

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services

RICHARD A. STEFANI
Deputy Director
Information Technology

MEETING NOTICE AND AGENDA

**Indigent Defense Commission (IDC)
VIDEOCONFERENCE**

Date and Time of Meeting: Tuesday, March 28, 2017 @ 1:30 p.m.

Place of Meeting:

Carson City	Las Vegas	Washoe	Ely	Elko
Supreme Court Library Room 107 201 S. Carson Street Carson City, Nevada	Nevada Supreme Court Building Conference Room A 408 E. Clark Avenue Las Vegas, NV	Second Judicial District Court Room 220B 75 Court Street Reno, NV	White Pine County District Court 801 Clark Street Ely, NV	Elko County District Court 571 Idaho Street, Elko, NV
Teleconference Access: Dial-In # 1-877-336-1829 Access Code 2469586				

AGENDA

- I. Call to Order
 - a. Call of Roll
 - b. Determination of a Quorum

- II. Public Comment
Because of time considerations, the period for public comment by each speaker may be limited. Speakers are urged to avoid repetition of comments already made by previous speakers.

- III. Review and Approval of the December 12, 2016 Meeting Summary*

- IV. Update on Caseload Standards - *Mr. Hans Jessup*

- V. Legislation Discussion/Update- *Mr. David Carroll, Mr. Ben Graham, Mr. John Lambrose, Mr. John McCormick*

- VI. Rural Subcommittee Report/Status Update - *Mr. John Lambrose*

- VII. Status Update on Indigent Defense in Clark County - *Mr. Phil Kohn, Mr. David Schieck, Mr. Drew Christensen*

VIII. Status Update on Indigent Defense in Washoe County - *Mr. Jeremy Bosler, Ms. Jennifer Lunt, Mr. Bob Bell*

IX. Status Update from State Public Defender's Office - *Ms. Karin Kreizenbeck*

X. Other Business

XI. Adjournment

- Action items are noted by * and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited to five minutes per person at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Jamie Gradick, (775) 687-9808 - email: jgradick@nvcourts.nv.gov
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030 (4)(a))
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: www.nevadajudiciary.us; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Nevada Supreme Court Building, 408 E. Clark Avenue

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Indigent Defense Commission

Summary Prepared by Raquel Espinoza

December 12, 2016

1:30p.m. – 3:00 p.m.

Members Present

Justice Michael A. Cherry, Chair
Justice Lidia Stiglich
Judge Tom Armstrong
Judge Gary Fairman
Judge Mike Montero
Judge Jim Shirley
Judge Nathan Todd Young
Bob Bell
Jeremy Bosler
Drew Christensen
Jeff Fontain
Franny Forsman
Joni Eastley
Chris Hicks
Kriston Hill
Alina Kilpatrick
Philip J. Kohn

Karin Kriezenbeck
Christopher Lalli
Jennifer J. Lunt
Mike McDonald
David Schiek
Dagny Stapleton
Jeff Wells
Steve Wolfson
Holly Wellborn
Michael Kagan

AOC Staff

Raquel Espinoza
Jamie Gradick
Ben Graham
Hans Jessup
John McCormick
Michael Sommermeyer

- I. Call to Order
 - Call of Roll and Determination of a Quorum
 - Ms. Jamie Gradick called roll; a quorum was present.
- II. Public Comment
 - Chairman Justice Michael Cherry determined there was no public comment.
- III. Review and Approval of Summary of August 15, 2016, Meeting Summary
 - The meeting summary from the August 15, 2016 meeting was approved.
- IV. Legislative Session 2017 - BDR Discussion/Update & Rural Subcommittee Report
 - Mr. David Carroll provided a report on the Rural Subcommittee and the BDR that would be presented to the Legislature.

