

**Agenda Item 8b**

**Proposed Language for Budgetary BDRs**

Request 1 – Attorney Client Privilege:

Purpose: Maintain Attorney Client Privilege when an attorney communicates with DIDS for compensation or reimbursement of expenses.

*[NRS 49.XXX*

*Notwithstanding NRS 49.385 (Waiver of privilege by voluntary disclosure), a privilege is maintained under this section for a communication made to the Department of Indigent Defense Services or its designee, for the purpose of seeking preauthorization for or payment of compensation or expenses under NRS 7.125, NRS 7.135 and/or NRS 7.145.]*

[Language similar to Oregon Revised Statutes 40.225.]

Request 2: Modify Due date for Annual Reports from May 1 to May 31

Possible BDR: Counties have expressed concern that budgets do not need to be submitted to the State until May 31. Some counties would benefit if deadline of Annual Report was May 31, rather than May 1.

**NRS 260.070 Annual reports.**

1. The public defender shall make an annual report to:
  - (a) The board of county commissioners covering all cases handled by his or her office during the preceding year.
  - (b) The Department of Indigent Defense Services created by NRS 180.400 which includes any information required by the Department.
2. The board of county commissioners of each county with a public defender or which contracts for indigent defense services shall provide an annual report to the Department on or before May **[3]**1 of each year. The report must include any information requested by the Department concerning the provision of indigent defense services in the county and must include, without limitation, the plan for the provision of indigent defense services for the county for the next fiscal year.
3. As used in this section, “indigent defense services” has the meaning ascribed to it in NRS 180.004.

Request 3: Modify Hourly Rate to be consistent with CJA (“Criminal Justice Act” Hourly Rates.

### **7.125. Fees of attorney other than public defender**

An attorney, other than a public defender, who is selected pursuant to NRS 7.115 to represent or defend a defendant at any stage of the criminal proceedings from the defendant's initial appearance before the magistrate or the district court through the appeal, if any, is entitled to receive a fee for court appearances and other time reasonably spent on the matter to which the appointment is made of ~~\$125~~ *[\$202]* per hour in cases in which the death penalty is sought and ~~\$100~~ *[\$158]* per hour in all other cases. *[These fees shall be adjusted by the cumulative increase in the cost of living. The cost of living increase shall be measured by the percentage increase as of December 31 in any year over the level as of December 31, 2022 of the Consumer Price Index (All Urban Consumers, U.S. City Average) as published by the Bureau of Labor Statistics, U.S. Department of Labor or the successor index or federal agency.]* ~~Except for cases in which the most serious crime is a felony punishable by death or by imprisonment for life with or without possibility of parole, this section does not preclude a governmental entity from contracting with a private attorney who agrees to provide such services for a lesser rate of compensation.~~

Request 4: Allow extra time for bill submission

### **7.145. Claim for compensation and expenses**

1. A claim for compensation and expenses made pursuant to NRS 7.125 or 7.135 must not be paid unless it is submitted within ~~60~~ **[90]** days after the representation is terminated**[, unless otherwise permitted by the county]:**

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

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

2. Each claim must be:

(a) Supported by a sworn statement specifying the time expended in court, the services rendered out of court and the time expended therein, the expenses incurred while the case was pending and the compensation and reimbursement applied for or received in the same case from any other source.

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

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

Request 5: Appropriate funding for reimbursement of expenses related to representation of a prisoner to the Department budget.

## **Prison Claims and Expenses**

### **7.155. Payment of compensation and expenses from county treasury or money appropriated to State Public Defender**

The compensation and expenses of an attorney appointed to represent a defendant must be paid from the county treasury unless the proceedings are based upon a postconviction petition for habeas corpus *[or proceedings related to representation of a prisoner under NRS 212.070]*, in which case the compensation and expenses must be paid from money appropriated to the Office of State Public Defender, but after the appropriation for such expenses is exhausted, money must be allocated to the Office of State Public Defender from the reserve for statutory contingency account for the payment of such compensation and expenses.

### **NRS 212.070 Expenses of prosecuting *[and defending a]* prisoner and person acting in concert with prisoner who escapes or commits crime while incarcerated.**

1. The expenses and costs of prosecuting any person for escaping from, or breaking out of, the state prison, or attempting so to do, or for the commission of any crime while a prisoner therein, or any person acting in concert with such a prisoner, whether as a principal or accessory, are a charge against the State and must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. *[The compensation and expenses of an attorney appointed to represent a defendant are a charge against the State and must be paid from the money appropriated to the Office of State Public Defender pursuant to NRS 7.155, but after the appropriation for such expenses is exhausted, money must be allocated to the Office of State Public Defender from the reserve for statutory contingency account for the payment of such compensation and expenses.]*

2. The expenses and costs of prosecuting any person or persons for escaping from, or breaking out of, a jail, branch county jail or other local detention facility or attempting so to do, or for the commission of any crime while a prisoner therein, or any person acting in concert with such a prisoner, whether as a principal or accessory, are a charge against the county, city or other local government responsible for the operation of that facility.