

**DEFENSE CONTRACTS AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Eric K. Hutchings

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**LONG TITLE**

**General Description:**

This bill modifies and enacts provisions related to indigent and parental defense.

**Highlighted Provisions:**

This bill:

- ▶ creates and modifies definitions;
- ▶ amends the powers, duties, and membership of the Utah Indigent Defense Commission;
- ▶ creates the Office of Indigent Defense Services;
- ▶ creates the powers and duties of the Office of Indigent Defense Services;
- ▶ requires the Office of Indigent Defense Services to administer the Child Welfare Parental Defense Program;
- ▶ modifies provisions relating to administration of the Child Welfare Parental Defense Program;
- ▶ creates a reporting requirement for indigent defense services; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides coordination clauses.

**Utah Code Sections Affected:**

AMENDS:

29 **63M-7-204**, as last amended by Laws of Utah 2019, Chapter 435  
30 **78A-6-1111**, as last amended by Laws of Utah 2019, Chapter 326  
31 **78B-6-112**, as last amended by Laws of Utah 2019, Chapters 136, 326, and 491  
32 **78B-22-102**, as enacted by Laws of Utah 2019, Chapter 326  
33 **78B-22-201**, as enacted by Laws of Utah 2019, Chapter 326  
34 **78B-22-401**, as renumbered and amended by Laws of Utah 2019, Chapter 326  
35 **78B-22-402**, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and  
36 amended by Laws of Utah 2019, Chapter 326

37 **78B-22-404**, as renumbered and amended by Laws of Utah 2019, Chapter 326  
38 **78B-22-406**, as renumbered and amended by Laws of Utah 2019, Chapter 326

39 **ENACTS:**

40 **78B-22-451**, Utah Code Annotated 1953  
41 **78B-22-452**, Utah Code Annotated 1953  
42 **78B-22-801**, Utah Code Annotated 1953

43 **RENUMBERS AND AMENDS:**

44 **78B-22-453**, (Renumbered from 78B-22-403, as renumbered and amended by Laws of  
45 Utah 2019, Chapter 326)  
46 **78B-22-802**, (Renumbered from 63M-7-211, as enacted by Laws of Utah 2019, Chapter  
47 435)  
48 **78B-22-803**, (Renumbered from 63M-7-211.1, as enacted by Laws of Utah 2019,  
49 Chapter 435)  
50 **78B-22-804**, (Renumbered from 63M-7-211.2, as enacted by Laws of Utah 2019,  
51 Chapter 435)

52 **Utah Code Sections Affected by Coordination Clauses:**

53 **78B-22-402**, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and  
54 amended by Laws of Utah 2019, Chapter 326  
55 **78B-22-451**, Utah Code Annotated 1953

56 [78B-22-452](#), Utah Code Annotated 1953  
57 [78B-22-453](#), Renumbered from 78B-22-403, as renumbered and amended by Laws of  
58 Utah 2019, Chapter 326  
59 [78B-22-803](#), Renumbered from 63M-7-211.1, as enacted by Laws of Utah 2019,  
60 Chapter 435

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62 *Be it enacted by the Legislature of the state of Utah:*

63 Section 1. Section **63M-7-204** is amended to read:

64 **63M-7-204. Duties of commission.**

65 (1) The State Commission on Criminal and Juvenile Justice administration shall:

66 (a) promote the commission's purposes as enumerated in Section [63M-7-201](#);

67 (b) promote the communication and coordination of all criminal and juvenile justice  
68 agencies;

69 (c) study, evaluate, and report on the status of crime in the state and on the  
70 effectiveness of criminal justice policies, procedures, and programs that are directed toward the  
71 reduction of crime in the state;

72 (d) study, evaluate, and report on programs initiated by state and local agencies to  
73 address reducing recidivism, including changes in penalties and sentencing guidelines intended  
74 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and  
75 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an  
76 alternative to incarceration, as resources allow;

77 (e) study, evaluate, and report on policies, procedures, and programs of other  
78 jurisdictions which have effectively reduced crime;

79 (f) identify and promote the implementation of specific policies and programs the  
80 commission determines will significantly reduce crime in Utah;

81 (g) provide analysis and recommendations on all criminal and juvenile justice  
82 legislation, state budget, and facility requests, including program and fiscal impact on all

83 components of the criminal and juvenile justice system;

84 (h) provide analysis, accountability, recommendations, and supervision for state and  
85 federal criminal justice grant money;

86 (i) provide public information on the criminal and juvenile justice system and give  
87 technical assistance to agencies or local units of government on methods to promote public  
88 awareness;

89 (j) promote research and program evaluation as an integral part of the criminal and  
90 juvenile justice system;

91 (k) provide a comprehensive criminal justice plan annually;

92 (l) review agency forecasts regarding future demands on the criminal and juvenile  
93 justice systems, including specific projections for secure bed space;

94 (m) promote the development of criminal and juvenile justice information systems that  
95 are consistent with common standards for data storage and are capable of appropriately sharing  
96 information with other criminal justice information systems by:

97 (i) developing and maintaining common data standards for use by all state criminal  
98 justice agencies;

99 (ii) annually performing audits of criminal history record information maintained by  
100 state criminal justice agencies to assess their accuracy, completeness, and adherence to  
101 standards;

102 (iii) defining and developing state and local programs and projects associated with the  
103 improvement of information management for law enforcement and the administration of  
104 justice; and

105 (iv) establishing general policies concerning criminal and juvenile justice information  
106 systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this  
107 Subsection (1)(m);

108 (n) allocate and administer grants, from money made available, for approved education  
109 programs to help prevent the sexual exploitation of children;

110 (o) allocate and administer grants funded from money from the Law Enforcement  
111 Operations Account created in Section 51-9-411 for law enforcement operations and programs  
112 related to reducing illegal drug activity and related criminal activity;

113 (p) request, receive, and evaluate data and recommendations collected and reported by  
114 agencies and contractors related to policies recommended by the commission regarding  
115 recidivism reduction;

116 (q) establish and administer a performance incentive grant program that allocates funds  
117 appropriated by the Legislature to programs and practices implemented by counties that reduce  
118 recidivism and reduce the number of offenders per capita who are incarcerated;

119 (r) oversee or designate an entity to oversee the implementation of juvenile justice  
120 reforms;

121 (s) make rules and administer the juvenile holding room standards and juvenile jail  
122 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements  
123 pursuant to 42 U.S.C. Sec. 5633;

124 (t) allocate and administer grants, from money made available, for pilot qualifying  
125 education programs; and

126 (u) oversee the trauma-informed justice program described in Section 63M-7-209[;  
127 and].

