

SENATE BILL NO. 151

INTRODUCED BY D. LENZ, A. REGIER, B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DIRECTOR OF THE OFFICE OF THE STATE PUBLIC DEFENDER TO ESTABLISH UNITS TO PROVIDE FAMILY DEFENSE AND CHILD REPRESENTATION SERVICES; AMENDING SECTION 47-1-105, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Direction to the director. ~~(1) In implementing [section 2] 47-1-105(1)(E) AND (1)(F), the director of the office of the state public defender shall:~~

~~(1) _____ limit the office's reliance on and utilization of contract attorneys to the extent ethically and practically possible; AND~~

~~(2) In implementing [section 2(1)(f)], the director shall collaborate with the department of public health and human services to leverage and maximize federal resources under Title IV-E of the Social Security Act.~~

Section 2. Section 47-1-105, MCA, is amended to read:

"47-1-105. Director -- duties -- report -- standards for public defender services qualification and training. (1) The director shall supervise and direct the system. In addition to other duties assigned pursuant to this chapter, the director shall:

(a) establish the qualifications, duties, and compensation of the public defender division administrator provided for in 47-1-201, hire the public defender division administrator after considering qualified applicants, and regularly evaluate the performance of the public defender division administrator;

(b) establish the qualifications, duties, and compensation of the appellate defender division administrator provided for in 47-1-301, hire the appellate defender division administrator after considering qualified applicants, and regularly evaluate the performance of the appellate defender division administrator;

placement is changed;

(ix) seeking court orders or taking any other necessary steps in accordance with the child's direction to ensure that the child's health, mental health, educational, developmental, cultural, and placement needs are met; and

(x) ensuring opportunities for the meaningful participation of the child in court hearings and other case events, including advising the child of the right to participate in the proceedings. If the child does not want to participate or wishes to waive the right to attend after being informed of the right and the nature of the proceedings, counsel for the child shall inform the court of the child's decision not to attend.

(4) The director shall also:

(a) review and approve the strategic plan and budget based on proposals submitted by the public defender division administrator, the central services division administrator, the appellate defender division administrator, and the conflict defender division administrator;

(b) review and approve any proposal to create permanent staff positions;

(c) establish policies and procedures for handling excess caseloads;

(d) establish policies and procedures to ensure that detailed expenditure and caseload data is collected, recorded, and reported to support strategic planning efforts for the system; and

(e) examine workloads and workload standards for all levels within the office of state public defender and include its findings in the biennial report provided for in 47-1-125.

(5) The office of state public defender shall adopt administrative rules pursuant to the Montana Administrative Procedure Act to implement the provisions of this chapter."

NEW SECTION. Section 3. Transition. Notwithstanding the effective date in [section 5], for the purposes of [this act] the office of the state public defender shall create 21 new staff positions, 12 of which must be created during the fiscal year beginning July 1, 2025, and 9 of which must be created during the fiscal year beginning July 1, 2026.

NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].