

FIRST REGULAR SESSION

SENATE BILL NO. 89

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time January 10, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0526S.011

AN ACT

To repeal sections 476.415, 547.370, 600.011, 600.015, 600.017, 600.019, 600.021, 600.040, 600.042, 600.043, 600.044, 600.048, 600.086, 600.089, 600.090, 600.091, 600.093, 600.096, and 600.101, RSMo, and to enact in lieu thereof seventeen new sections relating to the public defender system, with existing penalty provisions.

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

Section A. Sections 476.415, 547.370, 600.011, 600.015, 600.017, 600.019, 600.021, 600.040, 600.042, 600.043, 600.044, 600.048, 600.086, 600.089, 600.090, 600.091, 600.093, 600.096, and 600.101, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 476.415, 547.370, 600.011, 600.024, 600.028, 600.040, 600.042, 600.043, 600.044, 600.048, 600.086, 600.089, 600.090, 600.091, 600.093, 600.096, and 600.101, to read as follows:

476.415. 1. There is hereby created a "Commission on Judicial Resources", to be comprised of the following persons:

- (1) A circuit court judge elected by the circuit court judges of the state;
- (2) A judge of the court of appeals elected by the judges of the court of appeals of the state;
- (3) An associate circuit judge elected by the associate circuit judges of the state;
- (4) A senior judge under the provisions of section 476.001 appointed by the supreme court;
- (5) An attorney appointed by the board of governors of the Missouri Bar;
- (6) The chairman of the judiciary committee of the senate;
- (7) The chairman of the judiciary committee of the house of

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 representatives;

14 (8) A member of the appropriations committee of the senate, appointed by
15 the president pro tem;

16 (9) A member of the budget committee of the house of representatives,
17 appointed by the speaker; **and**

18 (10) [The executive director of the public defender commission; and

19 (11)] One prosecuting or circuit attorney elected by the prosecuting and
20 circuit attorneys of this state.

21 2. The legislative members of the commission shall serve during the
22 period they hold the committee assignments qualifying them for the office. The
23 appointed and elective members shall serve for two years and until their
24 successors are appointed and qualified. If a vacancy occurs in any of the
25 appointed or elected members, a successor shall be appointed or elected by the
26 body originally appointing or electing the position for whom the vacancy occurs
27 for the remainder of the unexpired term. The commission shall meet within sixty
28 days after the appointment of the members at the call of the chief justice of the
29 supreme court and shall meet subsequently at the call of the chairman. The
30 commission shall elect its own officers as necessary. The members of the
31 commission shall receive no compensation for their services, but shall be
32 reimbursed for their actual and necessary expenses paid out of appropriations
33 made for that purpose except that senior judges shall be credited for time actually
34 spent in the performance of duties according to section 476.682.

35 3. The commission shall have full access to the reports filed pursuant to
36 section 476.412, examine and prepare a digest of such reports, conduct a
37 comprehensive study of the state's judicial system, assess the needs, priorities,
38 workload, case management and general performance of the court system and for
39 the judges thereof. The commission shall make an annual report to the supreme
40 court and the general assembly before the convening of each session of the
41 general assembly in which they shall detail the true state of the judicial system
42 in this state, its success or inability to handle the caseload, and the efficiency of
43 disposition of judicial business and the administration of justice. The report shall
44 detail the utilization of judges transferred between circuits and of senior judges
45 as provided in section 476.681, including an appraisal of the effect that the
46 appointment of senior judges and transfer of judges has on the efficiency of the
47 courts and the reduction of caseloads. The report shall include a detailed
48 breakdown of the needs of specific courts and the commission's recommendations.

49 4. The clerk of the supreme court shall provide suitable staff for the
50 commission out of any funds appropriated for this purpose. The commission may
51 seek and receive gifts, donations and grants in aid from private or other sources
52 to defray expenses incurred in its assessment of judicial resources.

547.370. 1. When a motion is filed as provided in section 547.360 to set
2 aside a sentence of death, the court shall find on the record whether the movant
3 is indigent. If the movant is indigent, the court shall cause to be appointed two
4 counsel to represent the movant. If movant seeks to reject the appointment of
5 counsel, the court shall find on the record, after a hearing, if necessary, whether
6 the movant is able to competently decide whether to accept or reject the
7 appointment and whether the movant rejected the offer with the understanding
8 of its legal consequences. Unless the movant is so competent and understands
9 the legal consequences, movant shall not be permitted to reject the appointment
10 of counsel.

