

A.B. 480

ASSEMBLY BILL NO. 480—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE OFFICE OF FINANCE
IN THE OFFICE OF THE GOVERNOR)

MAY 12, 2021

Referred to Committee on Ways and Means

SUMMARY—Revises provisions governing legal services for indigent defendants. (BDR 1-1076)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Executive Budget.

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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 criminal defense; revising various provisions relating to the appointment of attorneys; removing limitations on fees earned by certain attorneys; revising provisions relating to claims for compensation and expenses made by certain attorneys; creating the Special Account for the Support of Indigent Defense Services; revising certain deadlines for requirements placed on boards of county commissioners relating to the transfer of responsibility for the provision of indigent defense services to the State Public Defender; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a magistrate, master or district court from appointing an attorney other than a public defender to represent a person charged with any offense or delinquent act unless the magistrate, master or district court finds that the public defender is disqualified from providing representation and explains the reasons for the disqualification. (NRS 7.115) **Section 5** of this bill provides that if the public defender is disqualified, the magistrate, master or district court is required to refer the selection of the attorney: (1) in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties), to the Department of Indigent Defense Services (hereinafter "Department") or its designee in compliance with the plan of the county for the provision of indigent defense services; or (2) in a county whose population is 100,000 or more (currently Clark and Washoe Counties), in compliance with the plan of the county for the provision of indigent defense services. **Sections 11 and 17** of this bill, respectively, make similar



changes in cases where: (1) a county public defender or the State Public Defender is unable to represent an indigent defendant or other good cause appears; and (2) a magistrate or district court decides to appoint an attorney other than or in addition to a county public defender for an indigent person.

Existing law provides, in general, that an attorney other than a public defender who is appointed to represent or defend a person during any stage of a criminal proceeding is entitled to receive certain fees for his or her services. Existing law also places limits on the amount of the fee that such an attorney is able to receive but allows a court to grant a fee in excess of such limits in certain circumstances. (NRS 7.125) **Section 6** of this bill removes such limits. Existing law further authorizes such an attorney to be reimbursed for certain expenses and employ persons to provide necessary investigative, expert or other services but places a limit on the compensation paid to any person providing those services. (NRS 7.135) **Section 7** of this bill provides that an attorney may be reimbursed for such expenses and employ such persons: (1) in a county whose population is less than 100,000, subject to the prior approval of the Department or its designee and in compliance with the plan of the county for the provision of indigent defense services; or (2) in a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services. **Section 7** also provides that a claim for compensation and expenses may be certified and approved by a judge if the claim is denied. Existing law further requires a claim for compensation and expenses to be submitted to a magistrate or district court, as applicable, not later than 60 days after the appointment of the attorney is terminated. (NRS 7.145) **Section 8** of this bill instead requires such a claim to be submitted within 60 days after representation is terminated: (1) in a county whose population is less than 100,000, to the Department or its designee in compliance with the plan of the county for the provision of indigent defense services; or (2) in a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services. **Section 8** also: (1) requires each claim to be reviewed and, if necessary, modified, and paid in compliance with the plan of the applicable county for the provision of indigent defense services; and (2) authorizes any dispute regarding the approval, denial or modification of a claim to be reviewed by the trial court.

Section 9 of this bill requires, in general, the juvenile court to order the appointment of an attorney for a child who is alleged to be delinquent or in need of supervision and refer the selection of the attorney in the manner set forth in **section 5** in cases where the parent or guardian of the child does not retain an attorney for the child and is not likely to retain an attorney for the child. Existing law authorizes the juvenile court to appoint an attorney for a parent or guardian of such a child in certain circumstances and provides that each appointed attorney, other than a public defender, is entitled to the same compensation and expenses as attorneys appointed to represent persons charged with criminal offenses. (NRS 62D.100) **Section 10** of this bill removes the exclusion of public defenders. **Section 18** of this bill makes the same change with regard to attorneys appointed in cases relating to children alleged to have been abused or neglected.

Section 12 of this bill creates the Special Account for the Support of Indigent Defense Services. **Section 12** authorizes the Department to apply for and accept any available grants, bequests, devises, donations or gifts from any public or private source to carry out the duties of the Department and the Board on Indigent Defense Services (hereinafter "Board") and requires the Department to deposit any money received in the Account.

