

GENERAL ASSEMBLY OF VIRGINIA -- 2000 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 178

Directing the Virginia State Crime Commission to study existing methods for providing indigent defense in the Commonwealth.

Agreed to by the House of Delegates, February 15, 2000

Agreed to by the Senate, March 2, 2000

WHEREAS, in the past, studies have concentrated primarily on the costs of the different methods of providing indigent defense within the criminal justice system; and

WHEREAS, it is imperative to look at the quality of the services provided, experience disparity, if any, between public defenders, court appointed attorneys, and attorneys for the Commonwealth, hiring criteria for public defenders and the minimum requirements for court appointment, and workloads within the public defender offices and how this may impact the quality of legal representation; and

WHEREAS, in theory, it would seem that attorneys in a public defender office are more closely supervised, more able to focus their talents on specific areas of the law and have a clearer managerial perspective in managing caseloads whereas private attorneys have to focus their attentions in many different areas of the business of practicing law; and

WHEREAS, debate continues over whether an increase in the fees of court appointed attorneys increases the quality of representation, and when it is prudent to create a public defender office in a particular circuit; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study existing methods for providing indigent defense in the Commonwealth. The Commission shall direct its study to three broad areas: quality of representation, efficiency of service, and cost effectiveness. The area of quality of representation shall include the impact, if any, of the workloads of the existing public defender offices, any experience disparity between defense attorneys providing services to indigent defendants, both public defenders and court appointed attorneys, and Commonwealth's attorneys, and whether full-time specialization on criminal defense as a public defender puts the defense on an equal footing with the Commonwealth's attorney who concentrates on the prosecution side. Consideration of efficiency of providing defense services shall include determination of any advantages to having salaried defense attorneys working in a structured environment, whether public defenders should be the primary means of providing indigent defense within each circuit in the Commonwealth, are the courts that currently have public defenders more efficient in handling criminal cases because of the existence of the office, and are the standards of practice more uniform in those circuits. The cost effectiveness area of consideration should focus on the impact of current pay rates for court appointed attorneys on the quality of indigent defense, at what point is it cost effective to establish a public defender office and what is the criteria for this determination, and what is the current budgetary commitment by the Commonwealth to increase court appointed fees and how that may increase the level of participation by attorneys in court appointed work, and what is the recognized goal in terms of pay rates.

All agencies of the Commonwealth shall provide assistance to the Commission for this study, upon request.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 2001 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

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