- Mr. Carroll thanked Mr. Jeff Fontain and Ms. Dagny Stapleton of the Nevada Association of Counties (NACO) for assisting with setting calls and participating in the Rural Subcommittee call.
- Mr. Carroll stated the calls were well-participated and provided good information and insight.
- Mr. Carroll felt comfortable with the consensus regarding the major portions of the Bills. There has been feedback regarding more specific language.
- There was consensus that there should be a legislative intent added at the beginning of the bill.
- Mr. Carroll reviewed all sections that were updated and edited with additional or different language of the BDR. Once Mr. Carroll receives feedback on the updates he will distribute the BDR to the rest of the group.
- Mr. Carroll, NACO, the State Public Defender and the Rural Counties would discuss language regarding what would happen to the current State Public Defender's Office and the services they provide.
- Judge Young stated there had been discussion regarding a language provision to allow counties to opt out once they have opted in. Mr. Carroll stated there was concern regarding that language at that meeting but it is a topic that would need to be addressed along with the transition of the State Public Defender.
- Judge Fairman added there were issues dealing with appointments of conflict counsel, payment for counsel and who would appoint conflict counsel. Mr. Carroll stated there was intent in the bill that the state would pay for conflict counsel and would be qualifying and working with judges to get their opinions on which lawyers should be on the panel. The BDR includes language regarding some of the topics of concern but the BDR would be further revised for clarification.
- Mr. Wells clarified payment to conflict counsel would be for rural counties, not Clark and Washoe counties.
- Mr. Carroll stated he hoped to have a final draft of the BDR to the Commission by early January.
- Justice Cherry thanked Mr. Carroll for all his help.

V. Caseload Discussion

- Mr. Phil Kohn, Mr. Steve Wolfson and Justice Cherry discussed caseloads and workloads. Workloads affect the district attorneys and the Public Defender's Office. The Justice Court, without communicating to the Public Defender's Office, decided they would add 4 days of domestic violence court on January 3rd. Mr. Wolfson and Mr. Kohn had been invited to meet with the Justice Court where the plan was rolled out without discussion. Mr. Kohn stated there needed to be more discussion about this. Mr. Kohn stated the counties work on a fiscal year that takes place from July 1st to June 30th and the courts make their changes on January 3rd and this would need to stop. The county is not being given advanced notice and Mr. Kohn asked Justice Cherry to step in to remedy the issue, when judges are added, the same number of district attorneys and public defenders should be added as well. Mr. Wells stated he, Mr. Kohn, and Mr. Wolfson had had a discussion about the issue and stated additional contracts would be required. Mr. Wolfson stated 5 years ago the District Attorney's Office was not taking on Specialty Court cases, but once Mr. Wolfson came on board the Office began to take those cases and Mr. Wolfson stated he would remain committed to Specialty Courts and to the effectiveness of the courts. Mr. Kohn stated better communication was needed.

VI. Status Update on Indigent Defense in Clark County

- Mr. Phil Kohn introduced Mr. Michael Kagan and stated there had been discussion about adding an immigration expert in the Clark or Washoe County Public Defender's Office due to changing laws.
- Justice Cherry welcomed Mr. Michael Kagan as a full member of the Indigent Defense Commission.

- Mr. Michael Kagan stated nationally, the trend in large urban cities has been to have at least one immigration specialist on the Public Defender's staff. This is a necessity in order to keep up with changing immigration laws.
- Mr. Bosler stated a dedicated immigration resource was needed because CLE's are not enough with how quickly the laws change.
- Ms. Karin Kriezenbeck agreed with Mr. Bosler and stated there are many complex legal issues that change a client's ability to stay in the country in some cases involving immigration which may be more important to the client. Ms. Kriezenbeck would welcome a dedicated source for these cases.
- Judge Young added he would like the dedicated source to be available to the rural district attorneys as well.
- Mr. David Schiek stated effective January 1, 2017 the Special Public Defender's Office would no longer be handling abuse and neglect cases and would be taking on all Category A Felony cases that were previously handled under hourly wages from the Office of Appointed Counsel.
- Mr. Drew Christensen stated the Office of Appointed Counsel would still handle 37 monthly contracts and would expand that beginning in January, 2017. They had expanded their abuse and neglect practice from 13 lawyers to 21 private lawyers. There were 26 pending capital cases in the private bar and one of those cases was currently in trial and one on appeal.
- Mr. Jeremy Bosler updated the Commission on the Public Defender's Office in Washoe County
- Mr. Bosler stated a number of cases that went to the Appointed Counsel Administrator were reduced. The counties put the contract out to bid and two bids had been submitted for the contract to be renewed.
- Mr. Bosler asked the Commission to consider redrafting or renewing the model plans regarding indigent defense, appointment of counsel, and payment of fees. That had become important because a bidder had suggested that the Appointed Counsel Administrator in Washoe County to undertake some cases.
- Washoe County had had a recent development which impacts the tracking of cases. There was conversation that the District Court in Washoe County may abandon its practice of tracking cases. They would be reaching out to the Chief Judge for further discussions.

