

SENATE BILL NO. 377—COMMITTEE ON JUDICIARY

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to public defenders.
(BDR 14-1005)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 13, 15)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 public defenders; creating the Nevada Right to Counsel Commission; prescribing the duties and powers of the Commission; authorizing the Commission to establish certain standards governing public defenders; renaming the Office of State Public Defender as the Office of Indigent Legal Services and removing the Office from the Department of Health and Human Services; authorizing certain counties to transfer responsibility for the provision of all or certain indigent defense services in the county to the Office; authorizing certain counties to withdraw such a transfer of services; requiring the Office to engage independent expertise to conduct periodic evaluations of indigent defense services provided by certain counties and the Office; requiring counties subject to such evaluations to transfer responsibility for the provision of indigent defense services to the Office in certain circumstances; requiring counties that transfer responsibility for the provision of indigent defense services to the Office to pay a certain amount annually to the Commission; revising provisions relating to the county offices of public defender; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

1 Existing law requires a district judge, justice of the peace, municipal judge or
2 master to appoint an attorney for an indigent person who is charged with certain
3 crimes. (NRS 171.188) Existing law also provides that if the parent or guardian of a
4 child who is alleged to be delinquent or in need of supervision is indigent, the
5 juvenile court must appoint an attorney for the child. (NRS 62D.030) Under
6 existing law, a county whose population is 100,000 or more (currently Clark and
7 Washoe Counties) must create an office of public defender to provide these defense
8 services to indigent persons, and any county whose population is less than 100,000
9 may, but is not required to, create such an office. (NRS 260.010) The State Public
10 Defender provides indigent defense services in counties that have not created an
11 office of public defender. (NRS 180.060) Finally, a magistrate, master or district
12 court may appoint a person other than a public defender to provide legal
13 representation to an indigent person only if the magistrate, master or district makes
14 a finding that the public defender is disqualified from furnishing the representation.
15 (NRS 7.115)

16 This bill creates the Nevada Right to Counsel Commission and prescribes the
17 duties and functions of the Commission. **Section 9** of this bill provides that the
18 Commission consists of 13 voting members and the Chief Justice of the Nevada
19 Supreme Court, who is an ex officio nonvoting member of the Commission. Under
20 **section 9**, of the 13 voting members of the Commission, the Governor appoints 10
21 members from among nominees selected by various entities interested in the
22 provision of indigent defense services and the Majority Leader of the Senate, the
23 Speaker of the Assembly and the Chief Justice of the Nevada Supreme Court each
24 appoint one member. **Section 9** also provides that a member of the Commission
25 serves without compensation but is entitled to receive the per diem and travel
26 expenses for state officers and employees while the member is engaged in the
27 business of the Commission. **Section 32** of this bill establishes the initial terms for
28 members of the Commission so that the terms are staggered. **Section 10** of this bill
29 creates the Indigent Defense Account in the State General Fund to receive any
30 money appropriated to or otherwise collected by the Commission. Money in the
31 Account does not revert to the State General Fund at the end of a fiscal year.

32 **Section 11** of this bill authorizes the Commission to propose minimum
33 standards concerning the provision of legal representation to indigent persons. The
34 minimum standards may include, without limitation, standards for: (1) ensuring
35 sufficient time and meeting space for meetings between defense counsel and
36 clients; (2) ensuring that the defense counsel's ability, training and experience
37 match the nature and complexity of the case to which he or she is appointed; (3)
38 ensuring that the same defense counsel represents a client through the pendency of
39 a case; (4) ensuring that any contracted or appointed private attorney is authorized
40 to accept work and cases which are privately retained; and (5) the uniform
41 collection of data. Standards proposed by the Commission must be submitted to the
42 Nevada Supreme Court, pursuant to the Nevada Rules on the Administrative
43 Docket, for approval and become effective upon approval by the Court.

44 Existing law creates the Office of State Public Defender within the Department
45 of Health and Human Services and requires the Governor to appoint the State
46 Public Defender. (NRS 180.010) **Section 17** of this bill renames the Office of State
47 Public Defender as the Office of Indigent Legal Services and removes the Office
48 from the Department of Health and Human Services. **Section 17** also requires the
49 Commission to appoint and supervise the Chief Counsel of the Office, who is the
50 chief administrative officer of the Office and is responsible to the Commission.
51 **Section 16** of this bill provides that the Commission may authorize the Chief
52 Counsel to employ certain persons. **Section 18** of this bill authorizes the Chief
53 Counsel, with the approval of the Commission, to establish branch offices



54 and requires the Commission to designate a lead attorney to supervise each such
55 office.

56 **Sections 12 and 13** of this bill, respectively, authorize any county whose
57 population is less than 100,000 (currently all counties other than Clark and Washoe
58 Counties) to transfer responsibility for the provision of all or only appellate
59 indigent defense services in the county to the Office and requires the board of
60 county commissioners of any such county to provide advanced notice of such a
61 decision to the Commission. **Sections 12 and 13** also authorize such a county, after
62 providing certain notice to the Commission, to withdraw such a transfer and assume
63 responsibility of indigent defense services.

64 **Section 14** of this bill requires the Commission to engage independent
65 expertise to conduct periodic evaluations of the indigent defense services provided
66 in a county that has retained responsibility for the provision of trial-level indigent
67 defense services in the county to determine whether such services comply with the
68 standards adopted by the Commission pursuant to **section 11**. **Section 14**
69 establishes the procedure to be used if such indigent defense services provided by a
70 county are determined not to be in compliance, including the ability of the county
71 to petition the Supreme Court to appeal any determination of noncompliance. If a
72 county does not petition the Supreme Court or the court determines that the
73 indigent defense services provided in the county are not in compliance with the
74 standards adopted by the Commission, the county is required to transfer
75 responsibility for the provision of indigent defense services in the county to the
76 Office. **Section 14.3** of this bill authorizes such a county required to transfer
77 services to petition the Commission if the services provided by the Office are
78 inadequate.

79 **Section 14.5** of this bill requires the Commission to engage independent
80 expertise to conduct periodic evaluations of indigent defense services provided by
81 the Office. **Section 14.5** establishes the procedure to be used if such indigent
82 defense services are determined not to be in compliance, including requiring the
83 Office to develop a plan to come into compliance.

84 **Section 15** of this bill requires any county that transfers responsibility for the
85 provision of trial-level indigent defense services in the county to pay to the
86 Commission on an annual basis the average annual amount paid by the county to
87 provide indigent defense services during the 3 fiscal years immediately preceding
88 the fiscal year for which the Office assumes responsibility for the provision of
89 indigent defense services in the county. **Section 15** also authorizes a county to
90 choose to assume responsibility for indigent defense services if the county is
91 charged more than the average annual amount paid by the county.

92 Under existing law, in a county which has created the office of public defender,
93 the board of county commissioners may fill the office by appointment, and the
94 county public defender serves at the pleasure of the board of county commissioners.
95 (NRS 260.010) **Section 28** of this bill requires the board of county commissioners
96 to submit to the Commission a report concerning the procedures used by the board
97 to appoint or remove the county public defender to ensure that the appointment or
98 removal was not the result of undue political and judicial interference.

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

1 **Section 1.** NRS 171.188 is hereby amended to read as follows:
2 171.188 1. Any defendant charged with a public offense who
3 is an indigent may, by oral statement to the district judge, justice of



1 the peace, municipal judge or master, request the appointment of an
2 attorney to represent the defendant.

