SUMMARY—Revises provisions relating to indigent defense. (BDR 14-143)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: May have Fiscal Impact.

Effect on the State Highway Fund: No.

AN ACT relating to indigent defense; revising provisions relating to the private practice of law by a deputy state public defender; requiring the Board on Indigent Defense Services to adopt regulations under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Public Defender to employ attorneys who are licensed to practice law in this State as deputy state public defenders. However, existing law generally prohibits a deputy state public defender from engaging in the private practice of law. (NRS 180.030) **Section 1** of this bill revises this prohibition to authorize a deputy state public defender to engage in the private practice of law, other than criminal law, after obtaining the approval of the Executive Director of the Department of Indigent Defense Services and subject to regulations adopted by the Board on Indigent Defense Services. **Section 2** of this bill requires the Board to adopt regulations prescribing the circumstances under which a deputy state public defender is authorized to engage in the private practice of law.

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

Section 1. NRS 180.030 is hereby amended to read as follows:

180.030 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]~~

3. Subject to the regulations adopted by the Board pursuant to NRS 180.320 and upon the approval of the Executive Director, a deputy state public defender may engage in the ***private*** practice of law, except ~~[in performing the duties of office and as otherwise provided in NRS 7.065.]~~ ***criminal law.***

Sec. 2. NRS 180.320 is hereby amended to read as follows:

180.320 1. The Board on Indigent Defense Services shall:

(a) Receive reports from the Executive Director and provide direction to the Executive Director concerning measures to be taken by the Department to ensure that indigent defense services are provided in an effective manner throughout this State.

(b) Review information from the Department regarding caseloads of attorneys who provide indigent defense services.

(c) Direct the Executive Director to conduct any additional audit, investigation or review the Board deems necessary to determine whether minimum standards in the provision of indigent defense services are being followed and provided in compliance with constitutional requirements.

(d) Work with the Executive Director to develop procedures for the mandatory collection of data concerning the provision of indigent defense services, including the manner in which such services are provided.

(e) Provide direction to the Executive Director concerning annual reports and review drafts of such reports.

(f) Review and approve the budget for the Department.

(g) Review any recommendations of the Executive Director concerning improvements to the criminal justice system and legislation to improve the provision of indigent defense services in this State.

(h) Provide advice and recommendations to the Executive Director on any other matter.

2. In addition to the duties set forth in subsection 1, the Board shall:

(a) Establish minimum standards for the delivery of indigent defense services to ensure that such services meet the constitutional requirements and do not create any type of economic disincentive or impair the ability of the defense attorney to provide effective representation.

(b) Establish a procedure to receive complaints and recommendations concerning the provision of indigent defense services from any interested person including, without limitation, judges, defendants, attorneys and members of the public.

(c) Work with the Department to develop resolutions to complaints or to carry out recommendations.

(d) Adopt regulations establishing standards for the provision of indigent defense services including, without limitation:

(1) Establishing requirements for specific continuing education and experience for attorneys who provide indigent defense services.

(2) Requiring attorneys who provide indigent defense services to track their time and provide reports, and requiring the State Public Defender and counties that employ attorneys or otherwise contract for the provision of indigent defense services to require or include a provision in the employment or other contract requiring compliance with the regulations.

(3) Establishing standards to ensure that attorneys who provide indigent defense services track and report information in a uniform manner.

(4) Establishing guidelines to be used to determine the maximum caseloads for attorneys who provide indigent defense services.

(5) Requiring the Department of Indigent Defense Services and each county that employs or contracts for the provision of indigent defense services to ensure, to the greatest extent possible, consistency in the representation of indigent defendants so that the same attorney represents a defendant through every stage of the case without delegating the representation to others, except

that administrative and other tasks which do not affect the rights of the defendant may be delegated. A provision must be included in each employment or other contract of an attorney providing indigent defense services to require compliance with the regulations.

(e) Establish recommendations for the manner in which an attorney who is appointed to provide indigent defense services may request and receive reimbursement for expenses related to trial, including, without limitation, expenses for expert witnesses and investigators.

(f) Work with the Executive Director and the Dean of the William S. Boyd School of Law of the University of Nevada, Las Vegas, or ~~[his or her]~~ ***the*** designee ~~[,]~~ ***of the Dean,*** to determine incentives to recommend offering to law students and attorneys to encourage them to provide indigent defense services, especially in rural areas of the State.

(g) Review laws and recommend legislation to ensure indigent defendants are represented in the most effective and constitutional manner.

3. The Board shall adopt regulations to establish hourly rates of compensation for court appearances and other time reasonably spent on indigent defense services or representation for:

(a) In counties whose population is less than 100,000, an attorney, other than a public defender, who is selected pursuant to NRS 7.115 to provide indigent defense services; or

(b) In all counties, an attorney who is appointed pursuant to NRS 34.750 to represent a petitioner who files a postconviction petition for habeas corpus.

➥ 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, the establishment by regulation of rates of compensation pursuant to this subsection does not preclude a governmental entity from

contracting with a private attorney who agrees to provide such services for a lesser rate of compensation.

4. ***The Board shall adopt regulations establishing the circumstances under which the Executive Director may authorize a deputy state public defender to engage in the private practice of law pursuant to NRS 180.030.***

5. The Board shall adopt any additional regulations it deems necessary or convenient to carry out the duties of the Board and the provisions of this chapter.

Sec. 3. 1. This section becomes effective upon passage and approval.

2. Sections 1 and 2 of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2027, for all other purposes.