VII. Status Update on Indigent Defense in Washoe County

- Ms. Jennifer Lunt stated there may be a big change in how law is practiced in Washoe County. Vertical Representation was a big concern at the moment.
- Mr. Bob Bell stated there had been previous conversation about doing work in the appellate area but as Mr. Christensen had stated, there was not a big influx in that yet and would require waiting to see which steps are taken. The Office of Appointed Counsel was doing okay in regard to Post Convictions and Habeas work going down. There would be a couple more attorneys being added on and some of those attorneys would be picking up more Habeas work. There were still issues being dealt with in regards to the sealing of court records, Mr. Bell would be discussing the issues with the Chief Judge and court staff.

VIII. Status Update from State Public Defender's Office

- Ms. Kriezenbeck stated the State Public Defender's Office was doing well. Chief Judge Russell and Judge Wilson both stated they were satisfied with the work being produced by the State Public Defender's Office. There was a BDR that could potentially dissolve the State Public Defender's Office if passed and Ms. Kriezenbeck was doing her best to keep the staff calm in regards to the BDR.
- Ms. Kriezenbeck stated there seemed to be push back from the counties that the BDR would be an attempt to expand the State and remove the autonomy as far as indigent defense. Ms. Kriezenbeck stated that was not what the BDR was supposed to be, there was a realization on the Indigent Defense Commission that the counties want autonomy. Ms. Kriezenbeck stated she

had seen the fight over a 20 year period and it was one that the State should not win, the counties should have autonomy but the State Office could exist to benefit the counties and provide a statewide support system with taking over issues such as taking over the appeals, providing death penalty support, or having a dedicated immigration attorney. The BDR was meant to strengthen the Office to be able to be a support system to all the rural counties so that they may be able to provide the best indigent defense.

- Justice Cherry stated the work done by the counties to support indigent defense was great work. Justice Cherry stated the counties would have their autonomy.

IX. Other Business

- Mr. Hans Jessup stated there were no statistics to report at the time, work was being done currently to process getting the Supreme Court Annual Reports finalized and distributed.
- Justice Cherry asked the Commission to discuss anything that would affect indigent defense in the Legislature with Mr. Ben Graham. Mr. Graham would be able to look into any issues impacting indigent defense for the Commission.

X. Public Comment

- Determined there was no public comment.

XI. Adjournment

- The meeting was adjourned at 3:00 p.m. The next meeting would be held in May.

Summary Indigent Defense Caseload Statistics, Fiscal Year 2015-17.		Fiscal Year			Attorneys*
		2015	2016	2017 ¹	
Carson City District Court	New Appointments	2,080			8
	Adjudicated/Disposed/Closed	2,295			
	End Pending	1,014			
	Clearance Rate	110%			
Washoe Public Defender	New Appointments	6,183	6,733		35
	Adjudicated/Disposed/Closed	4,358	6,649		
	End Pending				
	Clearance Rate	70%	99%		
Lyon County District Court	New Appointments	156	154	103	3
	Adjudicated/Disposed/Closed	122	122	84	
	End Pending	6	11	50	
	Clearance Rate	78%	79%	82%	
Elko County District Court	New Appointments	1,509			7
	Adjudicated/Disposed/Closed	945			
	End Pending	551			
	Clearance Rate	63%			
Esmeralda County District Court	New Appointments	1	-	-	1
	Adjudicated/Disposed/Closed	7	1	2	
	End Pending	2	4	3	
	Clearance Rate	700%			
Nye County District Court	New Appointments	298	366	177	5
	Adjudicated/Disposed/Closed	369	346	170	
	End Pending	265	293	301	
	Clearance Rate	124%	95%	96%	
Humboldt County District Court	New Appointments	165	194	122	1
	Adjudicated/Disposed/Closed	100	106	162	
	End Pending	130	224	185	
	Clearance Rate	61%	55%	133%	
Eureka County District Court	New Appointments	10	-	-	1
	Adjudicated/Disposed/Closed	9	3	-	
	End Pending	2	-	-	
	Clearance Rate	90%			
Lincoln County District Court	New Appointments	17	26	-	2
	Adjudicated/Disposed/Closed	13	32	3	
	End Pending	18	19	14	
	Clearance Rate	76%	123%		