3 2. The request must be accompanied by the defendant's
4 affidavit, which must state:

5 (a) That the defendant is without means of employing an
6 attorney; and

7 (b) Facts with some particularity, definiteness and certainty
8 concerning the defendant's financial disability.

9 3. The district judge, justice of the peace, municipal judge or
10 master shall forthwith consider the application and shall make such
11 further inquiry as he or she considers necessary. If the district judge,
12 justice of the peace, municipal judge or master:

13 (a) Finds that the defendant is without means of employing an
14 attorney; and

15 (b) Otherwise determines that representation is required,
16 → the judge, justice or master shall designate the public defender of
17 the county or the ~~{State Public Defender,}~~ *Chief Counsel of the*
18 *Office of Indigent Legal Services*, as appropriate, to represent the
19 defendant. If the appropriate public defender is unable to represent
20 the defendant, or other good cause appears, another attorney must be
21 appointed.

22 4. The county *public defender* or ~~{State Public Defender}~~
23 *Chief Counsel* must be reimbursed by the city for costs incurred in
24 appearing in municipal court. The county shall reimburse the ~~{State~~
25 ~~Public Defender}~~ *Chief Counsel* for costs incurred in appearing in
26 Justice Court ~~{~~ *unless the county has transferred indigent defense*
27 *services in the county pursuant to section 12, 13 or 14 of this act.*
28 If a private attorney is appointed as provided in this section, the
29 private attorney must be reimbursed by the county for appearance in
30 Justice Court or the city for appearance in municipal court in an
31 amount not to exceed \$75 per case.

32 **Sec. 2.** Chapter 180 of NRS is hereby amended by adding
33 thereto the provisions set forth as sections 3 to 16, inclusive, of this
34 act.

35 **Sec. 3.** *The Legislature hereby finds and declares that:*

36 *1. Section 1 of Article 1 of the Nevada Constitution*
37 *recognizes the inalienable right of persons to defend life and*
38 *liberty. This State is committed to the protection of individual*
39 *liberty.*

40 *2. Section 2 of Article 1 of the Nevada Constitution*
41 *acknowledges that the paramount allegiance of every citizen is due*
42 *to the Federal Government in the exercise of all its constitutional*
43 *powers as have been or may be defined by the Supreme Court of*
44 *the United States. Under the Sixth and Fourteenth Amendments to*
45 *the Constitution of the United States, the obligation to provide*



1 *effective representation to accused indigent persons at each*
2 *critical stage of criminal and delinquency proceedings rests with*
3 *the states. Accordingly, it is the obligation of the Legislature to*
4 *provide the general framework and resources necessary for the*
5 *provision of indigent defense services in this State.*

6 *3. In recognition of the mandates under the Constitution of*
7 *the United States and the Nevada Constitution, the Legislature*
8 *enacts sections 3 to 16, inclusive, of this act for the following*
9 *purposes:*

10 *(a) Ensuring that adequate public funding of the right to*
11 *counsel is provided and managed in a cost-effective and fiscally*
12 *responsible manner.*

13 *(b) Ensuring that the system for the provision of indigent*
14 *defense services is free from undue political and judicial*
15 *interference and conflicts of interest.*

16 *(c) Establishing a flexible system for the provision of indigent*
17 *defense services that is responsive to and respectful of judicial*
18 *variances and local community needs and interests.*

19 *(d) Ensuring that the right to counsel is provided by qualified*
20 *and competent counsel in a manner that is fair and consistent*
21 *throughout this State.*

22 *(e) Providing for statewide oversight with the objective that all*
23 *indigent criminal defendants who are eligible to have appointed*
24 *counsel at the expense of the public receive effective assistance of*
25 *counsel at each critical stage of a proceeding.*

26 *(f) Providing for the ability to collect and verify objective*
27 *statistical data on indigent defense services to assist state and local*
28 *policymakers in making informed decisions regarding the*
29 *appropriate funding levels for the purpose of ensuring the*
30 *existence of an adequate system for the provision of indigent*
31 *defense services.*

32 *(g) Providing for the development of uniform standards and*
33 *guidelines for the delivery of indigent defense services and for an*
34 *effective management system to monitor and enforce compliance*
35 *with such standards and guidelines. Such standards and*
36 *guidelines are intended to facilitate the efficient and effective*
37 *provision of indigent defense services in this State for criminal*
38 *and delinquency proceedings and are not intended as criteria for*
39 *the judicial evaluation of the performance of defense counsel to*
40 *determine the validity of a conviction or to create substantive or*
41 *procedural rights that may accrue to the accused, convicted*
42 *persons or counsel. Failure to adhere to such standards and*
43 *guidelines does not, in and of itself, constitute ineffective*
44 *assistance of counsel, and this paragraph must not be construed to*
45 *overrule, expand or extend, whether directly or by analogy, the*



1 *prevailing case law for making a determination regarding*
2 *ineffective assistance of counsel.*

3 **Sec. 4.** *As used in this chapter, unless the context otherwise*
4 *requires, the words and terms defined in sections 5 to 8, inclusive,*
5 *of this act have the meanings ascribed to them in those sections.*

6 **Sec. 5.** *“Chief Counsel” means the Chief Counsel of the*
7 *Office of Indigent Legal Services appointed pursuant to*
8 *NRS 180.010.*

9 **Sec. 6.** *“Commission” means the Nevada Right to Counsel*
10 *Commission created by section 9 of this act.*

11 **Sec. 7.** *“Indigent defense services” means the provision of*
12 *legal representation to:*

13 1. *An indigent person who is charged with a public offense;*
14 *and*

15 2. *An indigent child who is:*

16 (a) *Alleged to be delinquent;*

17 (b) *In need of supervision pursuant to title 5 of NRS; or*

18 (c) *In a county whose population is less than 100,000, in need*
19 *of protection pursuant to chapter 432B of NRS.*

20 **Sec. 8.** *“Office” means the Office of Indigent Legal Services*
21 *created by NRS 180.010.*

22 **Sec. 9.** 1. *The Nevada Right to Counsel Commission,*
23 *consisting of 13 voting members and 1 ex officio nonvoting*
24 *member, is hereby created.*

25 2. *The voting members of the Commission must be appointed*
26 *as follows:*

27 (a) *One member who is a member in good standing of the*
28 *State Bar of Nevada, appointed by the Majority Leader of the*
29 *Senate.*

30 (b) *One member appointed by the Speaker of the Assembly.*

31 (c) *One member who is a retired judge or justice or has*
32 *expertise in juvenile justice, appointed by the Chief Justice of the*
33 *Nevada Supreme Court.*

34 (d) *Two members from among six nominees selected by the*
35 *Board of Governors of the State Bar of Nevada, three of whom*
36 *must be members in good standing of the State Bar of Nevada who*
37 *reside in a county whose population is less than 100,000, and*
38 *three of whom must be members in good standing of the State Bar*
39 *of Nevada who reside in a county whose population is 100,000 or*
40 *more, appointed by the Governor. The Governor must appoint one*
41 *member who resides in a county whose population is less than*
42 *100,000 and one member who resides in a county whose*
43 *population is 100,000 or more.*



1 (e) Two members from among three nominees selected by the
2 Nevada Association of Counties who reside in a county whose
3 population is less than 100,000, appointed by the Governor.