Existing law establishes certain requirements for the board of county commissioners of a county that is required to transfer or voluntarily transfers responsibility for the provision of all indigent defense services for the county to the



State Public Defender. (NRS 180.450) **Section 14** of this bill revises certain deadlines relating to such requirements.

Existing law requires the Board to adopt certain regulations, including regulations establishing standards for the provision of indigent defense services. (NRS 180.320) **Section 15** of this bill requires the compensation of the public defender of a county to be fixed by the board of county commissioners in compliance with such regulations. **Section 15** also removes a provision that requires deputies of a public defender in a county whose population is 700,000 or more (currently Clark County) to be governed by the merit personnel system of the county.

Existing law provides that a person who is alleged to be a person in a mental health crisis, or any relative or friend on behalf of the person, is entitled to retain counsel to represent the person in proceedings relating to the involuntary court-ordered admission of the person to a mental health facility or program of community-based or outpatient services. If the person fails or refuses to obtain counsel, the court is required to appoint counsel, who may be the public defender or a deputy of the public defender. (NRS 433A.270) **Section 19** of this bill removes the provision requiring that such appointed counsel be the public defender or his or her deputy.

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

Section 1. Chapter 7 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in NRS 7.115 to 7.175, inclusive, and sections 2, 3 and 4 of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Department" means the Department of Indigent Defense Services created by NRS 180.400.*

Sec. 4. *"Selection" means the choosing of an attorney to provide representational services for a person.*

Sec. 5. NRS 7.115 is hereby amended to read as follows:

7.115 A magistrate, master or ~~the~~ district court shall not ~~appoint~~ *order the appointment of* an attorney other than a public defender to represent a person charged with any offense or delinquent act by petition, indictment or information unless the magistrate, master or district court makes a finding, entered into the record of the case, that the public defender is disqualified from furnishing the representation and sets forth the ~~reasons for~~ *reasons* for the disqualification. *If the public defender is disqualified, the magistrate, master or district court shall, after making a finding of the disqualification on the record and the reasons therefor, refer the selection of the attorney:*

1. In a county whose population is less than 100,000, to the Department or its designee in compliance with the plan of the county for the provision of indigent defense services; or



2. *In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.*

Sec. 6. NRS 7.125 is hereby amended to read as follows:

7.125 ~~[1.—Except as limited by subsections 2, 3 and 4, an]~~ An attorney, other than a public defender, who is ~~[appointed by a magistrate or a district court]~~ selected pursuant to NRS 7.115 to represent or defend a defendant at any stage of the criminal proceedings from the defendant's initial appearance before the magistrate or the district court through the appeal, if any, is entitled to receive a fee for court appearances and other time reasonably spent on the matter to which the appointment is made of \$125 per hour in cases in which the death penalty is sought and \$100 per hour in all other cases. Except for cases in which the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, this ~~[subsection]~~ section does not preclude a governmental entity from contracting with a private attorney who agrees to provide such services for a lesser rate of compensation.

~~[2.—Except as otherwise provided in subsection 4, the total fee for each attorney in any matter regardless of the number of offenses charged or ancillary matters pursued must not exceed:~~

~~—(a) If the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, \$20,000;~~

~~—(b) If the most serious crime is a felony other than a felony included in paragraph (a) or is a gross misdemeanor, \$2,500;~~

~~—(c) If the most serious crime is a misdemeanor, \$750;~~

~~—(d) For an appeal of one or more misdemeanor convictions, \$750; or~~

~~—(e) For an appeal of one or more gross misdemeanor or felony convictions, \$2,500.~~

~~3.—Except as otherwise provided in subsection 4, an attorney appointed by a district court to represent an indigent petitioner for a writ of habeas corpus or other postconviction relief, if the petitioner is imprisoned pursuant to a judgment of conviction of a gross misdemeanor or felony, is entitled to be paid a fee not to exceed \$750.~~

~~4.—If the appointing court because of:~~

~~—(a) The complexity of a case or the number of its factual or legal issues;~~

~~—(b) The severity of the offense;~~

~~—(c) The time necessary to provide an adequate defense; or~~

~~—(d) Other special circumstances,~~



~~➔ deems it appropriate to grant a fee in excess of the applicable maximum, the payment must be made, but only if the court in which the representation was rendered certifies that the amount of the excess payment is both reasonable and necessary and the payment is approved by the presiding judge of the judicial district in which the attorney was appointed, or if there is no such presiding judge or if he or she presided over the court in which the representation was rendered, then by the district judge who holds seniority in years of service in office.~~

