

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: June 12, 2019 at 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/B 408 E. Clark Avenue Las Vegas, NV	Second Judicial District Court Law Library Conference Room 75 Court Street Reno, NV	Seventh Judicial District Court 801 Clark Street Ely, NV	Fourth Judicial District Court 571 Idaho Street Elko, NV
Teleconference Access: Dial-In # 1-408-740-7256 Meeting ID 1110011234				

All participants attending via teleconference should mute their lines when not speaking; it is highly recommended that teleconference attendees use a landline and handset in order to reduce background noise.

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 March 6, 2019 Meeting Summary*
- IV. Discussion on AB81 and the Future of the IDC
 - A. AB81 available at:
<https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6032/Overview>
- V. Caseload Standards Discussion/Update
 - A. Discussion on NACO's Rural County PD Reporting Tool - *Ms. Dagny Stapleton*

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Supreme Court Building ♦ 408 East Clark Avenue ♦ Las Vegas, Nevada 89101

- VI. Status Update on ACLU of Nevada - *Ms. Franny Forsman*
- VII. Status Update on Indigent Defense Clark County - *Mr. Drew Christensen, Mr. Darin Imlay, Ms. JoNell Thomas*
- VIII. Status Update on Indigent Defense in Washoe County - *Mr. John Arrascada, Mr. Cotter Conway, Mr. Marc Picker*
- IX. Status Update on the State Public Defender's Office - *Ms. Karin Kreizenbeck*
- X. Status Update on the Federal Public Defender's Office - *Ms. Megan Hoffman*
- XI. Update on Eighth Judicial District Court Homicide Case Pilot Program - *Judge Douglas Herndon, Mr. Chris Lalli*
- XII. Other Business
- XIII. 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: 408 East Clark Avenue.

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Indigent Defense Commission

Summary Prepared by Jamie Gradick

March 06, 2019

1:30 p.m.

<p><u>Attendees Present</u> Sr. Justice Michael A. Cherry, Chair John Arrascada Drew Christensen Joni Eastley Amanda Evans Judge Gary Fairman Franny Forsman Judge Kevin Higgins Kriston Hill Dana Hlavac</p>	<p>Megan Hoffman Darin Imlay Karin Kreizenbeck Marc Picker Amy Rose JoNell Thomas <u>AOC Staff</u> Jamie Gradick Ben Graham Hans Jessup John McCormick</p>
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- I. Call to order
 - Call of Roll and Determination of a Quorum
 - Mr. Gradick called roll.
 - A quorum was present.
- II. Public Comment
 - There was no public comment.
- III. Review and Approval of the December 11, 2018 Meeting Summary
 - The summary was approved.
- IV. AB81 Update/Discussion
 - Mr. Lambrose provided attendees with an update on AB81.
 - The bill will be up for hearing on March 12, 2019.
 - Stakeholders are currently working on amendments and the fiscal note for the bill; the most current versions are available on the Legislature's website (NELIS).
 - Ms. Eastley informed attendees that the rural counties and NACO will support a bill that holds the counties harmless for increases in indigent defense costs.
 - Ms. Evans commented that she would relay the discussions of this meeting to Ms. Stapleton.

- Ms. Forsman commented that the bill, overall, is a good bill but there are a few issues to iron out.
 - Mr. McCormick commented that AB81 is not a Nevada Supreme Court bill and, as such, the AOC is providing technical assistance. It is important that interested parties communicate with the sponsor.
 - Mr. Graham informed attendees that the Douglas County District Attorney has expressed opposition to the bill.
- V. Clark County Arraignment Process Discussion (*Portions of this discussion were inaudible*)
- Mr. Christensen provided a brief update on efforts/discussions; at this point, it is still a work in progress.
 - Mr. McCormick provided a brief update on AB43; the bill has been amended to add 6 new family court judges and no new civil/criminal judges in the 8th judicial district.
 - Attendees discussed the specialization breakdown; 3 of the 6 will likely be dependency judges although the legislation itself will not address this level specificity
- VI. IDC’s Role in Submitted Indigent Defense Plan Review Process
- Ms. Forsman commented that this issue hinges on the future of the IDC and provided a brief recap of the issue.
 - Attendees agreed to table this discussion until the outcome of AB81 is determined.
- VII. Urban County Public Defender Selection Process
- Mr. Lambrose commented that the IDC was “a bit remiss” in not looking at the public defender selection processes (in counties exceeding 100,000 people) when the model plan was drafted.
 - Attendees discussed the selection processes used in Clark County and Washoe County; concern as expressed whether the selection committee members have a viable method for providing the county commission with the “right” feedback and information on the candidate.
 - Attendees agreed to table this discussion until the outcome of AB81 is determined.
- VIII. Caseload Standards Discussion/Update
- Discussion on NACO’s Rural County PD Reporting Tool
 - Ms. Eastley commented that she has not received any feedback from other rural counties, but the response from Nye County is positive.
 - Concern was expressed regarding “changing components” of measurement; Ms. Forsman commented that the counties should be collecting the same data components for data analysis and comparisons. Counties can add components but they should not be able to change them.
 - Attendees briefly discussed the benefit of having data when selecting contract counsel for public defender services in the rural counties; counties need “something to go on” when they make these selections.
- IX. Status Update on ACLU of Nevada

- Ms. Rose informed attendees that her team hopes to complete the “briefing phase” by May.
 - Attendees briefly discussed the possibility of mediation and/or negotiation; no settlement discussions have taken place but this approach has not been ruled out.
- X. Status Update on Indigent Defense in Clark County
- Mr. Imlay informed attendees that his office is focusing on training and outreach. The initial appearance court has been running for about two months and is going well; 40% of defendants are being released within 6-8 hours of arrest.
 - Ms. Thomas reported that her office is at capacity and seeing an increase in death penalty cases. The focus is on legislative session at the moment.
 - Mr. Christensen commented that the initial appearance court is getting results and informed attendees that he has been keeping in touch with Mr. Conway.
- XI. Status Update on Indigent Defense in Washoe County
- Mr. Picker informed attendees that they are working on streamlining a few specialty court procedures.
 - Cotter Conway has replaced Bob Bell as the indigent defense administrator in Washoe County.
 - Mr. Arrascada informed attendees that his office has been focusing on training. They have been seeing an increase in legal holds.
- XII. Status Update from the State Public Defender’s Office
- Ms. Kreizenbeck reported that her office is focusing on training and is doing well.
- XIII. Status Update on the Federal Public Defender’s Office (*Portions of this discussion were inaudible*)
- Attendees discussed 8th judicial district rule changes regarding post-conviction motions being filed under civil.
 - Ms. Hoffman commented that her office is not taking formal position on this but it is something that they have been seeing.
 - Mr. Lambrose expressed concern regarding these cases being assigned to civil judges and commented that this violates NV Supreme Court case law and NRS chapter 34.
 - Mr. Lambrose expressed concern regarding record transmittal; attendees discussed processes and possible case management issues.
- XIV. Update on the Eighth Judicial District Court Homicide Case Program
- Ms. Thomas informed attendees that the Commission on Statewide Rules of Criminal procedure has been discussing possible rule changes:
 - SCR 250: Allow extension in filing notice of intent to allow defense time to complete investigation and mitigation.
 - Allow for criminal settlement conferences
- XV. Other Business

- Senior Justice Cherry expressed concern regarding sentencing and Nevada’s length of incarceration for habitual inmates.
 - Mr. Graham informed attendees that the hearing AB236 is this week; there has been some push back.
 - Mr. McCormick commented that the bill doubling the deadly weapon enhancement is not likely to move. Also, the “Pardons Board” bill (SJR 1), which removes the governor’s veto and allows all members to place items on the agenda, passed last session so, if it passes this time, it will be placed on the ballot.

