

Editorial: State must protect wrongly accused

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Helping low-income defendants find quality legal aid is a step toward reducing prison population, costs



(Photo: Clarence Tabb, Jr. / The Detroit News)

America's criminal justice system is one of the best in the world, but it's not foolproof and innocent people sometimes are wrongly convicted. And Michigan has had one of the worst records in the nation for protecting the innocent. The state has a long way to go to offer more support to those who need it most.

In a 2011-12 study, Michigan ranked 44th among states in funding indigent defense. But that could change.

The topic is a focus of Gov. Rick Snyder's criminal justice initiative and the impetus behind the formation of the Michigan Indigent Defense Commission. It was established in 2013 to improve the quality of legal representation for low-income individuals.

The defense commission grew out of an advisory council appointed by Snyder, explains Jonathan Sacks, director of the MIDC. The advisory commission study found that "Michigan's 83 different counties had more than 83 different systems of indigent defense." The most significant fact was that only the counties were financing indigent justice. Nationwide, most states provide funds.

Sacks says the defense commission is in the early stages of establishing new standards for indigent justice. It will then work with local officials to draft compliance plans that the state must fund.

The process is lengthy but holds promise.

The standards must be approved by the Michigan Supreme Court and then distributed to every county, which would have 180 days to work with the commission to formulate their specific plans. Sacks says there could be a half dozen or so models for the counties to choose from to meet their needs.

He says he doesn't expect the high court to review the standards until March or April of 2016.

"We're trying very hard to be very open and transparent," says Sacks. "We want to do this through partnership with counties, judges and lawyers."

Some people do get wrongly convicted, and it takes finding new evidence to prove their innocence. When this happens, legislation sponsored by Sen. Steve Bieda, D-Warren, would address compensation for those individuals. The bill warrants study.

Bieda's bill calls for payment of \$60,000 for each year of imprisonment, plus economic damages including lost wages, attorney fees, and actual medical expenses related to imprisonment. There are restrictions. All convictions must be overturned with new evidence and the individuals must be acquitted at a retrial. Anyone also serving time on other convictions would not be eligible.

The lawmaker says about 30 states offer some type of payment, ranging from \$40,000 to \$80,000 for each year wrongly imprisoned. He argues his bipartisan legislation actually may save money because it would eliminate potential lawsuits from those exonerated. Once given compensation, they would have to sign off on pursuing further legal action.

Bieda has tried to cover the bases, but the amount of the compensation has been an issue in the past and demands further discussion.

Snyder has directed the formation of the defense commission, but he does not take a stand on pending legislation — although he has supported the concept of compensation.

The commission has the potential to solve Michigan's patchwork indigent defense system and deserves support.

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