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LB 760

Wehrbein's question, Senator Brashear I think answered it. But I want to just add a note or two. If a person cannot afford to hire counsel, the court does make the appointment. If a person wants to hire his or her own counsel, the judge cannot order other counsel, because the constitution guarantees a person the right to counsel of his or her choice. If, after that first case that Senator Wehrbein mentioned, where it was found subsequently that the counsel was inadequate, to the point where a new trial was necessary, if the defendant has money to hire a lawyer, the defendant is free to hire the lawyer of his or her choice, and the judge cannot intrude and say, we're going to order the state to assume the defense. The only time the court could get involved in that second trial is if the defendant at this point cannot afford a lawyer. If that is the set of circumstances, then the Public Advocacy Council may...Commission, may or may not be involved, depending on what the judge decides to do. But I have a question of Senator Brashear relative to the language about retirement in the bill.

SENATOR CUDABACK: Senator Brashear.

SENATOR CHAMBERS: Senator Brashear,...

SENATOR BRASHEAR: Yes, Mr. President.

SENATOR CHAMBERS: ...no amendment has been drafted to strike that language from this bill, has there been?

SENATOR BRASHEAR: No.

SENATOR CHAMBERS: I heard you say that this would be reconciled by E & R?

SENATOR BRASHEAR: Yes. Yes, sir, that's what we're advised.

SENATOR CHAMBERS: And that has been established as the way something like this will be handled? The reason I'm saying it,...

SENATOR BRASHEAR: Because we don't have...we're dealing with the fee aspect here as a composite part of the court fee, with