XVI. Adjournment

- Senior Justice Cherry adjourned the meeting at 2:45 pm.

(Reprinted with amendments adopted on June 2, 2019)

FOURTH REPRINT

A.B. 81

ASSEMBLY BILL NO. 81—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA RIGHT TO COUNSEL COMMISSION)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to the oversight and provision of legal representation of indigent defendants in criminal cases. (BDR 14-436)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; creating the Department of Indigent Defense Services to oversee criminal defense services provided to indigent persons in this State; creating the Board on Indigent Defense Services consisting of various appointed persons to provide certain direction and advice to the Executive Director of the Department and to establish certain policies; requiring the Board to establish the maximum amount a county may be required to pay for the provision of indigent defense services; authorizing the Board to adopt regulations governing indigent defense services; providing for the transfer of responsibility for the provision of indigent defense services from certain counties to the State Public Defender in certain circumstances; allowing such services to be transferred back to the county in certain circumstances; and providing other matters properly relating thereto.

Legislative Council’s Digest:

1 Senate Bill No. 377 of the 2017 Legislative Session created the Nevada Right
2 to Counsel Commission consisting of 13 voting members appointed by the
3 Governor, the Legislature and the Nevada Supreme Court. The Chief Justice of the
4 Supreme Court or his or her designee was to serve as an ex officio nonvoting
5 member of the Commission. The Commission was charged with conducting a study
6 during the 2017-2019 interim concerning issues relating to the provision of legal



7 representation of indigent persons in criminal cases in this State. (Chapter 460,
8 Statutes of Nevada 2017, p. 2940) The Commission is set to expire on July 1, 2019.
9 In its place, **section 6** of this bill creates the Board on Indigent Defense Services
10 and designates the manner in which members must be appointed. Members of the
11 Board serve without compensation, except for per diem allowance and travel
12 expenses. **Section 7** of this bill provides for the organization of the Board, whose
13 voting members will serve for terms of 3 years and may be reappointed. Voting
14 members may be removed by the Governor for incompetence, neglect of duty and
15 certain acts. **Section 8** of this bill sets forth the duties of the Board, which include
16 providing certain direction and advice to the Executive Director of the Department
17 of Indigent Defense Services, which is created in **section 9** of this bill. The
18 Executive Director of the Department serves at the pleasure of the Governor but
19 may only be removed for cause. The Board is required to review information
20 concerning indigent defense services in the State and establish: (1) minimum
21 standards for the delivery of indigent defense services; and (2) procedures for
22 receiving and resolving complaints concerning the provision of indigent defense
23 services. The Board is further required to establish standards for providing indigent
24 defense services, which include continuing education requirements for attorneys
25 who provide indigent defense services, uniform tracking of information by such
26 attorneys and guidelines for maximum caseloads of such attorneys. **Section 8**
27 further requires the Board to work with the Dean of the William S. Boyd School of
28 Law of the University of Nevada, Las Vegas, to determine incentives to
29 recommend offering law students and attorneys to encourage them to provide
30 indigent defense services, especially in rural areas of the State.

31 **Section 10** of this bill establishes the duties of the Executive Director of the
32 Department of Indigent Defense Services, which include overseeing the functions
33 of the Department, serving as Secretary of the Board, reporting to the Board
34 regarding the work of the Department, developing the budget for the Department
35 and preparing an annual report for submission to the Nevada Supreme Court, the
36 Legislature and the Governor.

37 **Section 11** of this bill requires the Executive Director to select two deputy
38 directors. **Section 12** of this bill makes one deputy director responsible for
39 overseeing the provision of indigent defense services in certain smaller counties.
40 This includes having oversight of the State Public Defender, who is moved from
41 the Department of Health and Human Services to the Department of Indigent
42 Defense Services in **sections 17-19, 21 and 24-26** of this bill. In addition, **section**
43 **12** charges this deputy director with determining whether attorneys are eligible to
44 provide indigent defense services in accordance with the requirements established
45 by the Board. This deputy director will also develop and provide continuing legal
46 education programs for attorneys who provide indigent defense services and
47 identify and encourage best practices for delivering effective indigent defense
48 services.

49 **Section 13** of this bill makes the second deputy director responsible for
50 reviewing the manner in which indigent defense services are provided throughout
51 the State. This deputy director will collect information from attorneys about
52 caseloads, salaries and other information and will conduct on-site visits to
53 determine whether indigent defense services are being provided in the most
54 efficient and constitutional manner. If the deputy director determines that a county
55 is not providing such services in a manner which satisfies minimum standards that
56 are established by the Board, **section 13** requires the deputy director to establish a
57 corrective action plan with the board of county commissioners for the county.

58 **Section 14** of this bill requires such a plan to be established in collaboration
59 between the board of county commissioners and the deputy director and then must
60 be submitted to and approved by the Board. If the board of county commissioners
61 will have to spend more money than was budgeted in the previous year plus



62 inflation to comply with the plan, **section 14** requires the Executive Director to
 63 include the additional amount in the budget for the Department to help support the
 64 county in providing indigent defense services. If additional money is needed before
 65 the next budget cycle, the Executive Director is required to submit a request to the
 66 Interim Finance Committee for money from the Contingency Account. If the
 67 budget is not approved with the additional amount for the county, a county that is
 68 not required to have an office of public defender, which currently means a county
 69 other than Clark and Washoe Counties, has the option to continue providing
 70 indigent defense services or transfer responsibility for providing such services to
 71 the State Public Defender. In addition, if the county fails to meet the minimum
 72 standards for the provision of indigent defense services within the time set in the
 73 corrective action plan, **section 14** requires the deputy director to inform the
 74 Executive Director, who may then recommend establishing another corrective
 75 action plan. For a county that is not required to have an office of public defender
 76 (currently all counties other than Clark and Washoe Counties), the Executive
 77 Director may instead recommend requiring the county to transfer responsibility for
 78 provision of indigent defense services to the State Public Defender. Any
 79 recommendation of the Executive Director is required to be submitted to and
 80 approved by the Board. Once approved, the county is required to comply with the
 81 decision of the Board. In addition, **section 8** requires the Board to establish a
 82 formula for determining the maximum amount that a county may be required to pay
 83 for the provision of indigent defense services. This cap also applies when
 84 determining the county responsibility in **sections 14 and 23** of this bill.

85 **Sections 20 and 28** of this bill remove obsolete language which requires the
 86 State Public Defender and the county public defender to provide indigent defense
 87 services within the limits of available money to conform with the provisions of this
 88 bill that require appropriate representation be provided to indigent defendants in
 89 every case. Existing law provides for a State Public Defender and requires certain
 90 large counties to establish an office of public defender. (NRS 180.010, 260.010)
 91 Smaller counties are authorized, but not required, to establish an office of public
 92 defender. (NRS 260.010) **Sections 22 and 27** of this bill revise these provisions to
 93 address their applicability when a county is required to transfer responsibility for
 94 the provision of indigent defense services to the State Public Defender. (NRS
 95 180.090, 260.010) **Section 27** further requires each board of county commissioners
 96 to cooperate with the Board on Indigent Defense Services and the Department of
 97 Indigent Defense Services.

