

SENATE AMENDMENT NO. _____

TO

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SA to SS/Senate Bill No. 265, Page 1, Section _____, Line 4,

2 by striking "for transportation purposes"; and

3 Further amend line 24 by inserting after "fund." the
4 following:

5 "600.042. 1. The director shall:

6 (1) Direct and supervise the work of the deputy
7 directors and other state public defender office personnel
8 appointed pursuant to this chapter; and he or she and the
9 deputy director or directors may participate in the trial
10 and appeal of criminal actions at the request of the
11 defender;

12 (2) Submit to the commission, between August fifteenth
13 and September fifteenth of each year, a report which shall
14 include all pertinent data on the operation of the state
15 public defender system, the costs, projected needs, and
16 recommendations for statutory changes. Prior to October
17 fifteenth of each year, the commission shall submit such
18 report along with such recommendations, comments,
19 conclusions, or other pertinent information it chooses to
20 make to the chief justice, the governor, and the general
21 assembly. Such reports shall be a public record, shall be
22 maintained in the office of the state public defender, and

23 shall be otherwise distributed as the commission shall
24 direct;

25 (3) With the approval of the commission, establish
26 such divisions, facilities and offices and select such
27 professional, technical and other personnel, including
28 investigators, as he deems reasonably necessary for the
29 efficient operation and discharge of the duties of the state
30 public defender system under this chapter;

31 (4) Administer and coordinate the operations of
32 defender services and be responsible for the overall
33 supervision of all personnel, offices, divisions and
34 facilities of the state public defender system, except that
35 the director shall have no authority to direct or control
36 the legal defense provided by a defender to any person
37 served by the state public defender system;

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

40 (6) Keep and maintain proper financial records with
41 respect to the provision of all public defender services for
42 use in the calculating of direct and indirect costs of any
43 or all aspects of the operation of the state public defender
44 system;

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

48 (8) With approval of the commission, promulgate
49 necessary rules, regulations and instructions consistent
50 with this chapter defining the organization of the state
51 public defender system and the responsibilities of division
52 directors, district defenders, deputy district defenders,
53 assistant public defenders and other personnel;

54 (9) With the approval of the commission, apply for and
55 accept on behalf of the public defender system any funds

56 which may be offered or which may become available from
57 government grants, private gifts, donations or bequests or
58 from any other source. Such moneys shall be deposited in
59 the [state general revenue] public defender - federal and
60 other fund;

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

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

71 2. No rule or portion of a rule promulgated under the
72 authority of this chapter shall become effective unless it
73 has been promulgated pursuant to the provisions of section
74 536.024.

75 3. The director and defenders shall, within guidelines
76 as established by the commission and as set forth in
77 subsection 4 of this section, accept requests for legal
78 services from eligible persons entitled to counsel under
79 this chapter or otherwise so entitled under the constitution
80 or laws of the United States or of the state of Missouri and
81 provide such persons with legal services when, in the
82 discretion of the director or the defenders, such provision
83 of legal services is appropriate.

84 4. The director and defenders shall provide legal
85 services to an eligible person:

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

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

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

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

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

104 (6) Who is charged in a case in which he or she faces
105 a loss or deprivation of liberty, and in which the federal
106 or the state constitution or any law of this state requires
107 the appointment of counsel; however, the director and the
108 defenders shall not be required to provide legal services to
109 persons charged with violations of county or municipal
110 ordinances, or misdemeanor offenses except as provided in
111 this section.

112 5. The director may:

113 (1) Delegate the legal representation of an eligible
114 person to any member of the state bar of Missouri;

115 (2) Designate persons as representatives of the
116 director for the purpose of making indigency determinations
117 and assigning counsel.

118 6. There is hereby created within the state treasury
119 the "Public Defender - Federal and Other Fund", which shall
120 be funded annually by appropriation, and which shall contain

121 moneys received from any other funds from government grants,
122 private gifts, donations, bequests, or any other source to
123 be used for the purpose of funding local offices of the
124 office of the state public defender. The state treasurer
125 shall be the custodian of the fund and shall approve
126 disbursements from the fund upon the request of the director
127 of the office of state public defender. Any interest or
128 other earnings with respect to amounts transferred to the
129 fund shall be credited to the fund. Notwithstanding the
130 provisions of section 33.080 to the contrary, any unexpended
131 balances in the fund at the end of any fiscal year shall not
132 be transferred to the general revenue fund or any other
133 fund."