

Effective 5/10/2016

77-32-804 Duties of the commission -- Annual report.

- (1) The commission shall:
 - (a) develop and adopt guiding principles for the assessment and oversight of criminal defense systems with the state that, at a minimum, address the following:
 - (i) Indigent defense service providers shall have independent judgment without fear of retaliation.
 - (ii) Service providers shall provide conflict-free representation, including the need for a separate contract for conflict counsel.
 - (iii) The state may not interfere with the service provider's access to clients and the service provider is free to defend the client based on the service provider's own independent judgment.
 - (iv) Accused persons shall be provided counsel at all critical stages of the criminal process.
 - (v) Counsel shall be free to provide meaningful, adversarial testing of the evidence, including:
 - (A) adequate access to defense resources; and
 - (B) workloads that allow for time to meet with clients, investigate cases, and file appropriate motions.
 - (vi) Service providers shall be fairly compensated and incentivized to represent clients fully through:
 - (A) compensation, that shall be independent from prosecutors' compensation;
 - (B) incentives that are structured to represent criminal defendants well; and
 - (C) separate contracts that are offered to ensure the right to appeal.
 - (vii) The commission may maintain oversight to collect data, audit attorney performance, establish standards, and enforce the principles listed above;
 - (b) identify and collect data necessary for the commission to:
 - (i) review compliance by criminal defense systems of minimum principles for effective representation;
 - (ii) establish procedures for the collection and analysis of the data; and
 - (iii) provide reports regarding the operation of the commission and the provision of indigent criminal defense services by each indigent criminal defense system;
 - (c) develop and oversee the establishment of advisory caseload principles and guidelines to aid indigent criminal defense systems in delivering effective representation in the state consistent with the safeguards of the United States Constitution, the Utah Constitution, and this chapter;
 - (d) review all contracts and interlocal agreements in the state for the provision of indigent criminal defense services and provide assistance and recommendations regarding compliance with minimum principles for effective representation;
 - (e) investigate, audit, and review the provision of indigent criminal defense services for compliance with minimum principles;
 - (f) establish procedures for the receipt, acceptance, and resolution of complaints regarding the provision of indigent criminal defense services;
 - (g) establish procedures that enable indigent criminal defense systems to apply for state funding as provided under Section 77-32-805;
 - (h) establish procedures for annually reporting to the governor, Legislature, Judicial Council, and indigent criminal defense systems throughout the state that include reporting the following:
 - (i) the operations of the commission;
 - (ii) the operations of each indigent criminal defense system; and
 - (iii) each indigent criminal defense system's compliance with minimum standards for the provision of indigent criminal defense services for effective representation;

- (i) award grants to indigent criminal defense systems consistent with metrics established by the commission under this part and appropriations by the state;
 - (j) encourage and aid in the regionalization of indigent criminal defense services within the state for effective representation and for efficiency and cost savings to local systems;
 - (k) submit to legislative, executive, and judicial leadership, from time to time, proposed recommendations for improvement in the provision of indigent criminal defense services to ensure effective representation in the state, consistent with the safeguards of the United States Constitution and the Utah Constitution; and
 - (l) identify and encourage best practices for effective representation to indigent defendants charged with crimes.
- (2) The commission shall emphasize the importance of indigent criminal defense services provided to defendants, whether charged with a misdemeanor or felony.
 - (3) The commission shall establish procedures for the conduct of the commission's affairs and internal policies necessary to carry out the commission's duties and responsibilities under this part.
 - (4) Commission policies shall be placed in an appropriate manual, made publicly available on a website, and made available to all attorneys and professionals providing indigent criminal defense services, the Judicial Council, the governor, and the Legislature.
 - (5) The delivery of indigent criminal defense services shall be independent of the judiciary, but the commission shall ensure that judges are permitted and encouraged to contribute information and advice concerning the delivery of indigent criminal defense services.
 - (6) An indigent criminal defense system that is in compliance with minimum principles and procedures may not be required to provide indigent criminal defense services in excess of those principles and procedures.
 - (7) The commission shall submit a report annually to the Judiciary Interim Committee on the commission's efforts to improve the provision of indigent criminal defense services statewide.

Enacted by Chapter 177, 2016 General Session