

Common Themes

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- Listening Sessions
 - Surveys
 - State Comparisons

What we heard...

- Overall South Dakota has quality lawyers providing indigent legal services
- Variance among urban and rural areas in structure to provide legal services
 - Some are satisfied with current structure while others struggle
- Lack of available attorneys is a universal challenge
- Conflict cases are difficult to manage
- Increased indigent defense training and mentorship widely supported
- Statewide office concept largely supported
 - Particularly for Appeals and Habeas
 - Concern on who makes appointments and need to ensure not a political process.
- Costs are increasing
- Collection of court appointed Attorney fees is difficult
- Dollars are a universal challenge
 - Current state structure for reimbursement is minimal
- Current rate of pay largely viewed as inadequate
 - Travels costs are also inadequate

Potential Considerations

- State Commission
- State Office
- Training/Mentorship
- Attorney Availability
- Funding
- Implementation

Creation of Statewide Commission

State public defense commission with members appointed by multiple appointing authorities

Provides high level overview and framework related to the delivery of indigent legal defense services

Commission oversees an Executive Director and immediate staff (State Office)

State Office

- Oversees public defense system on a daily basis
- Provides direct representation for appellate and habeas cases
 - Could also consider conflict cases, major felonies, abuse and neglect cases and juvenile delinquency.
 - Would not handle misdemeanor cases
- Contract with attorneys for services or state funded positions would need to be determined
- Oversees list of approved attorneys/offices to handle criminal, juvenile and abuse and neglect cases

State Office (continued)...


- Mandatory training and review requirements to be approved attorney/office
 - Develop and recommend rules or statutory changes to the Supreme Court and Legislature.
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- Could have one office in Pierre and regional offices
 - May need to start with contract attorneys to reduce administrative cost/overhead and build personnel to handle

State Office (continued...)

Oversees billing before submitted to County if contract or appointed attorney



Assists with obtaining conflict counsel from list of available attorneys when requested



Monitors caseloads for appointed attorneys and staffing needs for PDOs

Training/Mentorship



State public defense office coordinates training programs statewide.



State funds available to reimburse attorneys for attending required and/or approved trainings overseen by the State Office.



Develop more formalized mentorship programs for attorneys providing indigent legal representation.

Attorney Availability/Compensation

Need to make indigent defense work attractive to the Bar

- Training opportunities
- Mentorships
- Internships/law school clinics
- Recruitment efforts led by State Office

Work cooperatively to support Rural Attorney Recruitment Program

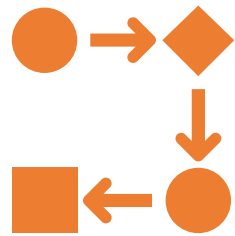
Current rates are too low to remain competitive.

- Travel reimbursement rates should represent $\frac{1}{2}$ the hourly rate for time in travel status plus mileage expense reimbursement at the current state rate
- Hourly rates should be based on analysis of comparable positions and reexamined each year by the State Commission.
 - No longer tied to employee cost of living

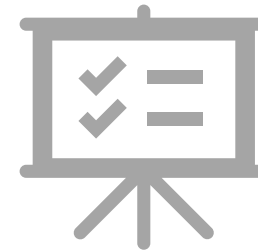
Funding

- Significant investment by the State to offset current public defender costs to counties through Indigent Legal Defense Fund and fund statewide office
- How much local control in options to provide indigent legal defense? If County utilizes approved attorney/office could be subject to state reimbursement for costs from Indigent Legal Defense Fund
 - County may deliver services via PDOs, contracts or individual appointment or combination thereof but process and attorneys approved by the Commission to be eligible for reimbursement
 - Balance of statewide oversight v. flexibility
- Current reimbursement fund dollars redirected to new funding mechanism.
- Utilize state funding to incentivize additional training and use of approved attorneys

Implementation



What does implementation period look like?



Staged implementation

Phased-in approach recommended

Develop initial stages and budget

Variables may be outside the control of the Task Force but should highlight priorities and potential phases.