

Amendment No. 329

Senate Amendment to Senate Bill No. 377

(BDR 14-1005)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 377 (§§ 13, 15).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double-strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

VG/NCA



Date: 4/19/2017

S.B. No. 377—Revises provisions relating to public defenders. (BDR 14-1005)



SENATE BILL NO. 377—COMMITTEE ON JUDICIARY

MARCH 20, 2017

Referred to Committee on Judiciary

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

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

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

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

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

Legislative Counsel's Digest:

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

person other than a public defender to provide legal representation to an indigent person only if the magistrate, master or district makes a finding that the public defender is disqualified from furnishing the representation. (NRS 7.115)

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 establishes the initial terms for members of the Commission so that the terms are staggered. **Section 10** of this bill creates the Indigent Defense Account in the State General Fund to receive any money appropriated to or otherwise collected by the Commission. Money in the Account does not revert to the State General Fund at the end of a fiscal year.

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

Existing law creates the Office of State Public Defender within the Department of Health and Human Services and requires the Governor to appoint the State Public Defender. (NRS 180.010) **Section 17** of this bill renames the Office of State Public Defender as the Office of Indigent Legal Services and removes the Office from the Department of Health and Human Services. **Section 17** also requires the Commission to appoint and supervise the Chief Counsel of the Office, who is the chief administrative officer of the Office and is responsible to the Commission. **Section 16** of this bill provides that the Commission may authorize the Chief Counsel to employ certain persons. **Section 18** of this bill authorizes the Chief Counsel, with the approval of the Commission, to establish branch offices and requires the Commission to designate a lead attorney to supervise each such office.

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

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

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

Section 15 of this bill requires any county that transfers responsibility for the provision of ~~(some or all)~~ trial-level indigent defense services in the county to pay to the Commission on an annual basis the average annual amount paid by the county to provide indigent defense services during the 3 fiscal years immediately preceding the fiscal year for which the Office assumes responsibility for the provision of indigent defense services in the county. Section 15 also authorizes a county to choose to assume responsibility for indigent defense services if the county is charged more than the average annual amount paid by the county.

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

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

Section 1. NRS 171.188 is hereby amended to read as follows:

171.188 1. Any defendant charged with a public offense who is an indigent may, by oral statement to the district judge, justice of the peace, municipal judge or master, request the appointment of an attorney to represent the defendant.

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

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

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

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

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

(b) Otherwise determines that representation is required,

the judge, justice or master shall designate the public defender of the county or the ~~State Public Defender,~~ *Chief Counsel of the Office of Indigent Legal Services*, as appropriate, to represent the defendant. If the appropriate public defender is unable to represent the defendant, or other good cause appears, another attorney must be appointed.

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

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

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

4 1. *Section 1 of Article 1 of the Nevada Constitution recognizes the*
5 *inalienable right of persons to defend life and liberty. This State is committed to*
6 *the protection of individual liberty.*

7 2. *Section 2 of Article 1 of the Nevada Constitution acknowledges that the*
8 *paramount allegiance of every citizen is due to the Federal Government in the*
9 *exercise of all its constitutional powers as have been or may be defined by the*
10 *Supreme Court of the United States. Under the Sixth and Fourteenth*
11 *Amendments to the Constitution of the United States, the obligation to provide*
12 *effective representation to accused indigent persons at each critical stage of*
13 *criminal and delinquency proceedings rests with the states. Accordingly, it is the*
14 *obligation of the Legislature to provide the general framework and resources*
15 *necessary for the provision of indigent defense services in this State.*

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

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

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

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

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

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

32 (f) *Providing for the ability to collect and verify objective statistical data on*
33 *indigent defense services to assist state and local policymakers in making*
34 *informed decisions regarding the appropriate funding levels for the purpose of*
35 *ensuring the existence of an adequate system for the provision of indigent*
36 *defense services.*

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

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

1 Sec. 5. "Chief Counsel" means the Chief Counsel of the Office of Indigent
2 Legal Services appointed pursuant to NRS 180.010.

3 Sec. 6. "Commission" means the Nevada Right to Counsel Commission
4 created by section 9 of this act.

5 Sec. 7. "Indigent defense services" means the provision of legal
6 representation to ~~any~~ ;

7 1. An indigent person who is charged with a public offense ~~for to act~~ ; and

8 2. An indigent child who is ~~alleged~~ ;

9 (a) Alleged to be delinquent ~~for in~~ ;

10 (b) In need of supervision pursuant to title 5 of NRS ~~for~~ ; or

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

13 Sec. 8. "Office" means the Office of Indigent Legal Services created by
14 NRS 180.010.

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

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

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

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

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

23 (d) Two members from among six nominees selected by the ~~President~~
24 Board of Governors of the State Bar of Nevada, three of whom must be members
25 in good standing of the State Bar of Nevada who reside in a county whose
26 population is less than 100,000, and three of whom must be members in good
27 standing of the State Bar of Nevada who reside in a county whose population is
28 100,000 or more, appointed by the Governor. The Governor must appoint one
29 member who resides in a county whose population is less than 100,000 and one
30 member who resides in a county whose population is 100,000 or more.

