

FIRST REGULAR SESSION

SENATE BILL NO. 91

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Pre-filed December 1, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0292S.01I

AN ACT

To repeal sections 600.042 and 600.101, RSMo, and to enact in lieu thereof two new sections relating to the state public defender system.

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

Section A. Sections 600.042 and 600.101, RSMo, are repealed and two new

2 sections enacted in lieu thereof, to be known as sections 600.042 and 600.101, to
3 read as follows:

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 or she
4 and the deputy director or directors may participate in the trial and appeal of
5 criminal actions at the request of the defender;

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

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

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

19 this chapter;

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

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

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

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

33 (8) With approval of the commission, promulgate necessary rules,
34 regulations and instructions consistent with this chapter defining the
35 organization of the state public defender system and the responsibilities of
36 division directors, district defenders, deputy district defenders, assistant public
37 defenders and other personnel;

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

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

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

49 (12) Prepare a plan to establish district offices, the boundaries of which
50 shall coincide with existing judicial circuits. Any district office may contain more
51 than one judicial circuit within its boundaries, but in no event shall any district
52 office boundary include any geographic region of a judicial circuit without
53 including the entire judicial circuit. The director shall submit the plan to the
54 chair of the house judiciary committee and the chair of the senate judiciary

55 committee, with fiscal estimates, by December 31, 2014. The plan shall be
56 implemented by December 31, [2018] **2021**.

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

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

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

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

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

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

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

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

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

90 5. The director may:

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

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

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

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Bill

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