

## 1 HOUSE BILL NO. 627

2 INTRODUCED BY R. BRODEHL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN INTERIM TASK FORCE TO STUDY THE  
5 OPERATIONS OF THE OFFICE OF STATE PUBLIC DEFENDER TO DEVELOP A LONG-TERM  
6 ORGANIZATIONAL PLAN THAT WILL ALLOW THE OPD TO PROVIDE EFFECTIVE ASSISTANCE OF  
7 COUNSEL TO THOSE THAT QUALIFY; SPECIFYING MEMBERS AND DUTIES; PROVIDING AN  
8 APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

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10 WHEREAS, the Office of State Public Defender (OPD) was established in the Montana Public Defender  
11 Act by the 2005 Montana Legislature; and

12 WHEREAS, OPD is supervised by the Montana Public Defender Commission, whose members are  
13 appointed by the Governor; and

14 WHEREAS, the organizational structure of the OPD has changed over time in response to court rulings  
15 to include three programs: the Public Defender Program, the Appellate Defender Program, and the Conflict  
16 Coordinator, each with its own chief; and

17 WHEREAS, the number of cases assigned to the Public Defender Program has grown by 14.6% since  
18 fiscal year 2010, and, despite a yearly case closing rate of 91.8% during fiscal year 2014, the Public Defender  
19 Program had nearly 21,000 open, active cases at the end of that fiscal year; and

20 WHEREAS, the Appellate Defender Program experienced a 42% increase in caseload from fiscal year  
21 2012 to 2014; and

22 WHEREAS, abuse and neglect cases made up 34% of the case growth in the Public Defender Program  
23 from fiscal year 2010 to fiscal year 2014, and in the Appellate Defender Program these cases were projected to  
24 increase 43% between fiscal year 2013 and fiscal year 2015; and

25 WHEREAS, in February 2013 the Commission unanimously approved a resolution to authorize the Chief  
26 Public Defender to take necessary and appropriate actions to limit acceptance of new cases until further  
27 resources were available or caseloads decreased to a manageable number.

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

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1            **NEW SECTION. Section 1. Task force on state public defender operations -- membership.** (1)

2        There is a task force on state public defender operations.

3            (2) The task force consists of nine members appointed as follows:

4            (a) three members of the house of representatives, two of whom must be appointed by the speaker of  
5        the house and one of whom must be appointed by the house minority leader;

6            (b) three members of the senate, two of whom must be appointed by the senate president and one of  
7        whom must be appointed by the senate minority leader;

8            (c) one member appointed by the chief justice of the supreme court;

9            (d) the director of the department of corrections or the director's designee; and

10          (e) the executive director of the board of crime control or the director's designee.

11          (3) If possible, the senate president and senate minority leader and the speaker of the house and house  
12        minority leader shall select members who served on the joint appropriations subcommittee on judicial branch,  
13        law enforcement, and justice during the 2015 legislative session.

14          (4) Legislative members are entitled to receive compensation and expenses as provided in 5-2-302.  
15        Members appointed pursuant to subsections (2)(c) through (2)(e) are entitled to reimbursement for travel  
16        expenses as provided in 2-18-501 through 2-18-503.

17          (5) The task force shall select a presiding officer and vice presiding officer by majority vote. The presiding  
18        officer and vice presiding officer must be legislative members.

19          (6) The legislative services division shall provide staff assistance to the task force. The legislative fiscal  
20        division, the office of state public defender, and the judicial branch shall provide information upon request.

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22          **NEW SECTION. Section 2. Task force duties.** (1) The task force shall study the operations of the  
23        office of state public defender and develop a long-term organizational plan for the next 6 to 10 years that will allow  
24        the office to provide effective assistance of counsel to those that qualify.

25          (2) The study must examine:

26          (a) the constitutional duties of the office;

27          (b) the statutory duties of the office;

28          (c) the ethics and professional responsibilities of attorneys employed at the office;

29          (d) how other states provide assistance of counsel to those who qualify for assistance, including how  
30        those states structure and fund their offices or programs and any litigation on the structure and funding of those

1 offices and programs;

2 (e) the effects of compensation and workloads on the recruitment and retention of attorneys and  
3 administrative and support staff;

4 (f) measures and resources that could be implemented or assigned to improve staff and attorney  
5 recruitment and retention issues;

6 (g) the possibility, costs, and benefits of restructuring the office; and

7 (h) any other issues related to the duties, funding, and ethical obligation of the office that the task force  
8 determines are relevant to develop a long-term organizational plan that will allow the office to accomplish its  
9 constitutional and statutory duties.

10 (3) The task force shall involve input from the various stakeholders of the office and the legal system and,  
11 to the extent possible, consult with outside experts about Montana's system and systems in other states.

12 (4) All aspects of the task force, including reporting requirements, must be concluded prior to September  
13 15, 2016. The task force shall prepare a final report of its findings, conclusions, and recommendations and shall  
14 prepare draft legislation whenever appropriate. The task force shall submit the final report to the governor, the  
15 chief justice of the supreme court, and the 65th legislature as provided in 5-11-210.

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17 **NEW SECTION. Section 3. Appropriation.** There is appropriated \$24,000 from the general fund to the  
18 legislative services division for the biennium beginning July 1, 2015, to support the activities of the task force  
19 established in [section 1].

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21 **NEW SECTION. Section 4. Effective dates.** (1) Except as provided in subsection (2), [this act] is  
22 effective on passage and approval.

23 (2) [Section 3] is effective July 1, 2015.

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25 **NEW SECTION. Section 5. Termination.** [This act] terminates December 31, 2016.

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