

SB203_L.008

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.SB18-203 be amended as follows:

1 Amend reengrossed bill, page 2, line 4, after "counsel -" insert
2 "independent".

3 Page 2, line 6, after "PROVIDE" insert "INDEPENDENT".

4 Page 2, line 8, after "INCARCERATION." add "INDEPENDENT INDIGENT
5 DEFENSE REQUIRES, AT MINIMUM, THAT A NONPARTISAN ENTITY
6 INDEPENDENT OF THE MUNICIPAL COURT AND MUNICIPAL OFFICIALS
7 OVERSEE OR EVALUATE INDIGENT DEFENSE COUNSEL.

8 (b) (I) BECAUSE THE OFFICE OF ALTERNATE DEFENSE COUNSEL
9 CREATED IN SECTION 21-2-101 IS AN INDEPENDENT SYSTEM OF INDIGENT
10 DEFENSE OVERSEEN BY AN INDEPENDENT COMMISSION, PROVISION OF
11 INDIGENT DEFENSE BY LAWYERS EVALUATED OR OVERSEEN BY THE OFFICE
12 OF ALTERNATE DEFENSE COUNSEL SATISFIES THE REQUIREMENT
13 DESCRIBED IN SUBSECTION (3)(a) OF THIS SECTION.

14 (II) BECAUSE A LEGAL AID CLINIC AT ANY COLORADO LAW SCHOOL
15 ACCREDITED BY THE AMERICAN BAR ASSOCIATION IS AN INDEPENDENT
16 SYSTEM OF INDIGENT DEFENSE OVERSEEN BY THE DEAN OF THE LAW
17 SCHOOL WITH WHICH IT IS AFFILIATED, ANY PROVISION OR OVERSIGHT OF
18 INDIGENT DEFENSE THROUGH A LEGAL AID CLINIC ASSOCIATED WITH ANY
19 COLORADO LAW SCHOOL ACCREDITED BY THE AMERICAN BAR
20 ASSOCIATION SATISFIES THE REQUIREMENT DESCRIBED IN SUBSECTION
21 (3)(a) OF THIS SECTION.

22 (c) TO SATISFY THE REQUIREMENT DESCRIBED IN SUBSECTION
23 (3)(a) OF THIS SECTION, A MUNICIPALITY THAT CONTRACTS DIRECTLY WITH
24 ONE OR MORE DEFENSE ATTORNEYS TO PROVIDE COUNSEL TO INDIGENT
25 DEFENDANTS SHALL ENSURE THAT:

26 (I) THE PROCESS TO SELECT INDIGENT DEFENSE ATTORNEYS IS
27 TRANSPARENT AND BASED ON MERIT; AND

28 (II) EACH CONTRACTED INDIGENT DEFENSE ATTORNEY IS
29 PERIODICALLY EVALUATED BY AN INDEPENDENT ENTITY FOR COMPETENCY
30 AND INDEPENDENCE. THE MUNICIPALITY SHALL EVALUATE EACH NEWLY
31 HIRED DEFENSE ATTORNEY AS SOON AS PRACTICABLE BUT NO LATER THAN
32 ONE YEAR AFTER HE OR SHE IS HIRED. OTHERWISE, THE MUNICIPALITY
33 SHALL EVALUATE EACH DEFENSE ATTORNEY AT LEAST EVERY THREE
34 YEARS. AN INDEPENDENT ENTITY THAT EVALUATES DEFENSE ATTORNEYS
35 PURSUANT TO THIS SUBSECTION (3)(c)(II) SHALL PROVIDE EVALUATION
36 RESULTS AND ANY RECOMMENDATIONS FOR CORRECTIVE ACTION IN
37 WRITING TO THE MUNICIPALITY. FOR THE PURPOSE OF THIS SUBSECTION
38 (3), "INDEPENDENT ENTITY" MEANS:

39 (A) THE OFFICE OF ALTERNATE DEFENSE COUNSEL;

