

Statewide Public Defender Legislation Update

Jeff York, Chief Public
Defender



CURRENT LAW

55 ILCS 5/3-4004 Appointment of Public Defender in counties under 1,000,000.

As soon as may be after this Division becomes applicable to a county with a population under 1,000,000, the judges of the Circuit Court of the circuit in which the county is located shall, by a majority vote of the entire number of those judges, appoint to the office of Public Defender a properly qualified person, who shall hold office, his death or resignation not intervening, at the pleasure of the judges competent to appoint.

Whenever a vacancy occurs in the office it shall be filled in the same manner, and the person appointed to fill the vacancy shall have the same tenure of office.

Cases

- **Felony**
(possible prison over 1 year)
- **Misdemeanor**
(possible jail up to 1 year)
- **Pre-Trial**
(everyone regardless of income)
- **Mental illness commitment**
(forced to remain in hospital or meds)
- **Juvenile**
 - Delinquency (children 10-18 commit crimes)
 - Abuse/Neglect (parents that may lose their children)

Statistics

10,000 cases/year

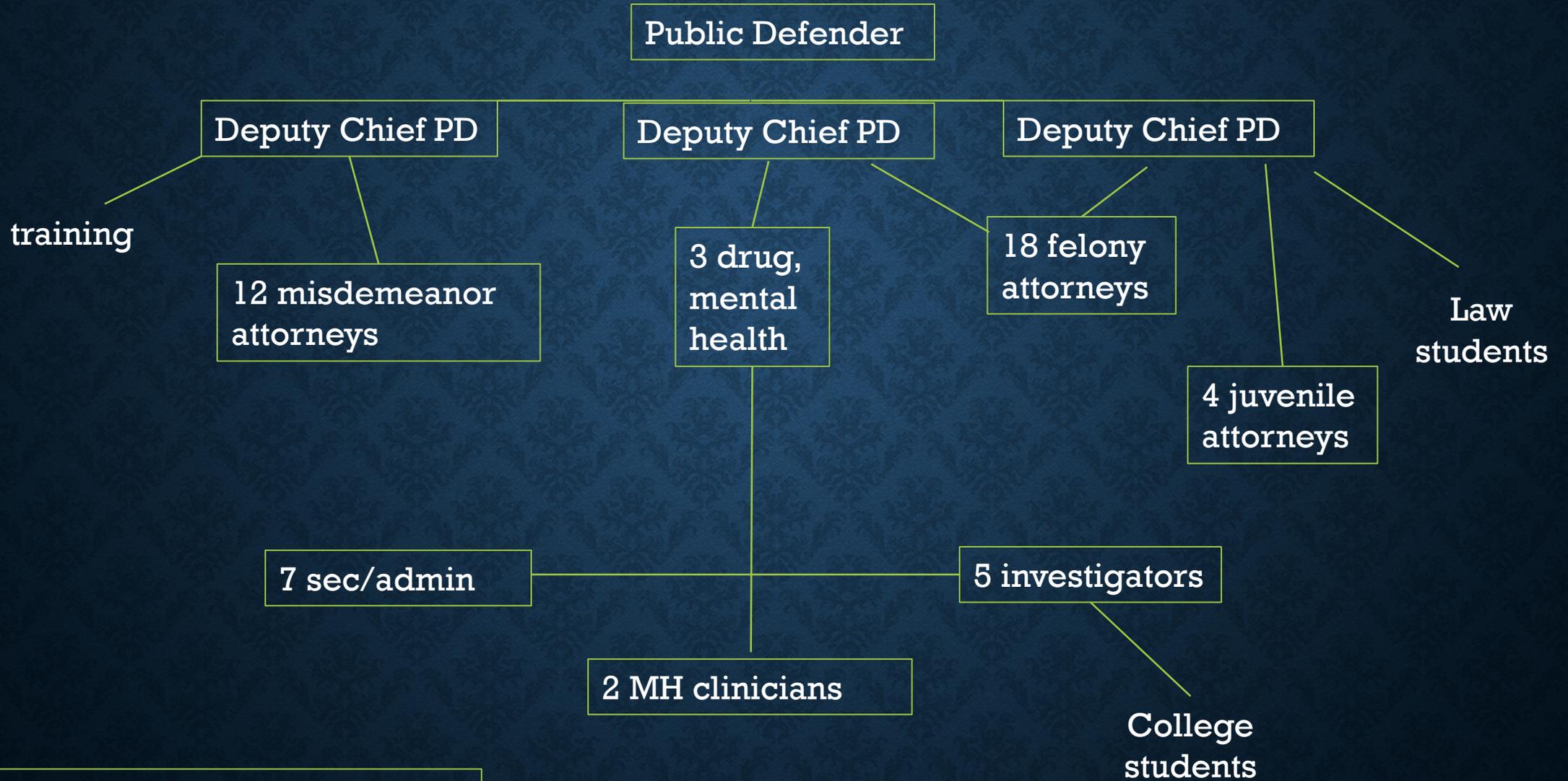
Avg. felony at a time= 50-150

Avg. misd. at a time = 100-250

1800 investigations/yr

450 clinician assists/yr

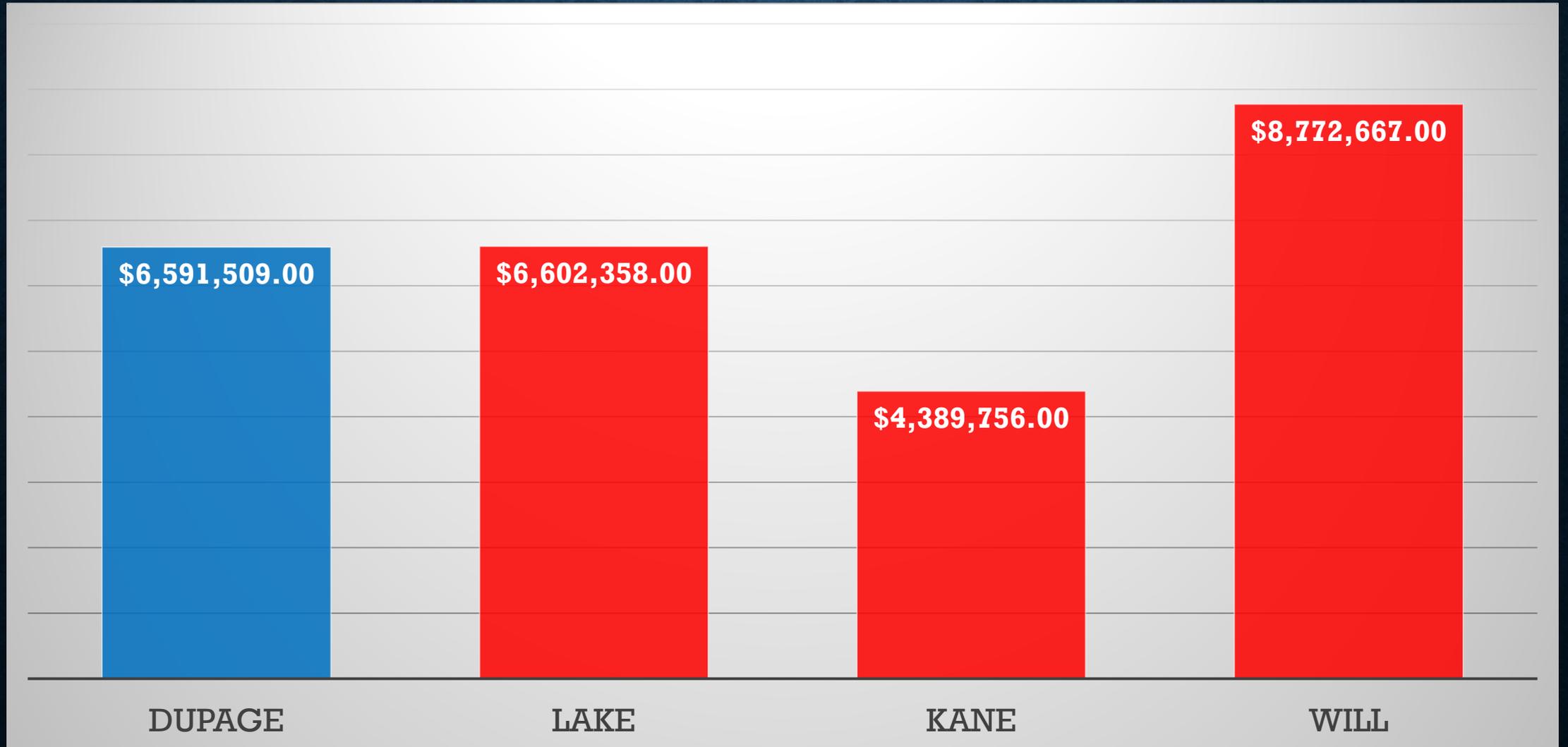




64 total head count



