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## Legal aid for poor scrutinized

State Supreme Court to hear case that could result in overhaul of public defender system

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*Lansing* --The Michigan Supreme Court will hear testimony today in a case supporters say could result in the state being forced to provide better legal representation to poor criminal defendants.

The lawsuit could result in an overhaul of Michigan's public defender system with reforms such as better pay and training for court-appointed attorneys, and state supervision.

Michigan has been viewed as having one of the worst public defender systems in the country, and ranks 44th in the nation for the amount it spends to provide attorneys for the poor, according to Laura Sager, executive director of Campaign for Justice, a bipartisan group working for improvements.

"Michigan is considered the poster state for what can go wrong when the state doesn't step up to provide constitutionally effective representation," Sager said.

The lawsuit claims the state of Michigan and Gov. Jennifer Granholm have failed to uphold Michigan's obligation, under the state and federal constitutions, to provide adequate counsel for people who can't afford it.

"We are not discussing pending litigation," Granholm spokeswoman Liz Boyd said in an e-mail. "We will speak through the pleadings in the court."

Attorneys for the state argued *Duncan v. Michigan* shouldn't go to trial for technical reasons. The Supreme Court must decide whether to allow the case to proceed in Circuit Court.

Michigan is one of seven states where responsibility for hiring public defenders has been turned over to the counties. A 2008 study by the National Legal Aid and Defenders Association, ordered by the state Legislature, concluded Michigan is not upholding constitutional requirements in 10 counties studied.

The study found public defenders often have enormous case loads, and as a result have little time to research cases or meet with clients. There also is little administrative oversight to determine if attorneys are effectively doing their job, the report concluded.

"Time and again, you have attorneys that have upward of 1,000 cases a year," said Jessie Rossman, an attorney with the American Civil Liberties Union, which is involved with the case.

Jason Menges, an attorney with Detroit law firm Foley and Lardner, said the lawsuit does not seek to overturn any convictions, it just wants the system fixed. The law firm submitted an amicus brief in the case on behalf of the University of Michigan Innocence Clinic.

"We've seen numerous instances where trial and pretrial counsel have failed to do a constitutionally adequate job," Menges said.

Criminal justice advocates say there should be a statewide public defender system, with adherence to national standards for attorney selection, training, oversight and accountability.

A bill by Rep. Bob Constan, D-Dearborn Heights, and Justin Amash, R-Kentwood, which is in the House Judiciary Committee, would establish a state commission to oversee the public defender system.

Fixing it could be expensive. According to Sager, counties collectively spend about \$72 million annually on their public defenders. The National Legal Aid and Defenders Association estimated in 2008 it would cost about \$125 million annually.

"What we're looking for is improvement of the system, and improvement could come in many different forms, (such as) better training and better oversight of people who represent indigent defendants," said Mark Granzotto, one of the attorneys representing plaintiffs in the case.

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## Additional Facts

At issue

A class-action lawsuit has been brought on behalf of indigent criminal defendants claiming they were denied their constitutional right to effective legal counsel:

- The lawsuit names eight plaintiffs from Berrien, Genesee and Kent counties and details failings of court appointed attorneys, such as not meeting with their clients or reviewing important documents like police reports.
- The plaintiffs hope for a ruling that Michigan has not met its constitutional obligation to provide legal representation for those who can't afford it; they want the court to order Michigan to fix the problem.
- The state has asked for the case to be thrown out of court; the Supreme Court will decide whether to let the lawsuit proceed.