4 (f) Three members from among six nominees selected by the
5 Board of County Commissioners of Clark County, appointed by
6 the Governor.

7 (g) Two members from among four nominees selected by the
8 Board of County Commissioners of Washoe County, appointed by
9 the Governor.

10 (h) One member from among three nominees selected jointly
11 by associations of the State Bar of Nevada who represent members
12 of racial or ethnic minorities, appointed by the Governor.

13 3. The Chief Justice of the Nevada Supreme Court is an ex
14 officio, nonvoting member of the Commission.

15 4. Each person appointed to the Commission pursuant to
16 subsection 2 must have:

17 (a) Significant experience in providing legal representation to
18 indigent persons who are charged with public offenses or to
19 indigent children who are alleged to be delinquent or in need of
20 supervision or protection; or

21 (b) A demonstrated commitment to providing effective legal
22 representation to such persons.

23 5. A person must not be appointed to the Commission
24 pursuant to subsection 2 if he or she is:

25 (a) A current judge, justice or judicial officer;

26 (b) A prosecuting attorney or an employee thereof;

27 (c) A law enforcement officer or an employee of a law
28 enforcement agency; or

29 (d) An attorney who may obtain any financial benefit from the
30 policies adopted by the Commission.

31 6. In addition to the other requirements set forth in this
32 section, not more than two persons who are county managers or
33 members of a board of county commissioners may be appointed to
34 the Commission pursuant to subsection 2.

35 7. After the initial terms, each appointed member of the
36 Commission serves a term of 4 years, commencing on July 1.
37 Each member of the Commission continues in office until a
38 successor is appointed. Members may be reappointed for
39 additional terms of 4 years in the same manner as the original
40 appointments.

41 8. Any vacancy occurring in the membership of the
42 Commission must be filled in the same manner as the original
43 appointment for the remainder of the unexpired term.

44 9. Each member of the Commission:

45 (a) Serves without compensation; and



1 ***(b) While engaged in the business of the Commission, is***
2 ***entitled to receive the per diem allowance and travel expenses***
3 ***provided for state officers and employees generally.***

4 ***10. Each member of the Commission who is an officer or***
5 ***employee of the State or a local government must be relieved from***
6 ***his or her duties without loss of his or her regular compensation***
7 ***so that the member may prepare for and attend meetings of the***
8 ***Commission and perform any work necessary to carry out the***
9 ***duties of the Commission in the most timely manner practicable. A***
10 ***state agency or local government shall not require an officer or***
11 ***employee who is a member of the Commission to make up the time***
12 ***the member is absent from work to carry out his or her duties as a***
13 ***member, and shall not require the member to take annual***
14 ***vacation or compensatory time for the absence.***

15 ***11. The Governor may remove a member of the Commission***
16 ***for incompetence, neglect of duty, moral turpitude, misfeasance,***
17 ***malfeasance or nonfeasance in office or for any other good cause.***

18 ***12. A majority of the voting members of the Commission***
19 ***constitutes a quorum for the transaction of business at a meeting***
20 ***of the Commission. A majority of the voting members of the***
21 ***Commission is required for official action of the Commission.***

22 ***Sec. 10. 1. The Indigent Defense Account is hereby created***
23 ***in the State General Fund, to be administered by the Commission.***
24 ***Any money that is received by the Commission from any source,***
25 ***including, without limitation, money received pursuant to a***
26 ***specific statute, tax, legislative appropriation, gift or grant must be***
27 ***deposited into the Indigent Defense Account.***

28 ***2. Any money remaining in the Account at the end of a fiscal***
29 ***year remains in the Account and does not revert to the State***
30 ***General Fund.***

31 ***3. Money in the Account may only be expended to administer***
32 ***the provisions of this chapter.***

33 ***4. The interest and income on the money in the Account,***
34 ***after deducting any applicable charges, must be credited to the***
35 ***Account.***

36 ***Sec. 11. 1. The Commission may propose minimum***
37 ***standards for the provision of indigent defense services to ensure***
38 ***that those services are provided in a manner that complies with the***
39 ***standards for the effective assistance of counsel established by the***
40 ***United States Supreme Court and the appellate courts of this State***
41 ***under the Sixth Amendment to the United States Constitution and***
42 ***Section 8 of Article 1 of the Nevada Constitution. The standards***
43 ***proposed by the Commission may include, without limitation,***
44 ***standards ensuring that:***



1 (a) *Defense counsel is provided sufficient time, and a space*
2 *where the confidentiality of the communications between the*
3 *defense counsel and his or her client is safeguarded, for meetings*
4 *with his or her client.*

5 (b) *The ability, training and experience of defense counsel*
6 *matches the nature and complexity of the case to which he or she*
7 *is appointed, except that the Commission may not propose*
8 *standards pursuant to this paragraph concerning the ability,*
9 *training and experience of defense counsel in cases in which the*
10 *death penalty is or may be sought or has been imposed if rules*
11 *adopted by the Supreme Court establish such standards.*

12 (c) *The same defense counsel continuously represents and*
13 *personally appears at every court appearance through the*
14 *pendency of a case, except that a standard proposed pursuant to*
15 *this paragraph must provide an exemption from this requirement*
16 *for ministerial, nonsubstantive tasks and court hearings.*

17 (d) *Any private provider of indigent defense services may*
18 *continue to accept work and cases that are privately retained.*

19 (e) *The collection and reporting of data concerning the*
20 *caseload and workload of defense counsel is uniform.*

21 2. *The Commission may propose minimum standards for the*
22 *provision of indigent defense services to indigent children who*
23 *reside in a county whose population is less than 100,000.*

24 3. *A standard proposed by the Commission pursuant to this*
25 *section must be submitted to the Supreme Court, pursuant to the*
26 *Nevada Rules on the Administrative Docket, for approval and does*
27 *not become effective unless the Supreme Court approves the*
28 *standard. Before submitting a proposed standard to the Supreme*
29 *Court, the Commission shall conduct a public hearing on the*
30 *proposed standard. Opposition to a proposed standard that has*
31 *been submitted to the Supreme Court may be submitted to the*
32 *Supreme Court in the manner prescribed by the Nevada Rules on*
33 *the Administrative Docket. A standard proposed by the*
34 *Commission pursuant to this section becomes final upon approval*
35 *by the Supreme Court.*

36 4. *A standard proposed by the Commission pursuant to this*
37 *section must include the fiscal impact of the proposed standard, if*
38 *any, upon the State or local government.*

39 5. *A standard proposed and approved pursuant to this section*
40 *is not a regulation for the purposes of chapter 233B of NRS.*

41 6. *The Commission may issue guidelines for the workload of*
42 *defense counsel to be controlled to permit effective representation.*
43 *Any guideline issued pursuant to this subsection must be based on*
44 *objective criteria derived from the tracking of time spent by*
45 *attorneys on criminal defense matters and that take into account*



1 *jurisdictional variations in practice. To assist in the budgetary*
2 *process, the Commission shall provide any such guidelines to all*
3 *counties in this State, the Governor and the Legislature.*

4 **Sec. 12. 1.** *Any county whose population is less than*
5 *100,000 may transfer responsibility for the provision of all*
6 *indigent defense services in the county to the Office. The board of*
7 *county commissioners of a county shall notify the Commission on*
8 *or before December 31 of a calendar year if the county wishes to*
9 *transfer such responsibility to the Office pursuant to this section*
10 *for the fiscal year beginning on July 1 of the following calendar*
11 *year.*