98 Existing law requires the public defender for a county to make an annual report
 99 to the board of county commissioners. (NRS 260.070) **Section 29** of this bill also
 100 requires the public defender to make an annual report to the Department of Indigent
 101 Defense Services and further requires the board of county commissioners of a
 102 county that has a public defender or which contracts for indigent defense services to
 103 provide an annual report to the Department with such information as requested by
 104 the Department.

105 **Section 31** of this bill continues certain definitions applicable to the chapter
 106 governing the State Public Defender that were set to expire. **Section 31.3** of this bill
 107 staggers the terms of the members of the Board so that approximately 30 percent of
 108 the members will be appointed each year.

1 WHEREAS, Section 1 of Article 1 of the Nevada Constitution
 2 recognizes the inalienable right of persons to defend life and liberty;
 3 and

4 WHEREAS, The State is committed to protecting the individual
 5 liberties of persons in this State; and



1 WHEREAS, Section 2 of Article 1 of the Nevada Constitution
2 acknowledges that the paramount allegiance of every citizen is due
3 to the Federal Government in the exercise of all its constitutional
4 powers as have been or may be defined by the Supreme Court of the
5 United States; and

6 WHEREAS, Under the Sixth and Fourteenth Amendments to the
7 Constitution of the United States, the obligation to provide effective
8 representation to accused indigent persons at each critical stage of
9 criminal and delinquency proceedings rests with the states; and

10 WHEREAS, Accordingly, it is the obligation of the Legislature to
11 provide the general framework and resources necessary for the
12 provision of indigent defense services in this State; and

13 WHEREAS, Although various counties in the State have accepted
14 a large part of the responsibility for the provision of indigent
15 defense, the State remains ultimately responsible for ensuring that
16 such indigent defense services are properly funded and carried out;
17 and

18 WHEREAS, The Legislature must ensure that adequate public
19 funding is made available so that indigent defense services are
20 provided by qualified and competent counsel in a manner that is fair
21 and consistent throughout the State and at all critical stages of a
22 criminal proceeding; and

23 WHEREAS, The Legislature must further ensure proper oversight
24 of the provision of defense to indigent persons in this State and
25 respond quickly, effectively and adequately to guarantee that the
26 constitutional mandate of effective assistance of counsel is met;
27 now, therefore

28
29 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
30 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
31

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

33 171.188 1. Any defendant charged with a public offense who
34 is an indigent may, by oral statement to the district judge, justice of
35 the peace, municipal judge or master, request the appointment of an
36 attorney to represent the defendant. *The record in each such case*
37 *must indicate that the defendant was provided an opportunity to*
38 *make an oral statement and whether the defendant made such a*
39 *statement or declined to request the appointment of an attorney. If*
40 *the defendant declined to request the appointment of an attorney,*
41 *the record must also indicate that the decision to decline was made*
42 *knowingly and voluntarily and with an understanding of the*
43 *consequences.*

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



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

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

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

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

11 (b) Otherwise determines that representation is required,
12 ↪ the judge, justice or master shall designate the public defender of
13 the county or the State Public Defender, as appropriate, to represent
14 the defendant. If the appropriate public defender is unable to
15 represent the defendant, or other good cause appears, another
16 attorney must be appointed.

17 4. The county or State Public Defender must be reimbursed by
18 the city for costs incurred in appearing in municipal court. The
19 county shall reimburse the State Public Defender for costs incurred
20 in appearing in Justice Court ~~§~~, *unless the county has transferred*
21 *the responsibility to provide all indigent defense services for the*
22 *county to the State Public Defender pursuant to section 14 of this*
23 *act.* If a private attorney is appointed as provided in this section, the
24 private attorney must be reimbursed by the county for appearance in
25 Justice Court or the city for appearance in municipal court in an
26 amount not to exceed \$75 per case.

27 **Sec. 1.5.** NRS 178.397 is hereby amended to read as follows:

28 178.397 Every defendant accused of a *misdemeanor for which*
29 *jail time may be imposed, a gross misdemeanor or a felony and*
30 *who is financially unable to obtain counsel is entitled to have*
31 *counsel assigned to represent the defendant at every stage of the*
32 *proceedings from the defendant's initial appearance before a*
33 *magistrate or the court through appeal, unless the defendant waives*
34 *such appointment.*

35 **Sec. 2.** Chapter 180 of NRS is hereby amended by adding
36 thereto the provisions set forth as sections 3 to 15, inclusive of this
37 act.

38 **Sec. 3.** *"Board" means the Board on Indigent Defense*
39 *Services created by section 6 of this act.*

40 **Sec. 3.5.** *"Department" means the Department of Indigent*
41 *Defense Services created by section 9 of this act.*

42 **Sec. 4.** *"Executive Director" means the Executive Director*
43 *of the Department.*

44 **Sec. 5.** (Deleted by amendment.)



1 **Sec. 6. 1.** *There is hereby created a Board on Indigent*
2 *Defense Services within the Department of Indigent Defense*
3 *Services, consisting of:*

4 (a) *Thirteen voting members appointed as follows:*

5 (1) *One member who is an attorney licensed in this State*
6 *and a member in good standing of the State Bar of Nevada,*
7 *appointed by the Majority Leader of the Senate.*

8 (2) *One member who has expertise in the finances of State*
9 *Government, appointed by the Speaker of the Assembly.*

10 (3) *One member appointed by the Chief Justice of the*
11 *Nevada Supreme Court who:*

12 (I) *Is a retired judge or justice who no longer serves as a*
13 *judge or justice in any capacity; or*

14 (II) *Has expertise in juvenile justice and criminal law.*

15 (4) *One member who is an attorney licensed in this State*
16 *and a member in good standing of the State Bar of Nevada*
17 *appointed by the Governor.*

18 (5) *One member selected by the Board of Governors of the*
19 *State Bar of Nevada, appointed by the Governor, who:*

20 (I) *Is an attorney licensed in this State and a member in*
21 *good standing of the State Bar of Nevada; and*

22 (II) *Resides in a county whose population is less than*
23 *100,000.*

24 (6) *Four members selected by the Nevada Association of*
25 *Counties who reside in a county whose population is less than*
26 *100,000, appointed by the Governor. One member must have*
27 *expertise in the finances of local government.*

28 (7) *Two members selected by the Board of County*
29 *Commissioners of Clark County, appointed by the Governor.*

30 (8) *One member selected by the Board of County*
31 *Commissioners of Washoe County, appointed by the Governor.*

32 (9) *One member selected jointly by the associations of the*
33 *State Bar of Nevada who represent members of racial or ethnic*
34 *minorities, appointed by the Governor.*

35 (b) *The Chief Justice of the Nevada Supreme Court may*
36 *designate one person to serve as a nonvoting member to represent*
37 *the interests of the Court.*

38 **2.** *In addition to the members appointed pursuant to*
39 *subsection 1, the Governor may appoint up to two additional*
40 *nonvoting members, one of whom must be upon the*
41 *recommendation of the Board of Governors of the State Bar of*
42 *Nevada.*

43 **3.** *Each person appointed to the Board must have:*

44 (a) *Significant experience providing legal representation to*
45 *indigent persons who are charged with public offenses or to*



1 *children who are alleged to be delinquent or in need of*
2 *supervision;*

3 *(b) A demonstrated commitment to providing effective legal*
4 *representation to such indigent persons; or*

