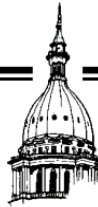




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
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Senate Bill 301 (as enacted)
House Bill 4529 (as enacted)
Sponsor: Senator Bruce Caswell (S.B. 301)
Representative Tom McMillin (H.B. 4529)
Senate Committee: Judiciary (S.B. 301)
House Committee: Criminal Justice (H.B. 4529)

PUBLIC ACT 94 of 2013
PUBLIC ACT 93 of 2013

Date Completed: 7-2-13

CONTENT

House Bill 4529 enacted the "Michigan Indigent Defense Commission Act" and Senate Bill 301 amended the Code of Criminal Procedure to create a new system for the appointment of counsel for indigent criminal defendants, and establish a new funding mechanism.

House Bill 4529 does the following in regard to the appointment of counsel:

- Creates the Michigan Indigent Defense Commission (MIDC) as an autonomous entity in the judicial branch.
- Requires 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.
- Requires a minimum standard to be approved by the Michigan Supreme Court.
- Requires the MIDC to adhere to specific principles concerning defense counsel, in establishing minimum standards.
- Requires all adults, except those with retained counsel or those who have made an informed waiver of counsel, to be screened for eligibility for indigent criminal defense services.
- Requires counsel to be assigned as soon as an indigent adult is determined to be eligible.
- Provides that a defendant is responsible for applying for indigent defense counsel and establishing his or her indigency and eligibility.
- States that a defendant will be considered indigent if he or she is 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.
- Creates a rebuttable presumption of substantial financial hardship under certain circumstances.
- Requires each indigent criminal defense system to submit to the MIDC a plan, including a cost analysis, for the provision of indigent criminal defense services.
- Requires the MIDC to approve or disapprove a plan or cost analysis.
- Establishes procedures for the mediation of a dispute between the MIDC and an indigent criminal defense system, and allows the MIDC or a system to bring an action in court under certain circumstances.
- Authorizes the court to order the MIDC to provide indigent criminal defense services for a system that fails to comply with an approved plan or a previous court order.
- Establishes a duty of every local unit of government and every trial court that is part of an indigent criminal defense system to comply with an approved plan.

The bill does the following in regard to funding:

- Requires 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.
- Requires an indigent criminal defense system to maintain at least its local share of the cost of indigent criminal defense services.
- Requires 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 provides for the funding to be administered through grants.
- Requires the Legislature to appropriate funds to pay the additional costs, as well as grants to cover data collection costs.
- Requires a system to pay up to 40% of the State's costs if the MIDC provides indigent criminal defense services for the system under a court order.
- Provides for grants to local units of government for the costs of developing and implementing a plan.
- Provides that a system does not have to spend its local share if it can meet the minimum standards for less, but its local share will not be reduced.

Senate Bill 301 requires a magistrate to appoint counsel for a person charged with a crime if he or she is eligible for appointed counsel under the Michigan Indigent Defense Commission Act. The bill deleted the former provisions for appointment of counsel, under which the chief judge of the circuit court appointed or directed the magistrate to appoint counsel, and an appointed attorney was paid by the county an amount the judge considered reasonable compensation.

Senate Bill 301 was tie-barred to House Bill 4529. The bills took effect on July 1, 2013.

House Bill 4529

Definitions

The Act defines "indigent criminal defense system" as 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" means 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" means legal representation that is compliant with standards established by the appellate courts of Michigan and of the United States.

"Local share" means 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" means 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 Act creates the Michigan Indigent Defense Commission in the judicial branch of State government. The MIDC retains 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 are to be carried forward in a work project account for use in the following fiscal year.

The MIDC must include 15 voting members and one ex officio nonvoting member, who is the Chief Justice of the Michigan Supreme Court. The voting members must 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 must 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 Attorneys Association of Michigan.

The member appointed from the names submitted by the Prosecuting Attorneys Association must be a former county prosecuting attorney or former assistant county prosecuting attorney.

The individuals nominated to serve must 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 must appoint at least two individuals who are 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 is ineligible to serve on the MIDC. Not more than three judges, whether former or sitting judges, may serve at the same time.

