

Exhibit Number: 2

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Amendments to Senate Bill No. 146
1st Reading Copy

Requested by the Senate Judiciary Subcommittee on SB 146

For the Senate Judiciary Committee

Prepared by Valencia Lane

February 12, 2005 (11:04am)

1. Title, page 1, line 10.

Following: "DEFENDER;"

Insert: "ESTABLISHING AN OFFICE OF APPELLATE DEFENDER AND
PROVIDING FOR A CHIEF APPELLATE DEFENDER;"

2. Title, page 1, line 16 through line 17.

Following: "ACCOUNT;" on line 16

Strike: remainder of line 16 through "FUNDING;" on line 17

Insert: "CHANGING THE LOCAL GOVERNMENT ENTITLEMENT SHARE PAYMENT
LAW TO COMPENSATE THE STATE FOR LOCAL GOVERNMENT'S SHARE OF
THE COSTS OF THE STATEWIDE PUBLIC DEFENDER SYSTEM;"

3. Title, page 1, line 22.

Following: "PERIOD;"

Insert: "REQUIRING A LEGISLATIVE AUDIT SO THAT FUNDING
RESPONSIBILITIES FOR CERTAIN COUNTIES CAN BE CALCULATED
BASED ON ACTUAL COSTS;"

4. Title, page 1, line 22.

Following: "3-5-901,"

Insert: "7-6-2426, 15-1-121,"

5. Title, page 1, line 26.

Following: "53-24-302,"

Insert: "53-30-110,"

6. Page 2, line 11.

Strike: "13"

Insert: "14"

7. Page 2, line 12.

Following: "indigent"

Strike: "or partially indigent"

8. Page 2, line 29.

Following: "that"

Insert: "adequate"

9. Page 3, line 8.

Strike: "10"
Insert: "11"

10. Page 3, line 18.
Strike: "13"
Insert: "14"

11. Page 3, line 26.
Following: line 25
Insert: "(iv) for an applicant for sentence review pursuant to
Title 46, chapter 18, part 9;"
Renumber: subsequent subsections

12. Page 4, line 26.
Strike: "11"
Insert: "12"

13. Page 5, line 2.
Strike: "seven"
Insert: "11"

14. Page 5, line 7.
Following: "in"
Insert: "the defense of"

15. Page 5, line 9.
Following: "represents"
Strike: "a Montana association for"
Following: "lawyers;"
Strike: "and"

16. Page 5, line 12.
Following: "house"
Strike: "."
Insert: ";

(d) one person who is a member of an organization that advocates on behalf of indigent persons;

(e) one person who is a member of an organization that advocates on behalf of a racial minority population in Montana;

(f) one person who is a member of an organization that advocates on behalf of people with mental illness and developmental disabilities; and

(g) one person who is employed by an organization that provides addictive behavior counseling.

(3) A person appointed to the commission must have significant experience in the defense of criminal or other cases subject to the provisions of [sections 1 through 4 and 6 through 14] or must have demonstrated a strong commitment to quality representation of indigent defendants."

Renumber: subsequent subsections

17. Page 5, line 24.

Strike: "(5) (b)"

Insert: "(6) (b)"

18. Page 6, line 24.

Following: line 23

Insert: "(e) practice standards;"

Renumber: subsequent subsections

19. Page 6, line 28.

Following: "to"

Strike: "hire"

Insert: "create"

Following: "staff"

Insert: "positions"

20. Page 7, line 3.

Following: "policies"

Insert: "and procedures"

21. Page 7, line 9.

Following: "must"

Insert: "cover the preceding biennium and"

22. Page 7, line 9 through line 12.

Following: "include" on line 9

Strike: remainder of line 9 through "workload" on line 12

Insert: ":

(a) all policies or procedures in effect for the operation and administration of the statewide public defender system;

(b) all standards established or being considered by the commission or the chief public defender;

(c) the number of deputy public defenders and the region supervised by each;

(d) the number of public defenders employed or contracted with in the system, identified by region;

(e) the number of attorney and nonattorney staff supervised by each deputy public defender;

(f) the number of new cases in which counsel was assigned to represent a party, identified by region, court, and case type;

(g) the total number of persons represented by the office, identified by region, court, and case type;

(h) the annual caseload and workload of each public defender, identified by region, court, and case type;

(i) the training programs conducted by the office and the number of attorney and nonattorney staff who attended each program;

(j) the continuing education courses on criminal defense or criminal procedure attended by each public defender employed or

contracted with in the system; and
(k) detailed expenditure data by court and case type"

23. Page 7, line 22.

Following: "(3)"

Strike: "Subject to the commission's approval, the"

Insert: "The"

24. Page 8, line 1.

Strike: "9"

Insert: "10"

25. Page 8, line 2.

Strike: "10"

Insert: "11"

26. Page 8, line 15.

Strike: "12"

Insert: "13"

27. Page 9, line 3.

Following: "experience"

Insert: ", "

Strike: "and"

Following: "training"

Insert: ", and manageable caseloads"

28. Page 9, line 6.

Following: line 5

Insert: "(8) establish policies and procedures for assigning
counsel in capital cases that are consistent with standards
issued by the Montana supreme court for counsel for indigent
persons in capital cases;"

ReNUMBER: subsequent subsections

29. Page 9, line 6.

Following: "for"

Insert: "attorneys and"

30. Page 9, line 18.

Following: line 17

Insert: "NEW SECTION. **Section 9. Office of appellate defender**
-- chief appellate defender. (1) There is within the office an
office of appellate defender.

(2) Beginning July 1, 2006, the chief public defender shall
hire and supervise a chief appellate defender to manage and
supervise the office of appellate defender.

(3) The chief appellate defender shall:

(a) manage and supervise all public defender services
provided by the office of appellate defender;

(b) ensure that when a court orders the office to assign an appellate lawyer or when a defendant or petitioner is otherwise entitled to an appellate public defender, the assignment is made promptly to a qualified and appropriate appellate defender who is immediately available to the defendant or petitioner when necessary;

(c) ensure that appellate defender assignments comply with the provisions of [section 8(7)] and standards for counsel for indigent persons in capital cases issued by the Montana supreme court;

(d) hire and supervise the work of office of appellate defender personnel as authorized by the appellate defender;

(e) contract for services as provided in [section 12] and as authorized by the chief public defender according to the strategic plan for the delivery of public defender services;

(f) keep a record of appellate defender services and expenses of the appellate defender office and submit records and reports to the chief public defender as requested;

(g) implement standards and procedures established by the commission and the chief public defender for the office of appellate defender;

(h) maintain a minimum client caseload as determined by the chief public defender; and

(i) perform all other duties assigned to the chief appellate defender by the chief public defender."

Renumber: subsequent sections

31. Page 9, line 21 through line 22.

Following: "coordinator" on line 21

Strike: remainder of line 21 through "Montana" on line 22

32. Page 10, line 18.

Strike: "11"

Insert: "12"

33. Page 11, line 13.

Following: line 12

Insert: "(b) attorney qualifications necessary to provide effective assistance of counsel that meet the standards issued by the Montana supreme court for counsel for indigent persons in capital cases;"

Renumber: subsequent subsections

34. Page 11, line 28.

Strike: subsection (a) in its entirety

Renumber: subsequent subsections

35. Page 11, line 29.

Strike: "13"

Insert: "14"