128 [~~(v) administer the Child Welfare Parental Defense Program in accordance with~~  
129 ~~Sections 63M-7-211, 63M-7-211.1, and 63M-7-211.2.~~]

130 (2) If the commission designates an entity under Subsection (1)(r), the commission  
131 shall ensure that the membership of the entity includes representation from the three branches  
132 of government and, as determined by the commission, representation from relevant stakeholder  
133 groups across all parts of the juvenile justice system, including county representation.

134 Section 2. Section 78A-6-1111 is amended to read:

135 **78A-6-1111. Order for indigent defense service or guardian ad litem.**

136 [~~(1) A court shall order indigent defense services for a minor, parent, or legal guardian~~

137 as provided by Title 78B, Chapter 22, Indigent Defense Act.]

138 (1) A court shall order indigent defense services in accordance with Title 78B, Chapter  
139 22, Indigent Defense Act, for a minor, parent, or legal guardian facing an action filed by a  
140 private party or the state under this title.

141 (2) (a) In any action under Part 3, Abuse, Neglect, and Dependency Proceedings, or  
142 Part 5, Termination of Parental Rights Act, the child shall be represented by a guardian ad  
143 litem in accordance with Sections 78A-6-317 and 78A-6-902.

144 (b) The child shall [also] be represented by an attorney guardian ad litem in other  
145 actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as  
146 otherwise provided by law.

147 Section 3. Section 78B-6-112 is amended to read:

148 **78B-6-112. District court jurisdiction over termination of parental rights**  
149 **proceedings.**

150 (1) A district court has jurisdiction to terminate parental rights in a child if the party  
151 [who] that filed the petition is seeking to terminate parental rights in the child for the purpose  
152 of facilitating the adoption of the child.

153 (2) A petition to terminate parental rights under this section may be:

154 (a) joined with a proceeding on an adoption petition; or

155 (b) filed as a separate proceeding before or after a petition to adopt the child is filed.

156 (3) A court may enter a final order terminating parental rights before a final decree of  
157 adoption is entered.

158 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to  
159 proceedings to terminate parental rights as described in Section 78A-6-103.

160 (b) This section does not grant jurisdiction to a district court to terminate parental  
161 rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,  
162 neglect, dependency, or termination of parental rights proceeding.

163 (5) The district court may terminate an individual's parental rights in a child if:

- 164 (a) the individual executes a voluntary consent to adoption, or relinquishment for  
165 adoption, of the child, in accordance with:
- 166 (i) the requirements of this chapter; or  
167 (ii) the laws of another state or country, if the consent is valid and irrevocable;
- 168 (b) the individual is an unmarried biological father who is not entitled to consent to  
169 adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;
- 170 (c) the individual:
- 171 (i) received notice of the adoption proceeding relating to the child under Section  
172 78B-6-110; and
- 173 (ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days  
174 after the day on which the individual was served with notice of the adoption proceeding;
- 175 (d) the court finds, under Section 78B-15-607, that the individual is not a parent of the  
176 child; or
- 177 (e) the individual's parental rights are terminated on grounds described in Title 78A,  
178 Chapter 6, Part 5, Termination of Parental Rights Act, [~~if terminating the individual's parental~~  
179 ~~rights~~] and termination is in the best interests of the child.
- 180 (6) The court shall appoint an indigent defense service provider~~[, under]~~ in accordance  
181 with Title 78B, Chapter 22, Indigent Defense Act, to represent [~~a party~~] an individual who  
182 faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of  
183 Parental Rights Act, or whose parental rights are subject to termination under this section.
- 184 (7) If a county incurs expenses in providing indigent defense services to an indigent  
185 individual facing any action initiated by a private party under Title 78A, Chapter 6, Part 5,  
186 Termination of Parental Rights Act, or termination of parental rights under this section, the  
187 county may apply for reimbursement from the Utah Indigent Defense Commission [~~under~~] in  
188 accordance with Section 78B-22-406.
- 189 (8) A petition filed under this section is subject to the procedural requirements of this  
190 chapter.

191 Section 4. Section **78B-22-102** is amended to read:

192 **78B-22-102. Definitions.**

193 As used in this chapter:

194 (1) "Account" means the Indigent Defense Resources Restricted Account created in  
195 Section [78B-22-405](#).

196 (2) "Board" means the Indigent Defense Funds Board created in Section [78B-22-501](#).

197 (3) "Commission" means the Utah Indigent Defense Commission created in Section  
198 [78B-22-401](#).

199 (4) "Director" means the director of the Office of Indigent Defense Services, created in  
200 Section [78B-22-451](#), who is appointed in accordance with Section [78B-22-453](#).

201 ~~[(4)]~~ (5) (a) "Indigent defense resources" means the resources necessary to provide an  
202 effective defense for an indigent individual, including the costs for a competent investigator,  
203 expert witness, scientific or medical testing, transcripts, and printing briefs.

204 (b) "Indigent defense resources" does not include an indigent defense service provider.

205 ~~[(5)]~~ (6) "Indigent defense service provider" means an attorney or entity appointed to  
206 represent an indigent individual pursuant to:

207 (a) a contract with an indigent defense system to provide indigent defense services; or

208 (b) an order issued by the court under Subsection [78B-22-203\(2\)\(a\)](#).

209 ~~[(6)]~~ (7) "Indigent defense services" means:

210 (a) the representation of an indigent individual by an indigent defense service provider;

211 and

212 (b) the provision of indigent defense resources for an indigent individual.

213 ~~[(7)]~~ (8) "Indigent defense system" means:

214 (a) a city or town that is responsible for providing indigent defense services [~~in the~~  
215 ~~city's or town's justice court~~];

216 (b) a county that is responsible for providing indigent defense services in the district  
217 court, juvenile court, ~~[or]~~ and the county's justice courts; or



218 (c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation  
 219 Act, that is responsible for providing indigent defense services according to the terms of an  
 220 agreement between a county, city, or town.

221 ~~[(8)]~~ (9) "Indigent individual" means:

222 (a) a minor who is:

223 (i) arrested and admitted into detention for an offense under Section 78A-6-103;

224 (ii) charged by petition or information in the juvenile or district court; or

225 (iii) described in this Subsection ~~[(8)]~~ (9)(a), who is appealing ~~[a first appeal from]~~ an  
 226 adjudication or other final court action; and

227 (b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to  
 228 Section 78B-22-202.

