

2 **SSB 6189** - H COMM AMD **ADOPTED 2-28-96**
3 By Committee on Law & Justice

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** In order to implement the constitutional
8 guarantee of counsel and to ensure the effective and efficient delivery
9 of the indigent appellate services funded by the state of Washington,
10 an office of public defense is established as an independent agency of
11 the judicial branch.

12 NEW SECTION. **Sec. 2.** The supreme court shall appoint the director
13 of the office of public defense from a list of three names submitted by
14 the advisory committee created under section 4 of this act.
15 Qualifications shall include admission to the practice of law in this
16 state for at least five years, experience in the representation of
17 persons accused of a crime, and proven managerial or supervisory
18 experience. The director shall serve at the pleasure of the supreme
19 court and receive a salary to be fixed by the advisory committee.

20 NEW SECTION. **Sec. 3.** The director, under the supervision and
21 direction of the advisory committee, shall:

- 22 (1) Administer all criminal appellate indigent defense services;
23 (2) Submit a biennial budget for all costs related to state
24 appellate indigent defense;
25 (3) Establish administrative procedures, standards, and guidelines
26 for the program including a cost-efficient system that provides for
27 recovery of costs;
28 (4) Recommend criteria and standards for determining and verifying
29 indigency. In recommending criteria for determining indigency, the
30 director shall compile and review the indigency standards used by other
31 state agencies and shall periodically submit the compilation and report
32 to the legislature on the appropriateness and consistency of such
33 standards;

1 (5) Collect information regarding indigency cases funded by the
2 state and report annually to the legislature and the supreme court;

3 (6) Coordinate with the supreme court and the judges of each
4 division of the court of appeals to determine how attorney services
5 should be provided.

6 The office of public defense shall not provide direct
7 representation of clients.

8 NEW SECTION. **Sec. 4.** (1) There is created an advisory committee
9 consisting of the following members:

10 (a) Three persons appointed by the chief justice of the supreme
11 court, including the chair of the appellate indigent defense commission
12 identified in subsection (3) of this section;

13 (b) Two nonattorneys appointed by the governor;

14 (c) Two senators, one from each of the two largest caucuses,
15 appointed by the president of the senate; and two members of the house
16 of representatives, one from each of the two largest caucuses,
17 appointed by the speaker of the house of representatives;

18 (d) One person appointed by the court of appeals executive
19 committee;

20 (e) One person appointed by the Washington state bar association.

21 (2) During the term of his or her appointment, no appointee may:

22 (a) Provide indigent defense services except on a pro bono basis; (b)
23 serve as an appellate judge or an appellate court employee; or (c)
24 serve as a prosecutor or prosecutor employee.

25 (3) The initial advisory committee shall be comprised of the
26 current members of the appellate indigent defense commission, as
27 established by Supreme Court Order No. 25700-B, dated March 9, 1995,
28 plus two additional legislator members appointed under subsection
29 (1)(c) of this section. Members shall serve until the termination of
30 their current terms, and may be reappointed. The two additional
31 legislator members, who are not on the appellate indigent defense
32 commission, shall each serve three-year terms. Members of the advisory
33 committee shall receive no compensation for their services as members
34 of the commission, but may be reimbursed for travel and other expenses
35 in accordance with rules adopted by the office of financial management.

1 NEW SECTION. **Sec. 5.** All employees of the office of public
2 defense shall be exempt from state civil service under chapter 41.06
3 RCW.

4 NEW SECTION. **Sec. 6.** (1) All powers, duties, and functions of the
5 supreme court and the office of the administrator for the courts
6 pertaining to appellate indigent defense are transferred to the office
7 of public defense.

8 (2)(a) All reports, documents, surveys, books, records, files,
9 papers, or written material in the possession of the supreme court or
10 the office of the administrator for the courts pertaining to the
11 powers, functions, and duties transferred shall be delivered to the
12 custody of the office of public defense. All cabinets, furniture,
13 office equipment, motor vehicles, and other tangible property employed
14 by the supreme court or the office of the administrator for the courts
15 in carrying out the powers, functions, and duties transferred shall be
16 made available to the office of public defense. All funds, credits, or
17 other assets held in connection with the powers, functions, and duties
18 transferred shall be assigned to the office of public defense.

19 (b) Any appropriations made to the supreme court or the office of
20 the administrator for the courts for carrying out the powers,
21 functions, and duties transferred shall, on the effective date of this
22 section, be transferred and credited to the office of public defense.

23 (c) Whenever any question arises as to the transfer of any
24 personnel, funds, books, documents, records, papers, files, equipment,
25 or other tangible property used or held in the exercise of the powers
26 and the performance of the duties and functions transferred, the
27 director of financial management shall make a determination as to the
28 proper allocation and certify the same to the state agencies concerned.

29 (3) All employees of the supreme court or the office of the
30 administrator for the courts engaged in performing the powers,
31 functions, and duties transferred are transferred to the jurisdiction
32 of the office of public defense. All employees classified under
33 chapter 41.06 RCW, the state civil service law, are assigned to the
34 office of public defense to perform their usual duties upon the same
35 terms as formerly, without any loss of rights, subject to any action
36 that may be appropriate thereafter in accordance with the laws and
37 rules governing state civil service.

1 (4) All rules and all pending business before the supreme court or
2 the office of the administrator for the courts pertaining to the
3 powers, functions, and duties transferred shall be continued and acted
4 upon by the office of public defense. All existing contracts and
5 obligations shall remain in full force and shall be performed by the
6 office of public defense.

7 (5) The transfer of the powers, duties, functions, and personnel of
8 the supreme court or the office of the administrator for the courts
9 shall not affect the validity of any act performed before the effective
10 date of this section.

11 (6) If apportionments of budgeted funds are required because of the
12 transfers directed by this section, the director of financial
13 management shall certify the apportionments to the agencies affected,
14 the state auditor, and the state treasurer. Each of these shall make
15 the appropriate transfer and adjustments in funds and appropriation
16 accounts and equipment records in accordance with the certification.

17 (7) Nothing contained in this section may be construed to alter any
18 existing collective bargaining unit or the provisions of any existing
19 collective bargaining agreement until the agreement has expired or
20 until the bargaining unit has been modified by action of the personnel
21 board as provided by law.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131 RCW
23 to read as follows:

24 The office of public defense and its powers and duties shall be
25 terminated on June 30, 2000, as provided in section 8 of this act.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.131 RCW
27 to read as follows:

28 The following acts or parts of acts, as now existing or hereafter
29 amended, are each repealed, effective June 30, 2001:

- 30 (1) RCW 2.--.-- and 1996 c -- s 1 (section 1 of this act);
- 31 (2) RCW 2.--.-- and 1996 c -- s 2 (section 2 of this act);
- 32 (3) RCW 2.--.-- and 1996 c -- s 3 (section 3 of this act);
- 33 (4) RCW 2.--.-- and 1996 c -- s 4 (section 4 of this act); and
- 34 (5) RCW 2.--.-- and 1996 c -- s 5 (section 5 of this act).

1 NEW SECTION. **Sec. 9.** Sections 1 through 5 of this act shall
2 constitute a new chapter in Title 2 RCW."

--- **END** ---