

Dembowski moved Amendment 7B.
The motion failed.

December 1, 2023

7B

DPD Assigned Counsel2

A. Sanders

Sponsor: Dembowski

Proposed No.: 2023-0355

1 **AMENDMENT TO PROPOSED ORDINANCE 2023-0355, VERSION 2**

2 On page 37, after line 834, insert:

3 "SECTION 42. Ordinance 19546, Section 55, as amended, is hereby amended as
4 follows:

5 PUBLIC DEFENSE - From the general fund there is hereby appropriated to:

6 Public defense \$0

7 ER1 EXPENDITURE RESTRICTION:

8 Of this appropriation, moneys may not be encumbered or expended for twenty
9 FTE attorney positions that shall remain unfilled except as set out in this expenditure
10 restriction. For purposes of determining the appropriate FTE attorney staffing level for
11 the department of public defense during the biennium, the office of performance, strategy
12 and budget's staffing model forecasted the department of public defense should have an
13 average monthly total of 498 felony assignments ("the base load"). To avoid the impact
14 of sustained but unpredictable increases of felony filings by the prosecuting attorney's
15 office on the department of public defense, if in each month of a two month-rolling
16 period, the total number of felony assignments meets or exceeds the base load, as
17 adjusted in accordance with this expenditure restriction, by multiples of 8, then the
18 department of public defense is authorized to expend or encumber moneys to fill one of

19 the 20 FTE attorney positions for each multiple of 8 additional felony assignments. The
20 initial base load number of 498 shall incrementally be increased by 8 for each FTE
21 attorney position authorized in accordance with this expenditure restriction. For
22 explanatory purposes only, if in January the number of felony assignments exceeds the
23 base load of 498 by 9 and in February the number exceeding the base load is 17 felony
24 assignments, then the department is authorized to fill 1 FTE attorney position because for
25 January and February the base load was exceeded by one multiple of 8. In March the
26 base load would be reset at an average of 506 felony assignments. If in March the felony
27 assignments exceed the adjusted based load of 506 by 9 felony assignments, then the
28 department would be authorized to fill 1 of the remaining 19 FTE attorney positions
29 because for February and March, the case load exceeded the adjusted base load of 506
30 felony assignments by a multiple of 8 and in April the base load would be adjusted to
31 514. If in April the number of felony assignments did not exceed the adjusted base load,
32 which is 514, by a multiple of 8 and in May the number exceeding the adjusted base load
33 is 12 felony assignments, then the department would not be authorized to fill 1 FTE
34 attorney position because for April and May the adjusted base load was not exceeded by
35 a multiple of 8 and the adjusted base load for June would remain at 514 felony
36 assignments. If in June the base load, which is 514, was exceeded by 9 felony
37 assignments, then the department would be authorized to fill one of the remaining 18
38 FTE attorney positions because for May and June the base load of 514 was exceeded by
39 one multiple of 8 and the new adjusted base load for July would be 522.

40 ER2 EXPENDITURE RESTRICTION:

41 Of this appropriation, \$600,000 shall be expended or encumbered solely to
42 increase assigned counsel rates to ensure that assigned counsel rates are paid at a rate at
43 or above the state average, calculated using the market analysis in the assigned counsel
44 pay rate study transmitted to the council with Motion XXXX (Proposed Motion 2023-
45 0275)."

46 Renumber the remaining sections consecutively and correct any internal references
47 accordingly.

48

49 **EFFECT prepared by A. Sanders: *Would require the Department of Public Defense***
50 ***to spend \$600,000 in existing appropriation authority to ensure that assigned counsel***
51 ***rates are paid at a rate at or above the state average, calculated using the market***
52 ***analysis in the Assigned Counsel Pay Rate Study transmitted with P.M. 2023-0275.***