229 ~~[(9)]~~ (10) "Minor" means the same as that term is defined in Section 78A-6-105.

230 (11) "Office" means the Office of Indigent Defense Services created in Section  
 231 78B-22-451.

232 ~~[(10)]~~ (12) "Participating county" means a county that complies with this chapter for  
 233 participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections  
 234 78B-22-702 and 78B-22-703.

235 Section 5. Section 78B-22-201 is amended to read:

236 **78B-22-201. Right to counsel.**

237 (1) A court shall advise the following of the individual's right to counsel when the  
 238 individual first appears before the court:

239 (a) an adult charged with a criminal offense the penalty for which includes the  
 240 possibility of incarceration regardless of whether actually imposed;

241 (b) a parent or legal guardian facing ~~[any]~~ an action initiated by the state under:

242 (i) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;

243 (ii) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or

244 (iii) Title 78A, Chapter 6, Part 10, Adult Offenses; ~~[or]~~

245 ~~[(iv) Section 78B-6-112; or]~~  
246 (c) a parent or legal guardian facing an action initiated by any party under:  
247 (i) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or  
248 (ii) Section 78B-6-112; or  
249 ~~[(e)]~~ (d) an individual described in this Subsection (1), who is appealing [a first appeal  
250 from] a conviction or other final court action.

251 (2) If an individual described in Subsection (1) does not knowingly and voluntarily  
252 waive the right to counsel, the court shall determine whether the individual is indigent under  
253 Section 78B-22-202.

254 Section 6. Section 78B-22-401 is amended to read:

255 **78B-22-401. Utah Indigent Defense Commission -- Creation -- Purpose.**

256 (1) There is created the Utah Indigent Defense Commission within the State  
257 Commission on Criminal and Juvenile Justice ~~[the "Utah Indigent Defense Commission."].~~

258 (2) The purpose of the commission is to assist:

259 (a) the state in meeting the state's obligations for the provision of indigent defense  
260 services, consistent with the United States Constitution, the Utah Constitution, and the Utah  
261 Code[-]; and

262 (b) the office with carrying out the statutory duties assigned to the commission and  
263 office.

264 Section 7. Section 78B-22-402 is amended to read:

265 **78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.**

266 (1) (a) The commission is composed of 15 [voting] members [and one ex officio,  
267 nonvoting member].

268 ~~[(a)]~~ (b) The governor, with the consent of the Senate, shall appoint the following [+3  
269 voting] 11 members:

270 (i) two practicing criminal defense attorneys recommended by the Utah Association of  
271 Criminal Defense Lawyers;

272 (ii) one attorney practicing in juvenile delinquency defense recommended by the Utah  
273 Association of Criminal Defense Lawyers;

274 (iii) one attorney practicing in the area of parental defense, recommended by an entity  
275 funded under the Child Welfare Parental Defense Program created in Section [78B-22-802](#);

276 [~~(iii)~~] (iv) one attorney representing minority interests recommended by the Utah  
277 Minority Bar Association;

278 [~~(iv)~~] (v) one member recommended by the Utah Association of Counties from a  
279 county of the first or second class;

280 [~~(v)~~] (vi) one member recommended by the Utah Association of Counties from a  
281 county of the third through sixth class;

282 [~~(vi)~~] (vii) a director of a county public defender organization recommended by the  
283 Utah Association of Criminal Defense Lawyers;

284 [~~(vii)~~] (viii) two members recommended by the Utah League of Cities and Towns from  
285 its membership; and

286 [~~(viii)~~-a] (ix) one retired judge recommended by the Judicial Council[;].

287 [~~(ix)~~] ~~one attorney practicing in the area of parental defense, recommended by an entity~~  
288 ~~funded under the Child Welfare Parental Defense Program created in Section [63M-7-211](#); and]~~

289 [~~(x)~~] (c) The speaker of the House of Representatives and the president of the Senate  
290 shall appoint two members of the Utah Legislature, one from the House of Representatives and  
291 one from the Senate[~~, selected jointly by the Speaker of the House and President of the Senate~~].

292 [~~(b)~~] (d) The Judicial Council shall appoint a [~~voting~~] member from the Administrative  
293 Office of the Courts.

294 [~~(c)~~] (e) The executive director of the State Commission on Criminal and Juvenile  
295 Justice or the executive director's designee is a [~~voting~~] member of the commission.

296 [~~(d)~~] ~~The director of the commission, appointed under Section [78B-22-403](#), is an ex~~  
297 ~~officio, nonvoting member of the commission.~~]

298 (2) A member appointed by the governor shall serve a four-year term, except as

299 provided in Subsection (3).

300 (3) The governor shall stagger the initial terms of appointees so that approximately half  
301 of the members appointed by the governor are appointed every two years.

302 (4) A member appointed to the commission shall have significant experience in  
303 indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or  
304 have otherwise demonstrated a strong commitment to providing effective representation in  
305 indigent defense services.

306 (5) ~~[A person]~~ An individual who is currently employed solely as a criminal  
307 prosecuting attorney may not serve as a member of the commission.

308 (6) A commission member shall hold office until the member's successor is appointed.

309 (7) The commission may remove a member for incompetence, dereliction of duty,  
310 malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

311 (8) If a vacancy occurs in the membership for any reason, a replacement shall be  
312 appointed for the remaining unexpired term in the same manner as the original appointment.

313 (9) (a) The commission shall ~~[annually]~~ elect annually a chair from the commission's  
314 membership to serve a one-year term.

315 (b) A commission member may not serve as chair of the commission for more than  
316 three consecutive terms.

317 (10) A member may not receive compensation or benefits for the member's service, but  
318 may receive per diem and travel expenses in accordance with:

319 (a) Section [63A-3-106](#);

320 (b) Section [63A-3-107](#); and

321 (c) rules made by the Division of Finance ~~[pursuant to]~~ in accordance with Sections  
322 [63A-3-106](#) and [63A-3-107](#).

323 (11) (a) A majority of the members of the commission constitutes a quorum.

324 (b) If a quorum is present, the action of a majority of the voting members present  
325 constitutes the action of the commission.