12 **2.** *If a county transfers responsibility for the provision of all*
13 *indigent defense services in the county to the Office pursuant to*
14 *subsection 1 or section 13 of this act:*

15 *(a) The Commission shall deem the existing system for the*
16 *provision of indigent defense services in the county appropriate*
17 *unless:*

18 *(1) The board of county commissioners requests that the*
19 *Commission determine another system for the provision of*
20 *indigent defense services; or*

21 *(2) The Office determines that the existing system does not*
22 *comply with the standards adopted by the Commission pursuant to*
23 *section 11 of this act or, if the transfer of responsibility is made*
24 *pursuant to section 14 of this act, a final determination of*
25 *noncompliance has already been made.*

26 *(b) If the workload of the Office does not allow for five or*
27 *more full-time attorneys and the appropriate number of support*
28 *staff to provide indigent defense services, the Office shall provide*
29 *indigent defense services through any combination of private*
30 *providers of indigent defense services, paid hourly or under*
31 *contract on a case-by-case, county or regional basis.*

32 *(c) The Office shall compile the following information on or*
33 *before January 31 of each year as it pertains to the immediately*
34 *preceding calendar year:*

35 *(1) The name, business address and member number of the*
36 *State Bar of Nevada of all attorneys providing indigent defense*
37 *services.*

38 *(2) The number of support staff and job title of each*
39 *member of support staff.*

40 *(3) The number of cases assigned to each attorney*
41 *providing indigent defense services, categorized by the following*
42 *case types:*

43 *(I) Delinquency cases;*

44 *(II) Misdemeanor cases;*

45 *(III) Felony cases;*



1 (IV) Capital offense cases;
2 (V) Cases involving a child in need of services; and
3 (VI) Cases involving a child in need of protection
4 pursuant to chapter 432B of NRS.

5 (4) The number of cases completed by each attorney
6 providing defense services, categorized by the case types set forth
7 in subparagraph (3).

8 (5) The number of cases in which a defendant represented
9 himself or herself, categorized by the case types set forth in
10 subparagraph (3).

11 (6) The number of trials in which each attorney providing
12 indigent defense services participated, categorized by the case
13 types set forth in subparagraph (3).

14 (7) The amount of money expended in connection with the
15 investigation of a case or for the fees for an expert witness.

16 (8) Any other statistical information reasonably determined
17 necessary by the Commission.

18 3. A county that transfers responsibility for the provision of
19 indigent defense services pursuant to this section and wishes to
20 withdraw from that transfer must provide notice to the
21 Commission on or before December 31 of any even-numbered
22 year. A county which provides such notice shall assume such
23 responsibility on July 1 of the next fiscal year. The Commission
24 continues to have financial responsibility for the provision of
25 indigent defense services through the end of the immediately
26 preceding fiscal year before the county assumes responsibility for
27 such services.

28 **Sec. 13. 1.** Any county whose population is less than
29 100,000 may transfer responsibility for the provision of appellate
30 indigent defense services in the county to the Office and may
31 retain responsibility for the provision of trial-level indigent
32 defense services in the county. The board of county commissioners
33 of a county shall notify the Commission on or before December 31
34 of each even-numbered year as to whether the county will retain
35 or transfer responsibility for the provision of trial-level indigent
36 defense services in the county during the fiscal year beginning on
37 July 1 of the following calendar year.

38 2. A county that chooses to retain responsibility for the
39 provision of trial-level indigent defense services in the county
40 shall:

41 (a) Transfer responsibility for the funding and provision of
42 appellate indigent defense services to the Commission at no cost to
43 the county;



1 (b) Fund all trial-level indigent defense services provided in
2 the county in accordance with the standards adopted by the
3 Commission pursuant to section 11 of this act; and

4 (c) Submit an annual report to the Commission on or before
5 January 31 of each year that includes the following information
6 as it pertains to the immediately preceding calendar year:

7 (1) The name, business address and member number of the
8 State Bar of Nevada of all attorneys providing indigent defense
9 services.

10 (2) The number of support staff and job title of each
11 member of support staff.

12 (3) The number of cases assigned to each attorney
13 providing indigent defense services, categorized by the following
14 case types:

15 (I) Delinquency cases;

16 (II) Misdemeanor cases;

17 (III) Felony cases;

18 (IV) Capital offense cases;

19 (V) Cases involving a child in need of services; and

20 (VI) Cases involving a child in need of protection
21 pursuant to chapter 432B of NRS.

22 (4) The number of cases completed by each attorney
23 providing indigent defense services, categorized by the case types
24 set forth in subparagraph (3).

25 (5) The number of cases in which a defendant represented
26 himself or herself, categorized by the case types set forth in
27 subparagraph (3).

28 (6) The number of trials in which each attorney providing
29 indigent defense services participated, categorized by the case
30 types set forth in subparagraph (3).

31 (7) The amount of money expended in connection with the
32 investigation of a case or for the fees for an expert witness.

33 (8) Any other statistical information reasonably determined
34 necessary by the Commission.

35 3. The board of county commissioners of a county that
36 chooses to retain responsibility for the provision of trial-level
37 indigent defense services in the county pursuant to this section
38 shall comply with the provisions of NRS 260.010.

39 4. A county that transfers responsibility for the provision of
40 indigent defense services pursuant to this section and wishes to
41 withdraw from that transfer must provide notice to the
42 Commission on or before December 31 of any even-numbered
43 year. A county which provides such notice shall assume such
44 responsibility on July 1 of the next fiscal year. The Commission
45 continues to have financial responsibility for the provision of



1 *indigent defense services through the end of the immediately*
2 *preceding fiscal year before the county assumes responsibility for*
3 *such services.*

4 **Sec. 14. 1.** *The Commission shall engage independent*
5 *expertise to conduct periodic evaluations of the indigent defense*
6 *services provided in any county that has retained responsibility,*
7 *pursuant to section 12 or 13 of this act, for the provision of all or*
8 *trial-level indigent defense services in the county to determine*
9 *whether such indigent defense services comply with the standards*
10 *adopted by the Commission pursuant to section 11 of this act.*
11 *Each such county shall cooperate fully with such an evaluation.*

12 **2.** *After an evaluation is conducted pursuant to subsection 1,*
13 *if a county whose provision of indigent defense services is found*
14 *not to be in compliance with the standards adopted by the*
15 *Commission pursuant to section 11 of this act, the Commission*
16 *shall:*

17 *(a) Provide the county, within 5 judicial days after receipt, a*
18 *copy of any report of the results of the evaluation;*

19 *(b) Notify the county of such noncompliance in writing and*
20 *provide the county with a period of 9 months from the date of*
21 *notification to remedy such noncompliance; and*

22 *(c) Provide the county with any technical assistance necessary*
23 *to bring the provision of indigent defense services in the county*
24 *into compliance with the standards adopted by the Commission*
25 *pursuant to section 11 of this act.*

26 **3.** *After the expiration of the 9-month period provided in*
27 *subsection 2, if the Commission determines, after a public*
28 *hearing, that the county is still not in compliance with the*
29 *standards adopted by the Commission pursuant to section 11 of*
30 *this act, the county may petition the Supreme Court to appeal the*
31 *determination of noncompliance. If:*

32 *(a) The Supreme Court determines that the county is in*
33 *compliance with the standards adopted by the Commission, the*
34 *county may continue to provide the applicable indigent defense*
35 *services in the county.*