11 2. All counsel appointed as provided in this section shall be members of
12 The Missouri Bar or shall be admitted to practice in the particular case as
13 provided in Missouri supreme court rule 9. At least one of the counsel shall meet
14 the following qualifications:

15 (1) Have attended and successfully completed within two years
16 immediately preceding the appointment at least twelve hours of training or
17 educational programs on the postconviction phase of a criminal case and federal
18 and state aspects of cases in which the death penalty is sought; and

19 (2) Have at least three years litigation experience in the field of criminal
20 law; and

21 (3) Have participated as counsel or co-counsel to final judgment in at least
22 five postconviction motions involving class A felonies in either state or federal
23 trial courts; and

24 (4) Have participated in either state or federal court as counsel or
25 co-counsel to final judgment in at least:

26 (a) Three felony jury trials; or

27 (b) Five direct criminal appeals in felony cases. Counsel shall certify to
28 the [state public defender] **court** in such form as the [defender] **court** may
29 require that counsel meets the qualifications of this section prior to filing
30 counsel's entry of appearance in the case.

31 3. Counsel appointed to represent the movant shall not have represented
32 the movant at trial or on the direct appeal therefrom.

33 4. As to any counsel appointed as provided in this section, the [state
34 public defender] **court** shall provide counsel with reasonable compensation and
35 shall provide reasonable and necessary litigation expenses.

600.011. The following words and phrases as used in this chapter have the
2 following meanings, unless the context otherwise requires:

3 (1) "Assigned counsel" [means], private attorneys who are [hired by the
4 state public defender director] **appointed by the circuit courts** to handle the
5 cases of eligible persons from time to time on a case basis;

6 (2) ["Chief deputy director" means the attorney appointed by the
7 commission to assist the state public defender director and to exercise the duties
8 and powers of the director in his absence or upon his resignation;

9 (3) "Commission" means the public defender commission;

10 (4) "Defender(s)" includes both attorneys which serve as staff attorneys
11 in the state defender system and assigned counsel who provide defense services
12 on a case basis, but does not include secretarial, investigative, social service, or
13 paraprofessional staff;

14 (5) "Director" means the state public defender director] **Contract**
15 **counsel, any attorney licensed to practice law, or a firm, association,**
16 **corporation, or partnership of lawyers so licensed, executing a contract**
17 **for the provisions of indigent defense services;**

18 [(6)] (3) "Eligible person" [means], a person who falls within the
19 financial rules for legal representation at public expense prescribed by section
20 600.086;

21 [(7)] "State Public defender system" means a system for providing defense
22 services to every jurisdiction within the state by means of a centrally
23 administered organization having a full-time staff]

24 (4) **"Indigent defense system", any method or mixture of methods**
25 **for providing legal representation to an eligible person, including use**
26 **of assigned counsel, use of contract counsel, or use of public defenders;**

27 (5) **"Public defender", an attorney licensed to practice law who**
28 **is employed by and at the will of the circuit court and receives a salary**
29 **for representing indigent defendants.**

600.024. The indigent defense system in each circuit court shall
2 be determined as follows:

3 (1) **In circuits with two or fewer circuit judges, the presiding**
4 **judge of the court shall establish the indigent defense system to be used**

5 in the circuit; and

6 (2) In circuits with three or more circuit judges, a majority of the
7 circuit judges shall establish the indigent defense system to be used in
8 the circuit.

600.028. 1. Within each judicial circuit, the presiding circuit
2 judge shall administer the indigent defense system.

3 2. In each judicial circuit, the presiding circuit judge or his or
4 her designee shall have the following powers:

5 (1) If contract counsel is utilized by the circuit, to contract with
6 such entities and determine the compensation, with the approval of the
7 office of state courts administrator, to be paid to contract counsel
8 under each contract;

9 (2) If assigned counsel is utilized by the circuit, to contract with
10 assigned counsel and determine the compensation, with the approval
11 of the office of state courts administrator, to be paid to assigned
12 counsel;

13 (3) If public defenders are utilized by the circuit, to employ
14 persons to be public defenders as well as any other employees as are
15 necessary and determine the compensation, with the approval of the
16 office of state courts administrator, to be paid to such employees;

17 (4) Make expenditures, with the approval of the office of state
18 courts administrator, for personnel and nonpersonnel expenses of the
19 indigent defense system;

20 (5) Adopt rules, not in conflict with rules of the Supreme Court,
21 to administer the indigent defense system;

22 (6) Collect or enforce or contract for the collection and
23 enforcement of liens and judgments in accordance with the provisions
24 of this chapter and establish any rules needed for processing any such
25 liens and judgments;

26 (7) Apply for and accept on behalf of the indigent defense system
27 any funds which may be offered or which may become available from
28 government grants, private gifts, donations or bequests, or from any
29 other source. Such moneys shall be deposited in the state general
30 revenue fund.

