

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 40

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL
TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF POTENTIAL
APPROACHES TO PUBLIC DEFENSE REFORM.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Public Defense Reform Interim Committee was authorized by the Legislative Council at the recommendation of the members of the First Regular Session of the Sixty-second Idaho Legislature for the purpose of undertaking and completing a study of potential approaches to the public defense system; and

WHEREAS, the Public Defense Reform Interim Committee committed itself to the task of identifying potential deficiencies in Idaho's public defense system and developing recommendations for public defense reform; and

WHEREAS, the Public Defense Reform Interim Committee identified deficiencies in Idaho's public defense system. Such deficiencies include, but are not limited to: a lack of uniformity in financial contribution and recoupment practices, public defense contracting practices and data reporting; excessive caseloads and workloads; a lack of independence of the public defense function; a lack of training and resources for public defense attorneys; a lack of qualifications and experience standards for public defense attorneys; and the existence of flat fee contracts for public defense services; and

WHEREAS, the Public Defense Reform Interim Committee has sought to address such deficiencies through legislation that includes a public defense model where, although public defense delivery at the trial level would remain primarily funded and administered at the county level, certain oversight and administration authority would be statutorily delegated to an independent commission authorized to promulgate certain rules with which counties are required to comply, including statewide training and continuing legal education requirements for public defense attorneys and uniform data reporting requirements. In addition, the independent commission would be statutorily required to make recommendations to the First Regular Session of the Sixty-third Idaho Legislature, and may make recommendations during the regular sessions of the Legislature thereafter as deemed necessary, for legislation relating to core requirements for public defense contracts; standards for the qualification and experience of public defense attorneys; enforcement mechanisms; and funding issues; and

WHEREAS, the legislation recommended by the Public Defense Reform Interim Committee also provides for a public defense model where the counties' statutory duty to provide for counsel at public expense would be accomplished by one of the following: (1) establish an office of public defender; (2) establish a joint office of public defender with one or more other counties; (3) contract with an existing office of public defender; or

1 (4) contract with a defending attorney provided that no such contract shall
2 include a flat fee pricing structure; and

3 WHEREAS, during the course of its study, the Public Defense Reform In-
4 terim Committee identified additional issues in need of further study. Such
5 issues include funding issues; the municipalities' participation in and
6 potential financial contribution to the public defense system; and effec-
7 tive enforcement mechanisms to ensure compliance with public defense system
8 standards and requirements.

9 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-
10 sion of the Sixty-second Idaho Legislature, the House of Representatives and
11 the Senate concurring therein, that the Legislative Council is authorized
12 to appoint a committee to undertake and complete a study of potential ap-
13 proaches to public defense reform including, but not limited to: funding
14 issues; municipalities' participation in and potential financial contri-
15 bution to the public defense system; and effective enforcement mechanisms
16 to ensure compliance with public defense system standards and requirements.
17 The committee shall consist of ten legislators, with five from the Senate
18 and five from the House of Representatives. The Legislative Council shall
19 authorize the committee to receive input, advice and assistance from inter-
20 ested and affected parties who are not members of the Legislature.

21 BE IT FURTHER RESOLVED that the cochairmen of the committee are autho-
22 rized to appoint advisors with technical expertise in the area of public de-
23 fense and are expected to receive input from stakeholders in the criminal
24 justice system of Idaho.

25 BE IT FURTHER RESOLVED that any advisors to the committee who are not
26 legislative members shall not be reimbursed from legislative funds for per
27 diem, mileage or other expenses and shall not have voting privileges.

28 BE IT FURTHER RESOLVED that the commission shall report its findings,
29 recommendations and proposed legislation, if any, to the First Regular Ses-
30 sion of the Sixty-third Idaho Legislature.