

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 429, As Amended

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO THE STATE PUBLIC DEFENSE COMMISSION; AMENDING SECTION 19-850,
2 IDAHO CODE, TO PROVIDE FOR A CERTAIN DUTY OF THE STATE PUBLIC DEFENSE
3 COMMISSION, TO MAKE TECHNICAL CORRECTIONS, AND TO PROVIDE A SUNSET
4 DATE.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 19-850, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 19-850. POWERS AND DUTIES OF THE STATE PUBLIC DEFENSE COMMISSION. (1)
10 The state public defense commission shall:

11 (a) Promulgate rules in accordance with the provisions of chapter 52,
12 title 67, Idaho Code, establishing the following:

13 (i) Training and continuing legal education requirements for de-
14 fending attorneys, which shall promote competency and consistency
15 in case types including, but not limited to, criminal, juvenile,
16 capital, abuse and neglect, post-conviction, civil commitment and
17 criminal contempt;

18 (ii) Uniform data reporting requirements and model forms for the
19 annual reports submitted pursuant to section 19-864, Idaho Code,
20 which shall include, but not be limited to, caseload, workload and
21 expenditures;

22 (iii) Model contracts and core requirements for contracts between
23 counties and private attorneys for the provision of indigent de-
24 fense services, which shall include, but not be limited to, com-
25 pliance with indigent defense standards;

26 (iv) Procedures and forms by which counties may apply to the com-
27 mission, pursuant to section 19-862A, Idaho Code, for funds to be
28 used to bring their delivery of indigent defense services into
29 compliance with applicable indigent defense standards;

30 (v) Procedures for administrative review and fair hearings in ac-
31 cordance with the Idaho administrative procedure act, which shall
32 include, but not be limited to, providing for a neutral hearing of-
33 ficer in such hearings;

34 (vi) Procedures for the oversight, implementation, enforcement
35 and modification of indigent defense standards so that the right
36 to counsel of indigent persons, as provided in section 19-852,
37 Idaho Code, is constitutionally delivered to all indigent persons
38 in this state; and

39 (vii) Standards for defending attorneys that utilize, to the ex-
40 tent reasonably practicable, taking into consideration factors
41 such as case complexity, support services and travel, the follow-
42 ing principles:

- 1 1. The delivery of indigent defense services should be inde-
2 pendent of political and judicial influence, though the ju-
3 diciary is encouraged to contribute information and advice
4 concerning the delivery of indigent defense services.
- 5 2. Defending attorneys should have sufficient time and pri-
6 vate physical space so that attorney-client confidentiality
7 is safeguarded during meetings with clients.
- 8 3. Defending attorneys' workloads should permit effective
9 representation.
- 10 4. Economic disincentives or incentives that impair defend-
11 ing attorneys' ability to provide effective representation
12 should be avoided.
- 13 5. Defending attorneys' abilities, training and experience
14 should match the nature and complexity of the cases in which
15 they provide services including, but not limited to, cases
16 involving complex felonies, juveniles and child protection.
- 17 6. The defending attorney assigned to a particular case
18 should, to the extent reasonably practicable, continuously
19 oversee the representation of that case and personally ap-
20 pear at every substantive court hearing.
- 21 7. There should be reasonable equity between defending
22 attorneys and prosecuting attorneys with respect to re-
23 sources, staff and facilities.
- 24 8. Defending attorneys should obtain continuing legal edu-
25 cation relevant to their indigent defense cases.
- 26 9. Defending attorneys should be regularly reviewed and
27 supervised for compliance with indigent defense standards
28 and, if applicable, compliance with indigent defense stan-
29 dards as set forth in contractual provisions.
- 30 10. Defending attorneys should identify and resolve con-
31 flicts of interest in conformance with the Idaho rules of
32 professional conduct and other applicable constitutional
33 standards.

