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**SUBSTITUTE HOUSE BILL 2342**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** House Committee on Law & Justice (originally sponsored by Representatives Hickel, Sheahan, Appelwick, Delvin and Costa; by request of Administrator for the Courts)

Read first time 02/02/96.

1 AN ACT Relating to criminal defense; adding new sections to chapter  
2 43.131 RCW; adding a new chapter to Title 2 RCW; and creating a new  
3 section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

3        (1) Administer all criminal appellate indigent defense services;

4        (2) Submit a biennial budget for all costs related to state  
5 appellate indigent defense;

6        (3) Establish administrative procedures, standards, and guidelines  
7 for the program including a cost-efficient system that provides for  
8 recovery of costs;

9        (4) Recommend criteria and standards for determining and verifying  
10 indigency;

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

13       (6) Coordinate with the supreme court and the judges of each  
14 division of the court of appeals to determine how attorney services  
15 should be provided.

16       The office of public defense shall not provide direct  
17 representation of clients.

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

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

23       (b) Two nonattorneys appointed by the governor;

24       (c) Two senators, one from each of the two largest caucuses,  
25 appointed by the president of the senate; and two members of the house  
26 of representatives, one from each of the two largest caucuses,  
27 appointed by the speaker of the house of representatives;

28       (d) One person appointed by the court of appeals executive  
29 committee;

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

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

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

35       (3) The initial advisory committee shall be comprised of the  
36 current members of the appellate indigent defense commission, as  
37 established by Supreme Court Order No. 25700-B, dated March 9, 1995,  
38 plus two additional legislator members appointed under subsection

1 (1)(c) of this section. Members shall serve until the termination of  
2 their current terms, and may be reappointed. The two additional  
3 legislator members, who are not on the appellate indigent defense  
4 commission, shall each serve three-year terms. Members of the advisory  
5 committee shall receive no compensation for their services as members  
6 of the commission, but may be reimbursed for travel and other expenses  
7 in accordance with rules adopted by the office of financial management.

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

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

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

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

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

36 (3) All employees of the supreme court or the office of the  
37 administrator for the courts engaged in performing the powers,

1 functions, and duties transferred are transferred to the jurisdiction  
2 of the office of public defense. All employees classified under  
3 chapter 41.06 RCW, the state civil service law, are assigned to the  
4 office of public defense to perform their usual duties upon the same  
5 terms as formerly, without any loss of rights, subject to any action  
6 that may be appropriate thereafter in accordance with the laws and  
7 rules governing state civil service.

8 (4) All rules and all pending business before the supreme court or  
9 the office of the administrator for the courts pertaining to the  
10 powers, functions, and duties transferred shall be continued and acted  
11 upon by the office of public defense. All existing contracts and  
12 obligations shall remain in full force and shall be performed by the  
13 office of public defense.

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

18 (6) If apportionments of budgeted funds are required because of the  
19 transfers directed by this section, the director of financial  
20 management shall certify the apportionments to the agencies affected,  
21 the state auditor, and the state treasurer. Each of these shall make  
22 the appropriate transfer and adjustments in funds and appropriation  
23 accounts and equipment records in accordance with the certification.

24 (7) Nothing contained in this section may be construed to alter any  
25 existing collective bargaining unit or the provisions of any existing  
26 collective bargaining agreement until the agreement has expired or  
27 until the bargaining unit has been modified by action of the personnel  
28 board as provided by law.

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

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

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

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

37 (1) RCW 2.--.-- and 1996 c -- s 1 (section 1 of this act);

1 (2) RCW 2.--.--- and 1996 c -- s 2 (section 2 of this act);  
2 (3) RCW 2.--.--- and 1996 c -- s 3 (section 3 of this act);  
3 (4) RCW 2.--.--- and 1996 c -- s 4 (section 4 of this act); and  
4 (5) RCW 2.--.--- and 1996 c -- s 5 (section 5 of this act).

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

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