

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2363-03
Bill No.: SCS for SB 611
Subject: Crimes and Punishment; Public Defenders; Courts; Criminal Procedure
Type: Original
Date: April 2, 2007

Bill Summary: The proposal modifies provisions relating to the public defender system.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	\$0 to (\$8,845,000)	\$0 to (\$10,932,420)	\$0 to (\$11,260,393)
Total Estimated Net Effect on General Revenue Fund	\$0 to (\$8,845,000)	\$0 to (\$10,932,420)	\$0 to (\$11,260,393)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Contract Indigent Defense	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Total Estimated Net Effect on FTE	0	0	0

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Division of Budget and Planning** and the **State Treasurer’s Office** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year’s legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the State Public Defender (SPD)** assume the legislation would enable the public defender system to contract out certain categories of cases now handled by public defenders: stand-alone misdemeanor cases, conflict cases, felony bad check cases, and felony criminal non-support cases.

SPD estimates the cost of the contracts as follows:

23,000 stand-alone misdemeanor cases @ \$300 each = \$6.9 million
3,050 conflict cases @ \$750 each = \$2.3 million
1,109 felony criminal non-support case @ \$500 each = \$554,500
1,744 felony bad check cases @ \$500 each = \$872,000

SPD assumes the total anticipated funding needed to implement the contract portion of this legislation to be \$10,626,500.

ASSUMPTION (continued)

Oversight assumes the legislation gives the Office of the State Public Defender (SPD) the authority to enter into contracts with private counsel for the provision of indigent defense services, but does not require the SPD enter into contracts with private counsel for all eligible cases. Oversight assumes the SPD would enter into such contracts up to the amount of funds received into the contract indigent defense fund from the general revenue fund. For fiscal note purposes, Oversight assumes the contract indigent defense fund would be funded in an amount up to approximately \$10 million per fiscal year. Therefore, Oversight has reflected the cost to general revenue as \$0 to approximately \$10 million.

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
	(10 Mo.)		
GENERAL REVENUE FUND			
<u>Transfers out</u> – to contract indigent defense fund	\$0 to <u>(\$8,845,000)</u>	\$0 to <u>(\$10,932,420)</u>	\$0 to <u>(\$11,260,393)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 to</u> <u>(\$8,845,000)</u>	<u>\$0 to</u> <u>(\$10,932,420)</u>	<u>\$0 to</u> <u>(\$11,260,393)</u>
CONTRACT INDIGENT DEFENSE FUND			
<u>Transfers in</u> – from general revenue fund	\$0 to \$8,845,000	\$0 to \$10,932,420	\$0 to \$11,260,393
<u>Costs</u> – Office of the State Public Defender			
Payments to contract counsel	\$0 to <u>(\$8,845,000)</u>	\$0 to <u>(\$10,932,420)</u>	\$0 to <u>(\$11,260,393)</u>
ESTIMATED NET EFFECT ON CONTRACT INDIGENT DEFENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2008 (10 Mo.)	FY 2009	FY 2010
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

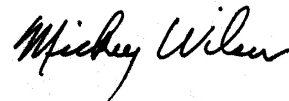
The proposed legislation creates the "Contract Indigent Defense Fund," consisting of moneys transferred from the state general revenue fund. Money from the fund shall be used to pay contract counsel to represent eligible indigent persons who are charged with a misdemeanor, a violation for passing a bad check, or a misdemeanor probation violation that will likely result in confinement in county jail and for which the constitution or law requires the appointment of counsel. Such probation violation must also possibly result in the charging of a separate offense.

The money in the fund shall also be used to represent persons involved in criminal child support enforcement actions and persons who would normally be represented by a public defender where the public defender has a conflict of interest.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration
– Division of Budget and Planning
Office of State Courts Administrator
Office of the Secretary of State
Office of the State Public Defender
State Treasurer's Office



Mickey Wilson, CPA
Director
April 2, 2007