PUBLIC DEFENDER BUDGETS





THE RIGHT TO COUNSEL IN ILLINOIS

EVALUATION OF ADULT CRIMINAL TRIAL-LEVEL
INDIGENT DEFENSE SERVICES



JUNE 2021



SIXTH
AMENDMENT
CENTER

ILLINOIS SUPREME COURT ANNOUNCES CREATION OF CRIMINAL INDIGENT DEFENSE TASK FORCE

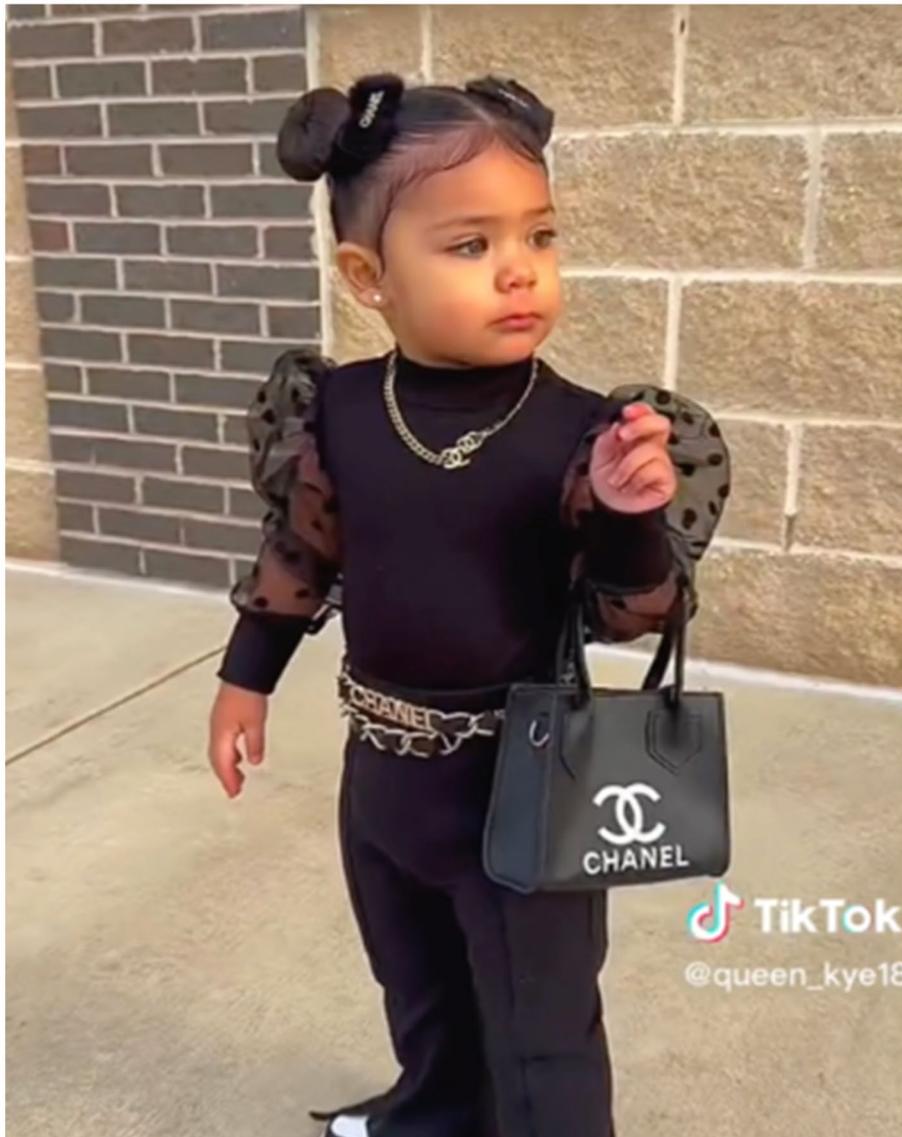
The Illinois Supreme Court has announced the creation of the Illinois Judicial Conference's (IJC) Criminal Indigent Defense Task Force (Task Force). The Task Force will be studying how to best provide for the constitutional guarantee of criminal defense for indigent defendants as a follow up to the [report](#) issued by the Sixth Amendment Center on the right to counsel in Illinois.



