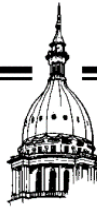




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 300 (Substitute S-2)
Senate Bill 301 (as introduced 4-10-13)
Sponsor: Senator Bruce Caswell
Committee: Judiciary

(as passed by the Senate)
(as passed by the Senate)

Date Completed: 6-4-13

CONTENT

Senate Bills 300 (S-2) and 301 would create the "Michigan Indigent Defense Commission Act" and amend the Code of Criminal Procedure, respectively, to replace the current system for the appointment of counsel for indigent criminal defendants, and establish a new funding mechanism.

Senate Bill 300 (S-2) would do the following in regard to the appointment of counsel:

- Create the Michigan Indigent Defense Commission (MIDC) as an autonomous entity in the judicial branch.
- Require the MIDC to propose minimum standards for the local delivery of indigent criminal defense services providing effective assistance of counsel to adults throughout the State.
- Require a minimum standard to be approved by the Michigan Supreme Court.
- Require the MIDC to adhere to specific principles concerning defense counsel, in establishing minimum standards.
- Require all adults, except those with retained counsel or those who had made an informed waiver of counsel, to be screened for eligibility for indigent criminal defense services.
- Require counsel to be assigned as soon as an indigent adult was determined to be eligible.
- Provide that a defendant would be responsible for applying for indigent

- defense counsel and establishing his or her indigency and eligibility.
- State that a defendant would be considered indigent if he or she were unable, without substantial financial hardship to himself or herself or to his or her dependents, to obtain competent, qualified legal representation on his or her own.
- Create a rebuttable presumption of substantial financial hardship under certain circumstances.
- Require each indigent criminal defense system to submit to the MIDC a plan, including a cost analysis, for the provision of indigent criminal defense services.
- Require the MIDC to approve or disapprove a plan or cost analysis.
- Establish procedures for the mediation of a dispute between the MIDC and an indigent criminal defense system, and allow the MIDC or a system to bring an action in court under certain circumstances.
- Establish a duty of every local unit of government and every trial court that was part of an indigent criminal defense system to comply with an approved plan.

The bill would do the following in regard to funding:

- Require the MIDC to submit a report to the Governor and the Legislature requesting the appropriation of funds necessary to implement the approved plan for each indigent criminal defense system.

- **Require an indigent criminal defense system to maintain at least its local share of the cost of indigent criminal defense services.**
- **Require the State to pay the amount in excess of a system's share, if necessary to bring the system into compliance with the MIDC's minimum standards; and provide for the funding to be administered through grants.**
- **Require the Legislature to appropriate funds to pay the additional costs, as well as grants to cover data collection costs.**
- **Require a system to pay up to 40% of the State's costs if the MIDC provided indigent criminal defense services for the system under a court order.**
- **Provide for grants to local units of government for the costs of developing and implementing a plan.**
- **Provide that a system would not have to spend its local share if it could meet the minimum standards for less, but its local share would not be reduced.**

Senate Bill 301 would require a magistrate to appoint counsel for a person charged with a crime if he or she were eligible for appointed counsel under the proposed Michigan Indigent Defense Commission Act. The bill would delete the current provisions for appointment of counsel, under which the chief judge of the circuit court appoints or directs the magistrate to appoint counsel, and an appointed attorney is paid by the county an amount the judge considers reasonable compensation.

Senate Bill 301 is tie-barred to Senate Bill 300.

Senate Bill 300 (S-1)

Definitions

"Indigent criminal defense system" would mean either of the following:

- The local unit of government that funds a trial court combined with every trial court funded by the local unit.
- The local units of government that collectively fund a trial court, combined

with every trial court funded by those local units.

"Indigent criminal defense services" would mean local legal defense services provided to a defendant and to which both of the following conditions apply:

- The defendant is being prosecuted or sentenced for a crime for which an individual may be imprisoned upon conviction, beginning with the defendant's initial appearance in court to answer to the criminal charge.
- The defendant is determined to be indigent.

"Effective assistance of counsel" or "effective representation" would mean legal representation that is compliant with standards established by the appellate courts of Michigan and of the United States.

"Local share" would mean an indigent criminal defense system's average annual expenditure for indigent criminal defense services in the three fiscal years immediately preceding the creation of the MIDC, excluding money reimbursed to the system by individuals determined to be partially indigent.

