

**A.B. 518**

ASSEMBLY BILL NO. 518—COMMITTEE ON WAYS AND MEANS

MAY 19, 2023

JOINT SPONSOR: SENATE COMMITTEE ON FINANCE

Referred to Committee on Ways and Means

SUMMARY—Revises provisions relating to indigent defense.  
(BDR 14-1194)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to indigent defense; establishing a formula for determining the maximum amount that a county may be required to pay for the provision of indigent defense services; prohibiting a county from seeking state contributions for the provision of indigent defense services in excess of the maximum county contribution for the costs of capital improvement projects relating to the provision of indigent defense services; requiring counties to submit financial status reports to the Department of Indigent Defense Services annually unless the Department requires such reports on a quarterly basis; making an appropriation to the Interim Finance Committee for allocation to the Department for the reimbursement of counties for costs in excess of their maximum contribution amounts for the provision of indigent defense services and for the funding of certain other costs relating to the provision of indigent defense services; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law requires the Board on Indigent Defense Services to adopt
- 2 regulations to establish a formula for determining the maximum amount that a
- 3 county may be required to pay for the provision of indigent defense services.



4 (NRS 180.320) **Section 5** of this bill removes that requirement, and **section 2** of  
5 this bill instead establishes a statutory formula for determining the maximum  
6 amount that a county may be required to pay for the provision of indigent defense  
7 services. **Section 2** also prohibits a county from seeking state contributions for the  
8 provision of indigent defense services in excess of the maximum county  
9 contribution, as calculated pursuant to the formula, for the costs of any capital  
10 improvement projects relating to the provision of indigent defense services.  
11 **Sections 4 and 6** of this bill make conforming changes by replacing references to  
12 the formula being established by regulation with references to the formula being  
13 established by statute.

14 **Section 3** of this bill requires a county to submit a financial status report to the  
15 Department of Indigent Defense Services on a form prescribed by the Department  
16 on or before May 31 of each year, unless the Department instead requires the  
17 submission of such reports on a quarterly basis.

18 **Section 7** of this bill makes an appropriation from the State General Fund to the  
19 Interim Finance Committee for allocation to the Department to fund the: (1)  
20 reimbursement of counties for costs in excess of their maximum contribution  
21 amounts for the provision of indigent defense services; (2) costs of the Department  
22 related to compliance with the *Davis v. State* (Nev. First Jud. Dist. Ct. Case No.  
23 170C002271B (Aug. 11, 2020)) consent judgment; (3) costs of the Office of the  
24 State Public Defender for contracting for legal services for complex cases; and (4)  
25 costs for training and pay parity for attorneys who provide indigent defense  
26 services.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 180 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1. *The maximum amount that a county is required***  
4 ***to pay for the provision of indigent defense services during a fiscal***  
5 ***year must not exceed the sum of:***

6 ***(a) In a county whose population is less than 100,000:***

7 ***(1) The actual costs to the county for providing indigent***  
8 ***defense services, minus any expenses relating to capital offenses***  
9 ***and murder cases, for the immediately preceding fiscal year; and***

10 ***(2) The percentage equal to the lesser of:***

11 ***(I) The cost of inflation, as measured by the Consumer***  
12 ***Price Index for All Urban Consumers, West Region (All Items), as***  
13 ***published by the United States Department of Labor for the***  
14 ***immediately preceding calendar year or, if that index ceases to be***  
15 ***published by the United States Department of Labor, the published***  
16 ***index that most closely resembles that index, as determined by the***  
17 ***Department; or***

18 ***(II) Five percent.***

19 ***(b) In a county whose population is 100,000 or more:***

20 ***(1) The actual costs to the county for providing indigent***  
21 ***defense services for the immediately preceding fiscal year; and***



1           (2) *The percentage equal to the lesser of:*

2            (I) *The cost of inflation, as measured by the Consumer*  
3 *Price Index for All Urban Consumers, West Region (All Items), as*  
4 *published by the United States Department of Labor for the*  
5 *immediately preceding calendar year or, if that index ceases to be*  
6 *published by the United States Department of Labor, the published*  
7 *index that most closely resembles that index, as determined by the*  
8 *Department; or*