600.040. [1.] The city or county shall provide office space and utility
2 services, other than telephone service, for the circuit [or regional public defender
3 and his personnel] **indigent defense system**. If there is more than one county

4 in a circuit or region, each county shall contribute, on the basis of population, its
5 pro rata share of the costs of office space and utility services, other than
6 telephone service. The state shall pay, within the limits of the appropriation
7 therefor, all other expenses and costs of the [state public defender] **indigent**
8 **defense** system authorized under this chapter.

9 [2. A complete budget for the state public defender system shall be
10 provided through an annual appropriation subject to approval by the governor
11 and the general assembly. The budget request for the state public defender
12 system shall be approved by the commission and submitted directly to the
13 governor and the general assembly by the director and shall not be subject to
14 diminution or alteration by the judicial department of state government.

15 3. Any person who is a public defender or employee of a public defender
16 shall be entitled to all benefits of the Missouri state employees' retirement system
17 as defined in sections 104.310 to 104.550.]

600.042. 1. [The director shall:

2 (1) Direct and supervise the work of the deputy directors and other state
3 public defender office personnel appointed pursuant to this chapter; and he and
4 the chief deputy director may participate in the trial and appeal of criminal
5 actions at the request of the defender or upon order of the commission;

6 (2) Submit to the commission, between August fifteenth and September
7 fifteenth of each year, a report which shall include all pertinent data on the
8 operation of the state public defender system, the costs, projected needs, and
9 recommendations for statutory changes. Prior to October fifteenth of each year,
10 the commission shall submit such report along with such recommendations,
11 comments, conclusions, or other pertinent information it chooses to make to the
12 chief justice, the governor, and the general assembly.

13 Such reports shall be a public record, shall be maintained in the office of the state
14 public defender, and shall be otherwise distributed as the commission shall
15 direct;

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

21 (4) Administer and coordinate the operations of defender services and be
22 responsible for the overall supervision of all personnel, offices, divisions and

23 facilities of the state public defender system, except that the director shall have
24 no authority to direct or control the legal defense provided by a defender to any
25 person served by the state public defender system;

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

28 (6) Keep and maintain proper financial records with respect to the
29 providing of all public defender services for use in the calculating of direct and
30 indirect costs of any or all aspects of the operation of the state public defender
31 system;

32 (7) Supervise the training of all public defenders, assistant public
33 defenders, deputy public defenders and other personnel and establish such
34 training courses as shall be appropriate;

35 (8) With approval of the commission, promulgate necessary rules,
36 regulations and instructions consistent with this chapter defining the
37 organization of his office and the responsibilities of public defenders, assistant
38 public defenders, deputy public defenders and other personnel;

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

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

47 (11) With the approval and on behalf of the commission, contract with
48 private attorneys for the collection and enforcement of liens and other judgments
49 owed to the state for services rendered by the state public defender system.

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

53 3. The director and defenders] **Each circuit court** shall, within
54 guidelines as established by the commission and as set forth in subsection [4] **2**
55 of this section, accept requests for legal services from eligible persons entitled to
56 counsel under this chapter or otherwise so entitled under the constitution or laws
57 of the United States or of the state of Missouri and provide such persons with
58 legal services when, in the discretion of the director or the defenders, such

59 provision of legal services is appropriate.

60 [4. The director and defenders]

61 **2. Each circuit court** shall provide legal services to an eligible person:

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

64 (2) Who is detained or charged with a misdemeanor which will probably
65 result in confinement in the county jail upon conviction, including appeals from
66 a conviction in such a case;

67 (3) Who is detained or charged with a violation of probation or parole;

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

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

74 (6) For whom, in a case in which he faces a loss or deprivation of liberty,
75 any law of this state requires the appointment of counsel; however, the [director
76 and the defenders] **circuit courts** shall not be required to provide legal services
77 to persons charged with violations of county or municipal ordinances.

