

Committee for Public Counsel Services

- 0321-1500 For the operation of the committee for public counsel services, as authorized by chapter 211D of the General Laws; provided, that 20 district court attorneys shall be hired as authorized by section 5 of chapter 54 of the acts of 2005; provided further, that the committee for public counsel services shall hire: 7 superior court attorneys; 1 delinquency attorney and 1 additional auditor to the audit and oversight unit; provided further, that 7 new juvenile defender offices shall be opened in the following areas: Springfield/Holyoke, New Bedford/Fall River, Lowell/Lawrence, Brockton, Quincy, Cambridge/Somerville and Salem/Lynn; provided further, that the committee shall establish a murder trial and appeals unit and establish a mental health civil commitment unit; provided further, that an additional child and family law trial office shall be opened in the New Bedford/Fall River area and a child and family law appeals office shall be opened in the metropolitan Boston area; provided further, that 1 additional attorney shall be hired in both the Worcester and Pittsfield child and family law offices; and provided further, that the committee shall submit a report to the clerks of the house of representatives and senate and the house and senate committees on ways and means, not later than January 31, 2011, that shall include, but not be limited to, the following: (a) the number of clients assisted by the committee in the prior fiscal year; (b) any proposed expansion of legal services delineated by type of service, target population and cost; (c) the total number of persons who received legal services by the committee, by type of case and geographic location; (d) the costs for services rendered per client, by type of case and geographic location; (e) the amount paid, if any, to the committee by clients for services rendered, by type of case and geographic location; (f) the average cost for services rendered by the committee, by type of case; and (g) the average number of hours spent per attorney or staff per type of case..... \$34,229,553
- 0321-1510 For compensation paid to private counsel assigned to criminal and civil cases under paragraph (b) of section 6 of chapter 211D of the General Laws, pursuant to section 11 of said chapter 211D; provided, that not more than \$2,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2011 \$117,506,173
- 0321-1518 For the chief counsel for the committee for public counsel services which may expend an amount not to exceed \$750,000 from revenues collected from fees charged for attorney representation of indigent clients..... \$750,000
- 0321-1520 For normal fees and costs and extra fees and costs as defined in section 27A of chapter 261 of the General Laws, as ordered by a justice of the appeals court or a justice of a department of the trial court of the commonwealth on behalf of indigent persons, as defined in section 27A of said chapter 261; provided, that not more than \$1,000,000 of the sum appropriated in this item may be expended for services rendered before fiscal year 2011..... \$13,582,325

Indigent Court Costs

SECTION 88. Section 27C of chapter 261 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out paragraph (4) and inserting in place thereof the following paragraph:-

(4) If the court makes a finding of indigency:

(1) in criminal cases, juvenile delinquency proceedings and youthful offender cases and in cases arising under chapter 123A, any request for normal or extra fees and costs shall first be submitted to the committee for public counsel services which shall be authorized to approve those requests; provided, however, that the committee shall authorize any request with respect to normal fees and costs and it any request with respect to extra fees and costs if the document, service or object is reasonably necessary to assure the applicant as effective a prosecution, defense or appeal as he would have if he were financially able to pay; provided further, that if the committee recommends that such an application be denied, in whole or in part, the request shall be referred for prompt hearing to the court in which the action is pending at the request of the applicant; provided further, that the committee shall make reasonable efforts to act on the application within 10 business days and, if the committee fails to act within 10

business days of the date the application was filed, the applicant may file a motion with the court in which the action is pending; provided further, that the court shall not deny a request or motion filed pursuant to this section if the document, service or object is reasonably necessary to assure the applicant as effective a prosecution, defense or appeal as he would have if he were financially able to pay; and provided further, that the court shall not deny a request without first holding a hearing thereon;

(2) in all other cases, a request for normal or extra fees shall be submitted to the court in which the action is pending; provided, however, that the court shall not deny a request with respect to normal fees and costs and with respect to extra fees and costs if it finds the document, service or object is reasonably necessary to assure the applicant as effective a prosecution, defense or appeal as he would have if he were financially able to pay; and provided further, that the court shall not deny a request without first holding a hearing thereon; and

(3) if there is an appeal pursuant to section 27D following a denial, the court shall, within 3 days, set forth its written findings and reasons justifying such denial, which document shall be part of the record on appeal.

SECTION 89. Chapter 261 is hereby further amended by striking out section 27G and inserting in place thereof the following section:-

Section 27G. The committee for public counsel services shall receive from an indigent party or the party's attorney all bills and vouchers for a document, service or object rendered to that party for which payment by the commonwealth has been authorized pursuant to clause (a) of paragraph (4) of section 27C and shall make prompt payment thereon. The clerk shall receive from an indigent party or his attorney all bills and vouchers for any document, service or object rendered to that party for which an order for payment by the commonwealth has been issued pursuant to clause (b) of said paragraph (4) of said section 27C and shall transmit those bills and vouchers and an attested copy of the order to the committee for public counsel services which shall make prompt payment thereon.