326 Section 8. Section **78B-22-404** is amended to read:

327 **78B-22-404. Powers and duties of the commission.**

328 (1) The commission shall:

329 (a) adopt minimum guidelines for an indigent defense system to ensure the effective  
330 representation of indigent individuals consistent with the requirements of the United States  
331 Constitution, the Utah Constitution, and the Utah Code, which guidelines at a minimum shall  
332 address the following:

333 (i) an indigent defense system shall ensure that in providing indigent defense services:

334 (A) an indigent individual receives conflict-free indigent defense services; and

335 (B) there is a separate contract for each type of indigent defense service; and

336 (ii) an indigent defense system shall ensure an indigent defense service provider has:

337 (A) the ability to exercise independent judgment without fear of retaliation and is free  
338 to represent an indigent individual based on the indigent defense service provider's own  
339 independent judgment;

340 (B) adequate access to indigent defense resources;

341 (C) the ability to provide representation to accused individuals in criminal cases at the  
342 critical stages~~[, and at the]~~ of proceedings, and at all stages to indigent individuals in juvenile  
343 delinquency and child welfare proceedings;

344 (D) a workload that allows for sufficient time to meet with clients, investigate cases,  
345 file appropriate documents with the courts, and otherwise provide effective assistance of  
346 counsel to each client;

347 (E) adequate compensation without financial disincentives;

348 (F) appropriate experience or training in the area for which the indigent defense service  
349 provider is representing indigent individuals;

350 (G) compensation for legal training and education in the areas of the law relevant to the  
351 types of cases for which the indigent defense service provider is representing indigent  
352 individuals; and

353 (H) the ability to meet the obligations of the Utah Rules of Professional Conduct,  
354 including expectations on client communications and managing conflicts of interest;

355 (b) encourage and aid indigent defense systems in the state in the regionalization of  
356 indigent defense services to provide for effective and efficient representation to the indigent  
357 individuals;

358 ~~[(c) identify and collect data from any source, which is necessary for the commission  
359 to:]~~

360 ~~[(i) aid, oversee, and review compliance by indigent defense systems with the  
361 commission's minimum guidelines for the effective representation of indigent individuals; and]~~

362 ~~[(ii) provide reports regarding the operation of the commission and the provision of  
363 indigent defense services by indigent defense systems in the state;]~~

364 ~~[(d) assist indigent defense systems by reviewing contracts and other agreements, to  
365 ensure compliance with the commission's minimum guidelines for effective representation of  
366 indigent individuals;]~~

367 ~~[(e) investigate, audit, and review the provision of indigent defense services to ensure  
368 compliance with the commission's minimum guidelines for the effective representation of  
369 indigent individuals;]~~

370 ~~[(f) establish procedures for the receipt and acceptance of complaints regarding the  
371 provision of indigent defense services in the state;]~~

372 ~~[(g) establish procedures to award grants to indigent defense systems under Section  
373 [78B-22-406](#) consistent with the commission's minimum guidelines for the effective  
374 representation of indigent individuals and appropriations by the state;]~~

375 ~~[(h)]~~ (c) emphasize the importance of ensuring constitutionally effective indigent  
376 defense services;

377 ~~[(i)]~~ (d) encourage members of the judiciary to provide input regarding the delivery of  
378 indigent defense services; and

379 ~~[(j)]~~ (e) oversee individuals and entities involved in providing indigent defense

380 services[;].

381 ~~[(k) annually report to the governor, Legislature, Judiciary Interim Committee, and~~  
382 ~~Judicial Council, regarding:]~~

383 ~~[(i) the operations of the commission;]~~

384 ~~[(ii) the operations of the indigent defense systems in the state; and]~~

385 ~~[(iii) compliance with the commission's minimum guidelines by indigent defense~~  
386 ~~systems receiving grants from the commission;]~~

387 ~~[(l) submit recommendations for improving indigent defense services in the state, to~~  
388 ~~legislative, executive, and judicial leadership; and]~~

389 ~~[(m) publish an annual report on the commission's website.]~~

390 (2) The commission may:

391 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
392 Rulemaking Act, to carry out the commission's duties under this part[-];

393 (b) assign duties related to indigent defense services to the office to assist the  
394 commission with the commission's statutory duties; and

395 (c) request supplemental appropriations from the Legislature to address a deficit in the  
396 Child Welfare Parental Defense Fund created in Section [78B-22-804](#).

397 Section 9. Section **78B-22-406** is amended to read:

398 **78B-22-406. Indigent defense services grant program.**

399 (1) The commission may award grants to supplement local spending by an indigent  
400 defense system for indigent defense.

401 ~~[(2) Commission grant money may be used for the following expenses:]~~

402 (2) The commission may use grant money:

403 (a) to assist an indigent defense system to provide indigent defense services that meet  
404 the commission's minimum guidelines for the effective representation of indigent individuals;

405 (b) ~~[the establishment and maintenance of]~~ to establish and maintain local indigent  
406 defense data collection systems;

407 (c) to provide indigent defense services in addition to ~~those~~ indigent defense services  
408 that are currently being provided by an indigent defense system; ~~and~~

409 (d) to provide training and continuing legal education for indigent defense service  
410 providers~~[-]; and~~

411 (e) to pay for indigent defense resources and costs and expenses for parental defense  
412 attorneys as described in Subsection [78B-22-804\(2\)](#).

413 (3) To receive a grant from the commission, an indigent defense system shall  
414 demonstrate to the commission's satisfaction that:

415 (a) the indigent defense system has incurred or reasonably anticipates incurring  
416 expenses for indigent defense services that are in addition to the indigent defense system's  
417 average annual spending on indigent defense services in the three fiscal years immediately  
418 preceding the grant application; and

419 (b) a grant from the commission is necessary for the indigent defense system to meet  
420 the commission's minimum guidelines for the effective representation of indigent individuals.

421 (4) The commission may revoke a grant if an indigent defense system fails to meet  
422 requirements of the grant or any of the commission's minimum guidelines for the effective  
423 representation of indigent individuals.

424 Section 10. Section **78B-22-451** is enacted to read:

425 **Part 4a. Office of Indigent Defense Services**

426 **78B-22-451. Office of Indigent Defense Services -- Creation.**

427 There is created the Office of Indigent Defense Services within the State Commission  
428 on Criminal and Juvenile Justice.