5 *(c) Expertise or experience, as determined by the appointing*
6 *authority, which qualifies the person to contribute to the purpose*
7 *of the Board or to carrying out any of its functions.*

8 *4. A person must not be appointed to the Board if he or she is*
9 *currently serving or employed as:*

10 *(a) A judge, justice or judicial officer;*

11 *(b) A Legislator or other state officer or employee;*

12 *(c) A prosecuting attorney or an employee thereof;*

13 *(d) A law enforcement officer or employee of a law*
14 *enforcement agency; or*

15 *(e) An attorney who in his or her position may obtain any*
16 *financial benefit from the policies adopted by the Board.*

17 *5. A person must not be appointed to the Board if he or she is*
18 *currently employed:*

19 *(a) Within the Department of Indigent Defense Services;*

20 *(b) By a public defender; or*

21 *(c) By any other attorney who provides indigent defense*
22 *services pursuant to a contract with a county.*

23 *6. Each member of the Board:*

24 *(a) Serves without compensation; and*

25 *(b) While engaged in the business of the Board, is entitled to*
26 *receive the per diem allowance and travel expenses provided for*
27 *state officers and employees generally.*

28 *7. Each member of the Board who is an officer or employee*
29 *of a local government must be relieved from his or her duties*
30 *without loss of his or her regular compensation so that the*
31 *member may prepare for and attend meetings of the Board and*
32 *perform any work necessary to carry out the duties of the Board in*
33 *the most timely manner practicable. A local government shall not*
34 *require an officer or employee who is a member of the Board to*
35 *make up the time the member is absent from work to carry out his*
36 *or her duties as a member, and shall not require the member to*
37 *take annual vacation or compensatory time for the absence.*

38 **Sec. 7. 1. Except as otherwise provided in this section, the**
39 **voting members of the Board on Indigent Defense Services are**
40 **appointed for a term of 3 years and may be reappointed.**

41 **2. The Chair of the Board must be selected at the first**
42 **meeting from among the voting members of the Board and serves**
43 **until July 1 of the next year. The Chair for the following year**
44 **must be selected in the same manner before the expiration of the**



1 *current term of the sitting Chair. The Chair may be selected to*
2 *serve another term as Chair.*

3 3. *The Governor may remove a voting member of the Board*
4 *for incompetence, neglect of duty, committing any act that*
5 *constitutes moral turpitude, misfeasance, malfeasance or*
6 *nonfeasance in office or for any other good cause.*

7 4. *A vacancy on the Board must be filled in the same manner*
8 *as the original appointment by the appointing authority for the*
9 *remainder of the unexpired term.*

10 5. *The Board shall meet regularly upon a call of the Chair.*
11 *An affirmative vote of a majority of the members of the Board is*
12 *required to take any action.*

13 **Sec. 8. 1. The Board on Indigent Defense Services shall:**

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

24 (5) Requiring the Department of Indigent Defense Services
25 and each county that employs or contracts for the provision of
26 indigent defense services to ensure, to the greatest extent possible,
27 consistency in the representation of indigent defendants so that
28 the same attorney represents a defendant through every stage of
29 the case without delegating the representation to others, except
30 that administrative and other tasks which do not affect the rights
31 of the defendant may be delegated. A provision must be included
32 in each employment or other contract of an attorney providing
33 indigent defense services to require compliance with the
34 regulations.

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

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



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

4 3. The Board shall adopt regulations to establish a formula
5 for determining the maximum amount that a county may be
6 required to pay for the provision of indigent defense services.

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

10 **Sec. 9. 1. The Department of Indigent Defense Services is**
11 **hereby created.**

12 2. The Executive Director of the Department must be
13 appointed by the Governor from a list of three persons
14 recommended by the Board.

15 3. The Executive Director:

16 (a) Is in the unclassified service of this State;

17 (b) Serves at the pleasure of the Governor, except that the
18 Executive Director may only be removed upon a finding of
19 incompetence, neglect of duty, commission of an act that
20 constitutes moral turpitude, misfeasance, malfeasance or
21 nonfeasance in office or for any other good cause;

22 (c) Must be an attorney licensed to practice law in the State of
23 Nevada; and

24 (d) Must devote his or her entire time to his or her duties and
25 shall not engage in any other gainful employment or occupation.

26 4. The Executive Director may, within the limits of money
27 available for this purpose, employ or enter into a contract for the
28 services of such employees or consultants as is necessary to carry
29 out the provisions of this chapter.

30 **Sec. 10. 1. The Executive Director shall:**

31 (a) Oversee all of the functions of the Department of Indigent
32 Defense Services;

33 (b) Serve as the Secretary of the Board without additional
34 compensation;

35 (c) Report to the Board on Indigent Defense Services
36 regarding the work of the Department and provide such
37 information to the Board as directed by the Board;

38 (d) Assist the Board in determining necessary and appropriate
39 regulations to assist in carrying out the responsibilities of the
40 Department;

41 (e) Establish the proposed budget for the Department and
42 submit the proposed budget for approval of the Board;

43 (f) Prepare an annual report concerning indigent defense
44 services in this State which includes information collected by the



1 *Department and such other information as requested by the*
2 *Board; and*

3 (g) *Take any other actions necessary to ensure that adequate*
4 *and appropriate indigent defense services are provided in this*
5 *State.*

6 2. *The report prepared pursuant to paragraph (f) of*
7 *subsection 1 must be submitted for input from the Board. The*
8 *final report must be submitted on or before July 1 of each year to*
9 *the Nevada Supreme Court, the Legislature and the Office of the*
10 *Governor. The report may include any recommendations for*
11 *legislation to improve indigent defense services in this State.*

12 **Sec. 11.** 1. *In addition to the Executive Director, the*
13 *Department must include not fewer than two deputy directors*
14 *selected by the Executive Director who serve at the pleasure of the*
15 *Executive Director.*

16 2. *The deputy directors:*

17 (a) *Must be attorneys licensed to practice law in the State of*
18 *Nevada;*

19 (b) *Are in the unclassified service of this State; and*

20 (c) *Shall devote their entire time to their duties and shall not*
21 *engage in any other gainful employment or occupation.*

22 **Sec. 12.** *One deputy director selected pursuant to section 11*
23 *of this act must be responsible for:*

24 1. *Overseeing the provision of indigent defense services in*
25 *counties whose population is less than 100,000. Such oversight*
26 *must include, without limitation:*

27 (a) *Oversight of the State Public Defender; and*

28 (b) *Determining whether attorneys meet the requirements*
29 *established by the Board on Indigent Defense Services to be*
30 *eligible to provide indigent defense services and maintaining a list*
31 *of such attorneys.*

32 2. *Developing and providing continuing legal education*
33 *programs for attorneys who provide indigent defense services.*

34 3. *Identifying and encouraging best practices for delivering*
35 *the most effective indigent defense services.*

36 4. *Providing assistance to counties that must revise the*
37 *manner in which indigent defense services are provided as a result*
38 *of the regulations adopted by the Board pursuant to section 8 of*
39 *this act. Such assistance may include, without limitation,*
40 *assistance developing a plan and estimating the cost to carry out*
41 *the plan.*

42 **Sec. 13.** *One deputy director selected pursuant to section 11*
43 *of this act must be responsible for reviewing the manner in which*
44 *indigent defense services are provided throughout the State. To*
45 *carry out this responsibility, the deputy director shall:*



