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Nevada court urged to delay indigent defense reforms

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CARSON CITY, Nev.—The Nevada Supreme Court will be urged Tuesday to grant exemptions to, delay or simply set aside its new standards aimed at ensuring indigents charged with crimes get adequate legal counsel.

Justices are scheduled to hear from District Judge Richard Wagner, who wants an exemption for his district which encompasses Humboldt, Lander and Pershing counties; and from Humboldt County District Attorney Russell Smith and Pershing County District Attorney Jim Shirley, requesting the order be set aside.

The high court also will review a letter from Washoe County commissioners concerned about the cost of implementing the order and asking for a delay until mid-2009 of the Jan. 4 order on indigent representation.

The Supreme Court order stemmed from recommendations in December by the court's Indigent Defense Commission, which spent much of 2007 studying ways to improve services for people who can't afford to hire their own lawyers.

In Washoe County, the cost could be as much as \$10 million a year for more public defenders, prosecutors and staff and more jail time for defendants, according to John Berkich, assistant county manager.

Justice Michael Cherry, who chaired the Indigent Defense Commission, said Friday that Clark County representatives also are expected to request a delay. Cherry added that backers of the ruling, including public defenders and the American Civil Liberties Union of Nevada, are expected to attend the Tuesday session.

While justices said indigents charged with crimes should have adequate legal counsel, they stopped short of imposing caseload limits that would require more public defenders in Las Vegas and Reno. Studies on such limits will be completed by mid-July and the court will hold a Sept. 5 hearing to consider the limits.

The Jan. 4 order notes that the average caseload for a public defender is 364 felony and gross misdemeanor cases in the Las Vegas area and 327 cases in the Reno area. The standard recommended by the National Legal Aid and Defender Association is 150 cases.

Besides consideration of caseload standards at the Sept. 5 hearing, the court will consider a commission recommendation that indigent defendants in all counties except Clark, Washoe and Elko be represented by the state public defender's office.

The commission also recommended that the state office be funded entirely by the state. Currently, county governments fund 80 percent of the cost for defense services they get from the office.

The Supreme Court's order calls for careful screening to determine whether defendants would face substantial financial hardships if they had to hire private counsel. It also created a permanent state commission to oversee indigent defense.

The order also said judges shouldn't be

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involved in the appointment of defense lawyers who represent indigents in their courts. The order also calls for statistics on indigent defendants, including their age, gender, race and ethnicity.

Advocates of the caseload standards included Clark County Public Defender Phil Kohn, who has said defenders throughout Nevada face overwhelming workloads and in some cases may have to withdraw on ethical grounds rather than represent an indigent without enough preparation.

Washoe County Public Defender Jeremy Bosler told the high court that his attorneys have an average of only a few hours to spend on each case they get. The court also heard testimony about indigent defense crises in rural counties.

The indigent defense commission, made up of jurists, court administrators and equal-justice advocates, was formed following a Las Vegas Review-Journal series last year that detailed problems with Clark County's public defender system.

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