



MONTANA STATE PUBLIC DEFENDER

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TO: Law and Justice Interim Committee

FROM: Emily Copeland
Acting Central Services Division Administrator
Office of State Public Defender

RE: Bill Draft Requests Summary for LJIC

The Office of State Public Defender (OPD) has four proposals for legislation which are listed below:

1. Short title: Virtual access for non-substantive hearings
 - a. Allow remote appearances in all jurisdictions for all non-substantive hearings, unless the Court has good cause to require in person appearance. This change is anticipated to reduce travel and mileage costs for both Contract counsel/FTE counsel, reduce mileage/vehicle costs to State Motor Pool as well as promote efficiency in the criminal justice system.
2. Short title: Modify assignment of counsel at public expense statutory language
 - a. Revise 47-1-104 to include a respondent in a proceeding for involuntary commitment for a mental disorder, a respondent in a proceeding for the involuntary commitment of a person for alcoholism, and for a parent, guardian, or other person with physical or legal custody of a child or youth in any removal, placement, or termination proceeding and as required under the Federal Indian Child Welfare Act to be considered entitled to assistance of counsel at public expense.
 - i. Due to the quickness of the hearings and the often-diminished mental capacity of those facing involuntary commitments, the ability to conduct an eligibility screening process is almost impossible and requires OPD employee time to work towards a generally futile task.
 - ii. For DNs, OPD is currently conducting eligibility screening but often finds Judges are not willing to grant motions to rescind appointments for these cases especially as the Emergency Protective Services 5-day hearings go into effect statewide following a removal. This process requires considerable additional work on behalf of the DN participants and OPD including the eligibility process, the motion to rescind filing, and motion to rescind hearings.
3. Short title: Eliminate jail penalties for littering
 - a. Revise 75-10-212 to eliminate possibility of imprisonment (currently states up to 30 days) and OPD's requirement to provide representation for individuals charged with this. OPD has been appointed to 18 of these in FY 2022 so far and expects a decrease in costs should this be revised.
4. Short title: Eliminate jail penalties for driving while suspended/revoked

We provide effective professional legal services with equal access to quality client-centered representation.

- a. Revise 61-5-212 to eliminate possibility of imprisonment (currently up to 180 days) and eliminate OPD's requirement to provide representation to individuals charged with this. OPD has been appointed to approximately 2,600 matters with this charge present yearly. Though this charge is common to occur with other charges that may still require OPD appointment, OPD would expect a reduction in these, and costs associated with representing them.

Thank you for your consideration of these requests.

Office of State Public Defender