White Pine County District Court	New Appointments	32	26	14	3
	Adjudicated/Disposed/Closed	42	47	22	
	End Pending	21	7	6	
	Clearance Rate	131%	181%	157%	
Clark County Public Defender	New Appointments	12,369	24,015	15,631	115
	Adjudicated/Disposed/Closed	8,911	19,142	16,267	
	End Pending	7,624	12,220	13,314	
	Clearance Rate	72%	80%	104%	
Clark County Special Public Defender	New Appointments	46	32	142	Unk.
	Adjudicated/Disposed/Closed	43	28	50	
	End Pending	59	65	147	
	Clearance Rate	93%	88%	35%	
Churchill County District Court	New Appointments	237	252	133	3
	Adjudicated/Disposed/Closed	411	432	205	
	End Pending	85	88	88	
	Clearance Rate	173%	171%	154%	
Lander County District Court	New Appointments	17	34	4	1
	Adjudicated/Disposed/Closed	16	13	13	
	End Pending	13	37	29	
	Clearance Rate	94%	38%	325%	
Mineral County District Court	New Appointments	29	9	13	2
	Adjudicated/Disposed/Closed	43	7	6	
	End Pending	29	37	49	
	Clearance Rate	148%	78%	46%	
Pershing County District Court	New Appointments	95	115	71	2
	Adjudicated/Disposed/Closed	66	124	73	
	End Pending	78	69	68	
	Clearance Rate	69%	108%	103%	

* As of May 2016.

ⁱ Incomplete

Source: IDC Statistics maintained by the Nevada Supreme Court, AOC, Research and Statistics Unit.

LEGISLATIVE LANGUAGE CONSIDERATION: Draft Nevada Right to Counsel Commission Act of 2017

Legislative Findings:

- A. Section 1 of the Nevada Constitution recognizes the inalienable right of individuals to “defend life and liberty.” Nevada’s commitment to the protection of individual liberty resulted in Nevada being the first state in the Union to require the appointment of counsel to the indigent accused in all criminal cases in which a defendant’s liberty is subject to restriction and the payment of counsel for services rendered.

- B. Section 2 of the Nevada Constitution acknowledges that the “Paramount Allegiance of every citizen is due to the Federal Government in the exercise of all its Constitutional powers as the same have been or may be defined by the Supreme Court of the United States.” Under the Sixth and Fourteenth Amendments to the United States Constitution, the obligation to provide effective representation to the indigent accused at all critical stages of criminal and delinquency proceedings rests with the state. Accordingly, it is the obligation of the legislature to provide for the general framework and the resources necessary to provide for the delivery of public defender services in this state.

- C. In recognition of its mandates under both the United States and Nevada Constitutions, the legislature enacts the Nevada Right to Counsel Commission Act of 2017 to provide for all of the following:
 - (1) Ensuring that adequate public funding of the right to counsel is provided and managed in a cost-effective and fiscally responsible manner.
 - (2) Ensuring that the public defender system is free from undue political and judicial interference and free of conflicts of interests.
 - (3) Establishing a flexible delivery system that is responsive to and respectful of jurisdictional variances and local community needs and interests.
 - (4) Providing that the right to counsel is delivered by qualified and competent counsel in a manner that is fair and consistent throughout the state.
 - (5) Providing for statewide oversight with the objective that all indigent criminal defendants who are eligible to have appointed counsel at public expense receive effective assistance of counsel at each critical stage of the proceeding.
 - (6) Providing for the ability to collect and verify objective statistical data on public defense services to assist state and local policymakers in making informed decisions on the appropriate funding levels to ensure an adequate service delivery system.

(7) Providing for the development of uniform standards and guidelines for the delivery of public defender services and for an effective management system to monitor and enforce compliance with such standards and guidelines. Any such standards and guidelines are intended to facilitate the efficient and effective operation of indigent defense services through the state of Nevada for criminal and delinquency proceedings. They are not intended as criteria for the judicial evaluation of alleged misconduct of defense counsel to determine the validity of a conviction. Failure to adhere to the standards and guidelines does not, in and of itself, constitute ineffective assistance of counsel. These standards are not intended to create substantive or procedural rights that may accrue either to the accused, or to convicted persons, or to counsel. Nothing contained herein shall be construed to overrule, expand, or extend, whether directly or by analogy, the prevailing case law for determining ineffective assistance of counsel.

Sec. 1 Chapter 180 of NRS is hereby amended by adding 1 thereto the provisions set forth as sections 2 to 9, inclusive, of this 2 act.

Sec. 2 As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2 and 3 of this act have the meanings ascribed to them in those sections.

Sec. 3 “Commission” means the Nevada Right to Counsel Commission created by section 5 of this act.

Sec. 4 “Indigent defense services” means the provision of legal representation to an indigent person who is charged with a public offense or to an indigent child who is alleged to be delinquent or in need of supervision pursuant to title 5 of NRS or is subject to abuse and neglect hearings under NRS 432B.

Sec. 5 (1) The Nevada Right to Counsel Commission, consisting of 13 voting members and 1 ex officio nonvoting member, is hereby created.

