

IN THE HOUSE OF REPRESENTATIVES  
HOUSE CONCURRENT RESOLUTION NO. 26

BY STATE AFFAIRS COMMITTEE

1 A CONCURRENT RESOLUTION  
2 STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL  
3 TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF POTENTIAL  
4 APPROACHES TO PUBLIC DEFENSE REFORM.

5 Be It Resolved by the Legislature of the State of Idaho:

6 WHEREAS, the responsibility of providing counsel to those constitu-  
7 tionally entitled to representation at public expense is currently borne by  
8 the counties; and

9 WHEREAS, though the State of Idaho may delegate certain obligations im-  
10 posed by the Idaho Constitution to the counties, it must do so in a manner  
11 that does not abdicate the constitutional duty; and

12 WHEREAS, for the past three years, the Idaho Criminal Justice Commis-  
13 sion's Public Defense Subcommittee has committed itself to the task of iden-  
14 tifying deficiencies in Idaho's public defense system and developing recom-  
15 mendations for public defense reform; and

16 WHEREAS, the Idaho Criminal Justice Commission's Public Defense Sub-  
17 committee has identified deficiencies in Idaho's public defense system.  
18 Such deficiencies include, but are not limited to: a lack of uniformity in  
19 indigency determination, appointment and waiver of counsel, contribution  
20 and recoupment practices, public defense contracting practices and data  
21 reporting; excessive caseloads and workloads; a lack of independence of  
22 the public defense function; a lack of training and resources for attorneys  
23 providing public defense services, particularly in the areas of juvenile de-  
24 fense, child protection and mental health commitment; the existence of flat  
25 fee contracts for public defense services; and county commissioners' lack  
26 of access to information and resources to assist in the provision of public  
27 defense; and

28 WHEREAS, the Idaho Criminal Justice Commission's Public Defense Sub-  
29 committee's analysis of nationwide approaches to addressing such deficien-  
30 cies shows that the most significant trend has been toward state oversight of  
31 the public defense system that includes statewide standards and, in many in-  
32 stances, state moneys; and

33 WHEREAS, the Idaho Criminal Justice Commission's Public Defense Sub-  
34 committee has narrowed its efforts to consideration of a public defense  
35 model where, although public defense delivery at the trial level would re-  
36 main primarily funded and administered at the county level, the authority  
37 for a public defense system would be statutorily delegated to an independent  
38 commission authorized to promulgate and enforce certain rules and standards  
39 with which counties are required to comply, including: statewide training  
40 and continuing legal education requirements for public defense attorneys;  
41 data reporting requirements; requirements relating to contracts entered  
42 into between counties and private providers of public defense services;

1 standards for the qualification of public defense attorneys; and caseload  
2 and workload standards for public defense attorneys; and

3 WHEREAS, the Idaho Criminal Justice Commission's Public Defense Sub-  
4 committee has also considered a public defense model where the counties'  
5 statutory authority to provide for counsel at public expense would be lim-  
6 ited to the creation of an office of public defender and a requirement that  
7 each county participate in a statewide association of public defense attor-  
8 neys.

9 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Ses-  
10 sion of the Sixty-second Idaho Legislature, the House of Representatives  
11 and the Senate concurring therein, that the Legislative Council is autho-  
12 rized to appoint a committee to undertake and complete a study of potential  
13 approaches to public defense reform including, but not limited to: the  
14 creation, funding and implementation of a public defense commission; and  
15 requirements that counties operate offices of public defenders and join a  
16 statewide association of public defense attorneys. The committee shall  
17 consist of ten legislators, with five from the Senate and five from the House  
18 of Representatives. The Legislative Council shall authorize the committee  
19 to receive input, advice and assistance from interested and affected parties  
20 who are not members of the Legislature.

21 BE IT FURTHER RESOLVED that the cochairmen of the committee are autho-  
22 rized to appoint advisors with technical expertise in the area of public de-  
23 fense and are expected to receive input from stakeholders in the criminal  
24 justice system of Idaho.

25 BE IT FURTHER RESOLVED that any advisors to the committee who are not  
26 legislative members shall not be reimbursed from legislative funds for per  
27 diem, mileage or other expenses and shall not have voting privileges.

28 BE IT FURTHER RESOLVED that the commission shall report its findings,  
29 recommendations and proposed legislation, if any, to the Second Regular Ses-  
30 sion of the Sixty-second Idaho Legislature.