

May 18, 2000

**S 1323. INDIGENT DEFENSE SERVICES/FUNDS (=H 1590).** *TO IMPLEMENT THE RECOMMENDATION OF THE INDIGENT DEFENSE STUDY COMMISSION TO ESTABLISH AN OFFICE OF INDIGENT DEFENSE SERVICES.* Identical to H 1590, introduced 5/18/00.

**Intro. by Ballance.**

Ref. to Judiciary II	GS 7A, 7B, 15, 15A, 23, 35A, 90, 108A, 122, 122C, 148, APPROP
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June 20, 2000

**S 1323. INDIGENT DEFENSE SERVICES/FUNDS.** Intro. 5/18/00. Senate committee substitute makes the following changes to 1st edition. Removes appropriation of \$535,644 for fiscal 2000-2001 from bill.

July 6, 2000

**S 1323. INDIGENT DEFENSE SERVICES.** Intro. 5/18/00. House committee substitute makes the following changes to 2nd edition. Provides that one of the three members of the Comm'n on Indigent Defense Services appointed by the Comm'n itself must be a Native American. Directs Comm'n to solicit written comments from affected local district bar, senior resident superior court judge, and chief district court judge in developing method for delivering services in a particular district. Those comments, along with Comm'n recommendations, must be forwarded to members of General Assembly representing the affected district "and to other interested parties." Deletes all portions of 2nd edition pertaining to establishment and operation of regional and district public defender offices. Amends GS 7A-452 to provide that in noncapital cases, court shall assign counsel to indigent person pursuant to rules adopted by Office of Indigent Defense Services. In capital cases, Office or its designee shall assign counsel, at least one of whom "where practicable" must be member of the bar in that division. Deletes proposed amendment to GS 7A-455 concerning entry of judgment for value of legal services rendered by public defender. Amends GS 7A-467 to provide that if conflict of interest prohibits public defender from representing an indigent person, or in unusual circumstances when the proper administration of justice so requires, court may assign counsel pursuant to rules adopted by Office of Indigent Defense Services. Authorizes Office to adopt rules permitting public defender to appoint private counsel. Such counsel is entitled to services of the public defender's office. Makes other technical and conforming changes.

July 12, 2000

**S 1323. INDIGENT DEFENSE SERVICES/FUNDS.** Intro. 5/18/00. Conference report recommends the following changes to reconcile matters in controversy. Deletes House committee substitute 7/6/00 and substitutes Senate committee substitute adopted 6/20/00, with the following substantive amendments: (1) deletes provision in proposed new GS 7A-498.3(c) that Office of Indigent Defense Services (hereafter, office) may preliminarily assign itself to represent indigent persons and instead provides that counsel shall be appointed as provided in GS 7A-452; (2) provides in proposed new GS 7A-498.4(b)(11) that one appointee to Comm'n on Indigent Services must be Native American; (3) revises proposed new GS 7A-498.7(a) to list current public defender districts and to provide that after notice to, and consultation with, affected district bar, senior resident superior court judge, and chief district court judge, Comm'n on Indigent Services (hereafter, comm'n) may recommend to General Assembly that district or regional public defender office be established; provides that legislative act is required to establish new office or to abolish existing office; (4) revises proposed new GS 7A-498.7(b) to provide that appointment of public defender is to be made by senior resident superior court judge of particular district (was, appointment by comm'n); (5) revises proposed new GS 7A-498.7(h) to provide that public defender or ass't public defender may be suspended or removed from officer, and reinstated, for same causes and under same procedures as applicable to removal of district att'y; (6) adds new GS 7A-498.8 to provide that appellate defender shall be appointed by comm'n for term of four years; sets out process for filling vacancy, suspension and removal of appellate defender, and judicial review; appellate defender's duties to include representing indigent after conviction in trial

courts; serving, in appellate defender's discretion, as counsel of record for indigent defendants in capital cases in state court; and undertaking direct representation and consultation in capital cases pending in federal court only to extent that such work is fully federally funded; funds to operate office of appellate defender shall be provided by office from funds authorized by law; salaries shall be set by office; (7) revises amendment to GS 7A-452(a) to provide on court's determination that person is indigent and entitled to counsel, counsel shall be appointed under rules adopted by office; in noncapital cases, court shall assign counsel under rules adopted by office; in capital cases, office or designee of office shall assign counsel--at least one member of each capital defense team, when practicable, shall be member of bar in that division; (8) rewrites section 48 of bill to provide that persons holding position of public defender or appellate defender on date act becomes effective are entitled to serve remainder of their terms.