

SENATE BILL NO. 377—COMMITTEE ON JUDICIARY

MARCH 20, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to indigent defense. (BDR 14-1005)

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

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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; creating the Nevada Right to Counsel Commission; prescribing the membership and duties of the Commission; authorizing the Commission to request the drafting of not more than one legislative measure for each regular session of the Legislature; making an appropriation; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 This bill creates the Nevada Right to Counsel Commission and prescribes the  
2 duties and functions of the Commission. **Section 9** of this bill provides that the  
3 Commission consists of 13 voting members and the Chief Justice of the Nevada  
4 Supreme Court, who is an ex officio nonvoting member of the Commission. Under  
5 **section 9**, of the 13 voting members of the Commission, the Governor appoints 10  
6 members from among nominees selected by various entities interested in the  
7 provision of indigent defense services and the Majority Leader of the Senate, the  
8 Speaker of the Assembly and the Chief Justice of the Nevada Supreme Court each  
9 appoint one member. **Section 9** also provides that a member of the Commission  
10 serves without compensation but is entitled to receive the per diem and travel  
11 expenses for state officers and employees while the member is engaged in the  
12 business of the Commission. **Section 32** of this bill provides for the appointment of  
13 members of the Commission to terms which expire on June 30, 2019.

14 **Section 11** of this bill requires the Commission to conduct a study during the  
15 2017-2019 interim concerning issues relating to the provision of legal  
16 representation to indigent persons. **Section 11** also requires the Commission to  
17 recommend to the Legislature standards concerning the provision of legal  
18 representation to indigent persons. The recommendations must include:  
19 (1) standards related to the caseload and workload of defense counsel; (2) minimum  
20 standards for the provision of legal representation to indigent persons; (3) minimum  
21 standards for a statewide system for the provision of such services in a county  
22 whose population is less than 100,000 (currently all counties other than Clark and



23 Washoe Counties); (4) funding a statewide system for the provision of such  
24 services; and (5) any other recommendations in accordance with the findings of the  
25 Commission. Recommendations proposed by the Commission must be submitted to  
26 the Office of Finance in the Office of the Governor and the Legislature on or before  
27 September 1, 2018.

28 Existing law prescribes the number of legislative measures which may be  
29 requested by various departments, agencies and other entities of this State for each  
30 regular session of the Legislature. (NRS 218D.100-218D.220) **Section 31.2** of this  
31 bill authorizes the Nevada Right to Counsel Commission to request for each regular  
32 session of the Legislature the drafting of not more than one legislative measure  
33 which relates to matters within the scope of the Right to Counsel Commission.

34 **Section 31.6** of this bill makes an appropriation from the State General Fund of  
35 \$115,000 for Fiscal Year 2017-2018 and \$115,000 for Fiscal Year 2018-2019 to the  
36 Nevada Supreme Court for expenses related to the Commission.

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

1 **Section 1.** (Deleted by amendment.)

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

5 **Sec. 3.** (Deleted by amendment.)

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

9 **Sec. 5.** (Deleted by amendment.)

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

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

14 1. *An indigent person who is charged with a public offense;*  
15 *or*

16 2. *An indigent child who is:*

17 (a) *Alleged to be delinquent; or*

18 (b) *In need of supervision pursuant to title 5 of NRS.*

19 **Sec. 8.** (Deleted by amendment.)

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

23 2. *The voting members of the Commission must be appointed*  
24 *as follows:*

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

28 (b) *One member who has expertise in the finances of State*  
29 *Government, appointed by the Speaker of the Assembly.*



1 (c) One member who is a retired judge or justice or has  
2 expertise in juvenile justice and criminal law, appointed by the  
3 Chief Justice of the Nevada Supreme Court.

4 (d) Two members from among six nominees selected by the  
5 Board of Governors of the State Bar of Nevada, three of whom  
6 must be members in good standing of the State Bar of Nevada who  
7 reside in a county whose population is less than 100,000, and  
8 three of whom must be members in good standing of the State Bar  
9 of Nevada who reside in a county whose population is 100,000 or  
10 more, appointed by the Governor. The Governor must appoint one  
11 member who resides in a county whose population is less than  
12 100,000 and one member who resides in a county whose  
13 population is 100,000 or more.

14 (e) Four members from among six nominees selected by the  
15 Nevada Association of Counties who reside in a county whose  
16 population is less than 100,000, appointed by the Governor. The  
17 Governor must appoint one member who has expertise in the  
18 finances of local government.

19 (f) Two members from among four nominees selected by the  
20 Board of County Commissioners of Clark County, appointed by  
21 the Governor.