"Adult" would mean either 1) an individual 17 years of age or older or 2) an individual less than 17 years old at the time of the commission of a felony if any of the following conditions apply:

- During consideration of a petition filed under Section 4 of the juvenile code to waive jurisdiction to try the individual as an adult and upon granting a waiver of jurisdiction.
- The prosecuting attorney designates the case under Section 2d(1) of the juvenile code as a case in which the juvenile is to be tried in the same manner as an adult.
- During consideration of a request by the prosecuting attorney under Section 2d(2) of the juvenile code that the court designate the case as one in which the juvenile is to be tried in the same manner as an adult.
- The prosecutor authorizes the filing of a complaint and warrant for a specified juvenile violation under Section 1f of the Code of Criminal Procedure.

(Under Section 4 of the juvenile code, if a juvenile 14 years old or older is accused of an act that would be a felony if committed by an adult, the family court judge may waive jurisdiction to a court having general criminal jurisdiction, upon motion of the prosecuting attorney.

Section 2d(1) of the juvenile code allows the prosecuting attorney to designate a case as one in which the juvenile is to be tried as an adult, and request the family court to make this designation, if a petition alleges that a juvenile is within the court's jurisdiction for a "specified juvenile violation".

Section 2d(2) allows the prosecuting attorney to designate a case as one in which the juvenile is to be tried as an adult, and request the family court to make this designation, if a petition alleges that a juvenile is within the court's jurisdiction for an offense other than a specified juvenile violation.

Under Section 1f of the Code of Criminal Procedure, if the prosecuting attorney believes that a juvenile aged 14 or older but less than 17 has committed a specified juvenile violation, the prosecuting attorney may authorize the filing of a complaint with a magistrate.)

MIDC Creation & Membership

The Michigan Indigent Defense Commission would be created in the judicial branch of State government. It would retain as an autonomous entity all statutory authority, powers, duties, functions, records, personnel, property, unspent balances of appropriations, and allocations. Any portion of funds appropriated to the MIDC in a State fiscal year would be carried forward in a work project account for use in the following fiscal year.

The MIDC would include 15 voting members and one ex officio nonvoting member, who would be the Chief Justice of the Michigan Supreme Court. The voting members would be appointed by the Governor as follows:

- Two members submitted by the Speaker of the House of Representatives.
- Two members submitted by the Senate Majority Leader.

- Three from a list of nine names submitted by the Criminal Defense Attorney Association of Michigan.
- One from a list of names submitted by bar associations whose primary mission or purpose is advocating for minority interests (with each such bar association allowed to submit one name).
- One member selected to represent the general public.
- One member selected to represent local units of government.

The appointed members also would include one from a list of three names submitted by each of the following:

- The Chief Justice of the Supreme Court.
- The Michigan Judges Association.
- The Michigan District Judges Association.
- The State Bar of Michigan.
- The Prosecuting Attorney's Association of Michigan.

The member appointed from the names submitted by the Prosecuting Attorney's Association would have to be a former county prosecuting attorney or former assistant county prosecuting attorney.

The individuals nominated to serve would have to have significant experience in the defense or prosecution of criminal proceedings or have demonstrated a strong commitment to providing effective representation in indigent criminal defense services. The Governor would have to appoint at least two individuals who were not licensed attorneys. Any individual receiving compensation from the State or an indigent criminal defense system for prosecuting or representing indigent adults in State courts would be ineligible to serve on the MIDC. Not more than three judges, whether former or sitting judges, could serve at the same time.

The Governor could reject the names submitted and request additional names.

The members would be appointed for four-year terms. Of the initial members, however, four would be appointed for four years, four for three years, four for two years, and three for one year.

The Governor would have to appoint one of the original members to serve as chairperson for a one-year term.

Subsequently, the MIDC would have to elect a chairperson for a one-year term. A member could not serve as chairperson for more than three consecutive terms.

Members of the MIDC could not receive compensation in that capacity but would have to be reimbursed by the State Treasurer for their reasonable and actual expenses.

The Governor could remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

The MIDC would be subject to the Open Meetings Act. The MIDC also would be subject to the Freedom of Information Act, except confidential case information, including client information and attorney work product, would be exempt from disclosure.

A majority of the MIDC voting members would be required for official action of the Commission.