1 (B) AN ATTORNEY OR A GROUP OF ATTORNEYS, EACH OF WHOM
2 HAS SUBSTANTIAL EXPERIENCE PRACTICING CRIMINAL DEFENSE IN
3 COLORADO WITHIN THE PRECEDING FIVE YEARS, SO LONG AS THE
4 ATTORNEY OR GROUP OF ATTORNEYS IS NOT AFFILIATED WITH THE
5 MUNICIPALITY RECEIVING THE SERVICES, INCLUDING ANY MUNICIPAL
6 JUDGE, PROSECUTOR, OR INDIGENT DEFENSE ATTORNEY; OR
7 (C) A LOCAL OR REGIONAL INDEPENDENT INDIGENT DEFENSE
8 COMMISSION, AS DESCRIBED IN SUBSECTION (3)(d) OF THIS SECTION.
9 (d) (I) TO SATISFY THE REQUIREMENT DESCRIBED IN SUBSECTION
10 (3)(a) OF THIS SECTION, A MUNICIPALITY MAY ESTABLISH A LOCAL
11 INDEPENDENT INDIGENT DEFENSE COMMISSION OR COORDINATE WITH ONE
12 OR MORE OTHER MUNICIPALITIES TO ESTABLISH A REGIONAL INDEPENDENT
13 INDIGENT DEFENSE COMMISSION. ANY LOCAL OR REGIONAL INDEPENDENT
14 INDIGENT DEFENSE COMMISSION IN EXISTENCE AS OF JANUARY 1, 2018, IS
15 DEEMED TO BE IN COMPLIANCE WITH THIS SUBSECTION (3)(d) AND MAY
16 CONTINUE AS ESTABLISHED.
17 (II) EACH LOCAL OR REGIONAL INDEPENDENT INDIGENT DEFENSE
18 COMMISSION MUST INCLUDE AT LEAST THREE MEMBERS, EACH OF WHOM
19 IS SELECTED BY THE CHIEF MUNICIPAL JUDGE IN CONSULTATION WITH THE
20 COLORADO CRIMINAL DEFENSE BAR, THE OFFICE OF ALTERNATE DEFENSE
21 COUNSEL, OR THE OFFICE OF THE STATE PUBLIC DEFENDER. PRIOR TO
22 SERVING ON A COMMISSION, ANY COMMISSION MEMBER WHO IS SELECTED
23 BY A CHIEF MUNICIPAL JUDGE MUST BE APPROVED BY THE OFFICE OF
24 ALTERNATE DEFENSE COUNSEL. THE OFFICE OF ALTERNATE DEFENSE
25 COUNSEL SHALL APPROVE SUCH APPOINTED COMMISSION MEMBERS WHOM
26 THE OFFICE, IN ITS DISCRETION, DEEMS LIKELY TO PROMOTE THE
27 PROVISION OF COMPETENT AND INDEPENDENT INDIGENT DEFENSE."