1 *1. Obtain information from attorneys relating to caseloads,*
2 *salaries paid to criminal defense attorneys and the manner in*
3 *which indigent defense services are provided.*

4 *2. Conduct on-site visits of court proceedings throughout the*
5 *State to determine the manner in which indigent defense services*
6 *are provided, including, without limitation, whether:*

7 *(a) Minimum standards for the provision of indigent defense*
8 *services established by the Board on Indigent Defense Services are*
9 *being followed;*

10 *(b) Court rules regarding the provision of indigent defense*
11 *services are being followed;*

12 *(c) Indigent defendants are being asked to provide*
13 *reimbursement for their representation or to take any other*
14 *actions that violate the constitution, any law, a court rule or a*
15 *regulation of the Board; and*

16 *(d) Representation of indigent defendants is being provided in*
17 *an effective manner.*

18 *3. Report to the other deputy director upon a determination*
19 *that any person is providing indigent defense services in an*
20 *ineffective or otherwise inappropriate manner.*

21 *4. Recommend entering into a corrective action plan with any*
22 *board of county commissioners of a county which is not meeting*
23 *the minimum standards for the provision of indigent defense*
24 *services or is in any other manner deficient in the provision of*
25 *such services.*

26 **Sec. 14.** *1. If a corrective action plan is recommended*
27 *pursuant to section 13 of this act, the deputy director and the*
28 *board of county commissioners must collaborate on the manner in*
29 *which the county will meet the minimum standards for the*
30 *provision of indigent defense services and the time by which the*
31 *county must meet those minimum standards. Any disagreement*
32 *must be resolved by the Board. Each corrective action plan must*
33 *be submitted to and approved by the Board.*

34 *2. If the plan established pursuant to subsection 1 will cause*
35 *the county to expend more money than budgeted by the county in*
36 *the previous budget year plus inflation for the provision of*
37 *indigent defense services, the Executive Director shall include the*
38 *additional amount needed by the county in the next budget for*
39 *the Department of Indigent Defense Services to help support the*
40 *indigent defense services provided by the county. If additional*
41 *money is needed to carry out the plan before the next budget cycle,*
42 *the Executive Director shall submit a request to the Interim*
43 *Finance Committee for an allocation from the Contingency*
44 *Account pursuant to NRS 353.266 to cover the additional costs.*



1 3. For any county that is not required to have an office of
2 public defender pursuant to NRS 260.010, if the additional
3 amount included in the budget of the Department pursuant to
4 subsection 2 is not approved, the board of county commissioners
5 for the county to which the amount applies may determine
6 whether to continue providing indigent defense services for the
7 county or enter into an agreement with the Executive Director to
8 transfer responsibility for the provision of such services to the
9 State Public Defender.

10 4. If a county does not meet the minimum standards for the
11 provision of indigent defense services within the period established
12 in the corrective action plan for the county, the deputy director
13 shall inform the Executive Director.

14 5. Upon being informed by the deputy director pursuant to
15 subsection 4 that a county has not complied with a corrective
16 action plan, the Executive Director must review information
17 regarding the provision of indigent defense services in the county
18 and determine whether to recommend establishing another
19 corrective action plan with the board of county commissioners of
20 the county. For a county that is not required to have an office of
21 public defender pursuant to NRS 260.010, the Executive Director
22 may instead recommend requiring the board of county
23 commissioners to transfer responsibility for the provision of all
24 indigent defense services for the county to the State Public
25 Defender. The recommendation of the Executive Director must be
26 submitted to and approved by the Board. Once approved, the board
27 of county commissioners shall comply with the decision of the
28 Board.

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

32 (a) The board of county commissioners for the county shall
33 notify the State Public Defender in writing on or before March 1
34 of the next odd-numbered year and the responsibilities must
35 transfer at a specified time on or after July 1 of the same year in
36 which the notice was given, as determined by the Executive
37 Director.

38 (b) The board of county commissioners for the county shall
39 pay the State Public Defender in the same manner and in an
40 amount determined in the same manner as other counties for
41 which the State Public Defender has responsibility for the
42 provision of indigent defense services. The amount that a county
43 may be required to pay must not exceed the maximum amount
44 determined using the formula established by the Board pursuant
45 to section 8 of this act.



1 **Sec. 15. 1.** *A county that transfers responsibility for the*
2 *provision of indigent defense services to the State Public Defender*
3 *pursuant to section 14 of this act may seek to have the*
4 *responsibility transferred back to the county by submitting a*
5 *request to the Executive Director in writing on or before*
6 *December 31 of an even-numbered year.*

7 2. *Upon finding that the county is able to meet minimum*
8 *standards for the provision of indigent defense services, the*
9 *Executive Director shall approve transferring the responsibility*
10 *for the provision of indigent defense services to the county.*

11 3. *If the Executive Director denies a request to transfer*
12 *responsibility for the provision of indigent defense services to a*
13 *county, the Executive Director must inform the board of county*
14 *commissioners for the county of the reasons for the denial and*
15 *the issues that must be resolved before the responsibility for the*
16 *provision of indigent defense services will be transferred to the*
17 *county.*

18 4. *If the Executive Director approves a request to transfer*
19 *responsibility for the provision of indigent defense services to the*
20 *county, the board of county commissioners for the county shall*
21 *notify the State Public Defender in writing on or before March 1*
22 *of the next odd-numbered year and the responsibilities must*
23 *transfer at a specified time on or after July 1 of the same year in*
24 *which the notice was given, as determined by the Executive*
25 *Director.*

26 **Sec. 16.** NRS 180.002 is hereby amended to read as follows:

27 180.002 As used in this chapter, unless the context otherwise
28 requires, the words and terms defined in NRS 180.003 and 180.004
29 *and sections 3, 3.5 and 4 of this act* have the meanings ascribed to
30 them in those sections.

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

32 180.010 1. The Office of State Public Defender is hereby
33 created within the Department of ~~Health and Human~~ *Indigent*
34 *Defense Services.*

35 2. The Governor shall appoint the State Public Defender for a
36 term of 4 years, and until a successor is appointed and qualified.

37 3. *The State Public Defender is responsible to the Executive*
38 *Director.*

39 4. The State Public Defender:

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

42 (b) Is in the unclassified service of the State ~~and~~ *and serves at the*
43 *pleasure of the Executive Director.*

44 (c) Except as otherwise provided in NRS 7.065, shall not engage
45 in the private practice of law.



1 ~~[4.]~~ 5. No officer or agency of the State, other than the
2 ~~[Governor and the Director of the Department of Health and Human~~
3 ~~Services,] Executive Director and the deputy director selected by~~
4 ~~the Executive Director pursuant to section 11 of this act who is~~
5 ~~responsible for carrying out the duties in section 12 of~~
6 ~~this act~~ may supervise the State Public Defender. No officer or
7 agency of the State, other than the ~~[Governor,] Executive Director~~
8 ~~or deputy director selected by the Executive Director pursuant to~~
9 ~~section 11 of this act who is responsible for carrying out the duties~~
10 ~~provided in section 12 of this act~~ may assign the State Public
11 Defender duties in addition to those prescribed by this chapter.

12 **Sec. 18.** (Deleted by amendment.)

13 **Sec. 19.** (Deleted by amendment.)

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

15 180.060 1. The State Public Defender may, before being
16 designated as counsel for that person pursuant to NRS 171.188,
17 interview an indigent person when the indigent person has been
18 arrested and confined for a public offense or for questioning on
19 suspicion of having committed a public offense.