Minimum Standards

The MIDC would have to propose minimum standards for the local delivery of indigent criminal defense services providing effective assistance of counsel to adults throughout the State. These minimum standards would have to be designed to ensure the provision of indigent criminal defense services that met constitutional requirements for effective assistance of counsel.

The MIDC would have to submit a proposed minimum standard to the Michigan Supreme Court, after convening a public hearing on the standard. Opposition to a proposed minimum standard could be submitted to the Supreme Court in a manner it prescribed. A minimum standard would be final when approved by the Court. An approved standard would not be subject to challenge through the procedures for the resolution of disputes under the proposed Act.

If the Court did not approve or disapprove a proposed minimum standard within 180 days of its submission, the standard would not be approved.

MIDC Authority & Duties

The authority and duties of the MIDC would include developing and overseeing the implementation, enforcement, and modification of minimum standards, rules, and procedures to ensure that indigent criminal defense services providing effective assistance of counsel were consistently delivered to all indigent adults in the State, consistent with the safeguards of the U.S. Constitution, the State Constitution, and the proposed Act.

The MIDC also would be responsible for investigating, auditing, and reviewing the operation of indigent criminal defense services to assure compliance with the Commission's minimum standards, rules, and procedures. An indigent criminal defense service that was in compliance with the minimum standards, rules, and procedures would not be required to provide services in excess of them.

In addition, the MIDC's authorities and duties would include the following:

- Hiring an executive director and determining the appropriate number of staff needed to accomplish the purposes of the MIDC consistent with annual appropriations.
- Assigning the executive director specified duties.
- Establishing procedures for the mandatory collection of data concerning the MIDC's operation, each attorney providing indigent criminal defense services, each indigent criminal defense system, and the operation of indigent criminal defense services.
- Establishing rules and procedures for indigent criminal defense systems to apply to the MIDC for grants to bring the systems' delivery of services into compliance with the MIDC's minimum standards.
- Establishing procedures for annually reporting to the Governor, Legislature, and Supreme Court, including recommendations for improvements and legislative action.

The executive director's duties would include assisting the MIDC in developing, implementing, and reviewing its standards, rules, and procedures; and establishing procedures for the receipt and resolution of

complaints, and the implementation of recommendations from the courts, other participants in the criminal justice system, clients, and members of the public.

Upon the appropriation of sufficient funds, the MIDC would have to establish minimum standards to carry out the purposes of the proposed Act, and collect data from all indigent criminal defense systems and individual attorneys providing indigent criminal defense services to adults.

In establishing and overseeing minimum standards, rules, and procedures to ensure effective assistance of counsel, the MIDC would have to emphasize the importance of indigent criminal defense services provided to juveniles under the age of 17 who were tried in the same manner as adults or who could be sentenced in the same manner as adults, and to adults with mental impairments.

The MIDC would have to establish procedures for the conduct of its affairs and promulgate policies necessary to carry out its powers and duties. Commission policies would have to be placed in a manual, made publicly available on a website, and made available to all attorneys and professionals providing indigent criminal defense services, the Supreme Court, the Governor, the Senate Majority Leader, the Speaker of the House, the Senate and House Appropriations Committees, and the Senate and House Fiscal Agencies.

Standards, Rules, & Procedures; Principles

The MIDC would have to establish minimum standards, rules, and procedures to effectuate the following provisions.

The delivery of indigent criminal defense services would have to be independent of the judiciary but ensure that judges were permitted and encouraged to contribute information and advice concerning that delivery of services.

If the caseload were sufficiently high, indigent criminal defense services could consist of both an indigent criminal defender office and the active participation of other members of the State Bar.

Trial courts would have to assure that each criminal defendant was advised of his or her

right to counsel. All adults, except those appearing with retained counsel or those who had made an informed waiver of counsel, would have to be screened for eligibility under the proposed Act, and counsel would have to be assigned as soon as an indigent adult was determined to be eligible for indigent criminal defense services.

The MIDC also would have to would have to implement minimum standards, rules, and procedures to guarantee the right of indigent defendants to the assistance of counsel as provided under Amendment VI of the U.S. Constitution and Article I, Section 20 of the State Constitution.