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

- (A) The Majority Leader of the Senate appoints one member who must be an attorney in good standing of the State Bar of Nevada;
- (B) The Speaker of the Assembly appoints one member;
- (C) The Chief Justice of the Supreme Court appoints one member who must be a former judge or justice or expert in juvenile justice;
- (D) The Governor appoints ten (10) members as follows:
 - (i) Two members from among six nominees selected by the President of the State Bar of Nevada, three of whom must be a member in good standing of the State Bar of Nevada who

resides in a county whose population is less than 100,000 and three of whom must be a member in good standing of the State Bar of Nevada who resides in a county whose population is 100,000 or more; The ~~State Bar of Nevada~~ Governor must appoint one member from each county classification.

- (ii) Two members from among three nominees selected by the Nevada Association of Counties who resides in a county whose population is less than 100,000;
 - (iii) Three members from among six nominees selected by the Board of County Commissioners of Clark County;
 - (iv) Two members from among four nominees selected by the Board of County Commissioners of Washoe County;
 - (v) One member from among three nominees selected jointly by associations of the State Bar of Nevada who represent members of racial or ethnic minorities;
- (3) The Chief Justice of the Supreme Court is an ex officio, nonvoting member of the Commission.
- (4) Each person appointed to the Commission pursuant to subsection 2 must have:
- (A) Significant experience in providing legal representation to indigent persons who are charged with public offenses or to indigent children who are alleged to be delinquent or in need of supervision; or,
 - (B) A demonstrated commitment to providing effective legal representation to such persons.
- (5) Authorities shall not appoint to the Commission a person who is:
- (A) A current judge, justice or judicial officer;
 - (B) A prosecuting attorney or an employee thereof;
 - (C) A law enforcement officer or an employee of a law enforcement agency; or,
 - (D) An attorney who may obtain any financial benefit from the policies adopted by the Commission.
- (6) Authorities shall not collectively appoint more than two current county managers or current members of a county Board of Commissioners.

- (7) After the initial terms, each appointed member of the Commission serves a term of 4 years, commencing on July 1. Each member of the Commission continues in office until a successor is appointed. Members may be reappointed for additional terms of 4 years in the same manner as the original appointments.
- (8) Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment for the remainder of the unexpired term.
- (9) Each member of the Commission:
 - (A) Serves without compensation; and,
 - (B) While engaged in the business of the Commission, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.
- (10) Each member of the Commission who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the member may prepare for and attend meetings of the Commission and perform any work necessary to carry out the duties of the Commission in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Commission to make up the time the member is absent from work to carry out his or her duties as a member, and shall not require the member to take annual vacation or compensatory time for the absence.
- (11) The Governor may remove a member of the Commission for incompetence, neglect of duty, moral turpitude, misfeasance, malfeasance or nonfeasance in office or for any other good cause.
- (12) A majority of the voting members of the Commission constitutes a quorum for the transaction of business at a meeting of the Commission. A majority of the voting members of the Commission is required for official action of the Commission.

- Sec. 6
- (1) The Indigent Defense Account is hereby created in the State General Fund, to be administered by the Commission. Any money that is received by the Commission from any source, including, without limitation, money received pursuant to a specific statute, tax, legislative appropriation, gift and grant shall be deposited into the Indigent Defense Account.
 - (2) Any money remaining in the Account at the end of a fiscal year remains in the Account and does not revert to the State General Fund.

- (3) Money in the Account may only be expended to administer the provisions of this chapter.
 - (4) The interest and income on the money in the Account, after deducting any applicable charges, must be credited to the Account.
- Sec. 7
- (1) Except as otherwise provided in subsection (4) below, the Commission may propose minimum standards for the provision of indigent defense services to ensure that those services are provided in a manner that complies with the standards for the effective assistance of counsel established by the United States Supreme Court and the appellate courts of this State under the Sixth Amendment to the United States Constitution and Section 8 of Article 1 of the Nevada Constitution. The standards proposed by the 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) The collection and reporting of data concerning the caseload and workload of defense counsel is uniform.
 - (E) Private attorneys engage in public representation shall be permitted to continue retained work.
 - (2) A standard proposed by the Commission pursuant to this section must be submitted to the Supreme Court 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 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. A standard proposed by the Commission pursuant to subsection

1 becomes final upon approval by the Supreme Court.