Civil Infraction Commission

SECTION 109. Notwithstanding any general or special law to the contrary, the members of the commission established by section 6 of chapter 54 of the acts of 2005, shall be appointed not later than October 1, 2010 and shall commence work by November 1, 2010; provided, however, that the commission shall file the first annual report regarding the commission's activities and any legislative recommendations to the house and senate committees on ways and means not later than April 1, 2011; and provided further, that subsequent annual reports shall be filed with the house and senate committees on ways and means not later than December 31 of each year.

Aging Out of DCF

SECTION 60. Section 23 of chapter 119 of the General Laws, as so appearing, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f) Notwithstanding section 26, the department shall continue its responsibility as provided in this section for a person who has attained the age of 18 but has not yet attained the age of 22 and who is: (i) completing secondary education or a program leading to an equivalent credential; (ii) enrolled in an institution which provides post-secondary or vocational education; (iii) participating in a program or activity designed to promote, or to remove barriers to, employment; (iv) employed at least 80 hours per month; or (v) incapable of doing any of the activities described in subclauses (i) through (iv), inclusive, due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child, provided, however, that the department's continued responsibility for persons who have attained the age of 18 is contingent upon the express written consent of the person.

Notwithstanding any general or special law to the contrary, the juvenile court department shall retain jurisdiction under this chapter for persons in the continued care of the department under this subsection, including for the purpose of permanency reviews as set forth in section 29B.

If a child elects to leave the care of the department when the child attains the age of 18, during the 90-day period immediately before the date on which a child attains 18 years of age, whether during that period foster care

maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477 of the Social Security Act, 42 U.S.C. § 677, the department shall provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child; provided, however, that the plan includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services and work force supports and employment services; and provided further, that the plan is as detailed as the child may elect. The juvenile court department shall retain jurisdiction until it finds, after a hearing at which the child is present, that a satisfactory transition plan has been provided for the child.

If a child remains under the care of the department upon attaining the age of 18 as provided in this subsection, then during the 90-day period immediately before the date on which the child leaves the care of the department, or the child's 22nd birthday, whichever comes first, the department shall provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child; provided, however, that the plan includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services and work force supports and employment services; and provided further, that the plan is as detailed as the child may elect. The juvenile court department shall retain jurisdiction until it finds, after a hearing at which the child is present, that a satisfactory transition plan has been provided for the child.

If a person who has attained the age of 18 leaves the care of the department but requests, before attaining the age of 22, that the department re-open the person's case, the department shall make every reasonable attempt to provide a program of support which is acceptable to the person and which permits the department to renew its responsibility.

Nothing in this subsection shall be construed to provide legal custody of a person who has attained the age of 18 to the department or to otherwise abrogate any other rights that a person who has attained the age of 18 may have under law by dint of their age.

The department shall report annually to the child advocate, chairs of the joint committee on children, families and persons with disabilities and the senate and house committees on ways and means on the numbers of persons it serves and declines to serve under this subsection.

Aging Out of DCF II

SECTION 156. Section 60 shall take effect on October 1, 2010.

From SWM FY'11 Budget Executive Summary

Crime and Corrections Reform

In November of 2009, the Senate passed legislation reforming criminal sentencing laws and Criminal Offender Record Information (CORI) systems. This legislation will save money and improve public safety by establishing standard parole eligibility criteria for drug offenses. The bill also improves the accuracy and ease of access for criminal record information for potential employees. The change will allow employers to make more informed hiring decisions, while at the same time ensuring that former offenders receive a fair opportunity to participate in the workforce.

The policies proposed in the crime bill generate a total of \$13 million in savings for the Commonwealth; these savings are captured in the Committee's budget. Of these savings, \$6 million are achieved by moving non-violent offenders into court ordered or post-release supervision. The additional \$7 million in state revenue is realized by allowing more businesses to request CORI information directly from the Criminal History Systems Board.

Public Safety and the Judiciary

The Committee budget recommendations recognize that in order for the state's judicial and public safety infrastructure to adapt to funding reductions, it must be given the ability to coordinate services and control costs.

In an effort to control the ever-increasing costs for private counsel services, funding has been added for 105 new public defenders to the Committee for Public Counsel Services, decreasing the state's reliance on private defenders and creating more than \$1.8 million in savings in fiscal year 2011.

As evidenced by the Crime Bill reforms highlighted earlier, the Senate Ways and Means budget focuses on improving efficiencies within the criminal justice and corrections systems. Additional reforms in the budget include a streamlined procurement process for all state entities that purchase drug testing kits and electronic monitoring devices and a commission to develop a standardized risk assessment tool for analysis of individuals under court-ordered or post-release supervision.

The Committee's budget also changes the funding mechanism of the Massachusetts Alcohol and Substance Abuse Center, affirming the center as an essential state facility by creating its own line item and funding source through the Commonwealth Substance Abuse Treatment and Prevention Fund.

Health and Human Services

The Committee continues to support the reform and efficiencies created by the Department of Children and Families by funding lead agencies at \$10.9 million. The Committee endorses the Department's commitment to coordinating care for children and families through lead agencies and supports the significant accomplishments managed through the agencies, including the dramatic reduction of "stuck kids" throughout the Commonwealth.