~~—5. The magistrate, the district court, the Court of Appeals or the Supreme Court may, in the interests of justice, substitute one appointed attorney for another at any stage of the proceedings, but the total amount of fees granted to all appointed attorneys must not exceed those allowable if but one attorney represented or defended the defendant at all stages of the criminal proceeding.]~~

Sec. 7. NRS 7.135 is hereby amended to read as follows:

7.135 [The]

1. An attorney [appointed by a magistrate or district court] who is selected pursuant to NRS 7.115 to represent a defendant is entitled, in addition to the fee provided by NRS 7.125 for the attorney's services, to be reimbursed for expenses reasonably incurred by the attorney in representing the defendant and may employ ~~[, subject to the prior approval of the magistrate or the district court in an ex parte application,]~~ such investigative, expert or other services as may be necessary for an adequate defense ~~[Compensation to any person furnishing such investigative, expert or other services must not exceed \$500, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is:~~

~~—1. Certified]:~~

(a) In a county whose population is less than 100,000, subject to the prior approval of the Department or its designee and in compliance with the plan of the county for the provision of indigent defense services; or

(b) In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.

2. If a claim for compensation and expenses made pursuant to subsection 1 is denied, the claim may be:

(a) Certified by the trial judge of the court, or by the magistrate if the services were rendered in connection with a case disposed of entirely before the magistrate, as necessary to provide fair compensation for services of an unusual character or duration; and

~~[2.]~~ **(b) Approved** by the presiding judge of the judicial district in which the attorney was appointed or, if there is no presiding



judge, by the district judge who holds seniority in years of service in office.

Sec. 8. NRS 7.145 is hereby amended to read as follows:

7.145 1. A claim for compensation and expenses made pursuant to NRS 7.125 or 7.135 must not be paid unless it is submitted within 60 days after the ~~[appointment]~~ *representation* is terminated ~~[to:~~

~~—(a) The magistrate in cases in which the representation was rendered exclusively before the magistrate; and~~

~~—(b) The district court in all other cases.] :~~

(a) In a county whose population is less than 100,000, to the Department or its designee in compliance with the plan of the county for the provision of indigent defense services; or

(b) In a county whose population is 100,000 or more, in compliance with the plan of the county for the provision of indigent defense services.

2. Each claim must be ~~[supported]~~ :

(a) Supported by a sworn statement specifying the time expended in court, the services rendered out of court and the time expended therein, the expenses incurred while the case was pending and the compensation and reimbursement applied for or received in the same case from any other source. ~~[Except as otherwise provided for the approval of payments in excess of the statutory limit, the magistrate or the court to which the claim is submitted shall fix and certify the compensation and expenses to be paid, and the amounts so certified must be paid in accordance with NRS 7.155.]~~

(b) Reviewed and, if necessary, modified, and paid in compliance with the plan of the county for the provision of indigent defense services.

3. Any dispute regarding the approval, denial or modification of a claim may be reviewed by the trial court based upon reasonable and necessary standards.

Sec. 9. NRS 62D.030 is hereby amended to read as follows:

62D.030 1. If a child is alleged to be delinquent or in need of supervision, the juvenile court shall advise the child and the parent or guardian of the child that the child is entitled to be represented by an attorney at all stages of the proceedings.

2. If a parent or guardian of a child is indigent, the parent or guardian may request the appointment of an attorney to represent the child pursuant to the provisions in NRS 171.188.

3. Except as otherwise provided in this section, the juvenile court shall ~~[appoint]~~ *order the appointment of* an attorney for a child *and refer the selection of the attorney in the manner set forth in NRS 7.115* if the parent or guardian of the child does not retain



1 an attorney for the child and is not likely to retain an attorney for the
2 child.

3 4. A child may waive the right to be represented by an attorney
4 if:

5 (a) A petition is not filed and the child is placed under informal
6 supervision pursuant to NRS 62C.200; or

7 (b) A petition is filed and the record of the juvenile court shows
8 that the waiver of the right to be represented by an attorney is made
9 knowingly, intelligently, voluntarily and in accordance with any
10 applicable standards established by the juvenile court.

