

**IDAHO ASSOCIATION OF COUNTIES
RESOLUTION NUMBER 2014-01**

**IDAHO PUBLIC DEFENDER SYSTEM
Unanimously Adopted by the IAC Membership
February 5, 2014**

STATUTES AFFECTED: Idaho Code Sections 19-851 – 19-872

COUNTY OFFICES AFFECTED: Commissioners and Courts

FISCAL IMPACT: Approximately \$22 million current county contribution plus additional state contribution of \$10 million or greater.

ISSUE: The system of providing trial level public defense in Idaho likely does not meet the requirements imposed by the 6th Amendment to the U.S. Constitution and Article I, Section 13 of the Idaho Constitution. Consequently, and as a state responsibility, the Idaho Legislature is required to address the issue to insure a constitutional system of trial level public defense.

PROPOSED POLICY: The Idaho Association of Counties supports the work of the Public Defense Reform Interim Committee to ensure that the trial level public defense system in Idaho is constitutional. This will require that the State of Idaho take control of and fund the trial level public defense system in Idaho, that will include standards and funding related to education and training, oversight, appropriate contracts and providing a method of handling conflict cases. Idaho's counties strongly support the creation of a unified, statewide trial level public defense system. The counties only involvement will consist of continued funding in an amount not to exceed the current level of approximately \$22 million with additional funding to be provided by the State of Idaho.

BACKGROUND: Both the United States Constitution (6th Amendment) and the Idaho Constitution (Article I, Section 13) guarantee the right to counsel for criminal defendants when faced with the potential of the loss of liberty. The trial level public defense system in the State of Idaho is the responsibility of the State that has been delegated to the counties with the counties currently required to fund, oversee and administer the trial level public defense system pursuant to Idaho Code Sections 19-851 through 19-872. Counties currently appropriate approximately \$22 million in support of the system. The appellate level public defense system is provided for and funded by the State.

The Idaho Criminal Justice Commission and the Idaho Legislature's Public Defense Reform Interim Committee have or are in the process of thoroughly reviewing Idaho's trial level public defense system and have determined that the system may be constitutionally deficient. Legislation was adopted in the 2013 Session of the Idaho Legislature at the recommendation of the Idaho Criminal Justice Commission as a starting point to address the trial level public defense system. The legislation adopted and now law included House Bills 147, 148 and 149.

Idaho's counties strongly support the creation of a constitutionally adequate trial level public defense system with the understanding that the funds currently generated from property tax dollars are insufficient to fund a constitutional trial level public defense system. This will require the counties to continue appropriating the \$22 million with any additional funding to be provided by the State.

ARGUMENTS FOR: Counties recognize the need for a constitutionally adequate trial level public defense system. Since providing a constitutional public defense system is the responsibility of the State and counties have no real authority over standards, performance or training, counties support a unified state system with no county responsibility other than continued financial support.

SPONSOR: Kootenai County Commissioner Todd Tondee