

HOUSE BILL NO. 65

INTRODUCED BY K. HOLMLUND

BY REQUEST OF THE TASK FORCE ON STATE PUBLIC DEFENDER OPERATIONS

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DUTIES OF THE OFFICE OF APPELLATE DEFENDER AND THE CHIEF APPELLATE DEFENDER; AMENDING SECTION 47-1-205, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 47-1-205, MCA, is amended to read:

**"47-1-205. Office of appellate defender -- chief appellate defender.** (1) There is an office of appellate defender. The office of appellate defender must be located in Helena, Montana.

(2) (a) The commission shall hire and supervise a chief appellate defender to manage and supervise the office of appellate defender. The chief appellate defender is appointed by and serves at the pleasure of the commission. The commission shall establish compensation for the position commensurate with the position's duties and responsibilities, taking into account the compensation paid to prosecutors with similar responsibilities.

(b) The chief appellate defender must be an attorney licensed to practice law in the state.

(c) The position of chief appellate defender is exempt from the state classification and pay plan as provided in 2-18-103.

(3) The chief appellate defender shall:

(a) direct, manage, and supervise all public defender services provided by the office of appellate defender, including budgeting, reporting, and related functions;

(b) ensure that when a court orders the office of appellate defender 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 47-1-202(1)(f) 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



1 defender;

2 (e) contract for services as provided in 47-1-216 and as authorized by the commission according to the  
3 strategic plan for the delivery of public defender services;

4 (f) keep a record of appellate defender services and expenses of the office of appellate defender and  
5 submit records and reports to the commission as requested through the office of state public defender;

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

8 (h) maintain a minimum client caseload as determined by the commission;

9 (i) ~~confer with the chief public defender on budgetary issues and~~ submit budgetary requests and the  
10 reports required by law or by the governor ~~through the chief public defender~~; and

11 (j) perform all other duties assigned to the chief appellate defender by the commission."  
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13 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2017.

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