20 2. The State Public Defender shall, when designated pursuant
21 to NRS 62D.030, 62D.100, 171.188 or 432B.420, ~~[and within the~~
22 ~~limits of available money,]~~ represent without charge each indigent
23 person for whom the State Public Defender is appointed.

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

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

28 (b) Prosecute any appeals or other remedies before or after
29 conviction that the State Public Defender considers to be in the
30 interests of justice.

31 4. In cases of postconviction proceedings and appeals arising in
32 counties in which the office of public defender has been created
33 pursuant to the provisions of chapter 260 of NRS, where the matter
34 is to be presented to the appellate court of competent jurisdiction
35 pursuant to the rules fixed by the Supreme Court pursuant to Section
36 4 of Article 6 of the Nevada Constitution, the State Public Defender
37 shall prepare and present the case and the public defender of the
38 county shall assist and cooperate with the State Public Defender.

39 5. The State Public Defender may contract with any county in
40 which the office of public defender has been created to provide
41 representation for indigent persons when the court, for cause,
42 disqualifies the county public defender or when the county public
43 defender is otherwise unable to provide representation.

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

45 180.080 1. The State Public Defender shall submit:



1 (a) A report on or before December 1 of each year to the
2 ~~Governor~~ *Executive Director* and to each participating county
3 containing a statement of:

4 (1) The number of cases that are pending in each
5 participating county;

6 (2) The number of cases in each participating county that
7 were closed in the previous fiscal year;

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

12 (4) The total number of working hours spent by the State
13 Public Defender and the State Public Defender's staff on work for
14 each participating county; ~~and~~

15 (5) The amount and categories of the expenditures made by
16 the State Public Defender's office ~~[-]~~; *and*

17 *(6) Such other information as requested by the Executive
18 Director of the Department of Indigent Defense Services or the
19 Board on Indigent Defense Services.*

20 (b) To each participating county, on or before December 1 of
21 each even-numbered year, the total proposed budget of the State
22 Public Defender for that county, including the projected number of
23 cases and the projected cost of services attributed to the county for
24 the next biennium.

25 (c) Such reports to the Legislative Commission as the
26 regulations of the Commission require.

27 2. As used in this section, "participating county" means each
28 county in which the ~~office of public defender has not been created
29 pursuant to NRS 260.010.~~ *State Public Defender acts as the public
30 defender for the county.*

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

32 180.090 Except as provided in subsections 4 and 5 of NRS
33 180.060, the provisions of ~~this chapter~~ *NRS 180.010 to 180.100,*
34 *inclusive,* apply only to counties in which the office of public
35 defender has not been created pursuant to the provisions of chapter
36 260 of NRS.

37 **Sec. 23.** NRS 180.110 is hereby amended to read as follows:

38 180.110 1. Each fiscal year the State Public Defender may
39 collect from the counties amounts which do not exceed those
40 authorized by the Legislature for use of the State Public Defender's
41 services during that year. *The amount that a county may be
42 required to pay must not exceed the maximum amount determined
43 using the formula established by the Board pursuant to section 8
44 of this act.*



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

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

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

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

14 **Sec. 24.** (Deleted by amendment.)

15 **Sec. 25.** (Deleted by amendment.)

16 **Sec. 26.** NRS 232.320 is hereby amended to read as follows:
17 232.320 1. The Director:

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

21 (1) The Administrator of the Aging and Disability Services
22 Division;

23 (2) The Administrator of the Division of Welfare and
24 Supportive Services;

25 (3) The Administrator of the Division of Child and Family
26 Services;

27 (4) The Administrator of the Division of Health Care
28 Financing and Policy; and

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

31 (b) Shall administer, through the divisions of the Department,
32 the provisions of chapters 63, 424, 425, 427A, 432A to 442,
33 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS
34 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive,
35 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626,
36 inclusive, 444.002 to 444.430, inclusive, and 445A.010 to
37 445A.055, inclusive, and all other provisions of law relating to the
38 functions of the divisions of the Department, but is not responsible
39 for the clinical activities of the Division of Public and Behavioral
40 Health or the professional line activities of the other divisions.

41 (c) Shall administer any state program for persons with
42 developmental disabilities established pursuant to the
43 Developmental Disabilities Assistance and Bill of Rights Act of
44 2000, 42 U.S.C. §§ 15001 et seq.



1 (d) Shall, after considering advice from agencies of local
2 governments and nonprofit organizations which provide social
3 services, adopt a master plan for the provision of human services in
4 this State. The Director shall revise the plan biennially and deliver a
5 copy of the plan to the Governor and the Legislature at the
6 beginning of each regular session. The plan must:

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

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

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

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

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

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

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

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

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

36 **Sec. 27.** NRS 260.010 is hereby amended to read as follows:

37 260.010 1. In counties whose population is 100,000 or more,
38 the boards of county commissioners shall ~~[create]~~ *provide* by
39 ordinance *for* the office of public defender.

40 2. Except as otherwise provided by subsection 4 ~~[;]~~ *and except*
41 *if the county voluntarily transfers or has been required to transfer*
42 *responsibility for the provision of indigent defense services to the*
43 *State Public Defender pursuant to section 14 of this act,* in
44 counties whose population is less than 100,000, boards of county
45 commissioners may in their respective counties ~~[create]~~ *provide* by



1 ordinance, at the beginning of a fiscal year, *for* the office of public
2 defender.

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

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

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

18 6. The public defender serves at the pleasure of the board of
19 county commissioners.

20 *7. Each board of county commissioners shall cooperate with*
21 *the Board on Indigent Defense Services created by section 6 of*
22 *this act and the Department of Indigent Defense Services created*
23 *by section 9 of this act. The board of county commissioners shall:*

24 *(a) Ensure that data and information requested by the Board*
25 *or Department is collected and maintained; and*

26 *(b) Provide such information and reports concerning the*
27 *provision of indigent defense services as requested by the Board or*
28 *the Department.*

29 *8. As used in this section, "indigent defense services" has the*
30 *meaning ascribed to it in NRS 180.004.*

31 **Sec. 28.** NRS 260.050 is hereby amended to read as follows:

32 260.050 1. The public defender may, before being designated
33 as counsel for that person pursuant to NRS 171.188, interview an
34 indigent person when he or she has been arrested and confined for a
35 public offense or for questioning on suspicion of having committed
36 a public offense.

37 2. The public defender shall, when designated pursuant to NRS
38 62D.030, 171.188 or 432B.420, ~~and within the limits of available~~
39 ~~money,~~ represent without charge each indigent person for whom he
40 or she is appointed.

41 3. When representing an indigent person, the public defender
42 shall:

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



1 (b) Prosecute, subject to the provisions of subsection 4 of NRS
2 180.060, any appeals or other remedies before or after conviction
3 that he or she considers to be in the interests of justice.

4 **Sec. 29.** NRS 260.070 is hereby amended to read as follows:

5 260.070 **1.** The public defender shall make an annual report
6 to ~~the~~:

7 (a) *The* board of county commissioners covering all cases
8 handled by his or her office during the preceding year.