11 5. Except as otherwise provided in NRS 424.085, if the
12 juvenile court ~~appoints~~ *orders the appointment of* an attorney to
13 represent a child ~~[-]~~ *and refers the selection of the attorney in the*
14 *manner set forth in NRS 7.115*, the parent or guardian must not be
15 required to pay the fees and expenses of the attorney.

16 6. Each attorney, other than a public defender, who is
17 appointed under the provisions of this section is entitled to the same
18 compensation and expenses from the county as is provided in NRS
19 7.125 and 7.135 for attorneys appointed to represent persons
20 charged with criminal offenses.

21 **Sec. 10.** NRS 62D.100 is hereby amended to read as follows:

22 62D.100 1. A parent or guardian of a child who is alleged to
23 be delinquent or in need of supervision may be represented by an
24 attorney at all stages of the proceedings. The juvenile court may not
25 appoint an attorney for a parent or guardian, unless the juvenile
26 court:

27 (a) Finds that such an appointment is required in the interests of
28 justice; and

29 (b) Specifies in the record the reasons for the appointment.

30 2. Each attorney ~~[-, other than a public defender,]~~ who is
31 appointed pursuant to subsection 1 is entitled to the same
32 compensation and expenses from the county as is provided in NRS
33 7.125 and 7.135 for attorneys appointed to represent persons
34 charged with criminal offenses.

35 **Sec. 11.** NRS 171.188 is hereby amended to read as follows:

36 171.188 1. Any defendant charged with a public offense who
37 is an indigent may, by oral statement to the district judge, justice of
38 the peace, municipal judge or master, request the appointment of an
39 attorney to represent the defendant. The record in each such case
40 must indicate that the defendant was provided an opportunity to
41 make an oral statement and whether the defendant made such a
42 statement or declined to request the appointment of an attorney. If
43 the defendant declined to request the appointment of an attorney, the
44 record must also indicate that the decision to decline was made



1 knowingly and voluntarily and with an understanding of the
2 consequences.

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

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

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

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

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

15 (b) Otherwise determines that representation is required,
16 ➔ the judge, justice or master shall designate the public defender of
17 the county or the State Public Defender, as appropriate, to represent
18 the defendant.

19 4. If the appropriate public defender is unable to represent the
20 defendant, or other good cause appears, *the judge, justice or master*
21 *shall order the appointment of* another attorney ~~[must be appointed.~~
22 ~~—4.] and refer the selection of the attorney:~~

23 (a) *In a county whose population is less than 100,000, to the*
24 *Department of Indigent Defense Services or its designee in*
25 *compliance with the plan of the county for the provision of*
26 *indigent defense services; or*

27 (b) *In a county whose population is 100,000 or more, in*
28 *compliance with the plan of the county for the provision of*
29 *indigent defense services.*

30 5. The county or State Public Defender must be reimbursed by
31 the city for costs incurred in appearing in municipal court. The
32 county shall reimburse the State Public Defender for costs incurred
33 in appearing in Justice Court, unless the county has transferred the
34 responsibility to provide all indigent defense services for the county
35 to the State Public Defender pursuant to NRS 180.450. If a private
36 attorney is appointed as provided in this section, the private attorney
37 must be reimbursed by the county for appearance in Justice Court or
38 the city for appearance in municipal court . ~~[in an amount not to~~
39 ~~exceed \$75 per case.]~~

40 **Sec. 12.** Chapter 180 of NRS is hereby amended by adding
41 thereto a new section to read as follows:

42 1. *The Department may apply for and accept any available*
43 *grants, bequests, devises, donations or gifts from any public or*
44 *private source to carry out the duties of the Department and*
45 *Board.*



2. Any money received pursuant to subsection 1 must be deposited in the Special Account for the Support of Indigent Defense Services, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used to carry out the duties of the Department and the Board.

3. Any money in the Account remaining at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

Sec. 13. NRS 180.060 is hereby amended to read as follows:

180.060 1. The State Public Defender 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 shall, when designated pursuant to NRS 62D.030 ~~[-62D.100,]~~ or 171.188, ~~[-432B.420,]~~ represent without charge each indigent person for whom the State Public Defender is appointed.

