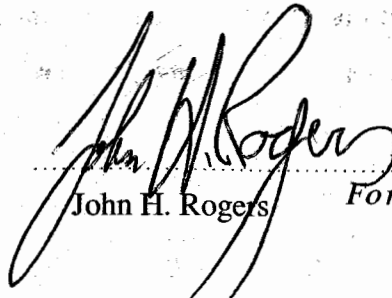


The Commonwealth of Massachusetts

House of Representatives, July 30, 200

The Committee on **WAYS AND MEANS**
to whom was referred the Bill relative to private attorneys providing public counsel services,
(House, No. 4321),

REPORT that the same ought to pass, with an amendment substituting therefore the
accompanying bill (House, No. **5038**),



John H. Rogers

For the Committee.



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND FOUR

AN ACT RELATIVE TO PRIVATE ATTORNEYS PROVIDING PUBLIC COUNSEL SERVICES.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to provide compensation to attorneys providing public counsel services, therefore it is hereby declared to be an emergency act necessary for the preservation of the public convenience.

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

SECTION 1.

Item 0321-1510 of section 2, of chapter 149 of the acts of 2004 is hereby amended by striking, "and provided further, that the rates of compensation paid for private counsel services from item shall be the same as the rates paid in fiscal year 2004" and inserting in place thereof the following:—

and provided further that the rate of compensation paid for private counsel services shall be \$7.50 per hour greater than the amount paid per hour in fiscal year 2004.

SECTION 2. There shall be a commission to study the provision of counsel to indigent persons who are entitled to the assistance of assigned counsel either by constitutional provision, or by statute, or by rule of court. The commission shall be composed of 9 persons; including 3 members to be appointed by the speaker of the house of representatives, 3 by the president of the senate, and 3 by the governor of the commonwealth.

The commission shall examine all aspects of the provision of counsel in such cases, including but not limited to (i) the frequency of the assignment of counsel to indigent persons, (ii) the feasibility of changes, consistent with chapter 211D of the General Laws, to control or reduce the frequency of case assignments, (iii) the cost of providing counsel in such cases; (iv) the adequacy of existing procedures for determining and verifying the eligibility of persons who request the assignment of counsel; (v) the adequacy of existing procedures for the assessment and collection of counsel fees from persons who have been determined to be eligible for assigned counsel; (vi) the existing balance, and the adequacy of that balance, in each practice area and county between the

provision of legal representation by salaried staff counsel and certified private counsel; (vii) the frequency with which neither salaried staff counsel nor certified private counsel are available to represent a defendant entitled to publicly funded representation; (viii) the impact of the current hourly rate paid to certified private counsel on the availability or non-availability of such counsel to defendants entitled to publicly funded representation; and (ix) the feasibility and potential benefits of providing representation to indigent persons predominantly through the assignment of salaried staff counsel rather than certified private counsel. The commission shall report its findings and recommendations to the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees on ways and means on or before February 1, 2005.

SECTION 3. The provisions of section 1 of this act shall take effect on August 1, 2004.