In establishing minimum standards, rules, and procedures, the MIDC would have to adhere to the following principles:

- Defense counsel would be provided sufficient time and a space where attorney-client confidentiality would be safeguarded for meetings with clients.
- Defense counsel's workload would be controlled to permit effective representation; economic disincentives or incentives that impaired defense counsel's ability to provide effective representation would have to be avoided.
- Defense counsel's ability, training, and experience matched the nature and complexity of the case to which counsel was appointed.
- The same defense counsel continuously represented and personally appeared at every court appearance throughout the pendency of the case.
- Defense counsel was required to attend continuing legal education relevant to counsel's indigent defense clients.
- Defense counsel was systematically reviewed at the local level for efficiency and effective representation according to MIDC standards.

Determination of Indigency

A defendant would be responsible for applying for indigent defense counsel and establishing his or her indigency and eligibility for appointed counsel.

Not later than the defendant's first appearance in court, the court would have to make a preliminary inquiry regarding, and a

determination of, the indigency of any defendant. The court could review the determination at any other stage of the proceedings. In determining whether a defendant was entitled to the appointment of counsel, the court would have to consider whether he or she was indigent and the extent of his or her ability to pay. The court could consider such factors as:

- Income or funds from employment or any other source, including personal public assistance, to which the defendant was entitled.
- Property owned by the defendant or in which he or she had an economic interest.
- Outstanding obligations.
- The number and ages of the defendant's dependents.
- Employment and job training history.
- The defendant's level of education.

A defendant would be considered indigent if he or she were unable, without substantial financial hardship to himself or herself or to his or her dependents, to obtain competent, qualified legal representation on his or her own. Substantial financial hardship would be rebuttably presumed if the defendant received personal public assistance, including under the Food Assistance Program, Temporary Assistance for Needy Families, Medicaid, or disability insurance; resided in public housing; or earned an income less than 140% of the Federal poverty guideline.

A defendant also would be rebuttably presumed to have a substantial financial hardship if he or she were currently serving a sentence in a correctional institution or receiving residential treatment in a mental health or substance abuse facility.

A defendant who did not fall under these presumptive thresholds would have to be subjected to a more rigorous screening process to determine if his or her particular circumstances, including the seriousness of the charges, his or her monthly expenses, and local private counsel rates, would result in a substantial hardship if he or she were required to retain private counsel.

Plan for Indigent Criminal Defense System

Within 180 days after a standard was approved by the Supreme Court, each

indigent criminal defense system would have to submit to the MIDC a plan for the provision of indigent criminal defense services, in a manner determined by the Commission. By February 1 of each year, each system would have to submit an annual plan for the following State fiscal year. A plan would have to address specifically how the minimum standards established by the MIDC would be met, and include a cost analysis. The cost analysis would have to include a statement of funds in excess of the local share, if any, necessary to allow its system to comply with the MIDC's minimum standards. The standards to be addressed in the annual plan would be those that the Supreme Court approved at least 60 days before the plan submission date.

Within 60 calendar days after a plan and cost analysis were submitted, the MIDC would have to approve or disapprove the plan or cost analysis, or both. If the Commission disapproved one or both, the indigent criminal defense system would have to consult with the MIDC and submit a new plan, a new cost analysis, or both, within 30 calendar days of the mailing date of the official notification of disapproval. If a compromise were not reached after three submissions, the dispute would have to be resolved as provided for the resolution of disputes under the proposed Act.

An indigent criminal defense system could submit to the MIDC an estimate of the cost of developing the required plan and cost analysis for implementing it. Upon approval, the MIDC would have to award the system a grant to pay the approved costs.

Appropriation Request; Local Share; Grants

The MIDC would have to submit a report to the Governor, the Senate Majority Leader, the Speaker of the House, and the Senate and House Appropriations Committees, requesting the appropriation of funds necessary to implement the plan for each indigent criminal defense system approved by the Commission. The information used to create the report would have to be made available to the same individuals and committees.

An indigent criminal defense system would have to maintain at least its local share, but would not be required to provide funds in

excess of its local share. If the MIDC determined that funding in excess of a system's share was necessary in order to bring its system into compliance with the minimum standards established by the Commission, the State would have to pay the excess funding.

The Legislature would have to appropriate to the MIDC the additional funds necessary, which would have to be provided to indigent criminal defense systems through grants. Within 180 days after receiving the funds, an indigent criminal defense system would have to comply with the terms of the grant in bringing its system into compliance with the minimum standards for effective assistance of counsel.

The State also would have to appropriate funds to the MIDC for grants to the local units of government for the reasonable costs associated with data required to be collected under the Act that were above the local unit's data costs for other purposes.