3. When representing an indigent person, the State Public Defender shall:

(a) Counsel and defend the indigent person at every stage of the proceedings, including , *without limitation, during the initial appearance and proceedings relating to admission to bail or the revocation of probation or parole;* and

(b) Prosecute any appeals or other remedies before or after conviction that the State Public Defender 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 shall prepare and present the case and the public defender of the county shall assist and cooperate with the State Public Defender.

5. The State Public Defender 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. 14. NRS 180.450 is hereby amended to read as follows:

180.450 1. If a corrective action plan is recommended pursuant to NRS 180.440, the deputy director and the board of county commissioners must collaborate on the manner in which the



1 county will meet the minimum standards for the provision of
2 indigent defense services and the time by which the county must
3 meet those minimum standards. Any disagreement must be resolved
4 by the Board. Each corrective action plan must be submitted to and
5 approved by the Board.

6 2. If the plan established pursuant to subsection 1 will cause
7 the county to expend more money than budgeted by the county in
8 the previous budget year plus inflation for the provision of indigent
9 defense services, the Executive Director shall include the additional
10 amount needed by the county in the next budget for the Department
11 of Indigent Defense Services to help support the indigent defense
12 services provided by the county. If additional money is needed to
13 carry out the plan before the next budget cycle, the Executive
14 Director shall submit a request to the Interim Finance Committee for
15 an allocation from the Contingency Account pursuant to NRS
16 353.266 to cover the additional costs.

17 3. For any county that is not required to have an office of
18 public defender pursuant to NRS 260.010, if the additional amount
19 included in the budget of the Department pursuant to subsection 2 is
20 not approved, the board of county commissioners for the county to
21 which the amount applies may determine whether to continue
22 providing indigent defense services for the county or enter into an
23 agreement with the Executive Director to transfer responsibility for
24 the provision of such services to the State Public Defender.

25 4. If a county does not meet the minimum standards for the
26 provision of indigent defense services within the period established
27 in the corrective action plan for the county, the deputy director shall
28 inform the Executive Director.

29 5. Upon being informed by the deputy director pursuant to
30 subsection 4 that a county has not complied with a corrective action
31 plan, the Executive Director must review information regarding the
32 provision of indigent defense services in the county and determine
33 whether to recommend establishing another corrective action plan
34 with the board of county commissioners of the county. For a county
35 that is not required to have an office of public defender pursuant to
36 NRS 260.010, the Executive Director may instead recommend
37 requiring the board of county commissioners to transfer
38 responsibility for the provision of all indigent defense services for
39 the county to the State Public Defender. The recommendation of the
40 Executive Director must be submitted to and approved by the Board.
41 Once approved, the board of county commissioners shall comply
42 with the decision of the Board.

43 6. If a county is required to transfer or voluntarily transfers
44 responsibility for the provision of all indigent defense services for
45 the county to the State Public Defender:



(a) The board of county commissioners for the county shall notify the State Public Defender in writing on or before ~~[March]~~ *November* 1 of the next ~~[odd]~~ *even*-numbered year and the responsibilities must transfer at a specified time on or after July 1 of the ~~[same]~~ *odd-numbered year following the* year in which the notice was given, as determined by the Executive Director.

(b) The board of county commissioners for the county shall pay the State Public Defender in the same manner and in an amount determined in the same manner as other counties for which the State Public Defender has responsibility for the provision of indigent defense services. The amount that a county may be required to pay must not exceed the maximum amount determined using the formula established by the Board pursuant to NRS 180.320.

Sec. 15. 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 ~~[]~~ *in compliance with the regulations adopted by the Board on Indigent Defense Services pursuant to NRS 180.320.* 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 or 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 or 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



1 limited jurisdiction may engage in private practice which does not
2 present a conflict with his or her appointment.

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

12 ~~[6. — In a county whose population is 700,000 or more, deputies~~
13 ~~are governed by the merit personnel system of the county.]~~

14 **Sec. 16.** NRS 260.050 is hereby amended to read as follows:

15 260.050 1. The public defender may, before being designated
16 as counsel for that person pursuant to NRS 171.188, interview an
17 indigent person when he or she has been arrested and confined for a
18 public offense or for questioning on suspicion of having committed
19 a public offense.

20 2. The public defender shall, when designated pursuant to NRS
21 62D.030 ~~[.]~~ *or* 171.188, ~~[or 432B.420.]~~ represent without charge
22 each indigent person for whom he or she is appointed.