- (3) A standard proposed and approved pursuant to this section is not a regulation for the purposes of chapter 233B of NRS.
- (4) The Commission may issues guidelines for the workload of defense counsel to be controlled to permit effective representation. Any guideline proposed pursuant to this paragraph must be based on objective criteria derived from the tracking of the time spent by attorneys on criminal defense matters and that take into account variations in practice due to the jurisdiction(s) in which the attorney practices. These guidelines shall be provided to the State and counties to assist them during their budgetary process.

Sec. 8 (1) Counties whose population is 100,000 or less shall notify the Commission by a date to be established by the Commission if the county elects to cede administration of indigent defense to the Office of Indigent Legal Services, under the following terms:

- (A) The Commission shall maintain the existing county-based indigent defense delivery system unless the chief judge of the judicial district and the county Board of Commissioners choose to have the Commission determine another service delivery model or unless the ~~Office of Indigent Legal Services~~ Commission, with approval of the Nevada Supreme Court, engages independent, outside experts to evaluates the local system against Commission standards and finds the system not to meet Commissions standards;
- (B) The Commission shall provide services through any combination of private service providers paid hourly or under contract on a case-by-case, county or regional basis, or if workload requires no less than five full-time state government attorneys and appropriate support staff.
- (C) A county ceding authority to the Commission under the terms of this section on a yearly basis shall pay to the Commission the average annual amount paid by the county to provide indigent defense services for the three fiscal year ending on June 30, 2016, and no more. In calculating the amount paid by each county, any extraordinary costs accrued in any of the prior three fiscal years ending on June 30th, 2016 that were associated with the legal representation of indigent criminal defendants charged with capital crimes, shall not be included.
- (D) In counties ceding authority to the Commission under the terms of this section, the Office of Indigent Legal Services is responsible to compile and report annually by a date to be determined by the Commission the following information:

- (i) Names, state bar card number, and business address of all indigent defense providers;
 - (ii) ~~Names and title~~ Number of all non-attorney support staff;
 - (iii) Number of cases assigned to each indigent defense attorney categorized by the following case types: delinquency, misdemeanor, felony, capital, and, child in need of services.
 - (iv) Number of cases disposed by each indigent defense attorney categorized by case type as described in sub-section iii;
 - (v) Number of cases of defendants proceeding pro se by case type categorized by case type as described in sub-section iii;
 - (vi) Number of trials conducted by each indigent defense attorney categorized by case type as described in sub-section iii.
- (E) ~~The Office of Indigent Legal Services~~ Commission, with approval of the Nevada Supreme Court, shall engage independent, outside expertise to conduct objective periodic objective evaluations against Commission standards of trial-level services in counties ceding autonomy of the administration of indigent defense services.
- (F) Counties ceding authority to the Commission under the terms of this section may choose to provide services locally at any time ~~only~~ if the State requires counties to pay more than the average annual amount paid by the county to provide indigent defense services for the three fiscal year ending on June 30, 2016.
- (G) The chief judge of the judicial district and the county Board of Commissioners of a county ceding authority to the Commission under the terms of this section may petition the Nevada Supreme Court, under rules established by the Court, whenever county representatives determine that representation provided by the Office of Indigent Legal Services is not adequate to serve the needs of the county. Upon approval by the Court, a county filing a complaint may choose to provide services locally at any time thereafter. The state retains the obligation to fund services at the current-level at the time a complaint is raised by a county, if a county is allowed to take over the administration through the process adopted by the Court.
- (2) Counties whose population is 100,000 or less shall notify the Nevada Right to Counsel Commission by a date to be determined by the Commission if the county elects to retain autonomy for the administration of trial-level indigent defense services. By the close of each subsequent calendar year counties retaining the autonomy for the

administration of trial-level indigent defense services under this section must notify the Commission that they will continue to administer services in the forthcoming fiscal year.

