



February 18, 2009

'ADEQUATE' FUNDING URGED FOR STATE-RUN PUBLIC DEFENDER PROGRAM

Putting millions of dollars more into a public defender system that would be state-run, instead of at the county level, offers both short-term and long-term budget benefits as well as providing a better safeguard against wrongful convictions of poor defendants, an advocacy group said Wednesday.

While the Campaign for Justice said the current system violates the constitutional guarantees of accused to be represented by attorneys, leaders said they are seeking a legislative remedy and set a goal of final passage by the end of 2010 when the current session comes to a close.

Laura Sager, executive director of the group, said details of the proposal are still being developed, including how much money would be needed to "adequately" fund the system. She said the quality of an indigent defendant's defense should not be determined by county boundaries, which is the case in Michigan and just six other states that hand that obligation to counties.

Michigan now ranks 44th among all states in its funding of public defenders and bringing it to 26th, or middle of the pack, would cost \$120 million, but Ms. Sager that is "not a number you can hang your hat on." The counties collectively now spend about \$80 million for public defenders.

She and others supporting the proposal, including the Michigan Judges Association, said the existing system is outdated and inefficient. The inefficiency, they said, adds costs to the trial court when appointed counsel are not adequately prepared and are unable to conduct sufficient research, adds costs and unnecessary cases to the appellate court workload with appeals of suspect convictions, adds to prison costs with sentences that may be longer than justified by circumstances and leaves the public more exposed to harm when the wrong person is convicted and the guilty continue to roam free.

Added to that are the injustices borne to those wrongfully convicted or not provided appropriate mental health, substance abuse or other services that would help them stay out of criminal trouble, they said.

The coalition called for the state to satisfy the 11 principles of a public defense system that the State Bar of Michigan has established. In the current system, the report card gave the state an "F" in five areas, a "D" in five, and a "C" in one. That highest mark was in consistency of the same attorney representing the defendant through completion of the case.

"The report card reveals a system in such crisis it cannot meet national standards," Ms. Sager said. "Our public defender system is failing our taxpayers and failing to protect the safety of our citizens."

Groups are working on models for a state system and funding, and Ms. Sager said she hopes legislation can be produced "in the very near future" and begin to move through the Legislature.

Judge Fred Borchard, president of the Michigan Judges Association, said the trial and appellate judges support a change to a state-based and funded system for public defenders. "There has to be a better way to fund the defense for indigent defendants instead of through 83 counties," he said. He also said the judges support improved education and certification requirements for public defense attorneys.

John Shea, of the Criminal Defense Attorneys of Michigan, said the lawyers are "tremendously underresourced and tremendously overworked" in trying to put on an adequate defense. That, he said, produces a higher percentage of convictions among poor defendants, and longer sentences, both of which substantially add to the cost of a prison system that tops \$2 billion annually.

"It's not just a moral issue, it's a financial issue," he said.

While the crunch put on the budget by Michigan's stalled economy presents challenges, Mr. Borchard said this can be viewed as a good time to tackle the problem because of the potential for long-term savings with an improved system.