

HOUSE BILL NO. 593

INTRODUCED BY M. SWEENEY

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING WAGE LAWS FOR PUBLIC DEFENDERS; ESTABLISHING A MINIMUM HOURLY RATE FOR CONTRACT ATTORNEYS; AMENDING SECTION 47-1-121, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 47-1-121, MCA, is amended to read:

**"47-1-121. Contracted services.** (1) The director shall establish standards for a statewide contracted services program to be managed by the central services division provided for in 47-1-119. The director shall ensure that contracting for public defender services is done fairly and consistently statewide and within each public defender region.

(2) There is a contract manager position in the central services division hired by the central services division administrator. The contract manager is responsible for the administrative oversight of contracting for attorney and nonattorney support for units of the office of state public defender.

(3) All contracting pursuant to this section is exempt from the Montana Procurement Act as provided in 18-4-132.

(4) Contracts may not be awarded based solely on the lowest bid or provide compensation to contractors based solely on a fixed fee paid irrespective of the number of cases assigned.

(5) Contracting for attorney services must be done through a competitive process that must, at a minimum, involve the following considerations:

- (a) attorney qualifications necessary to provide effective assistance of counsel;
- (b) attorney qualifications necessary to provide effective assistance of counsel that meets the standards issued by the Montana supreme court for counsel for indigent persons in capital cases;
- (c) attorney access to support services, such as paralegal and investigator services;
- (d) attorney caseload, including the amount of private practice engaged in outside the contract;
- (e) reporting protocols and caseload monitoring processes;
- (f) a process for the supervision and evaluation of performance;

1 (g) a process for conflict resolution;

2 (h) continuing education requirements; and

3 (i) cost of the services.

4 (6) The public defender division administrator, deputy public defenders, appellate defender division  
5 administrator, and conflict defender division administrator shall supervise the personnel contracted for their  
6 respective offices and ensure compliance with the standards established in the contract.

7 (7) The director shall establish reasonable compensation for attorneys contracted to provide public  
8 defender and appellate defender services and for others contracted to provide nonattorney services, but the  
9 attorney contractor rate may not be less than \$62 per hour.

10 (8) Contract attorneys may not take any money or benefit from an appointed client or from anyone for  
11 the benefit of the appointed client.

12 (9) The director shall limit the number of contract attorneys so that all contracted attorneys may be  
13 meaningfully evaluated.

14 (10) The director shall ensure that there are procedures for conducting an evaluation of every contract  
15 attorney on a biennial basis by the [chief] contract manager based on written evaluation criteria."

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17 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2019.

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