- (A) A county retaining autonomy over the administration of trial-level indigent defense services may cede responsibility for the funding and delivery of indigent appellate services to the Commission.
- (B) A county retaining autonomy over the administration of indigent defense services shall continue to fund all trial-level services at a level to meet Commission standards.
- (C) A county that retains the autonomy for trial-level indigent defense services must submit annual reports to the Commission annually by a date to be determined by the Commission that shall include:
 - (i) Names, state bar card number, and business address of all indigent defense providers;
 - (ii) ~~Names and title~~ Number of all non-attorney support staff;
 - (iii) Number of cases assigned to each indigent defense attorney categorized by the following case types: delinquency, misdemeanor, felony, capital, and, child in need of services.
 - (iv) Number of cases disposed by each indigent defense attorney categorized by case type as described in sub-section iii;
 - (v) Number of cases of defendants proceeding pro se by case type categorized by case type as described in sub-section iii;
 - (vi) Number of trials conducted by each indigent defense attorney categorized by case type as described in sub-section iii.
- (D) The board of county commissioners in a county not ceding authority for trial-level indigent defense services, and operating a county-government public defender office, shall submit to the Indigent Defense Commission created pursuant to section 5 of this act a report of the procedures used by the board to ensure that the appointment of the chief public defender was not the result of undue political and judicial interference not later than 30 days after the appointment of the public defender.
- (E) The board of county commissioners in a county not ceding authority for trial-level indigent defense services, and operating a county-government public defender office, may remove the chief public for misconduct in office, incompetence, misfeasance, malfeasance or nonfeasance. Not later than 30 days after the removal of the public defender, the board of county commissioners

shall submit to the Indigent Defense Commission created pursuant to section 5 of this act a report of the procedures used by the board to ensure that the removal of the public defender was not the result of undue political and judicial interference.

- (F) A county electing to cede authority to the Commission for trial-level indigent defense services for any ensuing fiscal year other than the one ending June 30th, 2017, on a yearly basis shall pay to the Commission the average annual amount paid by the county to provide indigent defense services for the three fiscal years ending on June 30, of the year in which the Commission assumes authority for the administration of services, and no more. In calculating the amount paid by each county, any extraordinary costs accrued in any of the prior three fiscal years ending on June 30, of the year in which the Commission assumes authority for the administration of services that were associated with the legal representation of indigent criminal defendants charged with capital crimes, shall not be included.
- (G) The Office of Indigent Legal Services shall, [with approval of the Nevada Supreme Court](#), engage independent, [outside](#) expertise to conduct periodic evaluations against Commission standards of trial-level services in counties retaining autonomy of the administration of indigent defense services. Counties shall cooperate fully with the evaluation.
- (H) Counties found not to be in compliance with Commission standards shall be notified in writing of non-compliance. Counties shall be given nine months from the date of notification to remedy said violations. The Office of Indigent Legal Services shall provide the county with technical assistance to come into compliance. If after the nine-month period counties are found to be in compliance with Commission standards, services will continue under the terms of this section.
- (I) If after the nine-month period a county found still not to be in compliance with Commission standards, the county may petition the Nevada Supreme Court, under rules established by the Court, to appeal the findings of non-compliance. If after the hearing counties are found to be in compliance with Commission standards, services will continue under the terms of this section.
- (J) If no hearing is sought, or if after the hearing the county is found still not to be in compliance with Commission Standards, the county shall cede the administration of services to the Commission in the ensuing fiscal year. The county will be charged the additional cost of running services for that year. Thereafter the county on a yearly basis shall pay to the Commission the average annual amount paid by the county to provide indigent defense

services for the three fiscal years ending on June 30, of the year in which the Commission assumes authority for the administration of services, and no more. In calculating the amount paid by each county, any extraordinary costs accrued in any of the prior three fiscal years ending on June 30, of the year in which the Commission assumes authority for the administration of services that were associated with the legal representation of indigent criminal defendants charged with capital crimes, shall not be included.

Sec. 9 Reserved

Sec. 10 NRS 180.010 is hereby amended to read as follows:

- (1) ~~The Office of State Public Defender~~ Office of 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 for a term of 4 years, and until a successor is appointed and qualified. The Chief Counsel is the 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) Is in the unclassified service of the State.
 - (C) 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 supervise]~~ 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 may authorize the Chief Counsel of the Office of Indigent Legal Services to employ the following:
 - (A) Deputy Chief Counsel;
 - (B) Director of Appellate Counsel Services;
 - (C) Director of Private Counsel Services;

- (D) Director of Training;
 - (E) Deputy Director of Training;
 - (F) An Information Technology Officer;
 - (G) A Budget Director;
 - (H) A Director of Juvenile Justice Standards Compliance;
 - (I) A Director of Adult Justice Standards Compliance; and,
 - (J) A Director of Policy, Data and Research.
- (6) The Commission may, within the limits of available money, employ such other persons as the Commission deems necessary to perform the duties of the Commission and the Office of Indigent Legal Services, including, without limitation, attorney, clerical, social worker and investigative staff.
 - (7) Each Office of Indigent Legal Services attorney 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.
 - (8) The Office of the State Public Defender shall continue to provide services in those jurisdictions and cases where they are providing services as of July 1, 2017 for one year, or until such time as the Commission and Office of Indigent Legal Services are able to begin providing representation. The Commission shall give preference to hiring existing Office of the State Public Defender staff, including the State Public Defender, if it is in the best interests of the state and counties.

