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October 8, 2012

Senate Judiciary Committee
Senator Rick Jones, Chair
915 Farnum Building
P.O. Box 30036
Lansing, MI 48909-7536

Senator Jones:

Thank you for the opportunity to offer written testimony regarding HB 5804 (S-2) which establishes a permanent Michigan Indigent Defense Commission.

While Kent County supports the State's efforts to develop a legislative solution to improve services to indigent defendants, the current legislation raises more questions than provides answers. Any legislative solution should meet the intent of the State and be able to be administratively and financially implemented by the courts and the counties. As it stands currently, there is no clear understanding of the administrative or financial burden that will be incurred by the State, the courts, or the counties to meet the undefined standards. And, any additional costs incurred by the County could be considered an unfunded mandate.

There has been much discussion about per-capita costs, minimum funding levels, and statewide averages, none of which clearly defines the services levels that must be met to ensure effective delivery of indigent defense services. For example, in Kent County (not including district courts) we spend approximately \$5.6 million (\$9.22 per capita) to fund indigent defense services for criminal cases, juvenile delinquency cases, juvenile neglect cases, as well as appellate cases. Of that amount, we spend \$4.79 per-capita for criminal cases, which is far less than the \$7.25 that has been discussed by the House and the Governors Indigent Advisory Commission. If the \$7.25 per-capita cost is established (or another similar per-capita rate), this will have a significant impact on Kent County and will amount to an additional \$1.5 million in additional costs to meet standards that have yet to be defined. In short, a per-capita funding amount is no evidence of adequate services or service levels.

I urge this committee and the State Legislature to work to clarify what the standards for indigent defense will be before establishing funding. I ask that the State perform its due diligence and address the following questions prior to passing legislation:

- What are the statewide standards that will be adopted?
- What is the statewide average cost for indigent defense services for criminal defendants?
- What counties meet or exceed those standards?



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- What are the best practices to meeting those standards?
- What happens if service levels fluctuate and the actual costs are less than the State minimum is established? Will the County still have to pay and who will it pay?
- Will the Commission, in addition to criminal cases, eventually focus on juvenile delinquency and abuse and neglect cases?
- What will be the impact on administrative duties that are performed by the Court? Will this require additional reporting, oversight, and administrative duties? Will it slow down court processes?
- What source of revenue will the State utilize to fund the new standards? A funding source should be clearly identified and it should not be the reallocation of resources which only partially fund courts in Kent County.
- Is the Legislature suggesting that counties now be responsible for indigent defense services that are provided by district courts, even if the district court is managed by another municipality?

It is also very important that the Michigan Indigent Defense Commission include adequate representation from the counties who will be asked to fund any changes to the system. Currently, there is one seat designated for funding units and that simply is not enough. There are 83 counties impacted by this bill, and as such, it is important that we are adequately represented in all phases of this legislation to ensure proper planning and effective implementation.

If indigent defense services are to continue to be provided as they are today, with local control, but meeting State minimum standards, Kent County requests that the legislation include the following:

- Language which clearly holds the County harmless from incurring additional costs;
- Clearly defined standards that must be met by the courts;
- A clearly defined funding source that will fund the new standards and the possible increased costs for indigent defense;
- Adequate county representation on the Michigan Indigent Defense Commission;
- Clarification regarding the role and responsibility of indigent defense services that are provided at the district court level.

The Kent County Board of Commissioners thanks you for your work on behalf of the residents of Kent County.

Respectfully submitted,



Sandi Frost Parrish
Chair

Cc: Senator Tonya Schuitmaker, Vice-Chair
Senator Tory Rocca
Senator Steve Bieda, Minority Vice-Chair