78 [5. The director may:

79 (1) Delegate the legal representation of any person to any member of the
80 state bar of Missouri;

81 (2) Designate persons as representatives of the director for the purpose
82 of making indigency determinations and assigning counsel.]

600.043. [The state public defender] **No indigent defense** system shall
2 [not] represent a person who faces a loss or deprivation of liberty pursuant to
3 section 632.415, and nothing in sections 600.011 to 600.048 and 600.086 to
4 600.096 shall be construed to affect the legal representative provided to any
5 person pursuant to section 632.415.

600.044. A **public defender, assigned counsel, or contract counsel**
2 who undertakes to represent an eligible person shall continue to do so at every
3 stage of the case or proceeding, including the filing of a motion for new trial and
4 the processing, briefing, and argument of an appeal, until the **public defender,**
5 **assigned counsel, or contract counsel** is relieved of his duties by the
6 [director] **circuit court** or is permitted by a court to withdraw.

600.048. 1. It shall be the duty of every person in charge of a jail, police

2 station, constable's or sheriff's office, or detention facility provided by any county
3 to post in a conspicuous place a notice stating in effect:

4 (1) That every person held in custody under a charge or suspicion of a
5 crime is entitled to have a lawyer;

6 (2) That if any such person is held in custody in connection with any of
7 the cases or proceedings set out in section 600.042, and wants a lawyer to
8 represent him and is unable, without substantial financial hardship to himself
9 or his dependents, to obtain a lawyer, the state will provide a lawyer to represent
10 him if he requests such representation; and

11 (3) That if the state provides a lawyer for him, he may be liable to the
12 state for the cost of the services and expenses of the lawyer who handles his case
13 if he is or will be able to pay all or any part of such costs. The notice shall also
14 contain a listing of the cases and proceedings for which defender services are
15 available under section 600.042, and the telephone number of a person or
16 answering service to call to request that a person designated by the [state public
17 defender] **indigent defense** system visit and interview him, and give him
18 further information.

19 2. A person who is charged or detained in any case listed in section
20 600.042 or who appears in court without counsel at any stage of a case, or any
21 other person on behalf of such person, may request that legal representation be
22 furnished to him by the state. The court or any person representing the [state
23 public defender] **indigent defense** system to whom such request is made shall
24 first give him a copy of the notice referred to in subsection 1 of this section or call
25 the posted notice to his attention and permit him to read it or explain it to him.
26 If such person renews a request for [state public defender] **indigent defense**
27 system services, he shall be required to complete and sign an affidavit in
28 accordance with section 600.086. He shall be orally informed of the punishment
29 for intentionally falsifying such affidavit.

30 3. It shall be the duty of every person in charge of a jail, police station,
31 constable's or sheriff's office, or detention facility to make a room or place
32 available therein where any person held in custody under a charge or suspicion
33 of a crime will be able to talk privately with his lawyer, his lawyer's
34 representative, or any authorized person responding to his request for an
35 interview concerning his right to counsel.

600.086. 1. A person shall be considered eligible for representation under
2 sections 600.011 to 600.048 and 600.086 to 600.096 when it appears from all the

3 circumstances of the case including his ability to make bond, his income and the
4 number of persons dependent on him for support that the person does not have
5 the means at his disposal or available to him to obtain counsel in his behalf and
6 is indigent as hereafter determined.

7 2. Within the parameters set by subsection 1 of this section, [the
8 commission] **each circuit court** may establish and enforce such further rules
9 for courts and defenders in determining indigency as may be necessary.

10 3. The determination of indigency of any person seeking the services of
11 [the state public defender] **an indigent defense** system shall be made by the
12 [defender or anyone serving under him] **circuit court** at any stage of the
13 proceedings. Upon motion by either party, the court in which the case is pending
14 shall have authority to determine whether the services of [the public defender]
15 **its indigent defense system** may be utilized by the defendant. Upon the
16 courts finding that the defendant is not indigent, the [public defender] **court's**
17 **indigent defense system** shall no longer represent the defendant. Any such
18 person claiming indigency shall file with the court an affidavit which shall
19 contain the factual information required by the [commission] **circuit court**
20 under rules which may be established by the [commission] **circuit court** in
21 determining indigency.

22 4. Any person who intentionally falsifies such affidavit in order to obtain
23 [state public defender system] services **from an indigent defense system** shall
24 be guilty of a class A misdemeanor.