**Report of the Illinois
Judicial Conference
Criminal Indigent Defense
Task Force**

OCTOBER 2023

“A minority of Task Force members feel that this recommendation does not go far enough in achieving independence, and believe that judges should not be involved in the selection and appointment of chief defenders”





Ten Principles of a Public Defense Delivery System

ABA
AMERICAN BAR ASSOCIATION
Standing Committee on Legal
Aid and Indigent Defense

AUGUST 2023



HOME > PLEADING THE SIXTH

> JUDGES' REMOVAL OF CHAM...

Judges' removal of Champaign County public defender sets off alarms in Illinois



Funding Illinois' Public Defense Services

An Estimate of Current and Required Costs

Sino Esthappan
PhD Student, Sociology Department
Northwestern University

Erin Hughes, Ashley Justice, Diego Manrique, & Isabella Spinelli
Law Students, Northwestern Pritzker School of Law

Julie Biehl
Director, Children and Family Justice Center
Northwestern Pritzker School of Law

November 2022

55 ILCS 5/3-4014 Public Defender Fund.

(a) (Blank).

(b) The Public Defender Fund is created as a special fund in the State treasury. All money in the Public Defender Fund shall be used, subject to appropriation, by the Illinois Supreme Court to provide funding to counties with a population of 3,000,000 or less for public defenders and public defender services pursuant to this Section 3-4014.



SUPREME COURT OF ILLINOIS

**CHAMBERS OF
CHIEF JUSTICE MARY JANE THEIS**

**160 NORTH LASALLE STREET
CHICAGO, ILLINOIS 60601
(312) 793-5460**

Annual Report to the General Assembly on the 2023 Illinois Judicial Conference

2. Study of Statewide Criminal Indigent Defense—Strategic Goal 1

This initiative focused on studying and making recommendations for statewide solutions to the right to counsel in criminal cases at the trial level. While the constitutional obligation to provide effective assistance of counsel belongs to the State, Illinois long ago transferred that trial-level obligation to counties without a corresponding transfer of resources. The result has been wide disparities in resources and delivery systems across the state.

The IJC recommends full State funding of trial-level public defense services; establishing a statewide Administrative Office of Public Defense (AOPD) under judicial branch authority to provide administrative and infrastructure support to local public defender offices; and developing and implementing a rigorous strategy and infrastructure in the AOPD for recruitment and retention of attorneys.



The Time Is Now: Responding to the Public Defense Crisis in Illinois

Gideon v. Wainwright guarantees the right to counsel in criminal cases. In Illinois, the State has delegated its constitutional obligation to the counties. The unacceptable result is a disparate public defense delivery system, dependent on local resources.

The Illinois Supreme Court seeks a permanent and sustainable statewide response to this public defense crisis through the creation of a statewide Office of Public Defense Trial Support (OPDTS) supported by the Administrative Office of the Illinois Courts (AOIC).

OPDTS will have two priorities over the next two fiscal years:

- administer the Public Defender Fund to continue the fiscal support provided in FY25.
- work with local stakeholders to develop comprehensive plans that detail how fully resourced public defense services will be provided in that jurisdiction. These plans will be the basis for future budgeting and standards governing the use of tax dollars.