429 Section 11. Section **78B-22-452** is enacted to read:

430 **78B-22-452. Duties of the office.**

431 (1) The office shall:

432 (a) establish an annual budget for the office for the Indigent Defense Resources  
433 Restricted Account created in Section [78B-22-405](#);



- 434 (b) assist the commission in performing the commission's statutory duties described in  
435 this chapter;
- 436 (c) identify and collect data that is necessary for the commission to:
- 437 (i) aid, oversee, and review compliance by indigent defense systems with the  
438 commission's minimum guidelines for the effective representation of indigent individuals; and
- 439 (ii) provide reports regarding the operation of the commission and the provision of  
440 indigent defense services by indigent defense systems in the state;
- 441 (d) assist indigent defense systems by reviewing contracts and other agreements, to  
442 ensure compliance with the commission's minimum guidelines for effective representation of  
443 indigent individuals;
- 444 (e) establish procedures for the receipt and acceptance of complaints regarding the  
445 provision of indigent defense services in the state;
- 446 (f) establish procedures to award grants to indigent defense systems under Section  
447 [78B-22-406](#) that are consistent with the commission's minimum guidelines;
- 448 (g) assist the commission in developing and reviewing advisory caseload guidelines  
449 and procedures;
- 450 (h) investigate, audit, and review the provision of indigent defense services to ensure  
451 compliance with the commission's minimum guidelines for the effective representation of  
452 indigent individuals;
- 453 (i) administer the Child Welfare Parental Defense Program in accordance with Part 8,  
454 Child Welfare Parental Defense Program;
- 455 (j) annually report to the governor, Legislature, Judiciary Interim Committee, and  
456 Judicial Council, regarding:
- 457 (i) the operations of the commission;
- 458 (ii) the operations of the indigent defense systems in the state; and
- 459 (iii) compliance with the commission's minimum guidelines by indigent defense  
460 systems receiving grants from the commission;

461 (k) submit recommendations to the commission for improving indigent defense  
462 services in the state;

463 (l) publish an annual report on the commission's website; and

464 (m) perform all other duties assigned by the commission related to indigent defense  
465 services.

466 (2) The office may enter into contracts and accept, allocate, and administer funds and  
467 grants from any public or private person to accomplish the duties of the office.

468 (3) Any contract entered into under this part shall require that indigent defense services  
469 are provided in a manner consistent with the commission's minimum guidelines implemented  
470 under Section [78B-22-404](#).

471 Section 12. Section **78B-22-453**, which is renumbered from Section 78B-22-403 is  
472 renumbered and amended to read:

473 ~~**[78B-22-403].**~~ **78B-22-453. Director -- Qualifications -- Staff.**

474 (1) The ~~[commission]~~ executive director of the State Commission on Criminal and  
475 Juvenile Justice shall appoint a director to carry out the ~~[following duties:]~~ duties of the office  
476 described in Section [78B-22-452](#).

477 ~~[(a) establish an annual budget;]~~

478 ~~[(b) assist the commission in performing the commission's statutory duties;]~~

479 ~~[(c) assist the commission in developing and regularly reviewing advisory caseload~~  
480 ~~guidelines and procedures; and]~~

481 ~~[(d) perform all other duties as assigned.]~~

482 (2) The director shall be an active member of the Utah State Bar with an appropriate  
483 background and experience to serve as the full-time director.

484 (3) The director shall hire staff as necessary to carry out the duties of the ~~[commission]~~  
485 office as described in Section [78B-22-452](#), including:

486 (a) one individual who is an active member of the Utah State Bar to serve as a full-time  
487 assistant director; and

488 (b) one individual with data collection and analysis skills [~~to carry out duties as~~  
489 ~~outlined in Subsection 78B-22-404(1)(c)~~].

490 [~~(4) The commission in appointing the director, and the director in hiring the assistant~~  
491 ~~director, shall give a preference to individuals]~~

492 (4) When appointing the director of the office under Subsection (1), the executive  
493 director of the State Commission on Criminal and Juvenile Justice shall give preference to an  
494 individual with experience in adult criminal defense, child welfare parental defense, or juvenile  
495 delinquency defense.

496 (5) When hiring the assistant director, the director shall give preference to an  
497 individual with experience in adult criminal defense, child welfare parental defense, or juvenile  
498 delinquency defense.

499 Section 13. Section **78B-22-801** is enacted to read:

500 **Part 8. Child Welfare Parental Defense Program**

501 **78B-22-801. Definitions.**

502 As used in this part:

503 (1) "Child welfare case" means a proceeding under Title 78A, Chapter 6, Part 3,  
504 Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

505 (2) "Contracted parental defense attorney" means an attorney who represents an  
506 indigent individual who is a parent in a child welfare case under a contract with the office or a  
507 contributing county.

508 (3) "Contributing county" means a county that complies with this part for participation  
509 in the Child Welfare Parental Defense Fund described in Section [78B-22-804](#).

510 (4) "Fund" means the Child Welfare Parental Defense Fund created in Section  
511 [78B-22-804](#).

512 (5) "Program" means the Child Welfare Parental Defense Program created in Section  
513 [78B-22-802](#).

514 Section 14. Section **78B-22-802**, which is renumbered from Section 63M-7-211 is

515 renumbered and amended to read:

516 ~~[63M-7-211].~~ 78B-22-802. **Child Welfare Parental Defense Program --**  
517 **Creation -- Duties -- Annual report -- Budget.**

518 ~~[(1) As used in this section and Sections 63M-7-211.1 and 63M-7-211.2:]~~

519 ~~[(a) "Child welfare case" means a proceeding under Title 78A, Chapter 6, Part 3,~~  
520 ~~Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.]~~

521 ~~[(b) "Commission" means the Commission on Criminal and Juvenile Justice created in~~  
522 ~~Section 63M-7-201.]~~

523 ~~[(c) "Contracted parental defense attorney" means a parental defense attorney who is~~  
524 ~~under contract with the commission to provide parental defense in a child welfare case.]~~

525 ~~[(d) "Executive director" means the executive director of the commission appointed~~  
526 ~~under Section 63M-7-203.]~~

527 ~~[(e) "Fund" means the Child Welfare Parental Defense Fund established in Section~~  
528 ~~63M-7-211.2:]~~

529 ~~[(f) "Parental defense attorney" means an attorney, law firm, or group of attorneys~~  
530 ~~who:]~~

531 ~~[(i) are authorized to practice law in the state; and]~~

532 ~~[(ii) provide legal representation under contract with the commission, or a county in the~~  
533 ~~state, to a parent who is a party in a child welfare case.]~~

534 ~~[(g) "Program" means the Child Welfare Parental Defense Program created in this~~  
535 ~~section.]~~

536 ~~[(2)]~~ (1) There is created within the [commission] office the Child Welfare Parental  
537 Defense Program.