25 5. The [director or anyone serving under him] **circuit court** may
26 institute an investigation into the financial status of any person seeking the
27 services of the [state public defender] **indigent defense** system at such times
28 as the circumstances shall warrant. In connection therewith [he] **the circuit**
29 **court** shall have the authority to require any person seeking the services of the
30 [state public defender] **indigent defense** system or the parents, guardians or
31 other persons responsible for the support of a person seeking the services of the
32 [state public defender] **indigent defense** system who is a minor or those persons
33 holding property in trust or otherwise for such person to execute and deliver such
34 written authorization as may be necessary to provide the [director or anyone
35 serving under him] **circuit court** with access to records of public or private
36 sources, otherwise confidential, or any other information which may be relevant
37 to the making of a decision as to eligibility under this chapter. The [director,
38 chief deputy director, each] **circuit court**, public defender [and each assistant

39 and deputy public defender], **assigned counsel, and contract counsel** or
40 designee are authorized to obtain information from any office of the state or any
41 subdivision, or agency thereof or political subdivision on request and without
42 payment of any fees. Any office of the state or any subdivision, or agency thereof
43 or political subdivision from which the [director, chief deputy director, public
44 defender and each assistant and deputy public defender] **circuit court, public**
45 **defender, assigned counsel, contract counsel,** or designee requests
46 information pursuant to this section shall supply such information, without
47 payment of any fees.

48 6. The burden shall lie on the accused or the defendant to convince the
49 defender or the court of his eligibility to receive legal services, in any conference,
50 hearing or question thereon.

600.089. If [the public defender commission] **an indigent defense**
2 **system** has obtained a judgment against an offender in the custody of the
3 department of corrections, and the offender is later paroled and becomes
4 financially able to pay all or some part of such judgment, he shall be required, as
5 a condition of his continued parole, to pay over to the [public defender
6 commission] **indigent defense system** such amounts as he can reasonably pay,
7 either by a single payment or by installments of reasonable amounts[, in
8 accordance with the schedule of charges for public defender services prepared
9 pursuant to section 600.090].

600.090. 1. (1) If a person is determined to be eligible for the services
2 provided by the [state public defender] **indigent defense** system and if, at the
3 time such determination is made, he is able to provide a limited cash contribution
4 toward the cost of his representation without imposing a substantial hardship
5 upon himself or his dependents, such contribution shall be required as a condition
6 of his representation by the [state public defender] **indigent defense** system.

7 (2) If at any time, either during or after the disposition of his case, such
8 defendant becomes financially able to meet all or some part of the cost of services
9 rendered to him, he shall be required to reimburse the [commission] **indigent**
10 **defense system** in such amounts as he can reasonably pay, either by a single
11 payment or by installments of reasonable amounts[, in accordance with a
12 schedule of charges for public defender services prepared by the commission].

13 (3) No difficulty or failure in the making of such payment shall reduce or
14 in any way affect the rendering of [public defender] **indigent defense** services
15 to such persons.

16 2. (1) The reasonable value of the services rendered to a defendant
17 pursuant to sections 600.011 to 600.048 and 600.086 to 600.096 may in all cases
18 be a lien on any and all property to which the defendant shall have or acquire an
19 interest. The public defender, **assigned counsel, or contract counsel** shall
20 effectuate such lien whenever the reasonable value of the services rendered to a
21 defendant appears to exceed one hundred fifty dollars and may effectuate such
22 lien where the reasonable value of those services appears to be less than one
23 hundred fifty dollars.

24 (2) To effectuate such a lien, the public defender, **assigned counsel, or**
25 **contract counsel** shall, prior to the final disposition of the case or within ten
26 days thereafter, file a notice of lien setting forth the services rendered to the
27 defendant and a claim for the reasonable value of such services with the clerk of
28 the circuit court. The defendant shall be personally served with a copy of such
29 notice of lien. The court shall rule on whether all or any part of the claim shall
30 be allowed. The portion of the claim approved by the court as the value of
31 defender services which has been provided to the defendant shall be a judgment
32 at law. The public defender, **assigned counsel, or contract counsel** shall not
33 be required to pay filing or recording fees for or relating to such claim.

34 (3) Such judgment shall be enforceable in the name of the state on behalf
35 of the [commission] **indigent defense system** by the prosecuting attorney of the
36 circuit in which the judgment was entered.