At the end of the two-year period, the OPDTS will report the results of the planning process for further legislative action to establish the stand alone agency and create the governing board.

Long Term Goals:

Level the playing field. Prosecutors are able to access law enforcement investigation expertise, ISP forensic scientists, and special prosecutors from both the Attorney General and State's Attorneys Appellate Prosecutor's offices. Defenders have no such resources, no such support, and frequently no budget with which to retain them. While prosecutors choose which cases to bring, defenders cannot choose their clients and they have a constitutional duty to provide effective assistance of counsel, an impossible task without appropriate resources.

Establish independence. For the first time in Illinois history, this statewide response will give public defenders financial and resource independence. The OPDTS will have a governing board that will oversee the operations of this agency and set standards for compensation, caseload, and representation that will apply to private contract attorneys, full-time public defenders, and part-time PDs.

Increase the resources of the current county-based system.

This proposal is based on the work of the *Illinois Judicial Conference's Criminal Indigent Defense Task Force*. Most task force members were current or former public defenders at the trial or appellate level. Chief Circuit Judges were represented as well as the private bar.

Public Defenders Speak:

The Task Force surveyed public defenders who offered their views:

▶ "With just shy of 1200 active cases . . . ABA guidelines suggest there should be 6 attorneys in my office, but I'm the only one."

▶ "Anything would help. We pay our own office supplies."

▶ "I could desperately use an investigator. A social worker would be amazing, but it feels like a pipe dream."

▶ "One of my full-time investigators could make more at Farm 'n Fleet. Not a joke."

PROPOSED LAW – SB595, SA1

- 55 ILCS 5/3-4000.2 new
- Office of Public Defender Trial Support.
- Notwithstanding any provision in this Division to the contrary, the Supreme Court is encouraged to establish a framework for a statewide Office of Public Defense Trial Support. The duties of the Office of Public Defense Trial Support may include, but are not limited to: (1) providing support to public defenders upon request; and (2) in conjunction with other interested parties, facilitating a strategic planning process designed to enhance public defender services and ensure that effective assistance of counsel is rendered regardless of the jurisdiction in which charges are brought. Subject to appropriation and at the direction of the Supreme Court, the Administrative Office of the Illinois Courts shall provide administrative and other support to the Office of Public Defense Trial Support through June 30, 2026.



PROCESS



**WHY WOULD IT
BE BAD?**

YOUR IMPACT



DUPAGE COUNTY



GOVERNMENT

Statewide Public Defender

Senate Bill 595
Senate Amendment 1



Summary

Senate Amendment 1 to Senate Bill 595 would establish a statewide Office of Public Defense Trial Support, with the Supreme Court administering a statewide Public Defender service. Many counties in Illinois don't have adequate resources to properly represent indigent clients. As a result, services in these counties are inconsistent, inadequate, and unfair to clients.

Impact on DuPage

While this would be of benefit to some parts of the state, DuPage County, as well as Cook and other collar counties, already have well-established and well-funded Public Defender systems. The proposed amendment would negatively impact the delivery of services to our clients. Salaries, hiring, office policy, and control would no longer be set locally.

Funding by the state could be tenuous and likely would not match current spending levels in DuPage County. DuPage County allocates more than \$6 million annually to the Public Defender, which allows the office to provide high-quality legal and wrap-around services a statewide system may not.

