

CHAPTER.....

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:

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

Section 11 of this bill requires the Commission to conduct a study during the 2017-2019 interim concerning issues relating to the provision of legal representation to indigent persons. **Section 11** also requires the Commission to recommend to the Legislature standards concerning the provision of legal representation to indigent persons. The recommendations must include: (1) standards related to the caseload and workload of defense counsel; (2) minimum standards for the provision of legal representation to indigent persons; (3) minimum standards for a statewide system for the provision of such services in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties); (4) funding a statewide system for the provision of such services; and (5) any other recommendations in accordance with the findings of the Commission. Recommendations proposed by the Commission must be submitted to the Office of Finance in the Office of the Governor and the Legislature on or before September 1, 2018.

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

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



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

Section 1. (Deleted by amendment.)

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

Sec. 3. (Deleted by amendment.)

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

Sec. 5. (Deleted by amendment.)

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

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

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

2. An indigent child who is:

(a) Alleged to be delinquent; or

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

Sec. 8. (Deleted by amendment.)

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

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

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

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

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

(d) Two members from among six nominees selected by the Board of Governors of the State Bar of Nevada, three of whom must be members in good standing of the State Bar of Nevada who reside in a county whose population is less than 100,000, and three of whom must be members in good standing of the State Bar of Nevada who reside in a county whose population is 100,000 or



more, appointed by the Governor. The Governor must appoint one member who resides in a county whose population is less than 100,000 and one member who resides in a county whose population is 100,000 or more.

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

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

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

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

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

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

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

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

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

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

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

(b) A prosecuting attorney or an employee thereof;

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

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

6. In addition to the other requirements set forth in this section, not more than two persons who are county managers or



members of a board of county commissioners may be appointed to the Commission pursuant to subsection 2.

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

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

9. Each member of the Commission:

(a) Serves without compensation; and

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

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

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

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

Sec. 10. (Deleted by amendment.)

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

2. The Commission shall make recommendations to the Legislature to improve the provision of indigent defense services and to ensure that those services are provided in a manner that complies with the standards for the effective assistance of counsel established by the United States Supreme Court and the appellate courts of this State under the Sixth Amendment to the United States Constitution and Section 8 of Article 1 of the Nevada Constitution. The Commission shall make recommendations concerning:



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

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

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

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

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

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

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

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

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

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

Secs. 12-31. (Deleted by amendment.)

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

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

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



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

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

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

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

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

3. The Legislative Counsel shall not:

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

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

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

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

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

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



General Fund on or before September 21, 2018, and September 20, 2019, respectively.

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

Secs. 33 and 34. (Deleted by amendment.)

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



