

**A RESOLUTION RECOGNIZING THE EXCESSIVE
CASELOADS BEING HANDLED BY KENTUCKY
PUBLIC DEFENDERS AND REQUESTING THE GENERAL
ASSEMBLY TO INCREASE SIGNIFICANTLY FUNDING IN ORDER TO
LOWER THE CASELOADS OF KENTUCKY'S
PUBLIC DEFENDERS.**

WHEREAS, Section Ten of the Kentucky Constitution and the Sixth and Fourteenth Amendments to the United States Constitution guarantee the right to counsel for persons charged with crimes and the courts of Kentucky and the United States recognize it is the obligation of the state to provide counsel to those who cannot afford counsel and whose liberty is threatened with a criminal charge.

WHEREAS, the Commonwealth of Kentucky has established the Department of Public Advocacy as the state entity responsible for providing counsel to indigents accused of crimes.

WHEREAS, Kentucky public defenders cannot limit their caseloads to ethical, manageable levels in the same way that private lawyers can, since public defender caseloads result from Court-ordered appointments rather than voluntary selection of new clients.

WHEREAS, caseloads for public defenders have gone up by 37% over the past five years and the Department of Public Advocacy handled 134,584 cases in FY05, causing individual public defenders to open 483 cases each at the trial level in FY05, an amount that is 189% of nationally recognized standards and giving Kentucky public defenders only 3.8 hours to spend on each case.

WHEREAS, the Public Advocacy Commission has found that excessive caseloads are affecting the quality of representation being rendered by Kentucky public defenders, compromising the reliability of verdicts, even threatening the conviction of innocent persons and causing ethical ramifications that are of deep concern to the Kentucky Bar Association.

WHEREAS, the Public Advocacy Commission found that Kentucky continues to fund indigent defense at the bottom of the nation in terms of cost-per-case, that other parts of the criminal justice system, including judges and prosecutors, are affected and concerned by excessive public defender caseloads and the criminal justice system is less efficient and less effective whenever any part of the system is under funded, making it vital that there be parity among the different parts of the criminal justice system, including indigent defense.

WHEREAS, the Kentucky Bar Association has a significant interest in the quality of representation being provided by Kentucky lawyers to indigents accused of crime.

WHEREAS, the Public Advocacy Commission has called for full funding of the public defender system, requiring an increase in the numbers of public defenders to reduce overall trial level caseloads to no more than 400 new cases per year per lawyer and has recommended that a minimum of \$10 million be added to the Department of Public Advocacy's funding level in order to bring Kentucky into the mid-level area in comparison with other programs across the country.

NOW, THEREFORE,

Be it RESOLVED that the Board of Governors of the Kentucky Bar Association Calls Upon the Commonwealth of Kentucky to:

I Fully fund the Kentucky public defender system in order to reduce excessive caseloads to no more than 400 new cases per year per lawyer to enable Kentucky's public defenders to provide competent and ethical representation to indigents accused of crimes and to provide adequate administrative support to public defender lawyers; . .

II. To provide sufficient funding for private lawyers handling conflict cases to make the compensation significant rather than minimal.

III. To provide parity of resources among the different components of the criminal justice system in order to achieve a system that is balanced, efficient, and fair.

THIS 18th day of November 2005.

KENTUCKY BAR ASSOCIATION

BY: 

DAVID SLOAN
PRESIDENT

ATTEST:



BRUCE K. DAVIS
EXECUTIVE DIRECTOR