9 (b) *The Department of Indigent Defense Services created by*
10 *section 9 of this act which includes any information required by*
11 *the Department.*

12 **2.** *The board of county commissioners of each county with a*
13 *public defender or which contracts for indigent defense services*
14 *shall provide an annual report to the Department on or before*
15 *May 1 of each year. The report must include any information*
16 *requested by the Department concerning the provision of indigent*
17 *defense services in the county and must include, without*
18 *limitation, the plan for the provision of indigent defense services*
19 *for the county for the next fiscal year.*

20 **3.** *As used in this section, "indigent defense services" has the*
21 *meaning ascribed to it in NRS 180.004.*

22 **Sec. 30.** (Deleted by amendment.)

23 **Sec. 31.** Section 35 of chapter 460, Statutes of Nevada 2017,
24 at page 2943, is hereby amended to read as follows:

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

26 ~~. [, and expires]~~

27 **2.** *Sections 1, 3, 5, 6 and 8 to 34, inclusive, of this act*
28 *expire* by limitation on June 30, 2019.

29 **Sec. 31.3.** The members of the Board on Indigent Defense
30 Services created by section 6 of this act shall serve initial terms
31 ending on:

32 1. June 30, 2022, for the members appointed by the Chief
33 Justice of the Nevada Supreme Court, the Majority Leader of the
34 Senate, the Speaker of the Assembly and the Governor pursuant to
35 subparagraphs (1) to (5), inclusive, of paragraph (a) of subsection 1
36 of section 6 of this act.

37 2. June 30, 2021, for two of the members selected by the
38 Nevada Association of Counties pursuant to subparagraph (6) of
39 paragraph (a) of subsection 1 of section 6 of this act, as determined
40 by the Nevada Association of Counties.

41 3. June 30, 2021, for the member selected by the Board of
42 County Commissioners of Washoe County pursuant to
43 subparagraph (8) of paragraph (a) of subsection 1 of section 6 of this
44 act and one of the members selected by the Board of County
45 Commissioners of Clark County pursuant to subparagraph (7) of



1 paragraph (a) of subsection 1 of section 6 of this act, as determined
2 by the respective Boards.

3 4. June 30, 2020, for all of the remaining members.

4 **Sec. 31.5.** (Deleted by amendment.)

5 **Sec. 32.** The provisions of subsection 1 of NRS 218D.380 do
6 not apply to any provision of this act which adds or revises a
7 requirement to submit a report to the Legislature.

8 **Sec. 33.** This act becomes effective:

9 1. Upon passage and approval for the purpose of recruiting and
10 selecting the Executive Director and employees of the Department
11 of Indigent Defense Services created by section 9 of this act, and
12 performing any other preliminary administrative tasks that are
13 necessary to carry out the provisions of this act.

14 2. Upon passage and approval for the purpose of appointing
15 members to the Board on Indigent Defense Services created by
16 section 6 of this act. Members must be appointed by the Governor,
17 the Majority Leader of the Senate, the Speaker of the Assembly and
18 the Chief Justice of the Supreme Court, as applicable, as soon as
19 practicable and assume their positions on July 1, 2019.

20 3. On October 1, 2019, for all other purposes.



Rural County Public Defender Reporting Tool Instruction Manual

*Created by the Nevada Association of Counties (NACO)
October 2018*

Introduction: In 2017, Nevada’s legislature took a preliminary step toward reforming the state’s indigent defense system by establishing the Nevada Right to Counsel Commission (NRTCC). This Commission conducted, with the assistance of the Sixth Amendment Center (6AC), a study of the provision of indigent defense services in Nevada’s rural counties. During the NRTCC’s discussions, as well as through information gathered by the 6AC, the Nevada Association of Counties (NACO) heard from its rural county members about one important challenge they faced. That challenge is, although county commissions and county managers in rural Nevada are tasked with overseeing any contract public defenders they may have hired, they do not have a uniform reporting tool or system through which they could gather information from public defenders on their work. Such a tool could accomplish two things: 1) Help county managers and commissions understand the tasks and challenges rural contract public defenders face; and 2) Help counties ensure public defenders are meeting the terms of their contracts.

In response, NACO convened a working group to create such a tool. The working group included a county commissioner, current or former county or assistant county managers, a prosecutor, and a defense attorney. Rural counties are encouraged use the tool. Please ask your county’s contract public defender(s) to fill it out once every quarter. It is suggested the reports be presented to the county commission. The instructions below provide information on how to use the tool.

Section	Question/Instruction
1	<u>County:</u> Please list the county in which you provide indigent defense services and for which the case load report pertains.
2	<u>Law Firm:</u> Please list the name of the law firm that employs you. If you are self-employed, please list “sole practitioner.”
3	<u>Attorney Name:</u> Please list the first and last name of the attorney. Please note, a separate report must be filled out for each and every attorney in a public defender office or law firm.
4	<p><u>Reporting Quarter:</u> A county fiscal year begins on July 1st and ends on June 30th. Therefore, the four reporting quarters are as follows:</p> <p style="padding-left: 40px;">Quarter 1: July 1st through September 30th. Quarter 2: October 1st through December 31st. Quarter 3: January 1st through March 31st. Quarter 4: April 1st through June 30th.</p> <p>Please indicate the appropriate fiscal quarter that is being reported.</p>
5	<u>Final Day of Last Reporting Period:</u> Please indicate the day on which you last reported your public defender workload. For example, if the current report is for the second quarter of a fiscal year (e.g. October 1 st through December 31 st), then the final day of last reporting period should be marked “September 30 th .”

Caseload Reporting: For all public defense caseload reporting, Sections #6 through #9, please use the following uniform definition of a “case”: Count the defendant and all charges involved in a single incident as a single case. If the charging document contains multiple defendants involved in a single incident, count each defendant as a single case. When cases involve multiple charges arising out of a single incident, please count the case by “top charge” at the time of filing, regardless of the severity of the case when it is disposed. That is, a case filed as a felony but disposed as a misdemeanor through plea negotiations should be counted in caseload reports as a felony.

Explanation: Using a district attorney’s charging instrument to define a “case” does not produce uniform caseload data because different prosecutors have different philosophies on how to charge (as it should be). For example, one prosecutor may want to charge suspected co-conspirators on a single charging document. However, two separate public defense providers must each represent the individual co-defendants. Each right to counsel provider is ethically bound to provide zealous representation to the co-defendant assigned to them, meaning that each defense provider must conduct independent investigations and engage in separate case prep and plea negotiations. They are, in every sense of the word, two separate “cases.”

Similarly, if a defendant is charged with shoplifting in one store on one day and a separate store on another day, and yet a third store on a third day, a prosecutor may want to file a single charging document to show the serial pattern of the accused. But, from the defense perspective, an attorney must interview three potential sets of eyewitnesses, and investigate three different crime scenes. It is quite possible the defendant committed two of the alleged crimes, but not the third. Each one must be treated as its own case.

This differs in kind with the work and effort needed to investigate and defend all of the charges arising from a single incident. Say a defendant is charged with reckless driving and subsequently is alleged to have resisted arrest or to have accosted the arresting officer. All of the work effort of a defense attorney is around the same sets of facts, the same eyewitnesses and the same crime scene.

Similar issue arise when trying to count a “case” by “charge” or by “defendant.” Because defendants are sometimes charged with multiple counts arising out of a single incident, using “charges” as the definition of a “case,” will artificially inflate caseload numbers. The opposite is true when counting cases by “defendant.” Because defendants may be charged in multiple offenses occurring on different days in different places, counting “defendants” will underreport an attorney’s actual workload.

