

1 HOUSE BILL NO. 627

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7 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING AN INTERIM TASK FORCE TO STUDY THE
8 OPERATIONS OF THE OFFICE OF STATE PUBLIC DEFENDER TO DEVELOP A LONG-TERM
9 ORGANIZATIONAL PLAN THAT WILL ALLOW THE OPD TO PROVIDE EFFECTIVE ASSISTANCE OF
10 COUNSEL TO THOSE THAT QUALIFY; SPECIFYING MEMBERS AND DUTIES; PROVIDING AN
11 APPROPRIATION; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."
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13 WHEREAS, the Office of State Public Defender (OPD) was established in the Montana Public Defender
14 Act by the 2005 Montana Legislature; and

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

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

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

23 WHEREAS, the Appellate Defender Program experienced a 42% increase in caseload from fiscal year
24 2012 to 2014; and

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

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

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

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

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

6 (2) The task force consists of ~~nine~~ 11 members appointed as follows:7 (a) three members of the house of representatives, two of whom must be appointed by the speaker of
8 the house and one of whom must be appointed by the house minority leader;9 (b) three members of the senate, ~~two~~ ONE of whom must be appointed by the senate president and ~~one~~
10 TWO of whom must be appointed by the senate minority leader;11 (c) one ~~member~~ DISTRICT COURT JUDGE appointed by the chief justice of the supreme court; AND12 ~~(d) the director of the department of corrections or the director's designee; and~~13 ~~—— (e) the executive director of the board of crime control or the director's designee.~~14 (D) FOUR MEMBERS APPOINTED BY THE GOVERNOR, NONE OF WHOM MAY BE A CURRENTLY SERVING LEGISLATOR,
15 INCLUDING:16 (I) ONE ATTORNEY EXPERIENCED IN THE FEDERAL INDIAN CHILD WELFARE ACT ADVOCATING ON BEHALF OF
17 RACIAL MINORITIES IN MONTANA;18 (II) ONE ATTORNEY WITH EXPERIENCE IN THE PROSECUTION OF MISDEMEANOR AND FELONY OFFENSES IN
19 MONTANA;20 (III) ONE ATTORNEY WITH EXPERIENCE IN THE CRIMINAL DEFENSE OF MISDEMEANOR AND FELONY OFFENSES IN
21 MONTANA; AND22 (IV) ONE INDIVIDUAL ASSIGNED TO ACT AS A GROUP FACILITATOR.23 (3) If possible, the senate president and senate minority leader and the speaker of the house and house
24 minority leader shall select members who served on the joint appropriations subcommittee on judicial branch,
25 law enforcement, and justice during the 2015 legislative session.26 (4) Legislative members are entitled to receive compensation and expenses as provided in 5-2-302.
27 Members appointed pursuant to subsections (2)(c) through (2)(e) are entitled to reimbursement for travel
28 expenses as provided in 2-18-501 through 2-18-503.29 (5) The task force shall select a presiding officer and vice presiding officer by majority vote. The presiding
30 officer and vice presiding officer must be legislative members.

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

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

7 (2) The study must examine:

8 (a) the constitutional duties of the office;

9 (b) the statutory duties of the office;

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

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

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

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

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

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

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

24 **(4) THE TASK FORCE SHALL COORDINATE MEETINGS WITH THE LAW AND JUSTICE INTERIM COMMITTEE AND MAY**
25 **HOLD NO MORE THAN FIVE MEETINGS.**

26 ~~(4)~~(5) All aspects of the task force, including reporting requirements, must be concluded prior to
27 September 15, 2016. The task force shall prepare a final report of its findings, conclusions, and recommendations
28 and shall prepare draft legislation whenever appropriate. The task force shall submit the final report to the
29 governor, the chief justice of the supreme court, and the 65th legislature as provided in 5-11-210.

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