36 *(b) The county does not petition the Supreme Court or the*
37 *Supreme Court determines that the county is not in compliance*
38 *with the standards adopted by the Commission, the county shall*
39 *transfer the responsibility for the provision of indigent defense*
40 *services in the county to the Office. The Office shall assume such*
41 *responsibility on July 1 of the next fiscal year.*

42 **Sec. 14.3. 1.** *If at any time, a county required to transfer*
43 *the provision of indigent defense services pursuant to paragraph*
44 *(b) of subsection 3 of section 14 of this act deems such services*
45 *inadequate to serve the needs of the county, the county may*



1 *petition the Commission to assume responsibility for the provision*
2 *of indigent defense services.*

3 2. *The county must submit a petition in a manner prescribed*
4 *by the Commission. The petition must include, without limitation,*
5 *a plan from the county to come into compliance with the standards*
6 *adopted by the Commission pursuant to section 11 of this act.*

7 3. *If the Commission grants the petition, the county may at*
8 *any time thereafter assume responsibility for the provision of*
9 *indigent defense services through a procedure prescribed by the*
10 *Commission.*

11 4. *The Commission continues to have financial responsibility*
12 *for the provision of indigent defense services until the Commission*
13 *makes a decision concerning the petition.*

14 **Sec. 14.5.** 1. *The Commission shall engage independent*
15 *expertise to conduct periodic evaluations of the indigent defense*
16 *services provided by the Office to any county to determine whether*
17 *such indigent defense services comply with the standards adopted*
18 *by the Commission pursuant to section 11 of this act.*

19 2. *After an evaluation is conducted pursuant to subsection 1,*
20 *if the provision of indigent services by the Office is found not to be*
21 *in compliance with the standards adopted by the Commission*
22 *pursuant to section 11 of this act, the Commission shall notify the*
23 *Office and any county receiving such services of such*
24 *noncompliance in writing and provide the Office with a period of*
25 *9 months from the date of notification to remedy such*
26 *noncompliance. The Office shall develop a plan to come into*
27 *compliance with the standards, within the 9-month period, and*
28 *provide this plan to the Commission and the counties receiving*
29 *services.*

30 3. *After the expiration of the 9-month period provided in*
31 *subsection 2, if the Commission determines, after a public*
32 *hearing, that the Office is still not in compliance with the*
33 *standards adopted by the Commission pursuant to section 11 of*
34 *this act, any county receiving services of the Office may at any*
35 *time thereafter choose to assume the responsibility for the*
36 *provision of indigent defense services.*

37 **Sec. 15.** 1. *A county that transfers responsibility for the*
38 *provision of trial-level indigent defense services in the county*
39 *pursuant to section 12, 13 or 14 of this act shall pay to the*
40 *Commission on an annual basis the average annual amount paid*
41 *by the county to provide indigent defense services during the 3*
42 *fiscal years immediately preceding the fiscal year for which the*
43 *Office assumes responsibility for the provision of indigent defense*
44 *services in the county. In calculating the amount a county is*
45 *required to pay, any extraordinary costs accrued during such a*



1 *period that were associated with the legal representation of*
2 *indigent criminal defendants charged with capital offenses must*
3 *not be included.*

4 2. *A county shall pay the amount set forth in subsection 1 to*
5 *the Commission on or before July 15 of the fiscal year for which*
6 *the Office assumes responsibility for the provision of indigent*
7 *defense services in the county and on or before July 1 of each year*
8 *thereafter.*

9 3. *If, for any fiscal year, a county is required to pay to the*
10 *Commission more than the average annual amount paid by the*
11 *county to provide indigent defense services for the 3 fiscal years,*
12 *ending on June 30, 2014, June 30, 2015, and June 30, 2016, the*
13 *county may at any time thereafter choose to assume the*
14 *responsibility for the provision of indigent defense services.*

15 **Sec. 16.** 1. *The Commission may authorize the Chief*
16 *Counsel to employ the following:*

17 (a) *A Deputy Chief Counsel;*

18 (b) *A Director of Appellate Counsel Services;*

19 (c) *A Director of Private Counsel Services;*

20 (d) *A Director of Training;*

21 (e) *A Deputy Director of Training;*

22 (f) *An Information Technology Officer;*

23 (g) *A Budget Director;*

24 (h) *A Director of Juvenile Justice and Dependency Standards*
25 *Compliance;*

26 (i) *A Director of Adult Justice Standards Compliance; and*

27 (j) *A Director of Policy, Data and Research.*

28 2. *The Commission may, within the limits of available money,*
29 *and subject to the standards adopted by the Commission pursuant*
30 *to section 11 of this act, employ such other persons as the*
31 *Commission deems necessary to perform the duties of the*
32 *Commission and the Office, including, without limitation,*
33 *attorneys, social workers and clerical and investigative staff.*

34 3. *Each attorney employed in the Office must be an attorney*
35 *licensed to practice law in the State of Nevada, and shall not*
36 *engage in the practice of law, except in performing the duties of*
37 *office and as otherwise provided in NRS 7.065.*

38 **Sec. 17.** NRS 180.010 is hereby amended to read as follows:

39 180.010 1. The Office of ~~State Public Defender~~ *Indigent*
40 *Legal Services* is hereby created. ~~within the Department of Health~~
41 ~~and Human Services.~~ *The head of the Office is the Commission.*

42 2. The ~~Governor~~ *Commission* shall appoint the ~~State Public~~
43 ~~Defender~~ *Chief Counsel of the Office* for a term of 4 years, and
44 until a successor is appointed and qualified. *The Chief Counsel is*



1 *the chief administrative officer of the Office and is responsible to*
2 *the Commission.*

3 3. The ~~{State Public Defender}~~ *Chief Counsel:*

4 (a) Must be an attorney licensed to practice law in the State of
5 Nevada.

6 (b) *Must have a minimum of 5 years' experience in criminal*
7 *defense, juvenile justice, trial practice, appellate practice,*
8 *dependency proceedings or any combination thereof.*

9 (c) Is in the unclassified service of the State.

10 ~~{(e)}~~ (d) Except as otherwise provided in NRS 7.065, shall not
11 engage in the private practice of law.

12 4. ~~{No officer or agency of the State, other than the Governor~~
13 ~~and the Director of the Department of Health and Human Services,~~
14 ~~may}~~ *The Commission shall* supervise the ~~{State Public Defender}~~
15 *Chief Counsel.* No officer or agency of the State, other than the
16 ~~{Governor,}~~ *Commission,* may assign the ~~{State Public Defender}~~
17 *Chief Counsel* duties in addition to those prescribed by this chapter.

18 5. *The Commission shall not interfere with the legal*
19 *judgment of the Chief Counsel in regard to legal representation in*
20 *any case.*

21 **Sec. 18.** NRS 180.040 is hereby amended to read as follows:

22 180.040 1. The *Commission and the Office* ~~{of the State~~
23 ~~Public Defender shall}~~ *must* be in Carson City, Nevada, and the
24 Buildings and Grounds Section of the State Public Works Division
25 of the Department of Administration shall provide necessary office
26 space ~~{}~~ *for the Commission and the Office.*

27 2. ~~{The State Public Defender}~~ *With the approval of the*
28 *Commission, the Chief Counsel* may establish branch offices
29 necessary to perform the ~~{State Public Defender's}~~ duties ~~{}~~ *of the*
30 *Chief Counsel.* The ~~{State Public Defender}~~ *Commission* shall
31 designate a ~~{deputy state public defender}~~ *lead attorney* to supervise
32 each such office.

