

By Mr. Atkins of Acton, petition of Chester G. Atkins, Max Volterra and Martin A. Linsky relative to the appointment of members of the Massachusetts Defenders Committee and related matters. The Judiciary.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Two.

AN ACT TO GIVE THE GOVERNOR POWER TO APPOINT MEMBERS OF THE MASSACHUSETTS DEFENDERS COMMITTEE AND FOR OTHER CHANGES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 34D of chapter 221 of the General  
2 Laws, as most recently amended by chapter 369 of the acts of  
3 1970, is hereby amended by striking the section and inserting  
4 in its place the following: —

5 *Section 34D.* There shall be a Massachusetts defenders com-  
6 mittee consisting of eleven persons, at least six of whom shall  
7 be lawyers, at least three of whom shall be poor persons, and  
8 each of whom shall hold office during the term for which he is  
9 appointed and until his successor in office has qualified. Upon  
10 completion of a term of a member of said committee his  
11 successor shall be appointed for a term of four years. Every  
12 new appointment shall be made by the governor, and vacancies  
13 shall be filled by the governor for the unexpired term. Mem-  
14 bers of said committee may be removed by the governor. No  
15 member of the committee shall receive any compensation for  
16 his services but each member shall be reimbursed for actual  
17 traveling expenses incurred by him in attending the committee  
18 meetings.

19 The committee shall, except as hereinafter limited, provide  
20 to indigent litigants, as defined in section thirty-four E, the  
21 effective assistance of counsel at every stage of a criminal  
22 proceeding commenced in any court of the commonwealth.

23 The committee shall adopt, and may from time to time revise,  
24 such rules and regulations as may be necessary for the conduct  
25 of its affairs, including rules for the limitation of its caseload  
26 so that to the extent the committee provides counsel, such  
27 counsel may be effective in the opinion of the committee.  
28 Except as limited by its rules and regulations, the committee  
29 shall accept appointments by any court and may on its own  
30 initiative take other cases for indigent litigants at any stage  
31 such criminal proceedings. Before any court assigns counsel  
32 probation officer shall prepare and furnish the court with a  
33 written report containing said officer's opinion as to the defen-  
34 dant's indigency and sufficient factual information on which  
35 the court may make an independent determination as to  
36 whether counsel should be assigned.

37 The committee shall appoint a chief public defender for a  
38 term of four years who shall carry out such duties as the  
39 committee may authorize, including the certification of pay-  
40 ments under section twenty of chapter twenty-nine. Said com-  
41 mittee shall also appoint such assistant public defenders and  
42 other professional, clerical and other assistants as may be neces-  
43 sary to carry out its duties, and shall provide suitable accom-  
44 modations throughout the commonwealth. Such employees  
45 appointed by the committee shall not be subject to the pro-  
46 visions of chapter thirty-one. Said committee may accept gifts,  
47 grants or contributions from any source, whether public or  
48 private, and may expend the same.

1 SECTION 2. Said chapter 221 is hereby further amended by  
2 inserting after said section 34D, as amended by section 1 of  
3 this act, the following new section: -

4 *Section 34E.*

5 (1) A litigant shall be deemed indigent for purposes of the  
6 assignment of counsel in criminal proceedings if (a) he receives  
7 any federal, state or local public assistance, including medical  
8 assistance or any rental supplement or subsidy, or (b) his net  
9 or takehome income does not exceed the limits set out in  
10 subsection (2) of this section, or (c) he is unable to pay private  
11 counsel a fee consistent with the minimum fee schedule of the

12 Massachusetts or a local bar association without depriving him-  
 13 self or his dependents, if any, of the necessities of life, in-  
 14 cluding shelter, food and clothing.

15 (2) The limits referred to in subsection (1) shall be as  
 16 follows, except as modified in accordance with subsection (3):

	<u>ANNUAL</u>	or <u>NET INCOME</u> <u>MONTHLY</u>	or <u>WEEKLY</u>
Litigant	2400	200	43.08
Additional sum allowed for each dependent	900	75	17.31

17 (3) The attorney general is hereby authorized and directed  
 18 to adopt and promulgate regulations from time to time but at  
 19 least by June thirtieth of every odd numbered year under the  
 20 provisions of chapter thirty A, modifying the limits set out in  
 21 subsection (2), in accordance with changes, if any, in the  
 22 United States consumer price index.

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