538 ~~[(3) The commission shall:]~~

539 ~~[(a) administer and enforce this section;]~~

540 ~~[(b) manage the operation and budget of the program;]~~

541 ~~[(c) provide assistance and advice to parental defense attorneys;]~~

542 ~~[(d) develop and provide educational and training programs for parental defense~~  
543 ~~attorneys; and]~~

544 ~~[(e) provide information and advice to assist a parental defense attorney to comply with~~  
545 ~~the attorney's professional, contractual, and ethical duties.]~~

546 ~~[(4) The commission may]~~

547 (2) (a) The office shall:

548 (i) administer and enforce the program in accordance with this part;

549 (ii) manage the operation and budget of the program;

550 (iii) develop and provide educational and training programs for contracted parental  
551 defense attorneys; and

552 (iv) provide information and advice to assist a contracted parental defense attorney to  
553 comply with the attorney's professional, contractual, and ethical duties.

554 (b) In administering the program, the office shall contract with:

555 ~~[(a)]~~ (i) a person who is qualified to perform the program duties under this section; and

556 ~~[(b)]~~ (ii) an attorney [authorized to practice law in the state], as an independent  
557 contractor, [to serve as a parental defense attorney under this section.] in accordance with  
558 Section 78B-22-803.

559 ~~[(5) (a) On or before October 1 of each year, the executive director shall report to the~~  
560 ~~governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year~~  
561 ~~on the operations, activities, and goals of the program.]~~

562 ~~[(b)]~~ (3) (a) The [executive] director shall prepare a budget of:

563 (i) the administrative expenses for the program; and

564 (ii) the amount estimated to fund needed contracts and other costs.

565 ~~[(c) The professional legislative staff may include summary data and nonidentifying~~  
566 ~~information in the staff's audits and reports to the Legislature.]~~

567 (b) On or before October 1 of each year, the director shall report to the governor and  
568 the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the

569 operations, activities, and goals of the program.

570 ~~[(6) (a) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and~~  
571 ~~Management Act, and except as provided in Subsection (6)(b), a record of a contracted parental~~  
572 ~~defense attorney is protected and may not be released or made public upon subpoena, search~~  
573 ~~warrant, discovery proceedings, or otherwise.]~~

574 ~~[(ii) A record of a contracted parental defense attorney is subject to legislative~~  
575 ~~subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers.]~~

576 ~~[(b) The Legislature shall maintain a record released in accordance with Subsection~~  
577 ~~(6)(a)(ii) as confidential.]~~

578 Section 15. Section **78B-22-803**, which is renumbered from Section 63M-7-211.1 is  
579 renumbered and amended to read:

580 **[63M-7-211.1]. 78B-22-803. Child welfare parental defense contracts.**

581 (1) (a) The ~~[commission]~~ office may enter into a contract with ~~[a parental defense]~~ an  
582 attorney to provide indigent defense services for [an indigent] a parent who is the subject of a  
583 petition alleging abuse, neglect, or dependency, and requires [a parental defense attorney  
584 under] indigent defense services under Section 78A-6-1111.

585 (b) ~~[Payment]~~ The office shall make payment for the representation, costs, and  
586 expenses of a contracted parental defense attorney [shall be made] from the Child Welfare  
587 Parental Defense Fund in accordance with Section [63M-7-211.2] 78B-22-804.

588 ~~[(c) The parental defense attorney shall maintain the minimum qualifications as~~  
589 ~~provided by this section.]~~

590 ~~[(2) A contracted parental defense attorney shall:]~~

591 ~~[(a) adequately prepare for and attend all court hearings, including initial and continued~~  
592 ~~shelter hearings and mediations;]~~

593 ~~[(b) fully advise the client of the nature of the proceedings and of the client's rights,~~  
594 ~~communicate to the client any offers of settlement or compromise, and advise the client~~  
595 ~~regarding the reasonably foreseeable consequences of any course of action in the proceedings;]~~

596 ~~[(c) be reasonably available to consult with the client outside of court proceedings;]~~

597 ~~[(d) where attendance is reasonably necessary, attend meetings regarding the client's~~  
 598 ~~case with representatives of one or more of the Division of Child and Family Services, the~~  
 599 ~~Office of the Attorney General, or the Office of Guardian Ad Litem;]~~

600 ~~[(e) represent the interest of the client at all stages of the proceedings before the trial~~  
 601 ~~court, and on appeal as required by law; and]~~

602 ~~[(f) participate in the training courses and otherwise maintain the standards described~~  
 603 ~~in Subsection (4).]~~

604 ~~[(3) If the commission enters into a contract with a firm to provide parental defense~~  
 605 ~~attorney services under this section, the contract shall require that each attorney in the firm who~~  
 606 ~~will provide representation of a parent in a child welfare case under the contract perform the~~  
 607 ~~duties described in Subsection (2).]~~

608 ~~[(4)]~~ (2) (a) Except as ~~[otherwise]~~ provided in Subsection ~~[(4)]~~ (2)(b), a contracted  
 609 parental defense attorney shall:

610 (i) complete a basic training course provided by the ~~[program]~~ office;

611 (ii) provide parental defense services consistent with the commission's minimum  
 612 guidelines described in Section [78B-22-404](#);

613 ~~[(ii)]~~ (iii) have experience in child welfare cases; and

614 ~~[(iii)]~~ (iv) participate each calendar year in continuing legal education courses  
 615 providing no fewer than eight hours of instruction in child welfare law.

616 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
 617 commission may, by rule, exempt from the requirements of Subsection ~~[(4)]~~ (2)(a) an attorney  
 618 who has equivalent training or adequate experience.

619 Section 16. Section **78B-22-804**, which is renumbered from Section 63M-7-211.2 is  
 620 renumbered and amended to read:

621 ~~[63M-7-211.2].~~ **78B-22-804. Child Welfare Parental Defense Fund --**  
 622 **Contracts for coverage by the Child Welfare Parental Defense Fund.**

623 (1) There is created an expendable special revenue fund known as the "Child Welfare  
624 Parental Defense Fund."

625 (2) Subject to availability, the [commission] office may make distributions from the  
626 fund [~~as required in this section or Section 63M-7-211 or 63M-7-211.1~~] for the following  
627 purposes:

628 (a) to pay for [~~the representation, costs, expert witness fees, and expenses of~~] indigent  
629 defense resources for contracted parental defense attorneys [~~who are under contract with the~~  
630 ~~commission to provide parental defense in child welfare cases for an indigent parent that is the~~  
631 ~~subject of a petition alleging abuse, neglect, or dependency~~];

632 (b) for administrative costs [~~under this section or Section 63M-7-211 or 63M-7-211.1~~]  
633 of the program; and

634 (c) for reasonable expenses directly related to the functioning of the program, including  
635 training and travel expenses.