Sec. 11 NRS 180.040 is hereby amended to read as follows:

- (1) The Commission and ~~the Office of the State Public Defender~~ Office of Indigent Legal Services shall 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]~~ With the approval of the Commission, the ~~State Public Defender~~ Chief Counsel may establish branch offices necessary to perform the ~~State Public Defender's~~ Chief Counsel's duties. The ~~[State Public Defender]~~ Commission shall designate a ~~deputy state public defender~~ lead attorney to supervise each such office.

Sec. 12 NRS 180.050 is hereby amended to read as follows:

- (1) ~~The State Public Defender Office of Indigent Legal Services, with the approval of the Commission, may contract with attorneys licensed to practice law in the State of Nevada and with county public defenders to provide services required by this chapter if deemed appropriate. It is impracticable for the State Public Defender or the State Public Defender's deputies to provide such services for any reason.~~
- (2) All such contract services ~~[shall]~~ must be performed under the supervision and control of the ~~State Public Defender~~ Chief Counsel.

Sec. 13 NRS 180.080 is hereby amended to read as follows:

- (1) ~~The State Public Defender~~ Chief Counsel shall submit:
 - (A) A report on or before December 1 of each year to the ~~[Governor]~~ Commission and to each participating county containing a statement of:
 - (i) The number of cases that are pending in each ~~participating~~ county;
 - (ii) The number of cases in each ~~participating~~ county that were closed in the previous fiscal year;
 - (iii) 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;
 - (iv) The total number of working hours spent by the ~~State Public Defender and the State Public Defender's Office of Indigent Legal Services~~ staff on work for each participating county; and,
 - (v) The amount and categories of the expenditures made by the ~~State Public Defender's Office of Indigent Legal Services~~.
 - (B) ~~To each participating county, on~~ On or before December 1 of each even-numbered year, the total proposed budget of the ~~State Public Defender~~ Office of Indigent Legal Services or that county including the projected number of cases and the projected cost of services attributed to the county for the next biennium.
 - (C) 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. 14 **[Removed in its entirety]**

Sec. 15 NRS 260.010 is hereby amended to read as follows:

- (1) In counties whose population is 100,000 or more, the boards of county commissioners shall create by ordinance the office of public defender. Such counties may cede responsibility for the funding and delivery of indigent appellate services to the Commission.
- (2) The office of public defender when created must be filled by appointment by the board of county commissioners. ~~[6.]~~ Not later than 30 days after the appointment of the public defender, the board of county commissioners shall submit to the Indigent Defense Commission created pursuant to section 5 of this act a report of the procedures used by the board to ensure that the appointment of the public defender was not the result of undue political and judicial interference.
- (3) 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. Not later than 30 days after the removal of the public defender, the board of county commissioners shall submit to the Indigent Defense Commission created pursuant to section 5 of this act a report of the procedures used by the board to ensure that the removal of the public defender was not the result of undue political and judicial interference.

Sec. 16 NRS 260.040 is hereby amended to read as follows:

- (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 ~~[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 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. ~~30~~ 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. 17 As soon as practicable after July 1, 2017, the Governor, Majority Leader of the Senate, the Speaker of the Assembly, and the Chief Justice of the Supreme Court shall appoint the members of the Indigent Defense Commission created pursuant to section 5 of this act as follows:

- (1) Members appointed pursuant to paragraphs a-d(1) of subsection 2 of Section 5 of this act must be appointed to terms that expire of June 30, 2023.
- (2) Members appointed pursuant to paragraphs d(2)-(3) of subsection 2 of Section 5 of this act must be appointed to terms that expire of June 30, 2022.
- (3) Members appointed pursuant to paragraphs d(4)-(6) of subsection 2 of Section 5 of this act must be appointed to terms that expire of June 30, 2021.

Sec. 18 Notwithstanding the provisions of this act, if, before July 1, 2017 ~~2015~~, a county whose population is less than 100,000 has created the office of public defender pursuant to NRS 260.010, as that provision existed before July 1, 2017 ~~2015~~, the county may provide legal representation to indigent persons through the office of public defender created by the county until the ~~Indigent Defense~~

Commission created by section 5 of this act determines the appropriate method for providing such legal representation in the county pursuant to section 9 of this act.

Sec. 19 NRS 180.030 and 260.020 are hereby repealed.

Sec. 20 This act becomes effective on July 1, 2017.