

**NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT

SPONSOR: Sanchez M. DATE TYPED: 02/21/01 HB \_\_\_\_\_  
 SHORT TITLE: Chief Public Defender Duties SB 198  
 ANALYST: Belmares

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |      | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|------|----------------------|---------------|
| FY01                    | FY02 | FY01                        | FY02 |                      |               |
|                         |      |                             | NFI  |                      |               |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Chief Public Defender  
 Administrative Office of the District Attorneys  
 General Services Department

### SUMMARY

#### Synopsis of Bill

Senate Bill 198 allows the Chief Public Defender to certify non-attorney litigation contracts and expenditures as litigation exemptions for purposes of filing contract briefs with the Department of Finance and Administration. Additionally, Senate Bill 198 formally authorizes the Public Defender Department to represent indigent persons who are not yet actively charged with a crime but whose constitutional and legal rights clearly warrant the advice of an attorney.

#### Significant Issues

- c Procurement Code: The Public Defender Department is actively engaged in litigation at the trial, appellate, and post-conviction levels. Senate Bill 198 allows the Chief Public Defender to certify non-attorney litigation contracts and expenditures as litigation exemptions for purposes of filing contract briefs with the Department of Finance and Administrations. Presently, the Department of Finance and Administration must approve all professional and non-professional expert witness contracts. The Public Defender Department claims the proposed language in Senate Bill 198 would assist in criminal litigation by not seeking lengthy Department of Finance approval or agreement on a “sole source” exception from the Procurement Code.
- Pre-prosecution Counsel: Senate Bill 198 recognizes the Public Defender Department is frequently called upon to provide counsel for “pre-prosecution” persons under the Prosecu-

tion Diversion Act (31-16A-1 through 8) and for grand jury “targets” who require representational tasks related to the grand jury appearance. The Public Defender Department asserts indigent persons who are uncharged but who face serious murder or felony charges need the representation of an attorney who should assist the client and not merely “confer” with an individual. Frequently, an attorney must deal with client health issues, language/interpreter courses, immigration, and other issues for the uncharged. Without the statutory authority to represent, an attorney does not have sufficient standing to adequately assist the client as well as the police, sheriff and the courts. Senate Bill 278 brings the Public Defender Act into conformity with representation tasks already under taken by the Public Defender Department.

EB/njw:ar