636 (3) The fund consists of:

637 (a) appropriations made to the fund by the Legislature;

638 (b) interest and earnings from the investment of fund money;

639 (c) proceeds deposited by [participating] contributing counties under this section; and

640 (d) private contributions to the fund.

641 (4) The state treasurer shall invest the money in the fund by following the procedures  
642 and requirements of Title 51, Chapter 7, State Money Management Act.

643 (5) (a) If the [commission] office anticipates a deficit in the fund during a fiscal year:

644 (i) the commission [~~shall~~] may request an appropriation from the Legislature; and

645 (ii) the Legislature may fund the anticipated deficit through appropriation.

646 (b) If the anticipated deficit is not funded by the Legislature, the [commission] office  
647 may request an interim assessment to participating counties as described in Subsection (6) to  
648 fund the anticipated deficit.

649 (6) (a) A county legislative body and the [commission] office may annually enter into a



650 [~~written agreement~~] contract for the [~~commission~~] office to provide parental defense attorney  
651 services in the contributing county out of the fund.

652 (b) The [~~agreement~~] contract described under Subsection (6)(a) shall:

653 (i) require the contributing county to pay into the fund an amount defined by a formula  
654 established by the commission by rule under Title 63G, Chapter 3, Utah Administrative  
655 Rulemaking Act; and

656 (ii) provide for revocation of the agreement for failure to pay an assessment on the due  
657 date established by the commission by rule under Title 63G, Chapter 3, Utah Administrative  
658 Rulemaking Act.

659 (7) (a) After the first year of operation of the fund, any contributing county that elects  
660 to initiate participation in the fund, or reestablish participation in the fund after participation  
661 was terminated, [~~shall be~~] is required to make an equity payment, in addition to the assessment  
662 provided in Subsection (5).

663 (b) The commission shall determine the amount of the equity payment described in  
664 Subsection (7)(a) by rule established by the commission under Title 63G, Chapter 3, Utah  
665 Administrative Rulemaking Act.

666 (8) A contributing county that elects to withdraw from participation in the fund, or  
667 whose participation in the fund is revoked due to failure to pay the contributing county's  
668 assessment, as described in Subsection (6), when due, shall forfeit any right to any previously  
669 paid assessment by the contributing county or coverage from the fund.

670 Section 17. **Coordinating S.B. 175 with S.B. 139 -- Substantive and technical**  
671 **amendments.**

672 If this S.B. 175 and S.B. 139, Amendments to Indigent Defense, both pass and become  
673 law, it is the intent of the Legislature that the Office of Legislative Research and General  
674 Counsel shall prepare the Utah Code database for publication as follows:

675 (1) the amendments to Section 78B-22-451 in this bill supersede the amendments to  
676 Section 78B-22-451 in S.B. 139;

677           (2) the amendments to Section 78B-22-403, renumbered and amended by this bill,  
678 supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 139;  
679           (3) the amendments to Section 78B-22-402 in this bill supersede the amendments to  
680 Section 78B-22-402 in S.B. 139;  
681           (4) the terminology in Subsection 78B-22-803(2)(a)(ii) in this bill is changed from  
682 "minimum guidelines" to "core principles"; and  
683           (5) Section 78B-22-452 is modified to read:  
684           **78B-22-452. Duties of the office.**  
685           (1) The office shall:  
686           (a) establish an annual budget for the Indigent Defense Resources Restricted Account  
687 created in Section 78B-22-405;  
688           (b) assist the commission in performing the commission's statutory duties described in  
689 this chapter;  
690           (c) identify and collect data that is necessary for the commission to:  
691           (i) aid, oversee, and review compliance by indigent defense systems with the  
692 commission's core principles for the effective representation of indigent individuals; and  
693           (ii) provide reports regarding the operation of the commission and the provision of  
694 indigent defense services by indigent defense systems in the state;  
695           (d) assist indigent defense systems by reviewing contracts and other agreements to  
696 ensure compliance with the commission's core principles for the effective representation of  
697 indigent individuals;  
698           (e) establish procedures for the receipt and acceptance of complaints regarding the  
699 provision of indigent defense services in the state;  
700           (f) establish procedures to award grants to indigent defense systems under Section  
701 78B-22-406 that are consistent with the commission's core principles;  
702           (g) assist the commission in developing and reviewing advisory caseload guidelines  
703 and procedures;

704 (h) investigate, audit, and review the provision of indigent defense services to ensure  
705 compliance with the commission's core principles for the effective representation of indigent  
706 individuals;

707 (i) administer the Child Welfare Parental Defense Program in accordance with Part 8,  
708 Child Welfare Parental Defense Program;

709 (j) annually report to the governor, Legislature, Judiciary Interim Committee, and  
710 Judicial Council, regarding:

711 (i) the operations of the commission;

712 (ii) the operations of the indigent defense systems in the state; and

713 (iii) compliance with the commission's core principles by indigent defense systems  
714 receiving grants from the commission;

715 (k) submit recommendations to the commission for improving indigent defense  
716 services in the state;

717 (l) publish an annual report on the commission's website; and

718 (m) perform all other duties assigned by the commission related to indigent defense  
719 services.

720 (2) The office may enter into contracts and accept, allocate, and administer funds and  
721 grants from any public or private person to accomplish the duties of the office.

722 (3) Any contract entered into under this part shall require that indigent defense services  
723 are provided in a manner consistent with the commission's core principles implemented under  
724 Section [78B-22-404](#)."