23 3. When representing an indigent person, the public defender
24 shall:

25 (a) Counsel and defend the person at every stage of the
26 proceedings, including , *without limitation, during the initial*
27 *appearance and proceedings relating to admission to bail and the*
28 *revocation of probation or parole;* and

29 (b) Prosecute, subject to the provisions of subsection 4 of NRS
30 180.060, any appeals or other remedies before or after conviction
31 that he or she considers to be in the interests of justice.

32 **Sec. 17.** NRS 260.060 is hereby amended to read as follows:

33 260.060 For cause, the magistrate or district court may, on its
34 own motion or upon motion of the public defender or the indigent
35 person, ~~[appoint]~~ *order the appointment of another attorney* and
36 ~~[compensate out of county funds]~~ *refer the selection of the attorney*
37 *in the manner set forth in NRS 7.115. Such* an attorney :

38 1. *May be* other than, or in addition to, the public defender to
39 represent such indigent person at any stage of the proceedings or on
40 appeal in accordance with the laws of this state pertaining to the
41 appointment of counsel to represent indigent criminal defendants.

42 2. *Must be compensated out of county funds.*

43 **Sec. 18.** NRS 432B.420 is hereby amended to read as follows:

44 432B.420 1. A parent or other person responsible for the
45 welfare of a child who is alleged to have abused or neglected the



child may be represented by an attorney at all stages of any proceedings under NRS 432B.410 to 432B.590, inclusive. Except as otherwise provided in subsection 3, if the person is indigent, the court may appoint an attorney to represent the person.

2. A child who is alleged to have been abused or neglected shall be deemed to be a party to any proceedings under NRS 432B.410 to 432B.590, inclusive. The court shall appoint an attorney to represent the child. The child must be represented by an attorney at all stages of any proceedings held pursuant to NRS 432B.410 to 432B.590, inclusive. The attorney representing the child has the same authority and rights as an attorney representing any other party to the proceedings.

3. If the court determines that the parent of an Indian child for whom protective custody is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent; and

(b) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,

↳ as provided in the Indian Child Welfare Act.

4. Each attorney, other than ~~[a public defender or]~~ an attorney compensated through a program for legal aid described in NRS 19.031 and 247.305, if appointed under the provisions of subsection 1 or 2, is entitled to the same compensation and payment for expenses from the county as provided in NRS 7.125 and 7.135 for an attorney appointed to represent a person charged with a crime.

Sec. 19. NRS 433A.270 is hereby amended to read as follows:

433A.270 1. The person alleged to be a person in a mental health crisis or any relative or friend on the person's behalf is entitled to retain counsel to represent the person in any proceeding before the district court relating to involuntary court-ordered admission, and if he or she fails or refuses to obtain counsel, the court shall advise the person and the person's guardian or next of kin, if known, of such right to counsel and shall appoint counsel. ~~↳ who may be the public defender or his or her deputy.]~~

2. Any counsel appointed pursuant to subsection 1 must be awarded compensation by the court for his or her services in an amount determined by it to be fair and reasonable. The compensation must be charged against the estate of the person for whom the counsel was appointed or, if the person is indigent, against the county where the person alleged to be a person in a mental health crisis last resided.

3. The court shall, at the request of counsel representing the person alleged to be a person in a mental health crisis in proceedings before the court relating to involuntary court-ordered admission, grant a recess in the proceedings for the shortest time possible, but



1 for not more than 5 days, to give the counsel an opportunity to
2 prepare his or her case.

3 4. If the person alleged to be a person in a mental health crisis
4 is involuntarily admitted to a program of community-based or
5 outpatient services, counsel shall continue to represent the person
6 until the person is released from the program. The court shall serve
7 notice upon such counsel of any action that is taken involving the
8 person while the person is admitted to the program of community-
9 based or outpatient services.

10 5. Each district attorney or his or her deputy shall appear and
11 represent the State in all involuntary court-ordered admission
12 proceedings in the district attorney's county. The district attorney is
13 responsible for the presentation of evidence, if any, in support of the
14 involuntary court-ordered admission of a person to a mental health
15 facility or to a program of community-based or outpatient services
16 in proceedings held pursuant to NRS 433A.200 and 433A.210.

17 **Sec. 20.** This act becomes effective on July 1, 2021.