22 (g) One member from among two nominees selected by the  
23 Board of County Commissioners of Washoe County, appointed by  
24 the Governor.

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

28 3. The Chief Justice of the Nevada Supreme Court or his or  
29 her designee is an *ex officio*, nonvoting member of the  
30 Commission.

31 4. Each person appointed to the Commission pursuant to  
32 subsection 2 must have:

33 (a) Significant experience in providing legal representation to  
34 indigent persons who are charged with public offenses or to  
35 indigent children who are alleged to be delinquent or in need of  
36 supervision;

37 (b) A demonstrated commitment to providing effective legal  
38 representation to such persons; or

39 (c) Expertise or experience, as determined by the appointing  
40 authority, which qualifies the person to contribute to the purpose  
41 of the Commission or to carrying out any of its functions pursuant  
42 to section 11 of this act.

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

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



1 (b) A prosecuting attorney or an employee thereof;  
2 (c) A law enforcement officer or an employee of a law  
3 enforcement agency; or

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

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

10 7. Each member of the Commission continues in office until  
11 a successor is appointed.

12 8. Any vacancy occurring in the membership of the  
13 Commission must be filled in the same manner as the original  
14 appointment for the remainder of the unexpired term.

15 9. Each member of the Commission:

16 (a) Serves without compensation; and

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

20 10. Each member of the Commission who is an officer or  
21 employee of the State or a local government must be relieved from  
22 his or her duties without loss of his or her regular compensation  
23 so that the member may prepare for and attend meetings of the  
24 Commission and perform any work necessary to carry out the  
25 duties of the Commission in the most timely manner practicable. A  
26 state agency or local government shall not require an officer or  
27 employee who is a member of the Commission to make up the time  
28 the member is absent from work to carry out his or her duties as a  
29 member, and shall not require the member to take annual  
30 vacation or compensatory time for the absence.

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

34 12. A majority of the voting members of the Commission  
35 constitutes a quorum for the transaction of business at a meeting  
36 of the Commission. A majority of the voting members of the  
37 Commission is required for official action of the Commission.

38 **Sec. 10.** (Deleted by amendment.)

39 **Sec. 11. 1.** The Commission shall conduct a study during  
40 the 2017-2019 interim concerning issues relating to the provision  
41 of indigent defense services.

42 2. The Commission shall make recommendations to the  
43 Legislature to improve the provision of indigent defense services  
44 and to ensure that those services are provided in a manner that  
45 complies with the standards for the effective assistance of counsel



1 *established by the United States Supreme Court and the appellate*  
2 *courts of this State under the Sixth Amendment to the United*  
3 *States Constitution and Section 8 of Article 1 of the Nevada*  
4 *Constitution. The Commission shall make recommendations*  
5 *concerning:*

6 *(a) Standards related to the caseload and workload of defense*  
7 *counsel;*

8 *(b) Minimum standards for the provision of indigent defense*  
9 *services;*

10 *(c) Minimum standards for a statewide system for the*  
11 *provision of indigent defense services in a county whose*  
12 *population is less than 100,000;*

13 *(d) Funding a statewide system for the provision of indigent*  
14 *services; and*

15 *(e) Any other recommendations in accordance with the*  
16 *findings of the Commission.*

17 *3. Any state agency, political subdivision of this State or any*  
18 *other state or local governmental agency in this State, or any*  
19 *officer, employee or other person acting on behalf of such an*  
20 *agency or entity, shall provide, to the best ability of the agency,*  
21 *entity or person, information requested by the Commission to*  
22 *carry out any of its functions pursuant to this section.*

23 *4. The Commission may employ and contract, within the*  
24 *limits of legislative appropriations, such experts as necessary to*  
25 *carry out any of its functions pursuant to this section.*

26 *5. On or before September 1, 2018, the Commission shall*  
27 *submit a report of its findings and any recommendations to:*

28 *(a) The Office of Finance in the Office of the Governor; and*

29 *(b) The Director of the Legislative Counsel Bureau for*  
30 *transmittal to the 80th Session of the Nevada Legislature.*

31 **Sec. 12.** (Deleted by amendment.)

32 **Sec. 13.** (Deleted by amendment.)

33 **Sec. 14.** (Deleted by amendment.)

34 **Sec. 14.3.** (Deleted by amendment.)

35 **Sec. 14.5.** (Deleted by amendment.)

36 **Sec. 15.** (Deleted by amendment.)

37 **Sec. 16.** (Deleted by amendment.)

38 **Sec. 17.** (Deleted by amendment.)

39 **Sec. 18.** (Deleted by amendment.)

