

Proposed Bill Draft Submissions

Purpose 1: Pursuant to NRS 353.205(3) parts of the proposed department budgets are confidential until the Governor transmits the proposed budget to the Legislature. The amendment provides that the Board make recommendations concerning the budget rather than reviewing and approving, which is contrary to NRS 353.205(3).

Propose BDR to modify NRS 180.320(1)(f) and NRS 180.410(1)(e) for consistency.

Purpose 2: Create authority for the Board on Indigent Defense Services to adopt regulations to establish appointed indigent defense hourly rates for court appearances, staff time and other reasonable expenses.

Propose BDR to add such regulatory authority to NRS 180.320(4). And clarify the authority in NRS 7.125

NRS 180.320

1. The Board on Indigent Defense Services shall:
 - (a) Receive reports from the Executive Director and provide direction to the Executive Director concerning measures to be taken by the Department to ensure that indigent defense services are provided in an effective manner throughout this State.
 - (b) Review information from the Department regarding caseloads of attorneys who provide indigent defense services.
 - (c) Direct the Executive Director to conduct any additional audit, investigation or review the Board deems necessary to determine whether minimum standards in the provision of indigent defense services are being followed and provided in compliance with constitutional requirements.
 - (d) Work with the Executive Director to develop procedures for the mandatory collection of data concerning the provision of indigent defense services, including the manner in which such services are provided.
 - (e) Provide direction to the Executive Director concerning annual reports and review drafts of such reports.
 - (f) **Review and approve [Make recommendations to the Executive Director concerning]** the budget for the Department.
 - (g) Review any recommendations of the Executive Director concerning improvements to the criminal justice system and legislation to improve the provision of indigent defense services in this State.
 - (h) Provide advice and recommendations to the Executive Director on any other matter.
2. In addition to the duties set forth in subsection 1, the Board shall:
 - (a) Establish minimum standards for the delivery of indigent defense services to ensure that such services meet the constitutional requirements and do not create

any type of economic disincentive or impair the ability of the defense attorney to provide effective representation.

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

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

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

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

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

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

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

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

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

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

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

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

4. [The Board shall adopt regulations to establish appointed indigent defense hourly rates for court appearances, staff time, and other reasonable expenses.

~~4~~ **5].** The Board shall adopt any additional regulations it deems necessary or convenient to carry out the duties of the Board and the provisions of this chapter.

180.410. Duties of Executive Director; annual report

1. The Executive Director shall:

- (a) Oversee all of the functions of the Department of Indigent Defense Services;
- (b) Serve as the Secretary of the Board without additional compensation;
- (c) Report to the Board on Indigent Defense Services regarding the work of the Department and provide such information to the Board as directed by the Board;
- (d) Assist the Board in determining necessary and appropriate regulations to assist in carrying out the responsibilities of the Department;
- (e) Establish the proposed budget for the Department **and submit the proposed budget for approval of the Board;**
- (f) Prepare an annual report concerning indigent defense services in this State which includes information collected by the Department and such other information as requested by the Board; and
- (g) Take any other actions necessary to ensure that adequate and appropriate indigent defense services are provided in this State.

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

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. **[The rate shall be] of** \$125 per hour in cases in which the death penalty is sought and \$100 per hour in all other cases **[unless the rate is modified for indigent defense services providers by regulation of the Board on Indigent Defense Services as set forth in NRS 180.320(4)].** 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.

Purpose 1: Increase the time frame within which claims for compensation can be submitted.

Propose to modify time frame to 90 days, or as otherwise permitted by the county.

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.

Purpose 1: Allow the Department to have authority to determine which account to place certain funds.

Propose to modify language from mandatory to permissive.

NRS: 180.500. Grants, bequests, devises, donations or gifts; creation of Account; use of money in Account; nonreversion

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

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

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

Purpose: Clearly protect certain information from dissemination via a public records request.

Propose new statute on point.

NRS 180.XXX Confidentiality of certain records; exceptions.

1. *Except as otherwise provided in this section and [NRS 239.0115](#), any records or information received by the Board, Department, or a designee of the Department, relating to an attorney's client, attorney's case file, attorney funding requests, or anything that would have otherwise been protected by attorney-client privilege, is confidential.*

2. *Except as otherwise provided in this section and [NRS 239.0115](#), a complaint filed with the Board or Department, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation are confidential, except as may be necessary for the performance of oversight functions of the Department of Indigent Defense Services.*

3. *The provisions of this section do not prohibit the Board or the Department from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency, except to the extent that such information is protected by the attorney-client privilege or a personal privacy interest.*

Purpose: Allow private practice of law for part-time deputy public defenders in the Nevada State Public Defenders Office. Such practice is allowed for county public defenders in NRS 260.040(4).

NRS 180.030 Employment of deputies and other employees; qualifications of deputies.

1. The State Public Defender may employ:
(a) Deputy state public defenders in the unclassified service of the State.
(b) Clerical, investigative and other necessary staff in the classified service of the State.

2. Each deputy state public defender must be an attorney licensed to practice law in the State of Nevada, and shall not engage in the practice of law, except in performing the duties of office and as otherwise provided in [NRS 7.065](#) and [NRS 180.030\(3\)](#).

3. *Each deputy public defender, who is not a full-time employee, may engage in the private practice of law. Such private practice may not interfere with their duties as a deputy public defender and the interests of such private clients may not conflict with the interests of the State.*

Purpose 1: Provide for prompt payment of appointed counsel in prison cases by moving funding for such representation into the State Public Defender budget.

Purpose 2: For state prisons located within a county having a population of less than 100,000, move the venue for prosecuting such prison cases under NRS 212.070 to Carson City, NV.

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.

NRS 171.XXX or NRS 212.XXXX Offenses Relating to Prisons and Prisoners: Venue.

1. *The venue for 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, is:*

- a. *For state prisons located within a county having a population of less than 100,000, in Carson City, Nevada.*
- b. *For all other state prisons, in the county in which the prison is located.*

Update on Maximum Contribution Work Programs for Reimbursement

Quarter 2 Reporting

Davis Counties

Counties reported the following case-related expenses for reimbursement:

- Douglas: 5,055
- Lyon: \$19,589
- White Pine: \$1,1716

April 7, 2022: Funds were approved by the Interim Finance Committee and will be distributed.

Non-Davis Counties

Counties have reported the following case-related expenses for reimbursement:

- Carson City: \$2,373
- Humboldt: \$6,587

April 12, 2022: BOE recommended approval to the Interim Finance Committee for an allocation amount from the contingency account. Waiting to be scheduled for the IFC agenda.

Quarter 3 Reporting

Davis Counties

The following counties have spent their maximum contribution for the provision of indigent defense services and are seeking reimbursement:

- Eureka: \$12,561
- Lyon: \$118,593
- Mineral: \$ 16,123
- White Pine: \$161,550

Counties have reported the following case-related expenses for reimbursement:

- Douglas: \$19,529
- Lincoln: \$6,163
- Nye: \$18,400

The Department has submitted a work program to request funds from the IFC Contingency Account.

Non-Davis Counties

Counties have reported the following case-related expenses for reimbursement:

- Carson City: \$38,142
- Elko: \$49,059
- Humboldt: \$4,778
- Pershing: \$197

The Department has submitted a memorandum requesting to be placed on the BOE agenda and a work program to request funds from the IFC Contingency Account.