33 3. *The Chief Counsel shall establish branch offices in each*
34 *county that transfers responsibility for the provision of indigent*
35 *defense services pursuant to section 12, 13 or 14 of this act.*

36 4. *Each branch office established pursuant to this section*
37 *must be considered a separate office with no imputed conflict of*
38 *interest absent a showing of such a conflict. In the event that such*
39 *a conflict exists, the Chief Counsel shall establish another branch*
40 *office or appoint an attorney from a list maintained by the Office*
41 *and subject to the standards adopted by the Commission pursuant*
42 *to section 11 of this act. The Chief Counsel shall compensate the*
43 *attorney appointed pursuant to this subsection from the Indigent*
44 *Defense Account created by section 10 of this act.*



1 **Sec. 19.** NRS 180.050 is hereby amended to read as follows:

2 180.050 1. ~~{The State Public Defender}~~ *With the approval of*
3 *the Commission, the Office* may contract with attorneys licensed to
4 practice law in the State of Nevada and with county public
5 defenders to provide *the services of a public defender* required by
6 this chapter if ~~{it is impracticable for the State Public Defender or~~
7 ~~the State Public Defender's deputies to provide such services for~~
8 ~~any reason.}~~ *deemed appropriate by the Commission.*

9 2. All such contract services ~~{shall}~~ *must* be performed under
10 the supervision and control of the ~~{State Public Defender.}~~ *Chief*
11 *Counsel.*

12 **Sec. 20.** NRS 180.060 is hereby amended to read as follows:

13 180.060 1. The ~~{State Public Defender}~~ *Chief Counsel* may,
14 before being designated as counsel for that person pursuant to NRS
15 171.188, interview an indigent person when the indigent person has
16 been arrested and confined for a public offense or for questioning on
17 suspicion of having committed a public offense.

18 2. The ~~{State Public Defender}~~ *Chief Counsel* shall, when
19 designated pursuant to NRS 62D.030, 62D.100, 171.188 or
20 432B.420, and within the limits of available money, represent
21 without charge each indigent person for whom the ~~{State Public~~
22 ~~Defender}~~ *Chief Counsel* is appointed.

23 3. When representing an indigent person, the ~~{State Public~~
24 ~~Defender}~~ *Chief Counsel* shall:

25 (a) Counsel and defend the indigent person at every stage of the
26 proceedings, including revocation of probation or parole; and

27 (b) Prosecute any appeals or other remedies before or after
28 conviction that the ~~{State Public Defender}~~ *Chief Counsel* considers
29 to be in the interests of justice.

30 4. In cases of postconviction proceedings and appeals arising in
31 counties in which the office of public defender has been created
32 pursuant to the provisions of chapter 260 of NRS, where the matter
33 is to be presented to the appellate court of competent jurisdiction
34 pursuant to the rules fixed by the Supreme Court pursuant to Section
35 4 of Article 6 of the Nevada Constitution, the ~~{State Public~~
36 ~~Defender}~~ *Chief Counsel* shall prepare and present the case and the
37 public defender of the county shall assist and cooperate with the
38 ~~{State Public Defender.}~~ *Chief Counsel.*

39 5. The ~~{State Public Defender}~~ *Chief Counsel* may contract
40 with any county in which the office of public defender has been
41 created to provide representation for indigent persons when the
42 court, for cause, disqualifies the county public defender or when the
43 county public defender is otherwise unable to provide
44 representation.



1 **Sec. 21.** NRS 180.080 is hereby amended to read as follows:

2 180.080 ~~{1.}~~ The ~~{State Public Defender}~~ *Chief Counsel*
3 shall submit:

4 ~~{(a)}~~ *1.* A report on or before December 1 of each year to the
5 ~~{Governor}~~ *Commission* and to each ~~{participating}~~ county
6 containing a statement of:

7 ~~{(1)}~~ *(a)* The number of cases that are pending in each
8 ~~{participating}~~ county;

9 ~~{(2)}~~ *(b)* The number of cases in each ~~{participating}~~ county
10 that were closed in the previous fiscal year;

11 ~~{(3)}~~ *(c)* The total number of criminal defendants
12 represented in each ~~{participating}~~ county with separate categories
13 specifying the crimes charged and whether the defendant was less
14 than 18 years of age or an adult;

15 ~~{(4)}~~ *(d)* The total number of working hours spent by the
16 ~~{State Public Defender and the State Public Defender's}~~ staff *of the*
17 *Office* on work for each ~~{participating}~~ county; and

18 ~~{(5)}~~ *(e)* The amount and categories of the expenditures
19 made by the ~~{State Public Defender's office}~~.

20 ~~—(b) To each participating county, on} Office.~~

21 *2.* *On* or before December 1 of each even-numbered year, the
22 total proposed budget of the ~~{State Public Defender}~~ *Office* for that
23 county, including the projected number of cases and the projected
24 cost of services attributed to the county for the next biennium.

25 ~~{(e)}~~ *3.* Such reports to the Legislative Commission as the
26 regulations of the Commission require.

27 ~~{2. As used in this section, "participating county" means each~~
28 ~~county in which the office of public defender has not been created~~
29 ~~pursuant to NRS 260.010.}~~

30 **Sec. 22.** NRS 180.090 is hereby amended to read as follows:

31 180.090 Except as *otherwise* provided in ~~{subsections 4 and 5~~
32 ~~of NRS 180.060,} *this chapter*, the provisions of this chapter apply
33 only to counties in which the office of public defender has not been
34 created pursuant to the provisions of chapter 260 of NRS.~~

35 **Sec. 23.** NRS 7.155 is hereby amended to read as follows:

36 7.155 The compensation and expenses of an attorney appointed
37 to represent a defendant must be paid from the county treasury
38 unless the proceedings are based upon a postconviction petition for
39 habeas corpus, in which case the compensation and expenses must
40 be paid from money appropriated to the Office of ~~{State Public~~
41 ~~Defender,} *Indigent Legal Services*, but after the appropriation for
42 such expenses is exhausted, money must be allocated to the Office
43 of ~~{State Public Defender}~~ *Indigent Legal Services* from the reserve
44 for statutory contingency account for the payment of such
45 compensation and expenses.~~



1 **Sec. 24.** NRS 7.165 is hereby amended to read as follows:

2 7.165 If at any time after the appointment of an attorney or
3 attorneys the magistrate or the district court finds that money is
4 available for payment from or on behalf of the defendant so that the
5 defendant is financially able to obtain private counsel or to make
6 partial payment for such representation, the magistrate or the district
7 court may:

8 1. Terminate the appointment of such attorney or attorneys; or

9 2. Direct that such money be paid to:

10 (a) The appointed attorney or attorneys, in which event any
11 compensation provided for in NRS 7.125 shall be reduced by the
12 amount of the money so paid, and no such attorney may otherwise
13 request or accept any payment or promise of payment for
14 representing such defendant; or

15 (b) The clerk of the district court for deposit in the county
16 treasury, if all of the compensation and expenses in connection with
17 the representation of such defendant were paid from the county
18 treasury, and remittance to the Office of ~~{State Public Defender,}~~
19 *Indigent Legal Services*, if such compensation and expenses were
20 paid partly from moneys appropriated to the Office of ~~{State Public~~
21 ~~Defender}~~ *Indigent Legal Services* and the money received exceeds
22 the amount of compensation and expenses paid from the county
23 treasury.