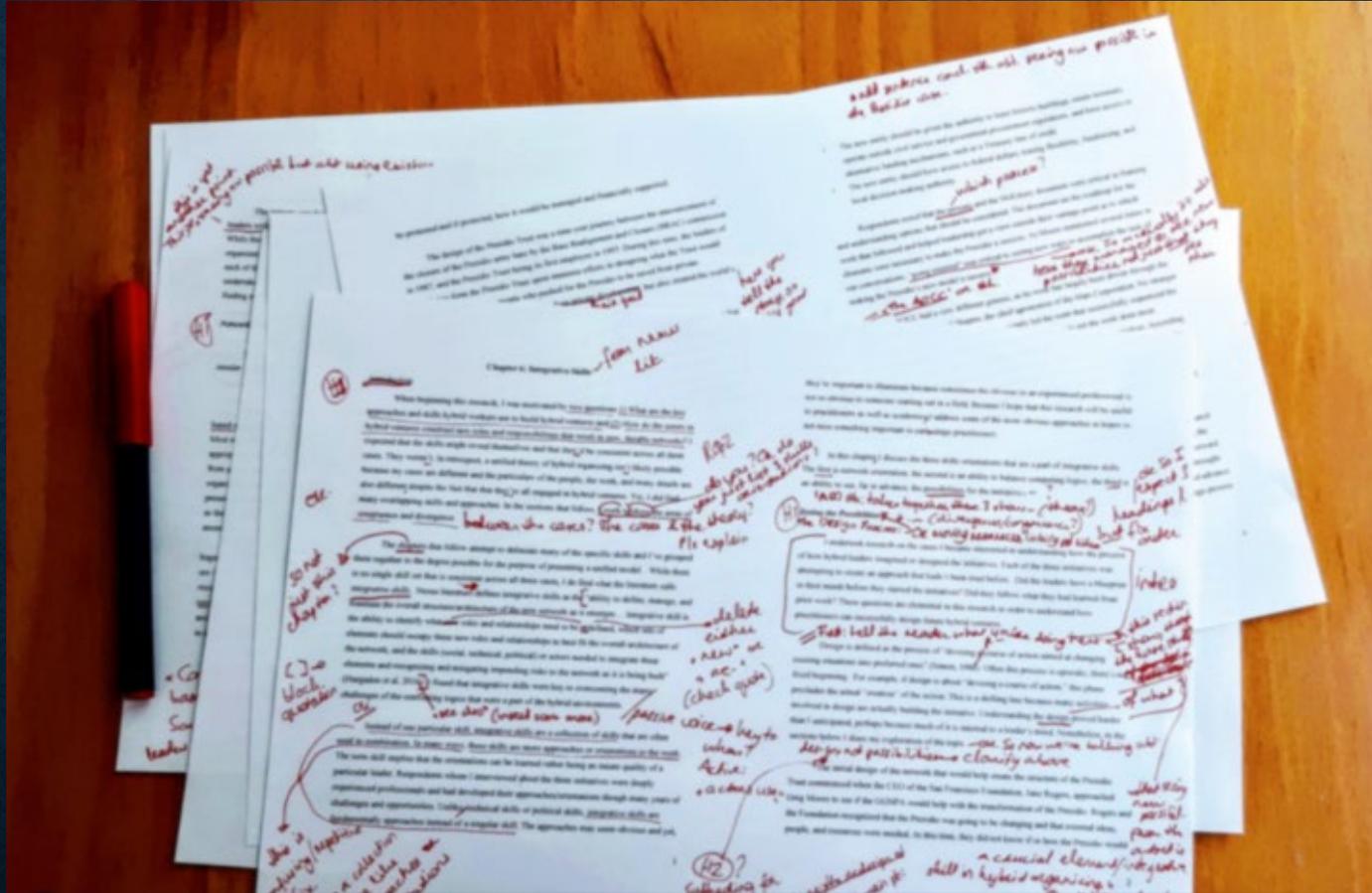
While the proposal is well-intended, a state takeover of the Public Defender would disrupt the quality of services we currently provide to indigent clients.

Position

DuPage County does not want to see a decrease in the quality of legal services provided to our neediest residents. The County opposes Senate Bill 595, Senate Amendment 1 in its current form. Public Defenders have had extremely limited input on this proposal and want to work with the sponsors before creating any statewide changes.

If legislation does move forward, DuPage County would request carving out DuPage, Cook, and larger collar counties, which already provide effective legal representation to their clients.

PDS PROPOSE SEVERAL CHANGES





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Efforts underway for statewide public defender system to 'even legal playing field'

By: Glenn Minnis, Illinois Radio Network | April 15, 2024 | State News



NORTHWESTERN BILL

HOW ARE WE INVOLVED?



EXPECTED NEXT STEPS

