

Unofficial Draft Copy

As of: March 16, 2015 (2:24pm)

LC2432

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act creating an interim task force to study the operations of the office of the public defender to develop a long-term organizational plan that will allow the OPD to provide effective assistance of counsel to those that qualify; specifying members and duties; providing an appropriation; providing effective dates; and providing a termination date."

WHEREAS, the Office of the State Public Defender (OPD) was established by the Montana Public Defender Act by the 2005 Montana Legislature; and

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

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

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

WHEREAS, the Appellate Defender Program experienced a 42%

increase in caseload from fiscal year 2012 to 2014; and

WHEREAS, abuse and neglect cases made up 34% of the case growth in the Public Defender Program from fiscal year 2010 to fiscal year 2014, and in the Appellate Defender Program these cases were up 127% in the first quarter of fiscal year 2015 as compared to fiscal year 2014 and up 257% over fiscal year 2013; and

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

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. Section 1. Task force on state public defender operations -- membership. (1) There is a task force on state public defender operations.

(2) The task force consists of nine members appointed as follows:

(a) three members of the house of representatives, two of whom must be appointed by the speaker of the house and one of whom must be appointed by the house minority leader;

(b) three members of the senate, two of whom must be appointed by the senate president and one of whom must be appointed by the senate minority leader;

(c) one member appointed by the chief justice of the supreme

court;

(d) the director of the department of corrections or the director's designee; and

(e) the executive director of the board of crime control or the director's designee.

(3) If possible, the senate president, senate minority leader, the speaker of the house, and house minority leader shall select members who served on the joint appropriations subcommittee on judicial branch, law enforcement, and justice during the 2015 legislative session.

(4) Legislative members are entitled to receive compensation and expenses as provided in 5-2-302. Members appointed pursuant to subsection (2)(c) through (e) are entitled to reimbursement for travel expenses as provided in 2-18-501 through 2-18-503.

(5) The task force shall select a presiding officer and vice presiding officer by majority vote. The presiding officer and vice presiding officer must be legislative members.

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

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

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(2) The study must examine:

(a) the constitutional duties of the office;

(b) the statutory duties of the office;

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

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

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

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

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

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

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

(4) All aspects of the task force, including reporting

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requirements, must be concluded prior to September 15, 2016. The task force shall prepare a final report of its findings, conclusions, and recommendations and shall prepare draft legislation whenever appropriate. The task force shall submit the final report to the governor, chief justice of the supreme court, and the 65th legislature, as provided in 5-11-210.

NEW SECTION. **Section 3. Appropriation.** There is appropriated \$xxxxxxx from the general fund to the legislative services division for the biennium beginning July 1, 2015, to support the activities of the task force established in [section 1].

NEW SECTION. **Section 4. {standard} Effective dates.** (1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Section 3] is effective July 1, 2015.

NEW SECTION. **Section 5. {standard} Termination.** [This act] terminates December 31, 2016.

- END -

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