



# Senate

General Assembly

**File No. 574**

January Session, 2023

Senate Bill No. 1230

*Senate, April 13, 2023*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

## **AN ACT EXPANDING ACCESS TO PUBLIC DEFENDER SERVICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (f) of section 51-297 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2023*):

4 (f) (1) As used in this chapter, "indigent defendant" means [(1)] (A) a  
5 person who is formally charged with the commission of a crime  
6 punishable by imprisonment and who does not have the financial ability  
7 at the time of his request for representation to secure competent legal  
8 representation and to provide other necessary expenses of legal  
9 representation; [(2)] (B) a child who has a right to counsel under the  
10 provisions of subsection (a) of section 46b-135 and who does not have  
11 the financial ability at the time of his request for representation to secure  
12 competent legal representation and to provide other necessary expenses  
13 of legal representation; or [(3)] (C) any person who has a right to counsel  
14 under section 46b-136 and who does not have the financial ability at the  
15 time of his request for representation to secure competent legal

16 representation and to provide other necessary expenses of legal  
17 representation.

18 (2) An assessment determining whether a person has the financial  
19 ability to secure competent legal representation and to provide other  
20 necessary expenses of legal representation or qualifies as an indigent  
21 defendant pursuant to subdivision (1) of this subsection shall be based  
22 upon guidelines established by the commission. The commission shall  
23 annually establish such guidelines providing that a person whose  
24 income, calculated as described in such guidelines, is two hundred fifty  
25 per cent or less of the federal poverty level may qualify as an indigent  
26 defendant. The commission shall make such guidelines available to the  
27 public on the Division of Public Defender Services' Internet web site.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	51-297(f)

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Pub. Defender Serv. Com.	GF - Cost	5,358,000	6,978,000
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	1,120,000	1,500,000

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill allows the Public Defender Services Commission (PDS) to establish eligibility guidelines annually up to 250% or less of the Federal Poverty Limit (FPL) which results in an estimated cost \$5.3 million in FY 24 to PDS<sup>2</sup> and \$1.2 million in FY 24 to the State Comptroller for fringe. In FY 25, these costs are estimated to be approximately \$7 million for PDS<sup>3</sup> and \$1.1 million to the State Comptroller as this will be the first year of full implementation.

The estimated cost for FY 24 includes salaries for staff to support the increase in clientele as well as other expenses associated with increased staffing including equipment purchases and an increase in payments to Assigned Counsel. The estimate assumes that increasing the threshold for eligibility will result in approximately 14% more cases.

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 42.82% of payroll in FY 24.

<sup>2</sup> \$2.6 million in Personal Services for about 51 new staff, \$128,000 in equipment costs, \$130,000 in Other Expenses, and \$2.5 million in Assigned Counsel.

<sup>3</sup> \$3.6 million in Personal Services, \$178,000 in Other Expenses, and \$3.2 million in Assigned Counsel.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the actual number of eligible clients.

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**OLR Bill Analysis****SB 1230*****AN ACT EXPANDING ACCESS TO PUBLIC DEFENDER SERVICES.*****SUMMARY**

This bill requires the Public Defender Services Commission to annually establish guidelines that public defenders, assistant public defenders, and deputy assistant public defenders must use when determining whether a person (1) has the financial ability to secure competent legal representation and meet other necessary related expenses or (2) qualifies for representation as an indigent defendant.

Under the bill, the guidelines must make a person eligible for public defender services if his or her income, when calculated based on the guidelines, is 250% or less of the federal poverty level (currently at or below \$36,450 for an individual).

The bill requires the commission to publish the guidelines on the Division of Public Defender Service's web site. (It does not establish a deadline by which the commission must do so.)

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2023

**BACKGROUND*****Indigent Defendant***

By law, for public defender services, an "indigent defender" is any of the following persons who, at the time of his or her request for representation, does not have the financial ability to secure competent legal representation and meet other necessary related expenses:

1. a person formally charged with a crime punishable by imprisonment,

2. a child at the beginning of any proceeding regarding an alleged delinquency, or
3. a child in a proceeding on a juvenile matter.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (03/27/2023)