

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Bill No. 198, Page 49,
2 Section 568.050, Line 27, by inserting after said section and line the following:
3

4 "600.063. 1. Upon approval by the director or the commission, any district defender may
5 file a motion to request a conference to discuss caseload issues involving any individual public
6 defender or defenders, but not the entire office, with the presiding judge of any circuit court served
7 by the district office. The motion shall state the reasons why the individual public defender or
8 public defenders will be unable to provide effective assistance of counsel due to caseload concerns.
9 When a motion to request a conference has been filed, the clerk of the court shall immediately
10 provide a copy of the motion to the prosecuting or circuit attorney who serves the circuit court.

11 2. If the presiding judge approves the motion, a date for the conference shall be set within
12 thirty days of the filing of the motion. The court shall provide notice of the conference date and
13 time to the district defender and the prosecuting or circuit attorney.

14 3. Within thirty days of the conference, the presiding judge shall issue an order either
15 granting or denying relief. If relief is granted, it shall be based upon a finding that the individual
16 public defender or defenders will be unable to provide effective assistance of counsel due to
17 caseload issues. The judge may order one or more of the following types of relief in any appropriate
18 combination:

19 (1) Appoint private counsel to represent any eligible defendant pursuant to the provisions of
20 section 600.064;

21 (2) Investigate the financial status of any defendant determined to be eligible for public
22 defender representation under section 600.086 and make findings regarding the eligibility of such
23 defendants;

24 (3) Determine, with the express concurrence of the prosecuting or circuit attorney, whether
25 any cases can be disposed of without the imposition of a jail or prison sentence and allow such cases
26 to proceed without the provision of counsel to the defendant;

27 (4) Modify the conditions of release ordered in any case in which the defendant is being
28 represented by a public defender, including, but not limited to, reducing the amount of any bond
29 required for release; and

Action Taken _____ Date _____

1 (5) ~~[Place cases on a waiting list for defender services, taking into account the seriousness~~
2 ~~of the case, the incarceration status of the defendant, and such other special circumstances as may be~~
3 ~~brought to the attention of the court by the prosecuting or circuit attorney, the district defender, or~~
4 ~~other interested parties; and~~

5 (6) Grant continuances.

6 4. Upon receiving the order, the prosecuting or circuit attorney and the district defender
7 shall have ten days to file an application for review to the appropriate appellate court. Such appeal
8 shall be expedited by the court in every manner practicable.

9 5. Nothing in this section shall deny any party the right to seek any relief authorized by law
10 nor shall any provisions of this section be construed as providing a basis for a claim for post-
11 conviction relief by a defendant.

12 6. The commission and the supreme court may make such rules and regulations to
13 implement this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
14 is created by the commission under the authority delegated in this section shall become effective
15 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,
16 section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested
17 with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
18 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
19 authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void."; and

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