Section	Question/Instruction
6	<u>Pending Cases:</u> Please list all open, pending public defense cases you have as of the date reported in Section #5 (above) by each classification listed. If you have no cases pending under a specific classification please list "0." No line should be left blank. If you list cases under the category "other," please list the case type.
7	<u>New Appointments:</u> Please list the total number of new cases to which you were appointed during the time period listed in Section #4 using the uniform definition of a "case." New appointments shall be broken down by each of the three months contained in the reporting quarter. If you have new assignments under a specific classification please list "0." No line should be left blank. If you list cases under the category "other," please list the case type. Cases in which an indigent defense client absconded and for which a bench warrant was issued in a prior report, and for which a client is returned to court during the current reporting period, should be counted as a new assignment.
8	<u>Disposed Cases:</u> Please list the total number of cases you disposed during the time period listed in Section #4 using the uniform definition of a "case." Dispositions shall be broken down by each of the three months contained in the reporting quarter. If you have no dispositions under a specific classification please list "0." No line should be left blank. If you list cases under the category "other," please list the case type.
9	<u>Disposition Detail:</u> For each classification of case type, please list the number of cases that were dismissed during the reporting period. Similarly, please list the number of cases by case type for which a defendant entered a guilty plea. Also, please list the number of cases for which an indigent defense client absconded and for which a bench warrant was issued. If an indigent defense client is returned on a bench warrant within the same reporting period and the case is disposed within the same reporting time period, count the case under the actual disposition category.
10	<u>Number of Hours spent on court appointed representation (from this jurisdiction):</u> Please indicate the total number of hours spent on all indigent defense cases arising from the county listed in Section #1. Do not count hours spent on indigent defense cases arising out of other counties or municipalities. <u>Percentage of total hours spent on court-appointed representation (from this jurisdiction):</u> Please estimate the percentage of work hours expended on indigent defense cases arising from the county identified in Section #1 as an overall percentage of your total time spent on all public and private cases. If you are a full-time government-employed public defender, you should indicate "100%." If you are a private attorney and take indigent defense cases from outside the county listed in Section #1, please count those other indigent defense cases as part of your "private" caseload for this response.
11	<u>Other jurisdictional indigent defense workload:</u> If you handled indigent defense cases during the reporting period in any other jurisdiction (including municipalities), please list the name of the county or municipality where this work occurred.
12	<u>Other criminal justice work:</u> If you performed any work in a different criminal justice capacity (e.g., magistrate, prosecutor, etc.) in any jurisdiction (including municipalities) other than the county listed in Section #1, please list the name of the county or municipality where this work occurred. Also, please indicate what criminal justice capacity performed.
13	<u>Support personnel:</u> Please list any and all support staff employed by the law firm indicated in Section #2 above. You do not need to list individual names but rather by job classification. For example, if a law firm or public defender office employs two legal secretaries, please indicate this as: "Legal secretaries (2)." If the law firm or public defender employs part-time support staff, please indicate the percentage of a full-time equivalent employee. For example, if a law firm or public defender office employs one full-time legal secretary and one half-time legal secretary, please indicate this as: "Legal secretaries (1.5)."



MEMORANDUM

FROM: Dagny Stapleton, Executive Director, Nevada Association of Counties (NACO)

DATE: December 1, 2018

SUBJECT: Rural County Contract Public Defender Reporting Tool

The Nevada Association of Counties (NACO) recently convened a working group to create a tool for rural counties to use as a reporting mechanism for their contract public defenders. The purpose of this tool is to measure the workload and output of county contract public defenders so that rural county commissions have the information they need to negotiate the terms of those contracts and to understand the work that their contract public defenders do.

NACO heard from its rural county members that, although county commissions and county managers are tasked with overseeing any contract public defenders they may have hired, they do not have a uniform reporting tool or system through which they gather information from public defenders on their work. When the NACO Board directed staff to facilitate the creation of the tool they expressed sincere interest in being able to better monitor and gather information from their contract public defenders, and they were eager to have it at their disposal. It is hoped that such a tool will help counties ensure that contract public defenders are meeting the terms of their contracts.

The tool consists of a spreadsheet containing a series of questions for the attorney(s) to answer. The thought was that any rural county commission could request their contract defender(s) complete the tool and present it before the commission each quarter. The tool is also accompanied by a document containing instructions on how to fill out and use the tool.

The working group that created the tool included a county commissioner, a rural county manager, a prosecutor, a defense attorney and a former rural county commissioner and member of the IDC. David Carroll from the Sixth Amendment Center also reviewed and provided input on a draft of the tool. The tool was completed in October 2018 and shortly thereafter presented to the NACO Board. The tool was distributed to all 15 of Nevada's rural

counties. NACO has also posted the tool on our website and will continue to encourage rural counties who contract with public defenders to use it.

Draft County PD Reporting Tool

Created 10/2018 by the Nevada Association of Counties

- 1 County: _____
- 2 Law Firm: _____
- 3 Attorney Name: _____
- 4 Reporting Quarter: _____ to _____
- 5 Final Day of Last Reporting Period: _____

6 PENDING CASES - on final day of last reporting period

- Death Penalty
- Murder (Non-Death)
- Class A
- Other Felonies - Non-Specialty Courts
- Other Felonies - Specialty Courts
- Gross Misdemeanor
- Misdemeanor (Non-Traffic)
- Misdemeanor (Traffic)
- Delinquency
- Juvenile Status Offense
- Abuse and Neglect (NRS 432B)
- Termination Parental Rights (NRS 128 and NRS 432B)
- Parole/Probation Revocation
- Mental Health Commitment
- Appeal
- Other

SUB-TOTAL

7 NEW APPOINTMENTS

Month: Month: Month:

Death Penalty

Murder (Non-Death)

Class A

Other Felonies - Non-Specialty Courts

Other Felonies - Specialty Courts

Gross Misdemeanor

Misdemeanor (Non-Traffic)

Misdemeanor (Traffic)

Delinquency

Juvenile Status Offense

Abuse and Neglect (NRS 432B)

Termination Parental Rights (NRS 128)

Parole/Probation Revocation

Mental Health Commitment

Appeal

Other

SUB-TOTAL

8 DISPOSED CASES

Month: Month: Month:

Death Penalty

Murder (Non-Death)

Class A

Other Felonies - Non-Specialty Courts

Other Felonies - Special Courts

Gross Misdemeanor

Misdemeanor (Non-Traffic)

Misdemeanor (Traffic)

Delinquency

Juvenile Status Offense

Abuse and Neglect (NRS 432B)

Termination Parental Rights (NRS 128)

Parole/Probation Revocation

Mental Health Commitment

Appeal

Other

SUB-TOTAL

9 DISPOSITION DETAIL	Death Penalty	Felony	Gr. Misdr.	Misd. Misdr	Misd. (Traffic)	Delinquency	432B	128	Revocation	Other	Juv. Status	Mental Health	Appeal	Total
Dismissal														
Pleas														
Bench Warrant														
# of Bench Trials														
# of Jury Trials														
# of Civil Hearings														
SUB-TOTAL														

10 Number of hours spent on court appointed representation (from this jurisdiction): _____
 Percentage of total work hours spent on court appointed representation (from this jurisdiction): _____

11 List other counties and municipalities where you were appointed to represent indigent defendants:

12 What other work did you perform for the criminal justice system (e.g., magistrate)?

13 Please list all support personnel by job classification in your firm or public defender office:

Uniform Case Definition: Count the defendant and all charges involved in a single incident as a single case. If the charging document contains multiple defendants involved in a single incident, count each defendant as a single case.