendant", a person who falls within the financial rules for legal**  
6 **representation as determined by the supreme court;**

7 **(3) "State public defender system", a system for providing defense services to every**  
8 **jurisdiction within the state by means of a centrally administered organization having a**  
9 **full-time staff;**

10 **(4) "Tier I offense", an offense in which the penalties imposed against an indigent**  
11 **defendant include any misdemeanor offense or any class C, D, or E felony;**

12 **(5) "Tier II offense", an offense in which the penalties imposed against an indigent**  
13 **defendant include a class A or B felony.**

14 **2. The office of state courts administrator shall develop, as a one-year pilot**  
15 **program, an "Assigned Counsel Program" in a county of the first classification with more**  
16 **than forty thousand but fewer than fifty thousand inhabitants and with a home rule city**  
17 **with more than eleven thousand but fewer than thirteen thousand five hundred inhabitants**

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.

18 as the county seat; a county of the first classification with more than two hundred thousand  
19 but fewer than two hundred sixty thousand inhabitants; a county with a charter form of  
20 government and with more than two hundred thousand but fewer than three hundred fifty  
21 thousand inhabitants; and a county of the fourth classification with more than forty-two  
22 thousand but fewer than forty-eight thousand inhabitants. Under the program, assigned  
23 counsel shall be appointed by the supreme court to represent indigent defendants in  
24 matters in which a constitutional, statutory, or other right to counsel exists. In counties  
25 participating in the pilot program, the state public defender's system shall no longer  
26 represent indigent defendants for the duration of the pilot program, except as provided  
27 under subsection 3 of this section.

28       **3. Notwithstanding any provision of this section to the contrary, the state public**  
29 **defender's system shall continue to represent indigent defendants in participating counties**  
30 **in appellate matters and in civil commitment proceedings based on an allegation that a**  
31 **defendant is a sexually violent predator.**

32       **4. Prior to December 31, 2020, the office of state courts administrator shall develop**  
33 **a plan for the administration of the pilot program established under this section, with**  
34 **implementation to begin January 4, 2021. The supreme court shall exercise general**  
35 **supervision over the program. The office of state courts administrator shall promulgate**  
36 **all necessary rules and regulations for the administration of the program including, but**  
37 **not limited to:**

38           **(1) Eligibility for assistance under the program as an indigent defendant;**

39           **(2) Qualifications for assigned counsel;**

40           **(3) Assigned counsel fees including whether such fees are flat fees or hourly rates,**  
41 **and the fees and rates to be charged based on the tier level of the offense;**

42           **(4) Procedures for reimbursement of legal and administrative fees for services**  
43 **performed by assigned counsel;**

44           **(5) Caseload size limits for assigned counsel;**

45           **(6) Procedures by which attorneys whose workloads have become excessive can be**  
46 **relieved of caseload responsibilities that they cannot competently meet;**

47           **(7) Standards for entry-level training for attorneys assigned under the program;**

48           **(8) Standards for attorney supervision;**

49           **(9) Liability insurance requirements; and**

50           **(10) Disciplinary policies and procedures.**

51       **5. Under the program, assigned counsel may seek payment for expenses, including**  
52 **administrative and legal fees, from the supreme court. Persons eligible for representation**

53 by assigned counsel shall not be asked to contribute toward nor reimburse the supreme  
54 court for the cost of assigned counsel.

55 6. The program and persons appointed as assigned counsel shall be free from  
56 political influence.

57 7. It shall be the responsibility of the supreme court to ensure that counsel is  
58 provided to the indigent defendant at the earliest possible stage in the proceedings. Upon  
59 request, counsel shall be appointed for persons who have not been taken into custody and  
60 who require representation for criminal proceedings. Assigned counsel shall contact their  
61 new clients as soon as possible after appointment.

62 8. Prior to appointing assigned counsel to represent an indigent defendant, the  
63 supreme court shall categorize the offense or offenses charged as either a probation or  
64 parole violation, tier I offense, or tier II offense. Before the supreme court appoints  
65 assigned counsel to a case in which an indigent defendant is charged with a tier II offense,  
66 the supreme court shall determine the qualifications of the assigned counsel to be  
67 appointed to ensure the charge or charges against the indigent defendant do not exceed the  
68 qualifications of the assigned counsel.

69 9. By January 3, 2022, the office of state courts administrator shall provide a report  
70 to the governor and to the general assembly on the outcomes of the pilot program  
71 including, but not limited to, analysis on case efficiency and statistics on average case age,  
72 typical disposition, and attorney participation, and provide a recommendation regarding  
73 the expansion of the program statewide.

74 10. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
75 created under the authority delegated in this section shall become effective only if it  
76 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
77 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers  
78 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
79 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
80 grant of rulemaking authority and any rule proposed or adopted after August 28, 2020,  
81 shall be invalid and void.

82 11. Under section 23.253 of the Missouri sunset act:

83 (1) The provisions of the new program authorized under this section shall  
84 automatically sunset two years after the effective date of this section unless reauthorized  
85 by an act of the general assembly; and

86 (2) If such program is reauthorized, the program authorized under this section  
87 shall automatically sunset two years after the effective date of the reauthorization of this  
88 section; and

89           **(3) This section shall terminate on September first of the calendar year immediately**  
90 **following the calendar year in which the program authorized under this section is sunset.**

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