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Senate Bill 424 (Substitute S-1 as reported)
Sponsor: Senator Sue Shink
Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

The bill would amend the Indigent Defense Commission Act to do the following:

- Specify that the Michigan Indigent Defense Commission (MIDC) would serve indigent adults and indigent youths.
- Modify certain definitions to delete the term "criminal".
- Delete certain requirements that would qualify an individual as indigent.
- Expand the MIDC from 18 members to 19 members.
- Allow the MIDC to email certain notices to indigent defense systems.
- Prohibit a defendant or youth from waiving the right to counsel unless the defendant or youth were advised on the consequences of waiver and the waiver was made on the record and in writing.
- Require the MIDC to establish procedures to resolve specified disputes with a noncompliant defense system.
- Prohibit the MIDC from issuing a grant to an indigent defense system without an approved plan and cost analysis required by the Act.
- Require the first MIDC grant installment to an indigent defense system to be 40% of the system's grant award, and 20% the three years after.

MCL 780.983 et al.

BRIEF RATIONALE

Governor Whitmer signed Executive Order 2021-6 on June 9, 2021, which created the Task Force on Juvenile Justice Reform (Task Force) within the Department of Health and Human Services. The Task Force was charged with analyzing Michigan's juvenile justice system and recommending changes to State law, policy, and appropriations. According to testimony, the Task Force and other sources found the number of appeals in juvenile cases concerningly low. Accordingly, it has been suggested that the MIDC develop and oversee youth defense standards within indigent defense systems.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have a significant negative fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) and an indeterminate fiscal impact on local units of government. The costs to LARA would be expended by the MIDC.

The bill would adjust the formula used to calculate each adult indigent defense system's local share in upcoming fiscal years. Currently, the local share is based on each individual system's average annual expenditure on indigent defense services in the three fiscal years prior to July 2013, minus any funds reimbursed to the systems by indigent defendants. If the CPI increased

in the prior State fiscal year, the figure is adjusted by that number or 3%, whichever is less. The bill would revise this formula to remove the subtraction of reimbursed funds.

Based on the time that was required to develop standards and implement the grants program for adult indigent defense standards, MIDC estimates that appropriations for juvenile justice services compliance would not be required for several fiscal years, likely in Fiscal Year (FY) 2026-27 or FY 2027-28.

The bill would add new language requiring the first grant installment paid to a system to be equal to 40% of its total award. The three subsequent payments would each be equal to 20% of the total. Payment of these installments would depend on the MIDC's review of the system's submitted documentation. The system would need to have spent at least 25% of its total plan and cost analysis in the prior quarter, although a system would be able to request an exemption if special circumstances delayed or prevented expenditures.

The Commission estimates that it would require an addition 6.0 FTEs to undertake research, standard development, and grants planning beginning in FY 2024-25. This would include two staff for research and grant specialization as well as four field attorneys. Six FTEs would require an additional annual appropriation of approximately \$825,000, based on the average FTE cost of \$137,500 per year.

The cost to the State of funding future juvenile justice services compliance grants is unknown. The MIDC has estimated that the total costs would equal approximately 60% of the current adult costs, inclusive of the local share; however, this number could vary significantly depending on the adopted standards and the individual characteristics of the local juvenile justice systems that would have to reach compliance.

The specific costs of each system's local share would depend on their expenditures on indigent youth defense services in the three fiscal years prior to January 1, 2024. After the initial year of grant funding, this figure would be adjusted by the previous fiscal year's CPI increase or 3%, whichever was less.

Date Completed: 10-3-23

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.