9            (II) *Five percent.*

10          2. *If a county whose population is less than 100,000 chooses*  
11 *to transfer to the State Public Defender the responsibility of*  
12 *providing representation in:*

13           (a) *Direct appeals to the appellate court of competent*  
14 *jurisdiction, the cost of providing representation in those cases is a*  
15 *charge against the State and is excluded from the required*  
16 *maximum contribution of the county.*

17           (b) *Death penalty cases, the State Public Defender shall submit*  
18 *to the county an estimate for the representation. The county is*  
19 *responsible for paying 25 percent of the estimate and shall make*  
20 *such a payment in accordance with NRS 180.110. Such payments*  
21 *count towards the maximum contribution of the county.*

22          3. *A county may not seek state contributions for the provision*  
23 *of indigent defense services in excess of the maximum*  
24 *contribution of the county, as calculated pursuant to this section,*  
25 *for the costs of any capital improvement projects relating to the*  
26 *provision of indigent defense services, including, without*  
27 *limitation, costs relating to the construction of a room or area in a*  
28 *courthouse in which an attorney who provides indigent defense*  
29 *services may consult with a client or any other capital*  
30 *improvement project that is indirectly related to the provision of*  
31 *indigent defense services.*

32          **Sec. 3.** *1. A county shall submit a financial status report to*  
33 *the Department on a form prescribed by the Department:*

34           (a) *Except as otherwise provided in paragraph (b), on or*  
35 *before May 31 of each year; or*

36           (b) *Each quarter if the Department requires the submission of*  
37 *such reports on a quarterly basis pursuant to subsection 2.*

38          2. *In lieu of a county submitting a financial status report to*  
39 *the Department on an annual basis in accordance with paragraph*  
40 *(a) of subsection 1, the Department may instead require a county*  
41 *to submit a financial status report to the Department, on a form*  
42 *prescribed by the Department, on a quarterly basis.*

43          **Sec. 4.** NRS 180.110 is hereby amended to read as follows:

44          180.110 1. Each fiscal year the State Public Defender may  
45 collect from the counties amounts which do not exceed those



1 authorized by the Legislature for use of the State Public Defender's  
2 services during that year. The amount that a county may be required  
3 to pay must not exceed the maximum amount determined using the  
4 formula established ~~fby the Board pursuant to NRS 180.320.]~~ in  
5 *section 2 of this act.*

6 2. The State Public Defender shall submit to the county an  
7 estimate on or before the first day of May and that estimate becomes  
8 the final bill unless the county is notified of a change within 2 weeks  
9 after the date on which the county contribution is approved by the  
10 Legislature. The county shall pay the bill:

11 (a) In full within 30 days after the estimate becomes the final  
12 bill or the county receives the revised estimate; or

13 (b) In equal quarterly installments on or before the 1st day of  
14 July, October, January and April, respectively.

15 ➔ The counties shall pay their respective amounts to the State  
16 Public Defender who shall deposit the amounts with the Treasurer  
17 of the State of Nevada and shall expend the money in accordance  
18 with the State Public Defender's approved budget.

19 **Sec. 5.** NRS 180.320 is hereby amended to read as follows:

20 180.320 1. The Board on Indigent Defense Services shall:

21 (a) Receive reports from the Executive Director and provide  
22 direction to the Executive Director concerning measures to be taken  
23 by the Department to ensure that indigent defense services are  
24 provided in an effective manner throughout this State.

25 (b) Review information from the Department regarding  
26 caseloads of attorneys who provide indigent defense services.

27 (c) Direct the Executive Director to conduct any additional  
28 audit, investigation or review the Board deems necessary to  
29 determine whether minimum standards in the provision of indigent  
30 defense services are being followed and provided in compliance  
31 with constitutional requirements.

32 (d) Work with the Executive Director to develop procedures for  
33 the mandatory collection of data concerning the provision of  
34 indigent defense services, including the manner in which such  
35 services are provided.

36 (e) Provide direction to the Executive Director concerning  
37 annual reports and review drafts of such reports.

38 (f) Review and approve the budget for the Department.