31 (e) Two members from among three nominees selected by the Nevada
32 Association of Counties who reside in a county whose population is less than
33 100,000, appointed by the Governor.

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

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

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

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

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

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

48 (b) A demonstrated commitment to providing effective legal representation to
49 such persons.

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

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

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

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

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

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

8 7. *After the initial terms, each appointed member of the Commission serves*
9 *a term of 4 years, commencing on July 1. Each member of the Commission*
10 *continues in office until a successor is appointed. Members may be reappointed*
11 *for additional terms of 4 years in the same manner as the original appointments.*

12 8. *Any vacancy occurring in the membership of the Commission must be*
13 *filled in the same manner as the original appointment for the remainder of the*
14 *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 entitled to receive*
18 *the per diem allowance and travel expenses provided for state officers and*
19 *employees generally.*

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

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

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

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

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

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

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

47 **Sec. 11.** 1. *The Commission may propose minimum standards for the*
48 *provision of indigent defense services to ensure that those services are provided in*
49 *a manner that complies with the standards for the effective assistance of counsel*
50 *established by the United States Supreme Court and the appellate courts of this*
51 *State under the Sixth Amendment to the United States Constitution and Section 8*
52 *of Article 1 of the Nevada Constitution. The standards proposed by the*
53 *Commission may include, without limitation, standards ensuring that:*

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

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

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

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

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

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

3. A standard proposed by the Commission pursuant to this section must be submitted to the Supreme Court, pursuant to the Nevada Rules on the Administrative Docket, for approval and does not become effective unless the Supreme Court approves the standard. Before submitting a proposed standard to the Supreme Court, the Commission shall conduct a public ~~meeting~~ hearing on the proposed standard. Opposition to a proposed standard that has been submitted to the Supreme Court may be submitted to the Supreme Court in the manner prescribed by the ~~Court~~ Nevada Rules on the Administrative Docket. A standard proposed by the Commission pursuant to ~~subsection 1~~ this section becomes final upon approval by the Supreme Court.

~~12~~ 4. A standard proposed by the Commission pursuant to this section must include the fiscal impact of the proposed standard, if any, upon the State or local government.

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

~~14~~ 6. The Commission may issue guidelines for the workload of defense counsel to be controlled to permit effective representation. Any guideline issued pursuant to this subsection must be based on objective criteria derived from the tracking of time spent by attorneys on criminal defense matters and that take into account jurisdictional variations in practice. ~~The~~ To assist in the budgetary process, the Commission shall provide any such guidelines to all counties in this State ~~and~~ the Governor and the Legislature.

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

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

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

(1) ~~The chief judge of the judicial district and the~~ board of county commissioners ~~request~~ requests that the Commission determine another system for the provision of indigent defense services; or

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

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

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

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

(2) ~~The name~~ number of support staff and job title of ~~that~~ each member of support staff.

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

(I) Delinquency cases;

(II) Misdemeanor cases;

(III) Felony cases;

(IV) Capital offense cases; ~~and~~

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

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

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

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

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

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

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

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

Sec. 13. 1. Any county whose population is less than 100,000 may transfer responsibility for the provision of appellate indigent defense services in the county to the Office and may retain responsibility for the provision of trial-level indigent defense services in the county. The board of county commissioners of a county shall notify the Commission on or before December 31 of each ~~calendar~~ even-numbered year as to whether the county will retain or transfer

responsibility for the provision of trial-level indigent defense services in the county during the fiscal year beginning on July 1 of the following calendar year.

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

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

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

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

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

(2) The ~~name~~ number of support staff and job title of ~~each~~ each member of support staff.

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

(I) Delinquency cases;

(II) Misdemeanor cases;

(III) Felony cases;

(IV) Capital offense cases; ~~and~~

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

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

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

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

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

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

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

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

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

Sec. 14. 1. The ~~Office~~ Commission shall engage independent expertise to conduct periodic evaluations of the indigent defense services provided in any county that has retained responsibility , pursuant to section 12 or 13 of this act, for the provision of all or trial-level indigent defense services in the county to determine whether such indigent defense services comply with the standards

1 adopted by the Commission pursuant to section 11 of this act. Each such county
2 shall cooperate fully with such an evaluation.