An indigent criminal defense system would not be required to spend its local share if the minimum standards established by the MIDC could be met for less than that share. The system's local share, however, would not be reduced by the lower expenditure.

If an indigent criminal defense system were awarded no funds for implementation of its plan, the MIDC still would have to issue the system a zero grant reflecting that it would receive no grant funds.

The MIDC could apply for and obtain grants from any source to carry out the purposes of the Act. All funds received by the Commission, from any source, would be State funds and would have to be appropriated as provided by law.

Dispute Resolution

Mediation. If a dispute arose between the MIDC and an indigent criminal defense system concerning the requirements of the proposed Act, the parties would have to attempt to resolve the dispute by mediation. The State Court Administrator, as authorized by the Supreme Court, would have to appoint a mediator agreed to by the parties within 30 calendar days of the mailing date of the official notification of the MIDC's third disapproval of a plan and/or cost analysis,

and would have to facilitate the mediation process. The MIDC immediately would have to send the State Court Administrative Office a copy of the official notice of that third disapproval. If the parties did not agree on the selection of a mediator, the State Court Administrator, as authorized by the Supreme Court, would have to appoint a mediator of his or her own choosing.

Mediation would have to begin within 30 calendar days after the mediator was appointed, and terminate within 60 calendar days after it began. The parties would have to pay mediation costs equally.

If the parties did not resolve the dispute during mediation, the mediator, within 30 calendar days after the mediation concluded, could submit to the MIDC his or her recommendation of how the dispute should be resolved. The MIDC would have to consider the recommendation, if any, and approve a final plan or the cost analysis, or both, within 30 calendar days. The indigent criminal defense system would have to implement the plan as approved by the MIDC.

If an indigent criminal defense system were aggrieved by the final plan, cost analysis, or both, the system could bring a court action seeking equitable relief as described below.

Court Action. The MIDC or an indigent criminal defense system could bring an action seeking equitable relief in the circuit court only as follows:

- Within 60 days after the MIDC's issuance of an approved plan and cost analysis following mediation.
- Within 60 days after the system received grant funds from the MIDC to bring the system into compliance with the minimum standards, if the plan and/or cost analysis required a grant award for implementation of the plan.
- Within 30 days of the MIDC's determination that the indigent criminal defense system had breached its duty to comply with an approved plan.

The action would have to be brought in the judicial circuit where the indigent criminal defense system was located. The State Court Administrator, as authorized by the Supreme Court, would have to assign an active or retired judge from a different

judicial circuit to hear the case. The parties would have to pay equally costs associated with the assignment of the judge.

The action could not challenge the validity, legality, or appropriateness of the minimum standards approved by the Supreme Court.

If the dispute involved the indigent criminal defense system's plan, cost analysis, or both, the court could approve, reject, or modify the submitted plan, cost analysis, or the terms of the grant other than its amount; determine whether requirements for submitting a plan and cost analysis had been complied with; and issue any orders necessary to obtain compliance with the proposed Act. The system could not be ordered, however, to spend more than its local share in complying with the Act.

If a party refused or failed to comply with a previous order of the court, the court could enforce that order through its enforcement remedies, including its contempt powers, and could order that the State, in lieu of the indigent criminal defense system, undertake the provision of indigent criminal defense services.

If the court determined that an indigent criminal defense system had breached its duty to comply with an approved plan under the Act, the court could order the MIDC to provide indigent criminal defense on behalf of the system.

MIDC Provision of Services; Costs

If a court ordered the MIDC to provide indigent criminal defense services on behalf of an indigent criminal defense system, the court would have to order the system to pay the following amount of the State's costs that the MIDC determined were necessary to bring the system into compliance with the minimum standards:

- In the first year: 10% of the State's costs.
- In the second year: 20% of the State's costs.
- In the third year: 30% of the State's costs.
- In the fourth year: 40% of the State's costs.

In the fifth year, and any subsequent year, the amount would be not more than dollar amount calculated for the fourth year.

An indigent criminal defense system could resume providing indigent criminal defense services at any time upon the MIDC's approval of the system's plan and cost analysis. The system then would not have to pay an assessment but would have to pay at least its share.

Duty to Comply with Approved Plan

Every local unit of government and every trial court that was part of an indigent criminal defense system would be required to comply with an approved plan under the proposed Act. A system's duty to comply, however, would be contingent upon receipt of a grant in the amount contained in the plan and cost analysis approved by the MIDC.