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

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

The Governor must appoint one of the original members to serve as chairperson for a one-year term. Subsequently, the MIDC will have to elect a chairperson for a one-year term. A member may not serve as chairperson for more than three consecutive terms.

Members of the MIDC may not receive compensation in that capacity but must be reimbursed by the State Treasurer for their reasonable and actual expenses.

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

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

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

Minimum Standards

The MIDC is required 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 must be designed to ensure the provision of indigent criminal defense services that meet constitutional requirements for effective assistance of counsel.

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

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

MIDC Authority & Duties

The authority and duties of the MIDC 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 are consistently delivered to all indigent adults in the State, consistent with the safeguards of the U.S. Constitution, the State Constitution, and the Act.

The MIDC also is 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 is in compliance with the minimum standards, rules, and procedures is not required to provide services in excess of them.

In addition, the MIDC's authorities and duties 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 duties specified in the Act.
- 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 include assisting the MIDC in developing, implementing, and reviewing its standards, rules, and procedures. The executive director also must 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 must establish minimum standards to carry out the purposes of the 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 must emphasize the importance of indigent criminal defense services provided to juveniles under the age of 17 who are tried in the same manner as adults or who may be sentenced in the same manner as adults, and to adults with mental impairments.

The MIDC must establish procedures for the conduct of its affairs and promulgate policies necessary to carry out its powers and duties. Commission policies must 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 Act requires the MIDC to establish minimum standards, rules, and procedures to effectuate the following provisions.

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

If the caseload is sufficiently high, indigent criminal defense services may consist of both an indigent criminal defender office and

the active participation of other members of the State Bar.

Trial courts must assure that each criminal defendant is advised of his or her right to counsel. All adults, except those appearing with retained counsel or those who have made an informed waiver of counsel, must be screened for eligibility under the Act, and counsel must be assigned as soon as an indigent adult is determined to be eligible for indigent criminal defense services.

The MIDC also must 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 must adhere to the following principles:

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

Determination of Indigency

The Act states that a defendant is 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 must make a preliminary inquiry regarding, and a determination of, the indigency of any defendant. The court may review the determination at any other stage of the proceedings. In determining whether a defendant is entitled to the appointment of counsel, the court must consider whether he or she is indigent and the extent of his or her ability to pay. The court may consider such factors as:

- Income or funds from employment or any other source, including personal public assistance, to which the defendant is entitled.
- Property owned by the defendant or in which he or she has 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 will be considered indigent if he or she is 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 will be rebuttably presumed if the defendant receives personal public assistance, including under the Food Assistance Program, Temporary Assistance for Needy Families, Medicaid, or disability insurance; resides in public housing; or earns an income less than 140% of the Federal poverty guideline.

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

A defendant who does not fall under these presumptive thresholds must 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 is approved by the Supreme Court, each indigent criminal defense system must 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 must submit an annual plan for the following State fiscal year. A plan must address specifically how the minimum standards established by the MIDC will be met, and include a cost analysis. The cost analysis must 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 are 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 are submitted, the MIDC will have to approve or disapprove the plan or cost analysis, or both. If the Commission disapproves one or both, the indigent criminal defense system will 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 is not reached after three submissions, the dispute must be resolved as provided for the resolution of disputes under the Act.

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

Appropriation Request; Local Share; Grants

The MIDC must 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 will have to be made available to the same individuals and committees.

An indigent criminal defense system must maintain at least its local share, but is not

required to provide funds in excess of its local share. If the MIDC determines that funding in excess of a system's share is necessary in order to bring its system into compliance with the minimum standards established by the Commission, the State must pay the excess funding.

The Act requires the Legislature to appropriate to the MIDC the additional funds necessary, which must be provided to indigent criminal defense systems through grants. Within 180 days after receiving the funds, an indigent criminal defense system will 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 Act also requires the State 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 are above the local unit's data costs for other purposes.

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

If an indigent criminal defense system is awarded no funds for implementation of its plan, the MIDC still must issue the system a zero grant reflecting that it will receive no grant funds.

The MIDC may 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, will be State funds and must be appropriated as provided by law.