37 (4) The prosecuting attorney may compromise and make settlement of, or,
38 with the concurrence of the [director] **circuit court**, forego any claims for
39 services performed for any person pursuant to this chapter whenever the financial
40 circumstances of such person are such that the best interests of the state will be
41 served by such action.

42 3. The [commission] **indigent defense system** may contract with
43 private attorneys for the collection and enforcement of liens and other judgments
44 owed to the state for services rendered by the [state public defender] **indigent**
45 **defense** system.

46 4. The lien created by this section shall be from the time filed in the court
47 by the **public** defender, **assigned counsel, or contract counsel** a charge or
48 claim against any assets of the defendant; provided further that the same shall
49 be served upon the person in possession of the assets or shall be recorded in the
50 office of the recorder of deeds in the county in which the person resides or in
51 which the assets are located.

52 5. Funds collected pursuant to this section and section 600.093 shall be
53 credited to the "Legal Defense and Defender Fund" which is hereby created. The
54 moneys credited to the legal defense and defender fund shall be used for the
55 purpose of training [public defenders, assistant public defenders, deputy public
56 defenders and other personnel pursuant to subdivision (7) of subsection 1 of
57 section 600.042] **personnel of any indigent defense system**, and may be used
58 to pay for expert witness fees, the costs of depositions, travel expenses incurred
59 by witnesses in case preparation and trial, expenses incurred for changes of
60 venue and for other lawful expenses as authorized by the [public defender
61 commission] **circuit court**.

62 6. The state treasurer shall be the custodian of the legal defense and
63 defender fund, moneys in the legal defense and defender fund shall be deposited
64 the same as are other state funds, and any interest accruing to the legal defense
65 and defender fund shall be added to the legal defense and defender fund. The
66 legal defense and defender fund shall be subject to audit, the same as other state
67 funds and accounts, and shall be protected by the general bond given by the state
68 treasurer.

69 7. Upon the request of the [director of the office of state public defender]
70 **circuit court**, the commissioner of administration shall approve disbursements
71 from the legal defense and defender fund. The legal defense and defender fund
72 shall be funded annually by appropriation, but any unexpended balance in the
73 fund at the end of the appropriation period not in excess of one hundred and fifty
74 thousand dollars shall be exempt from the provisions of section 33.080,
75 specifically as they relate to the transfer of fund balances to the general revenue,
76 and shall be the amount of the fund at the beginning of the appropriation period
77 next immediately following.

 600.091. The files maintained by [the state] public [defender office]
2 **defenders, contract counsel, or assigned counsel** which relate to the
3 handling of any case shall be considered confidential and shall not be open to
4 inspection by any person unless authorized by law[,] **or** court order[, the
5 commission, or the director]. Nothing in this section shall be construed to
6 prohibit access by the state auditor to those records of the [state public defender]
7 **indigent defense** system needed by the state auditor to carry out the duties of
8 his office.

 600.093. The court may require a defendant to repay all or a part of the
2 value of the legal services rendered by the [state public defender] **indigent**

3 **defense** system as a condition of probation.

600.096. An office of the state, or any department, division, agency or
2 political subdivision thereof, including a prosecutor's office and a police
3 department, shall furnish copies, upon request, of any reports, documents,
4 statements or transcripts prepared by the state, or any department, division,
5 agency or political subdivision thereof concerning a person represented by [the
6 state public defender] **an indigent defense** system to the **public** defender,
7 **assigned counsel, or contract counsel** representing such person without
8 charge.

600.101. Any dispute between any county or city not within a county and
2 the [state public defender] **indigent defense system** regarding office space and
3 utility service provided or to be provided pursuant to section 600.040 may be
4 submitted to the judicial finance commission established pursuant to section
5 477.600. The commission on judicial resources established pursuant to section
6 476.415 shall study and report its recommendations regarding provision of and
7 payment for office space for the [state public defender] **indigent defense**
8 **system** to the chairs of the judiciary committees of the senate and house of
9 representatives, the chair of the senate appropriations committee and budget
10 committee of the house of representatives.

[600.015. 1. There is hereby created the "Public Defender
2 Commission". The commission shall be composed of seven
3 members, four of whom shall be lawyers, appointed by the governor
4 with the advice and consent of the senate.