34 Violation of or noncompliance with the principles listed in this
35 subparagraph does not constitute ineffective assistance of coun-
36 sel under the constitution of the United States or the state of
37 Idaho and does not otherwise constitute grounds for post-convic-
38 tion relief.

39 (b) On or before January 20, 2015, and by January 20 of each year there-
40 after as deemed necessary by the commission, make recommendations to
41 the Idaho legislature for legislation on public defense system issues
42 including, but not limited to:

- 43 (i) Enforcement mechanisms; and
- 44 (ii) Funding issues including, but not limited to, formulas for
45 the calculation of local shares and state indigent defense finan-
46 cial assistance.

47 (c) Review indigent defense providers and defending attorneys to eval-
48 uate compliance with indigent defense standards and the terms of state
49 indigent defense financial assistance.

1 (d) Notwithstanding the provisions of paragraph (a) (iv) of this sub-
2 section, establish temporary procedures and model forms by which coun-
3 ties may apply to the commission for state indigent defense financial
4 assistance pursuant to section 19-862A, Idaho Code, to be utilized un-
5 til rules promulgated pursuant to paragraph (a) (iv) of this subsection
6 are in full force and effect. Such temporary procedures shall not be
7 subject to administrative or judicial review.

8 (e) Hold at least one (1) meeting in each calendar quarter.

9 (f) On and after October 1, 2021, upon receipt of written notice from
10 three (3) or more boards of county commissioners comprising the second
11 judicial district, as described in section 1-803, Idaho Code, request-
12 ing participation under this subsection, the state public defense
13 commission shall have the authority and responsibility to administer,
14 supervise, and direct the public defenders of the participating coun-
15 ties in accordance with indigent defense standards and requirements set
16 forth below:

17 (i) On or about January 31 of each year after receipt of writ-
18 ten notice, the boards of county commissioners of the participat-
19 ing counties within the second judicial district shall provide the
20 local share of funding to the state public defense commission for
21 provision of indigent defense and related services; and

22 (ii) In addition to the state public defense commission's annual
23 budget, after the receipt of written notice, the commission may
24 apply for grants and receive funds for indigent defense pursuant
25 to section 19-862A, Idaho Code, to assist in meeting indigent de-
26 fense standards and address deficiencies, if any, identified by
27 the commission within the participating counties.

28 The provisions of this paragraph shall be null, void, and of no force and
29 effect on and after October 1, 2025.

30 (2) The state public defense commission may:

31 (a) Hire an executive director, who shall be responsible for the per-
32 formance of the regular administrative functions of the commission and
33 other duties as the commission may direct. The executive director shall
34 be a nonclassified state employee and shall be compensated as deter-
35 mined by the commission.

36 (b) Employ persons in addition to the executive director in other po-
37 sitions or capacities as it deems necessary to the proper conduct of
38 commission business and to the fulfillment of the commission's respon-
39 sibilities. The employees of the commission other than the executive
40 director shall be classified employees and shall receive as compen-
41 sation an annual salary payable on regular pay periods, the amount of
42 which shall be determined by the commission.

43 (c) Provide an office, office equipment and facilities as may be rea-
44 sonably necessary for the proper performance of its duties or the duties
45 of the executive director and other personnel.

46 (d) Provide training and continuing legal education for indigent de-
47 fense providers and defending attorneys in order to assist them in sat-
48 isfying requirements promulgated pursuant to subsection (1) (a) (i) of
49 this section, and use moneys received from a grant or trust or otherwise

1 received and appropriated to provide such training and continuing legal
2 education.

3 (e) Establish procedures by which indigent defense providers or a
4 county, through its board of county commissioners, may apply to the com-
5 mission for funds to be used for extraordinary litigation costs includ-
6 ing, but not limited to, expert witnesses, evidence testing and inves-
7 tigation, but not including expenses associated with capital crimes.

8 (f) Hire private counsel to represent the commission in hearings held
9 in accordance with the Idaho administrative procedure act and the rules
10 promulgated pursuant to subsection (1) (a) (v) of this section.