725 Section 18. **Coordinating S.B. 175 with S.B. 170 -- Substantive and technical**  
726 **amendments.**

727 If this S.B. 175 and S.B. 170, Indigent Defense Amendments, both pass and become  
728 law, it is the intent of the Legislature that the Office of Legislative Research and General  
729 Counsel shall prepare the Utah Code database for publication as follows:

730 (1) the amendments in Section [78B-22-451](#) in this bill supersede the amendments to

731 Section 78B-22-451 in S.B. 170;  
732 (2) the amendments to Section 78B-22-403, as renumbered and amended by this bill,  
733 supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 170;  
734 (3) the amendments to Section 78B-22-402 in this bill supersede the amendments to  
735 Section 78B-22-402 in S.B. 170;  
736 (4) the terminology in Subsection 78B-22-803(2)(a)(ii) in this bill is changed from  
737 "minimum guidelines" to "core principles"; and  
738 (5) Section 78B-22-452 is modified to read:  
739 **"78B-22-452. Duties of the office.**  
740 (1) The office shall:  
741 (a) establish an annual budget for the office for the Indigent Defense Resources  
742 Restricted Account created in Section 78B-22-405;  
743 (b) assist the commission in performing the commission's statutory duties described in  
744 this chapter;  
745 (c) identify and collect data that is necessary for the commission to:  
746 (i) aid, oversee, and review compliance by indigent defense systems with the  
747 commission's core principles for the effective representation of indigent individuals; and  
748 (ii) provide reports regarding the operation of the commission and the provision of  
749 indigent defense services by indigent defense systems in the state;  
750 (d) assist indigent defense systems by reviewing contracts and other agreements, to  
751 ensure compliance with the commission's core principles for effective representation of  
752 indigent individuals;  
753 (e) establish procedures for the receipt and acceptance of complaints regarding the  
754 provision of indigent defense services in the state;  
755 (f) establish procedures to award grants to indigent defense systems under Section  
756 78B-22-406 that are consistent with the commission's core principles;  
757 (g) create and enter into contracts consistent with Section 78B-22-454 to provide

758 indigent defense services for an indigent defense inmate who:  
759 (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth  
760 class as defined in Section 17-50-501;  
761 (ii) is charged with having committed a crime within that state prison; and  
762 (iii) has been appointed counsel in accordance with Section 78B-22-203;  
763 (h) assist the commission in developing and reviewing advisory caseload guidelines  
764 and procedures;  
765 (i) investigate, audit, and review the provision of indigent defense services to ensure  
766 compliance with the commission's core principles for the effective representation of indigent  
767 individuals;  
768 (j) administer the Child Welfare Parental Defense Program in accordance with Part 8,  
769 Child Welfare Parental Defense Program;  
770 (k) annually report to the governor, Legislature, Judiciary Interim Committee, and  
771 Judicial Council, regarding:  
772 (i) the operations of the commission;  
773 (ii) the operations of the indigent defense systems in the state; and  
774 (iii) compliance with the commission's core principles by indigent defense systems  
775 receiving grants from the commission;  
776 (l) submit recommendations to the commission for improving indigent defense services  
777 in the state;  
778 (m) publish an annual report on the commission's website; and  
779 (n) perform all other duties assigned by the commission related to indigent defense  
780 services.  
781 (2) The office may enter into contracts and accept, allocate, and administer funds and  
782 grants from any public or private person to accomplish the duties of the office.  
783 (3) Any contract entered into under this part shall require that indigent defense services  
784 are provided in a manner consistent with the commission's core principles implemented under

785 Section 78B-22-404.

786 Section 19. **Coordinating S.B. 175 with S.B. 139 and S.B. 170 -- Substantive and**  
787 **technical amendments.**

788 If this S.B. 175 and S.B. 139, Amendments to Indigent Defense, and S.B. 170, Indigent  
789 Defense Amendments, all pass and become law, it is the intent of the Legislature that the  
790 Office of Legislative Research and General Counsel shall prepare the Utah Code database for  
791 publication as follows:

792 (1) the amendments in Section 78B-22-451 in this bill supersede the amendments to  
793 Section 78B-22-451 in S.B. 139 and S.B. 170;

794 (2) the amendments to Section 78B-22-403, as renumbered and amended by this bill,  
795 supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 139 and  
796 S.B. 170;

797 (3) the amendments to Section 78B-22-402 in this bill supersede the amendments to  
798 Section 78B-22-402 in S.B. 139 and S.B. 170;

799 (4) the terminology in Subsection 78B-22-803(2)(a)(ii) in this bill is changed from  
800 "minimum guidelines" to "core principles"; and

801 (5) Section 78B-22-452 is modified to read:

802 **78B-22-452. Duties of the office.**

803 (1) The office shall:

804 (a) establish an annual budget for the office for the Indigent Defense Resources  
805 Restricted Account created in Section 78B-22-405;

806 (b) assist the commission in performing the commission's statutory duties described in  
807 this chapter;

808 (c) identify and collect data that is necessary for the commission to:

809 (i) aid, oversee, and review compliance by indigent defense systems with the  
810 commission's core principles for the effective representation of indigent individuals; and

811 (ii) provide reports regarding the operation of the commission and the provision of

812 indigent defense services by indigent defense systems in the state;  
813 (d) assist indigent defense systems by reviewing contracts and other agreements, to  
814 ensure compliance with the commission's core principles for effective representation of  
815 indigent individuals;  
816 (e) establish procedures for the receipt and acceptance of complaints regarding the  
817 provision of indigent defense services in the state;  
818 (f) establish procedures to award grants to indigent defense systems under Section  
819 78B-22-406 that are consistent with the commission's core principles;  
820 (g) create and enter into contracts consistent with Section 78B-22-454 to provide  
821 indigent defense services for an indigent defense inmate who:  
822 (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth  
823 class as defined in Section 17-50-501;  
824 (ii) is charged with having committed a crime within that state prison; and  
825 (iii) has been appointed counsel in accordance with Section 78B-22-203;  
826 (h) assist the commission in developing and reviewing advisory caseload guidelines  
827 and procedures;  
828 (i) investigate, audit, and review the provision of indigent defense services to ensure  
829 compliance with the commission's core principles for the effective representation of indigent  
830 individuals;  
831 (j) administer the Child Welfare Parental Defense Program in accordance with Part 8,  
832 Child Welfare Parental Defense Program;  
833 (k) annually report to the governor, Legislature, Judiciary Interim Committee, and  
834 Judicial Council, regarding:  
835 (i) the operations of the commission;  
836 (ii) the operations of the indigent defense systems in the state; and  
837 (iii) compliance with the commission's core principles by indigent defense systems  
838 receiving grants from the commission;

839           (l) submit recommendations to the commission for improving indigent defense services  
840 in the state;

841           (m) publish an annual report on the commission's website; and

842           (n) perform all other duties assigned by the commission related to indigent defense  
843 services.

844           (2) The office may enter into contracts and accept, allocate, and administer funds and  
845 grants from any public or private person to accomplish the duties of the office.

846           (3) Any contract entered into under this part shall require that indigent defense services  
847 are provided in a manner consistent with the commission's core principles implemented under  
848 Section [78B-22-404](#)."