24 **Sec. 25.** NRS 34.750 is hereby amended to read as follows:

25 34.750 1. A petition may allege that the petitioner is unable
26 to pay the costs of the proceedings or to employ counsel. If the court
27 is satisfied that the allegation of indigency is true and the petition is
28 not dismissed summarily, the court may appoint counsel to represent
29 the petitioner. In making its determination, the court may consider,
30 among other things, the severity of the consequences facing the
31 petitioner and whether:

32 (a) The issues presented are difficult;

33 (b) The petitioner is unable to comprehend the proceedings; or

34 (c) Counsel is necessary to proceed with discovery.

35 2. If the court determines that the petitioner is unable to pay all
36 necessary costs and expenses incident to the proceedings of the trial
37 court and the reviewing court, including court costs, stenographic
38 services, printing and reasonable compensation for legal services, all
39 costs must be paid from money appropriated to the ~~{office}~~ *Office* of
40 ~~{the State Public Defender}~~ *Indigent Legal Services* for that
41 purpose. After appropriations for that purpose are exhausted, money
42 must be allocated to the ~~{office}~~ *Office* of ~~{the State Public~~
43 ~~Defender}~~ *Indigent Legal Services* from the Reserve for Statutory
44 Contingency Account for the payment of the costs, expenses and
45 compensation.



1 3. After appointment by the court, counsel for the petitioner
2 may file and serve supplemental pleadings, exhibits, transcripts and
3 documents within 30 days after:

4 (a) The date the court orders the filing of an answer and a return;
5 or

6 (b) The date of counsel's appointment,
7 which is later. If it has not previously been filed, the answer
8 by the respondent must be filed within 15 days after receipt of the
9 supplemental pleadings and include any response to the
10 supplemental pleadings.

11 4. The petitioner shall respond within 15 days after service to a
12 motion by the State to dismiss the action.

13 5. No further pleadings may be filed except as ordered by the
14 court.

15 **Sec. 26.** NRS 218D.955 is hereby amended to read as follows:

16 218D.955 1. The Secretary of State shall, within 3 days after
17 receiving them, furnish to the State Printer a copy of all acts,
18 resolutions and memorials passed at each regular or special session.

19 2. The Director shall:

20 (a) Distribute one copy of each act as printed to each county
21 clerk, district judge, district attorney and justice of the peace in the
22 State.

23 (b) Immediately upon the adjournment of the regular or special
24 session, collect and have printed and bound advance sheets of all
25 acts, resolutions and memorials passed at the regular or special
26 session.

27 (c) Distribute one copy of the advance sheets, without charge, to
28 each justice of the Supreme Court, to each judge of the Court of
29 Appeals, the Attorney General, the ~~State Public Defender,~~ *Chief*
30 *Counsel of the Office of Indigent Legal Services* and to each
31 county clerk, district judge, district attorney, county public defender,
32 justice of the peace, city attorney and municipal judge in the State,
33 deliver to the Supreme Court Law Library a number of copies
34 appropriate to secure the exchange of similar publications from
35 other states, and establish the price at which the advance sheets must
36 be sold to other persons.

37 3. The Legislative Counsel shall, immediately upon the
38 adjournment of the regular or special session, prepare statutory
39 tables and an index of all acts, resolutions and memorials passed at
40 the regular or special session.

41 4. The State Printer, upon receipt of the statutory tables and
42 index, shall prepare bound volumes of the Statutes of Nevada as
43 provided in NRS 218D.960.

44 **Sec. 27.** NRS 232.320 is hereby amended to read as follows:

45 232.320 1. The Director:



1 (a) Shall appoint, with the consent of the Governor,
2 administrators of the divisions of the Department, who are
3 respectively designated as follows:

4 (1) The Administrator of the Aging and Disability Services
5 Division;

6 (2) The Administrator of the Division of Welfare and
7 Supportive Services;

8 (3) The Administrator of the Division of Child and Family
9 Services;

10 (4) The Administrator of the Division of Health Care
11 Financing and Policy; and

12 (5) The Administrator of the Division of Public and
13 Behavioral Health.

14 (b) Shall administer, through the divisions of the Department,
15 the provisions of chapters 63, 424, 425, 427A, 432A to 442,
16 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS
17 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive,
18 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626,
19 inclusive, 444.002 to 444.430, inclusive, and 445A.010 to
20 445A.055, inclusive, and all other provisions of law relating to the
21 functions of the divisions of the Department, but is not responsible
22 for the clinical activities of the Division of Public and Behavioral
23 Health or the professional line activities of the other divisions.

24 (c) Shall administer any state program for persons with
25 developmental disabilities established pursuant to the
26 Developmental Disabilities Assistance and Bill of Rights Act of
27 2000, 42 U.S.C. §§ 15001 et seq.

28 (d) Shall, after considering advice from agencies of local
29 governments and nonprofit organizations which provide social
30 services, adopt a master plan for the provision of human services in
31 this State. The Director shall revise the plan biennially and deliver a
32 copy of the plan to the Governor and the Legislature at the
33 beginning of each regular session. The plan must:

34 (1) Identify and assess the plans and programs of the
35 Department for the provision of human services, and any
36 duplication of those services by federal, state and local agencies;

37 (2) Set forth priorities for the provision of those services;

38 (3) Provide for communication and the coordination of those
39 services among nonprofit organizations, agencies of local
40 government, the State and the Federal Government;

41 (4) Identify the sources of funding for services provided by
42 the Department and the allocation of that funding;

43 (5) Set forth sufficient information to assist the Department
44 in providing those services and in the planning and budgeting for the
45 future provision of those services; and



1 (6) Contain any other information necessary for the
2 Department to communicate effectively with the Federal
3 Government concerning demographic trends, formulas for the
4 distribution of federal money and any need for the modification of
5 programs administered by the Department.

6 (e) May, by regulation, require nonprofit organizations and state
7 and local governmental agencies to provide information regarding
8 the programs of those organizations and agencies, excluding
9 detailed information relating to their budgets and payrolls, which the
10 Director deems necessary for the performance of the duties imposed
11 upon him or her pursuant to this section.

12 (f) Has such other powers and duties as are provided by law.

13 2. Notwithstanding any other provision of law, the Director, or
14 the Director's designee, is responsible for appointing and removing
15 subordinate officers and employees of the Department. ~~} other than
16 the State Public Defender of the Office of State Public Defender
17 who is appointed pursuant to NRS 180.010. }~~

18 **Sec. 28.** NRS 260.010 is hereby amended to read as follows:

19 260.010 1. In counties whose population is 100,000 or more,
20 the boards of county commissioners shall create by ordinance the
21 office of public defender.

