

SENATE BILL NO. 1148

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

3027S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 600.063, RSMo, and to enact in lieu thereof one new section relating to the caseload of public defenders.

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

Section A. Section 600.063, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 600.063,
3 to read as follows:

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

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

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

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

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

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

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

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

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

46 (6)] Grant continuances.

47 4. Upon receiving the order, the prosecuting or
48 circuit attorney and the district defender shall have ten
49 days to file an application for review to the appropriate

50 appellate court. Such appeal shall be expedited by the
51 court in every manner practicable.

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

56 6. The commission and the supreme court may make such
57 rules and regulations to implement this section. Any rule
58 or portion of a rule, as that term is defined in section
59 536.010, that is created by the commission under the
60 authority delegated in this section shall become effective
61 only if it complies with and is subject to all of the
62 provisions of chapter 536 and, if applicable, section
63 536.028. This section and chapter 536 are nonseverable and
64 if any of the powers vested with the general assembly
65 pursuant to chapter 536 to review, to delay the effective
66 date, or to disapprove and annul a rule are subsequently
67 held unconstitutional, then the grant of rulemaking
68 authority and any rule proposed or adopted after August 28,
69 2013, shall be invalid and void.

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