

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 26

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF POTENTIAL APPROACHES TO PUBLIC DEFENSE REFORM.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the responsibility of providing counsel to those constitutionally entitled to representation at public expense is currently borne by the counties; and

WHEREAS, though the State of Idaho may delegate certain obligations imposed by the Idaho Constitution to the counties, it must do so in a manner that does not abdicate the constitutional duty; and

WHEREAS, for the past three years, the Idaho Criminal Justice Commission's Public Defense Subcommittee has committed itself to the task of identifying deficiencies in Idaho's public defense system and developing recommendations for public defense reform; and

WHEREAS, the Idaho Criminal Justice Commission's Public Defense Subcommittee has identified deficiencies in Idaho's public defense system. Such deficiencies include, but are not limited to: a lack of uniformity in indigency determination, appointment and waiver of counsel, contribution and recoupment practices, public defense contracting practices and data reporting; excessive caseloads and workloads; a lack of independence of the public defense function; a lack of training and resources for attorneys providing public defense services, particularly in the areas of juvenile defense, child protection and mental health commitment; the existence of flat fee contracts for public defense services; and county commissioners' lack of access to information and resources to assist in the provision of public defense; and

WHEREAS, the Idaho Criminal Justice Commission's Public Defense Subcommittee's analysis of nationwide approaches to addressing such deficiencies shows that the most significant trend has been toward state oversight of the public defense system that includes statewide standards and, in many instances, state moneys; and

WHEREAS, the Idaho Criminal Justice Commission's Public Defense Subcommittee has narrowed its efforts to consideration of a public defense model where, although public defense delivery at the trial level would remain primarily funded and administered at the county level, the authority for a public defense system would be statutorily delegated to an independent commission authorized to promulgate and enforce certain rules and standards with which counties are required to comply, including: statewide training and continuing legal education requirements for public defense attorneys; data reporting requirements; requirements relating to contracts entered into between counties and private providers of public defense services;

1 standards for the qualification of public defense attorneys; and caseload
2 and workload standards for public defense attorneys; and

3 WHEREAS, the Idaho Criminal Justice Commission's Public Defense Sub-
4 committee has also considered a public defense model where the counties'
5 statutory authority to provide for counsel at public expense would be lim-
6 ited to the creation of an office of public defender and a requirement that
7 each county participate in a statewide association of public defense attor-
8 neys.

9 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Ses-
10 sion of the Sixty-second Idaho Legislature, the House of Representatives
11 and the Senate concurring therein, that the Legislative Council is autho-
12 rized to appoint a committee to undertake and complete a study of potential
13 approaches to public defense reform including, but not limited to: the
14 creation, funding and implementation of a public defense commission; and
15 requirements that counties operate offices of public defenders and join a
16 statewide association of public defense attorneys. The committee shall
17 consist of ten legislators, with five from the Senate and five from the House
18 of Representatives. The Legislative Council shall authorize the committee
19 to receive input, advice and assistance from interested and affected parties
20 who are not members of the Legislature.

21 BE IT FURTHER RESOLVED that the cochairmen of the committee are autho-
22 rized to appoint advisors with technical expertise in the area of public de-
23 fense and are expected to receive input from stakeholders in the criminal
24 justice system of Idaho.

25 BE IT FURTHER RESOLVED that any advisors to the committee who are not
26 legislative members shall not be reimbursed from legislative funds for per
27 diem, mileage or other expenses and shall not have voting privileges.

28 BE IT FURTHER RESOLVED that the commission shall report its findings,
29 recommendations and proposed legislation, if any, to the Second Regular Ses-
30 sion of the Sixty-second Idaho Legislature.