22 2. ~~} Except as otherwise provided by subsection 4, in }~~ *In*
23 counties whose population is less than 100,000, boards of county
24 commissioners may in their respective counties create by ordinance,
25 at the beginning of a fiscal year, the office of public defender ~~} ,~~
26 *unless the provision of all indigent defense services in the county*
27 *for that fiscal year is transferred to the Office of Indigent Legal*
28 *Services pursuant to section 12 or 14 of this act.*

29 3. ~~} Except as otherwise provided in subsection 4, if a board of
30 county commissioners intends to create the office of county public
31 defender, the board shall notify the State Public Defender in writing
32 on or before March 1 of any odd-numbered year and the office may
33 not be created before July 1 of the same year in which the notice
34 was given.~~

35 ~~—4— If the county contribution approved by the Legislature
36 exceeds the estimate provided to the county on December 1 by more
37 than 10 percent for either year of the biennium, the board of county
38 commissioners may create the office of county public defender on
39 July 1 of the next even-numbered year if the board notifies the State
40 Public Defender on or before March 1 of the same year in which the
41 office is to be created.~~

42 ~~—5—~~ The office of public defender when created must be filled
43 by appointment by the board of county commissioners.

44 ~~} 4. The public defender } serves at the pleasure of }~~ *may be*
45 *removed by* the board of county commissioners ~~} }~~ *for misconduct*



1 *in office, incompetence, misfeasance, malfeasance or*
2 *nonfeasance.*

3 *5. Not later than 30 days after the appointment or removal of*
4 *a public defender, the board of county commissioners shall submit*
5 *to the Nevada Right to Counsel Commission created by section 9*
6 *of this act a report of the procedures used by the board to ensure*
7 *that the appointment or removal of the public defender, as*
8 *applicable, was not the result of undue political and judicial*
9 *interference.*

10 **Sec. 29.** NRS 260.040 is hereby amended to read as follows:

11 260.040 1. The compensation of the public defender must be
12 fixed by the board of county commissioners. ~~The public defender~~
13 ~~of any two or more counties must be compensated and be permitted~~
14 ~~private civil practice of the law as determined by the boards of~~
15 ~~county commissioners of those counties, subject to the provisions of~~
16 ~~subsection 4 of this section and NRS 7.065.]~~

17 2. The public defender may appoint as many deputies or
18 assistant attorneys, clerks, investigators, stenographers and other
19 employees as the public defender considers necessary to enable him
20 or her to carry out his or her responsibilities, with the approval of
21 the board of county commissioners. An assistant attorney must be a
22 qualified attorney licensed to practice in this State and may be
23 placed on a part-time or full-time basis. The appointment of a
24 deputy, assistant attorney or other employee pursuant to this
25 subsection must not be construed to confer upon that deputy,
26 assistant attorney or other employee policymaking authority for the
27 office of the public defender or the county ~~for counties~~ by which
28 the deputy, assistant attorney or other employee is employed.

29 3. The compensation of persons appointed under subsection 2
30 must be fixed by the board of county commissioners of the county
31 ~~for counties~~ so served.

32 4. The ~~public defender and his or her deputies and assistant~~
33 ~~attorneys in a county whose population is less than 100,000 may~~
34 ~~engage in the private practice of law. Except as otherwise provided~~
35 ~~in this subsection, in any other county, the~~ public defender and his
36 or her deputies and assistant attorneys shall not engage in the private
37 practice of law except as otherwise provided in NRS 7.065. An
38 attorney appointed to defend a person for a limited duration with
39 limited jurisdiction may engage in private practice which does not
40 present a conflict with his or her appointment.

41 5. The board of county commissioners shall provide office
42 space, furniture, equipment and supplies for the use of the public
43 defender suitable for the conduct of the business of his or her office.
44 However, the board of county commissioners may provide for an
45 allowance in place of facilities. Each of those items is a charge



1 against the county in which public defender services are rendered.
2 ~~If the public defender serves more than one county, expenses that~~
3 ~~are properly allocable to the business of more than one of those~~
4 ~~counties must be prorated among the counties concerned.]~~

5 6. In a county whose population is 700,000 or more, deputies
6 are governed by the merit personnel system of the county.

7 **Sec. 30.** NRS 260.065 is hereby amended to read as follows:

8 260.065 Any county in which the office of public defender has
9 been created may contract for the services of the ~~State Public~~
10 ~~Defender] Office of Indigent Legal Services~~ in providing
11 representation for indigent persons when the court, for cause,
12 disqualifies the county public defender or when the county public
13 defender is otherwise unable to provide representation.

14 **Sec. 31.** NRS 284.140 is hereby amended to read as follows:

15 284.140 The unclassified service of the State consists of the
16 following state officers or employees in the Executive Department
17 of the State Government who receive annual salaries for their
18 services:

19 1. Members of boards and commissions, and heads of
20 departments, agencies and institutions required by law to be
21 appointed.

22 2. Except as otherwise provided in NRS 223.085, 223.570 and
23 223.600, all persons required by law to be appointed by the
24 Governor or heads of departments or agencies appointed by the
25 Governor or by boards.

26 3. All employees other than clerical in the Office of the
27 Attorney General and the ~~State Public Defender] Office of Indigent~~
28 ~~Legal Services~~ required by law to be appointed by the Attorney
29 General or the ~~State Public Defender.] Chief Counsel of the Office~~
30 ~~of Indigent Legal Services.~~

31 4. Except as otherwise provided by the Board of Regents of the
32 University of Nevada pursuant to NRS 396.251, officers and
33 members of the teaching staff and the staffs of the Agricultural
34 Extension Department and Experiment Station of the Nevada
35 System of Higher Education, or any other state institution of
36 learning, and student employees of these institutions. Custodial,
37 clerical or maintenance employees of these institutions are in the
38 classified service. The Board of Regents of the University of
39 Nevada shall assist the Administrator in carrying out the provisions
40 of this chapter applicable to the Nevada System of Higher
41 Education.

42 5. All other officers and employees authorized by law to be
43 employed in the unclassified service.

44 **Sec. 32.** As soon as practicable after July 1, 2017, the
45 Governor, the Majority Leader of the Senate, the Speaker of the



1 Assembly and the Chief Justice of the Supreme Court, as applicable,
2 shall appoint the members of the Nevada Right to Counsel
3 Commission created pursuant to section 9 of this act as follows:

4 1. Members appointed pursuant to paragraphs (a) to (d),
5 inclusive, of subsection 2 of section 9 of this act must be appointed
6 to terms that expire on June 30, 2023.

7 2. Members appointed pursuant to paragraphs (e) and (f) of
8 subsection 2 of section 9 of this act must be appointed to terms that
9 expire on June 30, 2022.

10 3. Members appointed pursuant to paragraphs (g) and (h) of
11 subsection 2 of section 9 of this act must be appointed to terms that
12 expire on June 30, 2021.

13 **Sec. 33.** The provisions of NRS 354.599 do not apply to any
14 additional expenses of a local government that are related to the
15 provisions of this act.

16 **Sec. 34.** NRS 180.030, 180.110 and 260.020 are hereby
17 repealed.

18 **Sec. 35.** This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTIONS

180.030 Employment of deputies and other employees; qualifications of deputies.

1. The State Public Defender may employ:

(a) Deputy state public defenders in the unclassified service of the State.

(b) Clerical, investigative and other necessary staff in the classified service of the State.

2. Each deputy state public defender must be an attorney licensed to practice law in the State of Nevada, and shall not engage in the practice of law, except in performing the duties of office and as otherwise provided in NRS 7.065.

180.110 Collection of charges to counties for services.

1. Each fiscal year the State Public Defender may collect from the counties amounts which do not exceed those authorized by the Legislature for use of the State Public Defender's services during that year.

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



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

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

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

260.020 Joint action to establish office. A county may join with one or more other counties to establish one office of public defender to serve those counties.