3 2. After an evaluation is conducted pursuant to subsection 1, if a county
4 whose provision of indigent defense services is found not to be in compliance
5 with the standards adopted by the Commission pursuant to section 11 of this act,
6 the ~~the Office~~ Commission shall notify :

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

9 (b) Notify the county of such noncompliance in writing and provide the
10 county with a period of 9 months from the date of notification to remedy such
11 noncompliance ~~1. The Office shall provide~~ ; and

12 (c) Provide the county with any technical assistance necessary to bring the
13 provision of indigent defense services in the county into compliance with the
14 standards adopted by the Commission pursuant to section 11 of this act.

15 3. After the expiration of the 9-month period provided in subsection 2, if the
16 ~~the Office~~ Commission determines, after a public hearing, that the county is still
17 not in compliance with the standards adopted by the Commission pursuant to
18 section 11 of this act, the county may petition the Supreme Court ~~1. under rules~~
19 ~~established by the court,~~ to appeal the determination of noncompliance. If:

20 (a) The ~~county~~ Supreme Court determines that the county is in compliance
21 with the standards adopted by the Commission, the county may continue to
22 provide the applicable indigent defense services in the county.

23 (b) The county does not petition the ~~county~~ Supreme Court or the ~~county~~
24 Supreme Court determines that the county is not in compliance with the
25 standards adopted by the Commission, the county shall transfer the responsibility
26 for the provision of indigent defense services in the county to the Office. The
27 Office shall assume such responsibility on July 1 of the next fiscal year.

28 Sec. 14.3. 1. If at any time, a county required to transfer the provision of
29 indigent defense services pursuant to paragraph (b) of subsection 3 of section 14
30 of this act deems such services inadequate to serve the needs of the county, the
31 county may petition the Commission to assume responsibility for the provision of
32 indigent defense services.

33 2. The county must submit a petition in a manner prescribed by the
34 Commission. The petition must include, without limitation, a plan from the
35 county to come into compliance with the standards adopted by the Commission
36 pursuant to section 11 of this act.

37 3. If the Commission grants the petition, the county may at any time
38 thereafter assume responsibility for the provision of indigent defense services
39 through a procedure prescribed by the Commission.

40 4. The Commission continues to have financial responsibility for the
41 provision of indigent defense services until the Commission makes a decision
42 concerning the petition.

43 Sec. 14.5. 1. The Commission shall engage independent expertise to
44 conduct periodic evaluations of the indigent defense services provided by the
45 Office to any county to determine whether such indigent defense services comply
46 with the standards adopted by the Commission pursuant to section 11 of this act.

47 2. After an evaluation is conducted pursuant to subsection 1, if the
48 provision of indigent services by the Office is found not to be in compliance with
49 the standards adopted by the Commission pursuant to section 11 of this act, the
50 Commission shall notify the Office and any county receiving such services of
51 such noncompliance in writing and provide the Office with a period of 9 months
52 from the date of notification to remedy such noncompliance. The Office shall
53 develop a plan to come into compliance with the standards, within the 9-month

period, and provide this plan to the Commission and the counties receiving services.

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

Sec. 15. 1. A county that transfers responsibility for the provision of ~~some or all~~ trial-level indigent defense services in the county pursuant to section 12, 13 or 14 of this act shall pay to the Commission on an annual basis the average annual amount paid by the county to provide indigent defense services during the 3 fiscal years immediately preceding the fiscal year for which the Office assumes responsibility for the provision of indigent defense services in the county. In calculating the amount a county is required to pay, any extraordinary costs accrued during such a period that were associated with the legal representation of indigent criminal defendants charged with capital offenses must not be included.

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

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

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

- (a) A Deputy Chief Counsel;
- (b) A Director of Appellate Counsel Services;
- (c) A Director of Private Counsel Services;
- (d) A Director of Training;
- (e) A Deputy Director of Training;
- (f) An Information Technology Officer;
- (g) A Budget Director;
- (h) A Director of Juvenile Justice and Dependency Standards Compliance;
- (i) A Director of Adult Justice Standards Compliance; and
- (j) A Director of Policy, Data and Research.

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

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

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

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

2. The ~~{Governor}~~ Commission shall appoint the ~~{State Public Defender}~~ Chief Counsel of the Office for a term of 4 years, and until a successor is appointed

and qualified. *The Chief Counsel is the chief administrative officer of the Office and is responsible to the Commission.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 7.155 The compensation and expenses of an attorney appointed to represent a
3 defendant must be paid from the county treasury unless the proceedings are based
4 upon a postconviction petition for habeas corpus, in which case the compensation
5 and expenses must be paid from money appropriated to the Office of ~~{State Public~~
6 ~~Defender}~~ *Indigent Legal Services*, but after the appropriation for such expenses is
7 exhausted, money must be allocated to the Office of ~~{State Public Defender}~~
8 *Indigent Legal Services* from the reserve for statutory contingency account for the
9 payment of such compensation and expenses.