40 **Sec. 19.** (Deleted by amendment.)

41 **Sec. 20.** (Deleted by amendment.)

42 **Sec. 21.** (Deleted by amendment.)

43 **Sec. 22.** (Deleted by amendment.)

44 **Sec. 23.** (Deleted by amendment.)

45 **Sec. 24.** (Deleted by amendment.)



1     **Sec. 25.** (Deleted by amendment.)

2     **Sec. 26.** (Deleted by amendment.)

3     **Sec. 27.** (Deleted by amendment.)

4     **Sec. 28.** (Deleted by amendment.)

5     **Sec. 29.** (Deleted by amendment.)

6     **Sec. 30.** (Deleted by amendment.)

7     **Sec. 31.** (Deleted by amendment.)

8     **Sec. 31.2.** Chapter 218D of NRS is hereby amended by adding  
9     thereto a new section to read as follows:

10    1. *For a regular session, the Nevada Right to Counsel*  
11    *Commission created by section 9 of this act may request the*  
12    *drafting of not more than one legislative measure which relates to*  
13    *matters within the scope of the Commission. The request must be*  
14    *submitted to the Legislative Counsel on or before September 1*  
15    *preceding the regular session.*

16    2. *A request made pursuant to this section must be on a form*  
17    *prescribed by the Legislative Counsel. A legislative measure*  
18    *requested pursuant to this section must be prefiled on or before*  
19    *the third Wednesday in November preceding the regular session. A*  
20    *legislative measure that is not prefiled on or before that day shall*  
21    *be deemed withdrawn.*

22    **Sec. 31.4.** NRS 218D.100 is hereby amended to read as  
23    follows:

24    218D.100 1. The provisions of NRS 218D.100 to 218D.220,  
25    inclusive, *and section 31.2 of this act* apply to requests for the  
26    drafting of legislative measures for a regular session.

27    2. Except as otherwise provided by a specific statute, joint rule  
28    or concurrent resolution, the Legislative Counsel shall not honor a  
29    request for the drafting of a legislative measure if the request:

30    (a) Exceeds the number of requests authorized by NRS  
31    218D.100 to 218D.220, inclusive, *and section 31.2 of this act* for  
32    the requester; or

33    (b) Is submitted by an authorized nonlegislative requester  
34    pursuant to NRS 218D.175 to 218D.220, inclusive, *and section 31.2*  
35    *of this act* but is not in a subject related to the function of the  
36    requester.

37    3. The Legislative Counsel shall not:

38    (a) Assign a number to a request for the drafting of a legislative  
39    measure to establish the priority of the request until sufficient detail  
40    has been received to allow complete drafting of the legislative  
41    measure.

42    (b) Honor a request to change the subject matter of a request for  
43    the drafting of a legislative measure after it has been submitted for  
44    drafting.



1 (c) Honor a request for the drafting of a legislative measure  
2 which has been combined in violation of Section 17 of Article 4 of  
3 the Nevada Constitution.

4 **Sec. 31.6.** 1. There is hereby appropriated from the State  
5 General Fund to the Nevada Supreme Court for expenses related to  
6 the Nevada Right to Counsel Commission created by section 9 of  
7 this act the following sums:

8	For the Fiscal Year 2017-2018.....	\$115,000
9	For the Fiscal Year 2018-2019.....	\$115,000

10 2. Any balance of the sums appropriated by subsection 1  
11 remaining at the end of the respective years must not be committed  
12 for expenditure after June 30 of the respective fiscal years by the  
13 entity to which the appropriation is made or any entity to which  
14 money from the appropriation is granted or otherwise transferred in  
15 any manner, and any portion of the appropriated money remaining  
16 must not be spent for any purpose after September 21, 2018, and  
17 September 20, 2019, respectively, by either the entity to which the  
18 money was appropriated or the entity to which the money was  
19 subsequently granted or transferred and must be reverted to the State  
20 General Fund on or before September 21, 2018, and September 20,  
21 2019, respectively.

22 **Sec. 32.** As soon as practicable after July 1, 2017, the  
23 Governor, the Majority Leader of the Senate, the Speaker of the  
24 Assembly and the Chief Justice of the Supreme Court, as applicable,  
25 shall appoint the members of the Nevada Right to Counsel  
26 Commission created pursuant to section 9 of this act to terms that  
27 expire on June 30, 2019.

28 **Sec. 33.** (Deleted by amendment.)

29 **Sec. 34.** (Deleted by amendment.)

30 **Sec. 35.** This act becomes effective on July 1, 2017, and  
31 expires by limitation on June 30, 2019.



