

Idaho Public Defense Commission: New standards need teeth

By REBECCA BOONE, Associated Press

BOISE, Idaho (AP) — Members of Idaho's Public Defense Commission say that without more authority, there's not much reason to keep working on statewide recommendations.

Lawmakers created the commission in 2014, asking members to come up with quality standards to improve Idaho's problematic public defense system.

Judge Molly Huskey told a group of lawmakers Friday that much of that work is done, but it's not worth much if it's not enforced. She asked the lawmakers to decide if they would give the commission or another entity the authority to enforce minimum standards for public defenders.

"We're putting on the training, we're promulgating rules, and we've made the recommendations for contracts. But our work is only advisory," Huskey said. "...They can use all that paper to start a bonfire for all the value our opinions have.

The state has known for years that the county-run public defense system was struggling, and a 2010 report found that many indigent defendants weren't getting a fair run in the courts because their public defenders were overworked, undertrained and underpaid.

Three years later lawmakers created the Public Defense Reform Interim Committee to study the issue further, and in 2014 the commission was created. The Legislature also ended flat-fee public defender contracts. Previously, counties could hire a private attorney to handle all of their public defense cases for a flat annual fee, and critics said that led to excessive caseloads and other problems.

"It really is up to the Legislature to decide what the role of the Public Defense Commission will be from here forward," Huskey said. "We can continue to make recommendations, but frankly that's not the best use of our time."

A fix won't be cheap, however. Idaho Association of Counties executive director Dan Chadwick said many counties can't invest more money in their public defense systems unless the laws setting caps on levies are changed. Most of the counties have already phased out flat-fee public defense contracts — where a private attorney agrees to handle all the public defense cases in the county for a flat annual fee — after the Legislature disallowed the contracts in 2014. Many of the counties are seeing their expenses go up by 20 percent and 30 percent as a result, Chadwick said.

He urged lawmakers to come up with a funding solution.

The state is facing increasing pressure to fix the system. In June, the ACLU filed a lawsuit on behalf of indigent defendants statewide, contending that the state has failed to take action to fix an unconstitutional system.

A hearing on whether that case can move forward in court is scheduled for December.

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