If a system breached its duty to comply, the MIDC could proceed under the provisions for dispute resolution.

MIDC Annual Report

The MIDC would have to publish and make available to the public on a website its annual report, its budget, and a listing of all expenditures. Publication and availability of the listing would have to be on a quarterly basis, except the annual report and salary information could be published and made available annually.

As used in these provisions, "expenditures" would mean all payments or disbursements of MIDC funds, received from any source, made by the Commission.

Statutory Construction; No Cause of Action

Nothing in the proposed Act could be construed to overrule, expand, or extend, directly or by analogy, any decisions reached by the U.S. Supreme Court or the Michigan Supreme Court regarding the effective assistance of counsel.

Except as otherwise provided in the Act, the failure of an indigent criminal defense system to comply with duties imposed under the Act would not create a cause of action against the government or system.

Statutory duties that created a higher standard than that imposed by the U.S. Constitution or the State Constitution would not create a cause of action against a local unit of government, an indigent criminal defense system, or the State.

Violations of MIDC rules that did not constitute ineffective assistance of counsel under the U.S. or State Constitution would not constitute grounds for a conviction to be reversed or a judgment to be modified for ineffective assistance of counsel.

Nothing in the Act could be construed to override Section 29 or 30 of Article IX of the State Constitution. (Those sections are part of the "Headlee Amendment" adopted in 1978. Section 29 prohibits the State from reducing the State-financed proportion of the necessary costs of any existing activity or service required of local units of government by State law, or requiring local units to provide a new or increased activity or service, without making an appropriation to the local governments. Under Section 30, the proportion of total State spending paid to all local units of government may not be reduced below the proportion in effect in fiscal year 1978-79.)

Senate Bill 301

Currently, when a person charged with a felony appears before a magistrate without counsel, and has not waived examination on the charge, the person must be advised of his or her right to have counsel appointed for the examination. If the person states that he or she has been unable to procure counsel, the magistrate must notify the chief judge of the circuit court in the district where the offense allegedly occurred. Upon proper showing, the chief judge must appoint or direct the magistrate to appoint an attorney to defend the accused. The appointed attorney is entitled to receive from the county treasurer the amount that the chief judge considers to be reasonable compensation for the services performed. The bill would delete most of these provisions.

Under the bill, when a person charged with a crime appeared before a magistrate without counsel, the person would have to be advised of his or her right to have counsel appointed. If the person stated that he or she was unable to procure counsel, the

magistrate would have to appoint counsel, if the person were eligible for appointed counsel under the Michigan Indigent Defense Commission Act.

MCL 775.16 (S.B. 301)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bills would have an indeterminate, but potentially significant, fiscal impact on State government. The primary potential cost of the bills would be the provision of grants to local indigent defense systems. Each local system would be required to submit a plan to the MIDC to demonstrate how that local system would be brought into compliance with the minimum standards established by the MIDC. If the plan were approved, the State then could provide a grant to assist the local system in executing the plan. In most cases, the only fiscal requirement on the local system would be maintenance of effort consistent with the average of the most recent three years. The only exception to this would be if the court ordered the MIDC to undertake the provision of indigent criminal defense services in lieu of the local system. If the local system did not comply within 60 days, then the MIDC could implement its own plan and the local system would be charged a 10% share of the increases in the first year of noncompliance, and the cost sharing would rise in increments of 10% until the local system would have to pay 40% in the fourth or subsequent year (while still maintaining effort at the three-year average). Without knowing the details of the standards that the MIDC would establish, and without knowing how local systems would choose to attempt to adapt their systems to meet those standards, it is not possible to provide a more precise estimate of potential costs at this time.

In addition to generating the primary potential cost of providing grants to local systems to meet the standards, the bills would:

- Require the State to provide grants to cover the cost of collecting data.
- Create a 15-member commission, whose members would not be paid but would receive reimbursement of actual and reasonable expenses, which would result

in indeterminate but relatively minor administrative costs to the State.

- Call for the commission to hire a director and staff.
- Require the State and the local system to pay equal shares of the cost of mediation and/or the cost of an action in circuit court if mediation were not successful.

The bills do not specifically quantify the number of staff. The potential cost of the staff would vary widely depending on the exact number of FTEs that would be required. It would cost at a minimum \$300,000, but would likely be greater.

Fiscal Analyst: Dan O'Connor

S1314\300sc

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.