Dispute Resolution

Mediation. If a dispute arises between the MIDC and an indigent criminal defense system concerning the requirements of the Act, the parties must attempt to resolve the dispute by mediation. The State Court Administrator, as authorized by the Supreme Court, must 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 will have to facilitate the mediation process. The MIDC immediately must send the State Court Administrative Office a copy of the official notice of that third disapproval. If the parties do not agree on the selection of a mediator, the State Court Administrator, as authorized by the Supreme Court, will have to appoint a mediator of his or her own choosing.

Mediation must begin within 30 calendar days after the mediator is appointed, and terminate within 60 calendar days after it begins. The parties must pay mediation costs equally.

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

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

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

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

The action must be brought in the judicial circuit where the indigent criminal defense system is located. The State Court Administrator, as authorized by the Supreme Court, will have to assign an active

or retired judge from a different judicial circuit to hear the case. The parties must pay equally costs associated with the assignment of the judge.

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

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

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

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

MIDC Provision of Services; Costs

If a court orders the MIDC to provide indigent criminal defense services on behalf of an indigent criminal defense system, the court must order the system to pay the following percentage of the State's costs that the MIDC determines are necessary to bring the system into compliance with the minimum standards:

- In the first year: 10%.
- In the second year: 20%.
- In the third year: 30%.
- In the fourth year: 40%.

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

An indigent criminal defense system may 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 will not have to pay an assessment but will have to pay at least its share.

Duty to Comply with Approved Plan

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

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

MIDC Annual Report

The MIDC must 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 must be on a quarterly basis, except the annual report and salary information may be published and made available annually.

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

Statutory Construction; No Cause of Action

Nothing in the MIDC Act may 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 does not create a cause of action against the government or system.

Statutory duties that create a higher standard than that imposed by the U.S. Constitution or the State Constitution do 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 do not constitute ineffective assistance of counsel under the U.S. or State Constitution will not constitute grounds for a conviction to be reversed or a judgment to be modified for ineffective assistance of counsel.

Nothing in the Act may 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

Previously, under the Code of Criminal Procedure, when a person charged with a felony appeared before a magistrate without counsel, and had not waived examination on the charge, the person had to be advised of his or her right to have counsel appointed for the examination. If the person stated that he or she had been unable to procure counsel, the Code required the magistrate to notify the chief judge of the circuit court in the district where the offense allegedly occurred. Upon proper showing, the chief judge had to appoint or direct the magistrate to appoint an attorney to defend the accused. The appointed attorney was entitled to receive from the county treasurer the amount that the chief judge considered to be reasonable compensation for the services performed. The bill deleted most of these provisions.

Under the bill, when a person charged with a crime appears before a magistrate without counsel, the person must be advised of his or her right to have counsel appointed. If the person states that he or she is unable to procure counsel, the magistrate must appoint counsel, if the person is eligible for appointed counsel under the Michigan Indigent Defense Commission Act.

MCL 775.16 (S.B. 301)
780.981-780.1003 (H.B. 4529)

FISCAL IMPACT

The bills will have an indeterminate, but potentially significant, fiscal impact on State government. The primary potential cost of the bills will be the provision of grants to local indigent defense systems. Each local system is required to submit a plan to the MIDC to demonstrate how that local system will be brought into compliance with the minimum standards established by the MIDC. If the plan is approved, the State then can provide a grant to assist the local system in executing the plan. In most cases, the only fiscal requirement on the local system will be maintenance of effort consistent with the average of the most recent three years. The only exception to this will be if the court orders the MIDC, in lieu of the local system, to undertake the provision of indigent criminal defense services because of the local system's failure to comply. If this occurs, the local system will be charged a 10% share of the increase in the first year of noncompliance, and the cost sharing will rise in increments of 10% until the local system has 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 will establish, and without knowing how local systems will choose to attempt to adapt their systems to meet those standards, it is not possible to provide a more precise estimate of potential costs.

In addition to the primary cost of providing grants to local systems to meet the standards, there will be a fiscal impact from provisions of the bills that do the following:

- Require the State to provide grants to cover the cost of collecting data.
- Create the 15-member Commission, whose members will not be paid but will receive reimbursement of actual and reasonable expenses, which will 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 is not successful.

The bills do not specifically quantify the number of staff. The potential cost of the staff will vary widely, depending on the exact number of full-time-equated positions required. It will cost at a minimum \$300,000, but will likely be greater.

Fiscal Analyst: Dan O'Connor

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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.