

Date of Hearing: May 5, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 625 (Arambula) – As Amended March 25, 2021

Policy Committee: Public Safety Vote: 8 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY:**

This bill directs the Office State Public Defender (OSPD) to undertake a study to determine the appropriate ratio of public defenders and indigent defense attorneys to misdemeanor and felony indigent defendants and submit a report with their findings and recommendations to the Legislature, no later than January 1, 2024.

**FISCAL EFFECT:**

One-time costs (General Fund (GF)) in excess of \$150,000 for the OSPD in additional staff and resources to gather and analyze data regarding the appropriate ratio of attorneys to indigent clients and to submit a report to the Legislature. Deputy state public defenders and support staff generally litigate complex felony appeals, including death penalty cases. The OSPD does not necessarily have academic research staff to perform the analysis required by this bill and, therefore, may require multiple new limited-term positions or the funds to contract out to a third party research institute.

**COMMENTS:**

1) **Purpose.** According to the author:

The absence of strong, well-resourced indigent defense systems offends the U.S. and California Constitutions, leads to deeply unfair results, and contributes to our overburdened jail and prison systems. AB 625 will improve California's indigent defense systems to ensure quality representation for all defendants, regardless of income or social status.

2) **OSPD.** The OSPD was created in 1975 at the time California began its efforts to re-instate the death penalty after it was struck down by the California and U.S. Supreme Court in 1972. The purpose of the OSPD is to handle direct appeals of death penalty cases. Any defendant convicted and sentenced to death in California is granted an automatic appeal to the California Supreme Court. A deputy state public defender is appointed as representation free of cost. The OSPD has authority to contract with other indigent defense counsel, county public defender offices and non-profit organizations in performance of their duties. (Gov. Code, § 15404.) Presumably, the OSPD is authorized to contract with third parties for purposes of conducting the study required by this bill without any other statutory

authorization.

- 3) **Phillips v. California.** In 2015, the American Civil Liberties Union filed suit against the State for its systemic failure to provide adequate funding for public defender services. (Phillips v. California In response to Phillips v. California, Fresno County Superior Court, Case No. 15 CE CG 02201 [July 14, 2015].) The *Phillips* case settled in 2020 Budget Act included \$4 million in one-time GF money and \$3.5 million annually thereafter to expand the OSPD's mission to include improving the quality of indigent defense services provided by counties. Specifically, these resources are intended to provide training and technical assistance for attorneys providing indigent defense, with the goal of promoting more effective representation statewide. Additionally, the 2020 Budget Act included \$10 million one-time General Fund money for the Board of State and Community Corrections to administer a pilot program, in consultation with the OSPD, to supplement local funding for indigent criminal defense. This funding will also support the completion of an evaluation to determine the effectiveness of the grants in improving indigent defense services. The OSPD's expanded mission of providing services to counties for representation does not necessarily include a county-wide statistical analysis of the proper ratio of attorneys to clients, thus the bill would require additional funding.

- 4) **Argument in Support.** According to California Attorneys for Criminal Justice:

AB 625 would direct the State Public Defender to study the indigent defendant caseloads of public defenders and defense attorney. The caseloads of public defenders and indigent defense attorneys are notoriously large. Attorneys handling caseloads of upwards of 100 cases at a time is not unheard of, prosecutors get all of the resources, putting public defenders in a position to do more with less. Public defenders must work day and night to protect the constitutional rights of the accused and deserve sufficient resources.

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