5 No more than four members shall be of the same political party.

6 2. Upon the expiration of the terms of the persons who are
7 members of the commission on April 1, 1982, the term of office of
8 each commissioner thereafter appointed shall be six years from the
9 time of his appointment and qualification and until his successor
10 shall qualify. Vacancies in the commission shall be filled by the
11 governor for the unexpired term. Commissioners may succeed
12 themselves.

13 3. The state public defender director shall, upon
14 appointment, become an ex officio member of the commission
15 without vote and shall participate in all meetings of the
16 commission except during discussions relating to renewal of his
17 term or to his removal from his office and such other matters as

18 the commission may designate.

19 4. The commission shall meet on a regular basis and shall
20 be presided over by a chairperson elected by its members.

21 5. Commission members shall receive no salaries, but shall
22 receive their actual and necessary expenses incurred in connection
23 with the performance of their duties.]

[600.017. The commission shall have the following powers
2 together with all powers incident thereto or necessary for the
3 performance thereof:

4 (1) To select the director, deputy directors and public
5 defenders;

6 (2) To draw up procedures, with the assistance of the
7 director, for the selection of public defenders, assistant public
8 defenders, and deputy public defenders and staff assistants;

9 (3) Receive client complaints when not resolved by the
10 defender agency, review office performance, and monitor the
11 performance of the director;

12 (4) Assist in insuring the independence of the state public
13 defender system by educating the public regarding constitutional
14 requirements and the function of the defenders;

15 (5) Remove the director or any deputy from office in the
16 event that good cause is shown;

17 (6) Review the budget request prepared by the director,
18 provide advice on the budget request before its submission, and
19 provide support for the request before the legislature;

20 (7) Approve the fee schedule for payment of assigned
21 counsel;

22 (8) Determine matters affecting the compensation, vacations
23 and employment benefits of the state public defender director and
24 the deputy directors;

25 (9) Collect or enforce or contract for the collection and
26 enforcement of liens and judgments in accordance with the
27 provisions of sections 600.011 to 600.048 and 600.086 to 600.096
28 and establish any rules needed for processing any such liens and
29 judgments; and

30 (10) Make any rules needed for the administration of the

31 state public defender system.]

2 [600.019. 1. The "Office of State Public Defender" is hereby
3 created and established as an independent department of the
4 judicial branch of state government.

5 2. The commission shall appoint a director of the office of
6 state public defender as head of the office. He shall qualify and be
7 sworn into office by a judge of the supreme court. He shall be an
8 attorney with substantial experience in the representation of
9 persons accused of crime. He shall have experience in
10 administration of personnel and shall be dedicated to the goals of
11 providing quality legal representation for eligible persons and of
12 improving the quality of defense services generally.

13 3. The director shall devote full time to the duties of his
14 office and shall not otherwise engage in the practice of law. His
15 term of office shall be four years and until the appointment and
16 qualification of a successor. His term may be renewable at the
17 discretion of the commission. He may be removed by the
18 commission during his term in office for good cause shown after
19 notice and hearing.

20 4. The salary of the director shall be set by the commission
but shall not exceed that of a circuit judge.]

[600.021. 1. The commission shall employ persons to be
2 public defenders for a term of four years. A public defender shall
3 employ such persons to be assistant public defenders, deputy public
4 defenders, investigators, and any other employees as are necessary
5 to discharge the function of the office, all of whom shall serve at
6 the pleasure of the employing public defender. Circuit and regional
7 public defenders holding office on April 1, 1982, shall continue to
8 hold such office until the expiration of their terms under the
9 direction of the director as otherwise described in this
10 chapter. Public defenders may be appointed to serve additional
11 terms by the commission.

12 2. Public defenders, assistant public defenders, and deputy
13 public defenders shall be attorneys, licensed to practice law in this
14 state, and shall not otherwise engage in the practice of law except
15 as authorized by this chapter or by commission rule. Public

16 defenders, assistant public defenders and deputy public defenders
17 may be employed on a full- or part-time basis.

18 3. The compensation of persons appointed under this
19 section shall be fixed by the commission.

20 4. The commission may establish such local or regional
21 offices as it deems necessary to properly carry out purposes of this
22 chapter.

23 5. The commission may appoint, on recommendation of the
24 director, and fix the compensation of all other personnel necessary
25 to the operation of the state public defender system.

26 6. The commission may contract with private attorneys to
27 provide defense services in such areas of the state and on such
28 terms as it deems appropriate.]

✓

Bill

Copy