39 (g) Review any recommendations of the Executive Director  
40 concerning improvements to the criminal justice system and  
41 legislation to improve the provision of indigent defense services in  
42 this State.

43 (h) Provide advice and recommendations to the Executive  
44 Director on any other matter.



1 2. In addition to the duties set forth in subsection 1, the Board  
2 shall:

3 (a) Establish minimum standards for the delivery of indigent  
4 defense services to ensure that such services meet the constitutional  
5 requirements and do not create any type of economic disincentive or  
6 impair the ability of the defense attorney to provide effective  
7 representation.

8 (b) Establish a procedure to receive complaints and  
9 recommendations concerning the provision of indigent defense  
10 services from any interested person including, without limitation,  
11 judges, defendants, attorneys and members of the public.

12 (c) Work with the Department to develop resolutions to  
13 complaints or to carry out recommendations.

14 (d) Adopt regulations establishing standards for the provision of  
15 indigent defense services including, without limitation:

16 (1) Establishing requirements for specific continuing  
17 education and experience for attorneys who provide indigent  
18 defense services.

19 (2) Requiring attorneys who provide indigent defense  
20 services to track their time and provide reports, and requiring the  
21 State Public Defender and counties that employ attorneys or  
22 otherwise contract for the provision of indigent defense services to  
23 require or include a provision in the employment or other contract  
24 requiring compliance with the regulations.

25 (3) Establishing standards to ensure that attorneys who  
26 provide indigent defense services track and report information in a  
27 uniform manner.

28 (4) Establishing guidelines to be used to determine the  
29 maximum caseloads for attorneys who provide indigent defense  
30 services.

31 (5) Requiring the Department of Indigent Defense Services  
32 and each county that employs or contracts for the provision of  
33 indigent defense services to ensure, to the greatest extent possible,  
34 consistency in the representation of indigent defendants so that the  
35 same attorney represents a defendant through every stage of the case  
36 without delegating the representation to others, except that  
37 administrative and other tasks which do not affect the rights of the  
38 defendant may be delegated. A provision must be included in each  
39 employment or other contract of an attorney providing indigent  
40 defense services to require compliance with the regulations.

41 (e) Establish recommendations for the manner in which an  
42 attorney who is appointed to provide indigent defense services may  
43 request and receive reimbursement for expenses related to trial,  
44 including, without limitation, expenses for expert witnesses and  
45 investigators.



1 (f) Work with the Executive Director and the Dean of the  
2 William S. Boyd School of Law of the University of Nevada, Las  
3 Vegas, or his or her designee, to determine incentives to recommend  
4 offering to law students and attorneys to encourage them to provide  
5 indigent defense services, especially in rural areas of the State.

6 (g) Review laws and recommend legislation to ensure indigent  
7 defendants are represented in the most effective and constitutional  
8 manner.

9 3. ~~The Board shall adopt regulations to establish a formula for  
10 determining the maximum amount that a county may be required to  
11 pay for the provision of indigent defense services.~~

12 —4.] The Board shall adopt any additional regulations it deems  
13 necessary or convenient to carry out the duties of the Board and the  
14 provisions of this chapter.

15 **Sec. 6.** NRS 180.450 is hereby amended to read as follows:

16 180.450 1. If a corrective action plan is recommended  
17 pursuant to NRS 180.440, the deputy director and the board of  
18 county commissioners must collaborate on the manner in which the  
19 county will meet the minimum standards for the provision of  
20 indigent defense services and the time by which the county must  
21 meet those minimum standards. Any disagreement must be resolved  
22 by the Board. Each corrective action plan must be submitted to and  
23 approved by the Board.

24 2. If the plan established pursuant to subsection 1 will cause  
25 the county to expend more money than budgeted by the county in  
26 the previous budget year plus inflation for the provision of indigent  
27 defense services, the Executive Director shall include the additional  
28 amount needed by the county in the next budget for the Department  
29 of Indigent Defense Services to help support the indigent defense  
30 services provided by the county. If additional money is needed to  
31 carry out the plan before the next budget cycle, the Executive  
32 Director shall submit a request to the Interim Finance Committee for  
33 an allocation from the Contingency Account pursuant to NRS  
34 353.266 to cover the additional costs.

