

Senate Bill 273

Published  
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**CHAPTER 479**

**AN ACT** to create 957.265 of the statutes, relating to a public defender at appellate level.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

957.265 of the statutes is created to read:

957.265 PUBLIC DEFENDER. (1) OFFICE CREATED; QUALIFICATIONS; APPOINTMENT; TERM. The supreme court shall employ a state public defender who shall be an attorney licensed to practice law in this state. He shall be employed for a period of 5 years and shall continue to serve until re-employed, or until a successor is employed. During any such 5-year period he may be removed by the supreme court only for cause. He shall devote full time to the performance of his duties.

(2) SALARY. The salary of the state public defender shall be determined from time to time by the supreme court but shall not exceed the salary paid to the senior assistant attorney general who represents the state in criminal appeals. He may, with the approval of the supreme court, employ one or more clerical assistants whose compensation shall be the

same as that paid to persons performing comparable service in the office of the attorney general.

(3) **QUARTERS.** The office of the state public defender shall be in the state capitol.

(4) **EXPENSES.** The state public defender and his employes shall be reimbursed for travel, lodging and subsistence whenever required in the performance of his duties and in the same manner as other state officers and employes.

(5) **DUTIES.** The duties of the state public defender shall be:

(a) To determine the indigency subject to court review, of any person convicted of a felony or a gross misdemeanor, or of any person confined to central state hospital or an institution designated by the department of public welfare, if any such person petitions either the supreme court or the state public defender requesting relief from his conviction, imprisonment or confinement.

(b) At the request of any such person determined by the state public defender to be indigent, or at the request of the supreme court, to prosecute a writ of error, appeal, writ of habeas corpus or other post-conviction remedy in behalf of such person before that court, if the state public defender is first satisfied that there is arguable merit to the proceeding.

(c) Upon authorization of the supreme court to prosecute any post-conviction remedy in the trial court in behalf of any person convicted of a felony or of a gross misdemeanor, whom the state public defender has determined to be indigent.

(d) Upon authorization of the supreme court, to represent any person confined to central state hospital in any proceedings for re-examination of his mental condition initiated under ss. 957.11 (4) and 957.13 (4) whom the state public defender determines to be indigent.

(e) To perform all other duties necessary or incidental to the performance of any of the specific duties herein enumerated.

(6) **SUPREME COURT MAY APPOINT.** Nothing in sub. (5) shall prevent the supreme court from appointing counsel for indigent persons convicted of crime, or confined to central hospital for the insane, in those situations where the state public defender deems the application of such persons is without arguable merit or in other situations where the court determines it advisable that the state public defender not act. The court shall also be empowered to continue the appointment of counsel, who represented any such convicted indigent criminal defendant in the trial court, to prosecute a writ of error, appeal, writ of habeas corpus or other post-conviction remedy.

Approved December 15, 1965.