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

11 7.165 If at any time after the appointment of an attorney or attorneys the
12 magistrate or the district court finds that money is available for payment from or on
13 behalf of the defendant so that the defendant is financially able to obtain private
14 counsel or to make partial payment for such representation, the magistrate or the
15 district court may:

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

17 2. Direct that such money be paid to:

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

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

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

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

36 (a) The issues presented are difficult;

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

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

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

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

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

52 (b) The date of counsel's appointment,

1 ↪ whichever is later. If it has not previously been filed, the answer by the
2 respondent must be filed within 15 days after receipt of the supplemental pleadings
3 and include any response to the supplemental pleadings.

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

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

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

8 218D.955 1. The Secretary of State shall, within 3 days after receiving
9 them, furnish to the State Printer a copy of all acts, resolutions and memorials
10 passed at each regular or special session.

11 2. The Director shall:

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

14 (b) Immediately upon the adjournment of the regular or special session, collect
15 and have printed and bound advance sheets of all acts, resolutions and memorials
16 passed at the regular or special session.

17 (c) Distribute one copy of the advance sheets, without charge, to each justice of
18 the Supreme Court, to each judge of the Court of Appeals, the Attorney General,
19 the ~~State Public Defender,~~ *Chief Counsel of the Office of Indigent Legal*
20 *Services* and to each county clerk, district judge, district attorney, county public
21 defender, justice of the peace, city attorney and municipal judge in the State, deliver
22 to the Supreme Court Law Library a number of copies appropriate to secure the
23 exchange of similar publications from other states, and establish the price at which
24 the advance sheets must be sold to other persons.

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

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

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

31 232.320 1. The Director:

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

- 34 (1) The Administrator of the Aging and Disability Services Division;
35 (2) The Administrator of the Division of Welfare and Supportive Services;
36 (3) The Administrator of the Division of Child and Family Services;
37 (4) The Administrator of the Division of Health Care Financing and
38 Policy; and

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

40 (b) Shall administer, through the divisions of the Department, the provisions of
41 chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A
42 and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410,
43 inclusive, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626,
44 inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and
45 all other provisions of law relating to the functions of the divisions of the
46 Department, but is not responsible for the clinical activities of the Division of
47 Public and Behavioral Health or the professional line activities of the other
48 divisions.

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

52 (d) Shall, after considering advice from agencies of local governments and
53 nonprofit organizations which provide social services, adopt a master plan for the

provision of human services in this State. The Director shall revise the plan biennially and deliver a copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

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

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

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

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

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

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

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

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

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department. ~~1. other than the State Public Defender of the Office of State Public Defender who is appointed pursuant to NRS 180.010.~~

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

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

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

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

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

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

~~6.4. The public defender serves at the pleasure of~~ *may be removed by the board of county commissioners for misconduct in office, incompetence, misfeasance, malfeasance or nonfeasance.*

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

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

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

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

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

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

5. The board of county commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of his or her office. However, the board of county commissioners may provide for an allowance in place of facilities. Each of those items is a charge against the county in which public defender services are rendered. ~~If the public defender serves more than one county, expenses that are properly allocable to the business of more than one of those counties must be prorated among the counties concerned.~~

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

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

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

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

2 284.140 The unclassified service of the State consists of the following state
3 officers or employees in the Executive Department of the State Government who
4 receive annual salaries for their services:

5 1. Members of boards and commissions, and heads of departments, agencies
6 and institutions required by law to be appointed.

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

10 3. All employees other than clerical in the Office of the Attorney General and
11 the ~~State Public Defender~~ *Office of Indigent Legal Services* required by law to be
12 appointed by the Attorney General or the ~~State Public Defender~~ *Chief Counsel of*
13 *the Office of Indigent Legal Services.*

14 4. Except as otherwise provided by the Board of Regents of the University of
15 Nevada pursuant to NRS 396.251, officers and members of the teaching staff and
16 the staffs of the Agricultural Extension Department and Experiment Station of the
17 Nevada System of Higher Education, or any other state institution of learning, and
18 student employees of these institutions. Custodial, clerical or maintenance
19 employees of these institutions are in the classified service. The Board of Regents
20 of the University of Nevada shall assist the Administrator in carrying out the
21 provisions of this chapter applicable to the Nevada System of Higher Education.

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

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

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

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

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

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

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

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

TEXT OF REPEALED SECTIONS

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

1. The State Public Defender may employ:

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

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

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

180.110 Collection of charges to counties for services.

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

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

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

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

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

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