28 Page 2, strike lines 9 through 14.

29 Page 3, strike lines 1 through 18.

30 Page 3, line 20, after "REGIONAL" insert "INDEPENDENT".

31 Page 3, line 21, after "ESTABLISH THE" insert "INDEPENDENT".

32 Page 3, line 23, after "REGIONAL" insert "INDEPENDENT".

33 Page 3, line 24, strike "(3)(c)" and substitute "(3)(d)".

34 Page 3, line 27, after "THE" insert "INDEPENDENT".

35 Page 4, line 3, after "REGIONAL" insert "INDEPENDENT".

- 1 Page 4, line 15, after "REGIONAL" insert "INDEPENDENT".
- 2 Page 4, line 18, after "REGIONAL" insert "INDEPENDENT".
- 3 Page 4, line 23, after "AN" insert "INDEPENDENT".
- 4 Page 4, line 25, after "LOCAL" insert "INDEPENDENT".
- 5 Page 4, line 27, after "REGIONAL" insert "INDEPENDENT".
- 6 Page 5, line 3, strike "(1)" and substitute "(1); and **add (5)**".
- 7 Page 6, strike line 1 and substitute:
8 "(5) THE OFFICE OF ALTERNATE DEFENSE COUNSEL MAY, BUT IS
9 NOT REQUIRED TO, EVALUATE THE PERFORMANCE OF ATTORNEYS
10 PROVIDING INDIGENT DEFENSE IN MUNICIPAL COURTS AT THE REQUEST OF
11 ANY MUNICIPALITY, AS DESCRIBED IN SECTION 13-10-114.5 (3)(c)(II). THE
12 OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL NOT PERFORM ANY SUCH
13 EVALUATIONS WITHOUT SUFFICIENT FUNDING FOR PERSONNEL TO PERFORM
14 SUCH EVALUATIONS."
- 15 Page 6, strike lines 5 through 7 and substitute:
16 "**municipal courts - fund created.** (1) FOR THE PURPOSES OF SECTION
17 21-2-103 (1)(c) AND (5), ANY MUNICIPALITY THAT WANTS TO UTILIZE THE
18 SERVICES OF THE OFFICE OF ALTERNATE DEFENSE COUNSEL MAY REQUEST
19 SUCH SERVICES AS PROVIDED IN THIS SECTION.
20 (2) A MUNICIPALITY THAT WANTS TO UTILIZE THE SERVICES OF THE
21 OFFICE OF ALTERNATE DEFENSE COUNSEL TO EVALUATE THE PROVISION OF
22 DEFENSE COUNSEL TO INDIGENT DEFENDANTS AS DESCRIBED IN SECTION
23 13-10-114.5 (3)(c)(II)(A) DURING THE NEXT CALENDAR YEAR SHALL
24 REQUEST SUCH SERVICES ON OR BEFORE SEPTEMBER 1, 2018, AND ON OR
25 BEFORE SEPTEMBER 1 EACH YEAR THEREAFTER.
26 (3) ON OR BEFORE MAY 1, 2019, AND ON OR BEFORE MAY 1 EACH
27 YEAR THEREAFTER, THE OFFICE OF ALTERNATE DEFENSE COUNSEL SHALL
28 INFORM EACH MUNICIPALITY THAT REQUESTED THE EVALUATION SERVICES
29 OF THE OFFICE PURSUANT TO SUBSECTION (2) OF THIS SECTION WHETHER
30 THE OFFICE HAS SUFFICIENT FUNDING TO PROVIDE THE SERVICES AND
31 WHETHER THE OFFICE CAN COMMIT TO PROVIDING SUCH SERVICES DURING
32 THE NEXT CALENDAR YEAR.
33 (4) ON OR BEFORE JANUARY 1, 2020, AND ON OR BEFORE JANUARY
34 1 EACH YEAR THEREAFTER, THE OFFICE OF ALTERNATE DEFENSE COUNSEL
35 SHALL BEGIN EVALUATING THE PROVISION OF DEFENSE COUNSEL TO
36 INDIGENT DEFENDANTS IN EACH MUNICIPALITY TO WHICH THE OFFICE

1 COMMITTED SUCH SERVICES PURSUANT TO SUBSECTION (3) OF THIS
2 SECTION.

3 (5) A MUNICIPALITY THAT WANTS TO UTILIZE THE OFFICE OF
4 ALTERNATE DEFENSE COUNSEL TO PROVIDE A LIST OF APPROVED
5 ATTORNEYS TO BE USED FOR INDIGENT DEFENSE DURING THE NEXT".

6 Renumber succeeding subsections accordingly.

7 Page 6, line 14, strike "(1)" and substitute "(5)".

8 Page 6, strike line 20 and substitute "SHALL PROVIDE A LIST OF APPROVED
9 INDIGENT DEFENSE COUNSEL TO".

10 Page 6, line 22, strike "(2)" and substitute "(6)".

11 Page 6, line 25, strike "(4)" and substitute "(8)", and insert "ANY" after
12 "OF".

13 Page 6, line 26, strike "AS FEES".

14 Page 7, line 2, strike "JUDICIAL DEPARTMENT FOR DISTRIBUTION TO THE".

15 Page 7, line 3, strike "ALTERNATIVE" and substitute "ALTERNATE".

16 Page 7, strike line 9 and substitute:

17 "SECTION 4. In Colorado Revised Statutes, 21-1-104, add (6)
18 as follows:

19 **21-1-104. Duties of public defender.** (6) THE STATE PUBLIC
20 DEFENDER SHALL APPOINT COMMISSION MEMBERS FOR ANY MUNICIPALITY
21 OR MUNICIPALITIES THAT WANT TO ESTABLISH A LOCAL OR REGIONAL
22 INDEPENDENT INDIGENT DEFENSE COMMISSION PURSUANT TO SECTION
23 13-10-114.5 (3)(d)".

24 Renumber succeeding section accordingly.

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