35 3. For any county that is not required to have an office of  
36 public defender pursuant to NRS 260.010, if the additional amount  
37 included in the budget of the Department pursuant to subsection 2 is  
38 not approved, the board of county commissioners for the county to  
39 which the amount applies may determine whether to continue  
40 providing indigent defense services for the county or enter into an  
41 agreement with the Executive Director to transfer responsibility for  
42 the provision of such services to the State Public Defender.

43 4. If a county does not meet the minimum standards for the  
44 provision of indigent defense services within the period established



1 in the corrective action plan for the county, the deputy director shall  
2 inform the Executive Director.

3 5. Upon being informed by the deputy director pursuant to  
4 subsection 4 that a county has not complied with a corrective action  
5 plan, the Executive Director must review information regarding the  
6 provision of indigent defense services in the county and determine  
7 whether to recommend establishing another corrective action plan  
8 with the board of county commissioners of the county. For a county  
9 that is not required to have an office of public defender pursuant to  
10 NRS 260.010, the Executive Director may instead recommend  
11 requiring the board of county commissioners to transfer  
12 responsibility for the provision of all indigent defense services for  
13 the county to the State Public Defender. The recommendation of the  
14 Executive Director must be submitted to and approved by the Board.  
15 Once approved, the board of county commissioners shall comply  
16 with the decision of the Board.

17 6. If a county is required to transfer or voluntarily transfers  
18 responsibility for the provision of all indigent defense services for  
19 the county to the State Public Defender:

20 (a) The board of county commissioners for the county shall  
21 notify the State Public Defender in writing on or before November 1  
22 of the next even-numbered year and the responsibilities must  
23 transfer at a specified time on or after July 1 of the odd-numbered  
24 year following the year in which the notice was given, as  
25 determined by the Executive Director.

26 (b) The board of county commissioners for the county shall pay  
27 the State Public Defender in the same manner and in an amount  
28 determined in the same manner as other counties for which the State  
29 Public Defender has responsibility for the provision of indigent  
30 defense services. The amount that a county may be required to pay  
31 must not exceed the maximum amount determined using the  
32 formula established ~~[by the Board pursuant to NRS 180.320.]~~ *in*  
33 *section 2 of this act.*

34 **Sec. 7.** 1. There is hereby appropriated from the State  
35 General Fund to the Interim Finance Committee the sum of  
36 \$6,306,880 in Fiscal Year 2023-2024 and the sum of \$6,613,033 in  
37 Fiscal Year 2024-2025 for allocation to the Department of Indigent  
38 Defense Services to fund:

39 (a) The reimbursement of counties for costs in excess of their  
40 maximum contribution amounts for the provision of indigent  
41 defense services, including, without limitation, the costs of  
42 compliance with workload standards;

43 (b) The costs of the Department related to compliance with the  
44 *Davis v. State* (Nev. First Jud. Dist. Ct. Case No. 170C002271B  
45 (Aug. 11, 2020)) consent judgment;



1 (c) The costs of the Office of State Public Defender for  
2 contracting for legal services for complex cases; and

3 (d) The costs for training and pay parity for attorneys who  
4 provide indigent defense services.

5 2. Money appropriated by subsection 1 may only be allocated  
6 by the Interim Finance Committee upon recommendation of the  
7 Governor, and upon submittal by the Department of Indigent  
8 Defense Services of documentation of the costs.

9 3. The sums appropriated by subsection 1 are available for  
10 either fiscal year. Any remaining balance of those sums must not be  
11 committed for expenditure after June 30, 2025, by the entity to  
12 which the appropriation is made or any entity to which money from  
13 the appropriation is granted or otherwise transferred in any manner,  
14 and any portion of the appropriated money remaining must not be  
15 spent for any purpose after September 19, 2025, by either the entity  
16 to which the money was appropriated or the entity to which the  
17 money was subsequently granted or transferred, and must be  
18 reverted to the State General Fund on or before September 19, 2025.

19 **Sec. 8.** This act becomes effective on July 1, 2023.

