

HOUSE BILL 241

By Todd

**AN ACT to amend Tennessee Code Annotated, Title 8;
Title 16; Title 39 and Title 40, relative to criminal
law.**

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 16-2-518, is amended by deleting the section in its entirety.

SECTION 2. This act shall take effect July 1, 2015, the public welfare requiring it.

Research Plan: House Bill 0241, Local Funding for Public Defenders and District Attorneys

Research Manager: Leah Eldridge

Lead Research Associate: Matt Owen

Support: Na

Deputy Executive Director Approval: Initial:  Date: 5/21/15

Executive Director Approval: Initial:  Date: 5/22/2015

Purpose

Study effects of allowing local jurisdictions to increase funding for district attorney offices without having to give public defender offices 75% of the increase for district attorney offices.

Background

The House Civil Justice Subcommittee asked the Commission to study House Bill 0241 by Todd, which would remove the requirement that any increase in local funding for district attorney's offices be matched by an increase in funding to public defender's offices equal to 75% of the district attorney increase. The companion, Senate Bill 1324 by McNally, was assigned to the general subcommittee of Senate Judiciary. Most of the funding for district attorney offices and public defender offices comes from the state. Only thirteen counties provide additional funds to district attorney offices and public defender offices. The thirteen include Shelby County and the Metropolitan Government of Nashville and Davidson County, which are the only two where public defender offices receive most of their funding from their local governments. The companion bill was assigned to the general subcommittee of

Representatives for the Tennessee District Attorneys General Conference say that the 75% local funding requirement for public defender offices makes it difficult for district attorney offices to get the additional funds necessary to manage their increasingly burdensome caseloads from local governments. Representatives for the Tennessee District Public Defenders Conference say that the proposed change could decrease local funding for public defender offices and increase the state's burden of funding legal representation for indigent defendants through court-appointed private counsel.

To help determine the need for staff attorneys in district attorney offices and public defender offices, the State Comptroller's Office began publishing weighted caseload studies in 1999 but stopped after 2007 because they lacked accurate and consistent case data. The National Center for State Courts, under contract with the Tennessee Administrative Office of the Courts, developed a plan for improving data collection, but the improvements have not been made and would cost an estimated \$3.1 million to implement and thereafter an estimated \$1.7 million per year to maintain.

Step 1. Define the Problem

How should the balance in local funding between district attorney offices and public defender offices be determined? If it is designated in the law, then what standard should be used?

Step 2. Assemble Some Evidence

- Review referred legislation.
 - Review House Bill 0241 and related statutes to determine what the bill does, including any statutes dealing with
 - local and state funding for the court system and
 - funding for public defenders and district attorneys.
 - Review committee hearings on the bill and on its companion bill, Senate Bill 1324, and summarize comments and concerns of committee members, the bill sponsor, and others speaking for or against the bill.
 - Interview the sponsor, bill proponents, and other stakeholders to determine what is driving this issue. Stakeholders include
 - Tennessee District Attorneys General Conference,
 - Tennessee District Public Defenders Conference,
 - district attorney offices that receive local funding,
 - public defender offices that receive local funding,
 - Tennessee Administrative Office of the Courts,
 - Tennessee Comptroller's Office,
 - Tennessee Bar Association,
 - Tennessee Association of Criminal Defense Lawyers, and
 - Tennessee County Services Association.
 - Review the fiscal note. Consult with Fiscal Review Committee staff and follow up with agencies submitting support forms to determine the estimated cost and the method and rationale for the estimates.
- Review history of local funding for public defenders in Tennessee and determine why the current law was adopted.
- Review similar bills from the past several general assemblies to identify related issues.
- Review how district attorney offices and public defender offices are funded in other states.
- Review relevant federal court rulings on
 - the right to counsel and

- the funding balance between prosecution and defense.
- Review literature and seek opinions of subject matter experts.

Step 3. Construct Alternatives

Alternatives will be based on

- current law,
- proposed changes in the current law, and
- any additional alternatives drawn from the research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

- Cost
 - to state government and
 - to local governments
- Effectiveness for ensuring adequate funding for
 - district attorney offices and
 - public defender offices
- Constitutionality
- Fairness to
 - private attorneys and
 - defendants
- Receptiveness of
 - the state,
 - local governments
 - district attorney offices,
 - public defender offices, and
 - private attorneys

Step 5. Project Outcomes

- Estimate cost
- Estimate effectiveness
- Evaluate constitutional issues

- Estimate the acceptability to the state, local governments, and others

Step 6. Confront Trade-offs

- How will the differences between the current law and the other alternatives affect the court system and the public?
- What are the pros and cons of the potential solutions?

Step 7. Decide which alternatives to present to the Commission

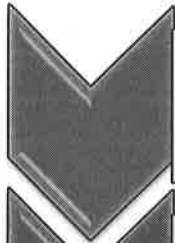
Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem.

Step 8. Produce the Draft Report

Develop and present a draft for review and comment to the Commission.

Revisit Steps 5 through 8.

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives
- Revise and edit the draft to reflect comments of the Commission
- Submit final report to the Commission for approval



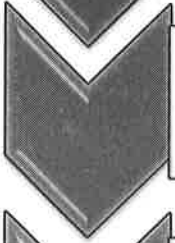
- **Problem Statement and Research Plan**
 - May 2015



- **Research**
 - Step 2 (May 2015 through June 2015)
 - Steps 3-4 (June 2015)
 - Steps 5-7 (June to July 2015)



- **Storyboard, Outline, and Write the Report**
 - August 2015



- **Draft Report to the Commission for Comments**
 - November 2015 Commission Meeting



- **Final Report to Commission for Approval**
 - January 2016 Commission Meeting

