

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 12, Page 8, Section 600.042, Line 3, by
2 deleting the phrase "he and the chief deputy director" and inserting in lieu thereof the phrase "[he] or
3 she and the [chief] deputy director or directors"; and

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5 FURTHER amend said Substitute, Page 9, said Section, Line 23, by deleting the word "providing"
6 and insert in lieu thereof the phrase "[providing] provision"; and

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8 FURTHER amend said Substitute, said Page, said Section, Lines 29-31, by deleting all of said Lines
9 and inserting in lieu thereof the following:

10 "instructions consistent with this chapter defining the organization of [his office] the state
11 public defender system and the responsibilities of [public] division directors, district defenders,
12 [assistant public] deputy district defenders, [deputy] assistant public defenders and other personnel;"
13 and

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15 FURTHER amend said Substitute, said Page, said Section, Line 36, by deleting the open bracket "[";
16 and

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18 FURTHER amend said Substitute, Page 10, said Section, Lines 39-51, by deleting all of said Lines
19 and inserting in lieu thereof the following:

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

23 (12) Prepare a plan to establish district offices, the boundaries of which shall coincide with
24 existing judicial circuits. Any district office may contain more than one judicial circuit within its
25 boundaries, but in no event shall any district office boundary include any geographic region of a
26 judicial circuit without including the entire judicial circuit. The director shall submit the plan to the
27 chair of the house judiciary committee and the chair of the senate judiciary committee, with fiscal
28 estimates, by December 31, 2014. The plan shall be implemented by December 31, 2018."; and

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30 FURTHER amend said Substitute, said Page, said Section, Line 60, by deleting said Line and
31 inserting in lieu thereof the following:

32 "4. The director and defenders shall"; and

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34 FURTHER amend said Substitute, said Page, said Section, Line 62, by deleting the phrase "class A
35 or B"; and

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37 FURTHER amend said Substitute, said Page, said Section, Line 64, by deleting the open bracket "[";

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1 and

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3 FURTHER amend said Substitute, said Page, said Section, Line 66, by inserting immediately after
4 the word "case" the following:

5 ", unless the prosecuting or circuit attorney has waived a jail sentence"; and

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7 FURTHER amend said Substitute, said Page, said Section, Line 67, by deleting said Line and
8 inserting in lieu thereof the following:

9 "(3) Who is [detained or] charged with a violation of probation [or parole] when it has been
10 determined by a judge that the appointment of counsel is necessary to protect the person's due
11 process rights under section 559.036"; and

12
13 FURTHER amend said Substitute, said Page, said Section, Lines 68-69, by deleting all of said Lines
14 and inserting in lieu thereof the following:

15 "(4) Who has been taken into custody pursuant to section 632.489, including appeals from";
16 and

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18 FURTHER amend said Substitute, said Page, said Section, Line 72, by deleting the phrase "~~(5)~~ (4)"
19 and inserting in lieu thereof the number "(5)"; and

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21 FURTHER amend said Substitute, Page 11, said Section, Line 74, by deleting said Line and inserting
22 in lieu thereof the following:

23 "(6) [For whom] Who is charged in a case in which he or she faces a loss or deprivation of
24 liberty, and in which the federal or the state constitution or any law"; and

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26 FURTHER amend said Substitute, said Page, said Section, Line 77, by inserting after the word
27 "ordinances" the following:

28 ", or misdemeanor offenses except as provided in this section"; and

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30 FURTHER amend said Substitute, said Page, said Section, Line 79, by deleting the open bracket "[";
31 and

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33 FURTHER amend said Substitute, said Page, said Section, Line 81, by deleting the closed bracket
34 "]""; and

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36 FURTHER amend said Substitute, said Page, said Section, Lines 82-92, by deleting all of said Lines
37 and insert in lieu thereof the following:

38 "indigency determinations and assigning counsel."

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40 FURTHER amend said Substitute, Section 600.053, Page 12, Line 3, by inserting immediately after
41 said Line the following:

42 "600.062. Notwithstanding the provisions of sections 600.017 and 600.042 to the contrary,
43 neither the director nor the commission shall have the authority to limit the availability of a district
44 office or any division director, district defender, deputy district defender, or assistant public defender
45 to accept cases based on a determination that the office has exceeded a caseload standard. The
46 director, commission, any division director, district defender, deputy district defender, or assistant
47 public defender may not refuse to provide representation required under this chapter without prior
48 approval from a court of competent jurisdiction.

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

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

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

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

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

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

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

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

31 (6) Grant continuances.

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

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

38 6. The commission and the supreme court may make such rules and regulations to implement
39 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
40 by the commission under the authority delegated in this section shall become effective only if it
41 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
42 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
43 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
44 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
45 rule proposed or adopted after August 28, 2013, shall be invalid and void.

46 600.064. 1. Before a circuit court judge appoints private counsel to represent an indigent
47 defendant, the judge shall:

48 (1) Investigate the defendant's financial status to verify that the defendant does not have the

1 means to obtain counsel; and

2 (2) Provide each appointed lawyer, upon request, with an evidentiary hearing as to the
3 propriety of the appointment, taking into consideration the lawyer's right to earn a livelihood and be
4 free from involuntary servitude. If the judge determines after the hearing that the appointment will
5 cause any undue hardship to the lawyer, the judge shall appoint another lawyer.

6 (3) Determine whether the private counsel to be appointed possesses the necessary
7 experience, education, and expertise in criminal defense to provide effective assistance of counsel.

8 2. No judge shall require a lawyer to advance personal funds in any amount for the payment
9 of litigation expenses to prepare a proper defense for an indigent defendant.

10 3. If an employee of the general assembly is appointed to represent an indigent defendant
11 during the time period beginning January first and ending June first of each year, or whenever the
12 general assembly is in a veto session or special session or is holding out-of-session committee
13 hearings, the judge who made the appointment shall postpone the trial and all other proceedings of
14 any kind or nature to a date that does not fall within such time period or appoint a different lawyer
15 who is not an employee of the general assembly to represent the defendant.

16 4. Private counsel appointed to represent an indigent defendant may seek payment of
17 litigation expenses from the public defender system. Such litigation expenses shall not include
18 counsel fees and shall be limited to those expenses approved in advance by the director as reasonably
19 necessary for the proper defense of the defendant."; and

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