



MONTANA STATE PUBLIC DEFENDER

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MEMORANDUM

Date: July 1, 2021
To: Legislative Finance Committee
From: Office of State Public Defender
Re: HB 693 – HB 2 Provisions for Section D

Pursuant to House Bill 693, An act implementing provisions of the general appropriations act, the Office of State Public Defender (OPD) shall report the measures being taken in FY 2022 and FY 2023 to ensure employees are accurately and completely making time entries that demonstrate how much time is:

- a) Dedicated to core tasks;
- b) Spent on specific cases; and
- c) Spent on tasks other than those required to meet the constitutional requirement to provide counsel for individuals not financially able to afford counsel for crimes if jail or prison time may be the punishment if convicted.

Measures being taken by OPD to address:

- 1) All attorneys are required to track time by each case with the following codes to determine the amount of time spent on core tasks: Admin, CLE, General Case Work, Time Entry, Leave (sick, vacation, holiday), Mentoring, Post-sentencing, Sentence Review, Supervision/Management, Training, Travel Time.
- 2) Updated OPD Policy 215, Case Management Program and Data Certification to reflect expectation of per case time tracking in increments of one-tenth of an hour for attorneys. All supervising attorneys are responsible for assuring this data is entered into the system and are expected to review supervisees entries weekly.
- 3) Developed Time Tracking Dashboard for each supervising attorney's office or region to readily access hours tracked by each attorney to monitor both time tracking entry and manage workloads by identifying those reporting more than 12 hours in a day and 120 hours in a month.

Additionally, OPD is expected to report to the Legislative Finance Committee on measures being taken in FY 2022 and FY 2023 to address the concerns identified by the Legislative Audit Division regarding billing practices by contractors, including the failure to require the use of assistants for non-attorney tasks, and allowing contractors to work a number of hours each year that may induce an attorney to be a contractor rather than an OPD employee/FTE.

Measures being taken by OPD to address:

- 1) Beginning in September 2021, OPD Contract Attorneys will have the option to bill for work done by administrative assistants for their OPD cases at a rate of \$25/hour through an addendum to their MOU with OPD. The addendum will ensure clear expectations for both contractors, their administrative assistants, and OPD.



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- 2) As the audit identified, contractor billing oversight has historically been regionally dispersed requiring numerous individuals responsible for review statewide resulting in an unintended consequence of inconsistent billing review practices region to region. To address this audit finding, in addition to other operational reasons, OPD is re-defining regions within Division 1. This will increase consistency in oversight of billing practices by reducing the number of individuals responsible for reviewing contractor bills to three for bills submitted to Division 1.
- 3) OPD has implemented a system to enforce workload standards for attorneys in Division 1 and Division 2 as one method to address recruitment and retention of FTEs. OPD believes by enforcing a limit to high caseloads which contribute to turnover, the Agency will have a better ability to retain attorneys as well as recruit new attorneys knowing their workload limits can and will be enforced. By reducing turnover and unfilled attorney positions, the amount of work available for contractors will be lowered thus reducing the incentive for an attorney to be a contractor rather than an employee.

Sincerely,

Rhonda Lindquist, Director
Office of State Public Defender