

HB0510S01 compared with HB0510

~~{deleted text}~~ shows text that was in HB0510 but was deleted in HB0510S01.

inserted text shows text that was not in HB0510 but was inserted into HB0510S01.

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Representative Gregory H. Hughes proposes the following substitute bill:

INDIGENT DEFENSE ACT AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Indigent Defense Act.

Highlighted Provisions:

This bill:

- ▶ defines "defense service provider", "legal defense", and "regional legal defense";
- ▶ allows a person charged with a serious offense to file a claim of indigency with the court;
- ▶ requires a defense service provider to provide all legal defense services as a package;
- ▶ provides procedures for the court to follow when a defendant hires private counsel; and
- ▶ ~~{~~ extends subsequent terms of county commissioners and county attorneys who

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serve on the Indigent Defense Fund Board to be four years rather than two years.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-32-201, as last amended by Laws of Utah 2011, Chapter 108

77-32-202, as last amended by Laws of Utah 2011, Chapter 108

77-32-301, as renumbered and amended by Laws of Utah 1997, Chapter 354

77-32-302, as last amended by Laws of Utah 2006, Chapter 49

77-32-303, as last amended by Laws of Utah 2008, Chapter 3

77-32-304, as renumbered and amended by Laws of Utah 1997, Chapter 354

77-32-304.5, as last amended by Laws of Utah 2006, Chapter 49

77-32-305.5, as enacted by Laws of Utah 1997, Chapter 307

77-32-306, as last amended by Laws of Utah 2006, Chapter 49

77-32-307, as renumbered and amended by Laws of Utah 1997, Chapter 354

77-32-401, as last amended by Laws of Utah 2010, Chapter 286

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **77-32-201** is amended to read:

77-32-201. Definitions.

For the purposes of this chapter:

(1) "Board" means the Indigent Defense Funds Board created in Section 77-32-401.

(2) "Compelling reason" shall include one or more of the following circumstances

relating to the contracting attorney:

(a) a conflict of interest;

(b) the contracting attorney does not have sufficient expertise to provide an effective defense of the indigent; or

(c) the legal defense [resource] is insufficient or lacks expertise to provide a complete defense.

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(3) "Defense resources" means a competent investigator, expert witness, scientific or medical testing, or other appropriate means necessary, for an effective defense of an indigent, but does not include legal counsel.

(4) "Defense services provider" means a legal aid association, legal defender's office, regional legal defense association, law firm, attorney, or attorneys contracting with a county or municipality to provide legal defense ~~and~~ and includes any combination of counties ~~and~~ or municipalities ~~and~~ to provide regional legal defense.

~~(4)~~ (5) "Indigent" means a person qualifying as an indigent under indigency standards established in Part 3, Counsel for Indigents.

~~(5)~~ (6) "Legal aid association" means a nonprofit defense association or society that provides ~~counsel and~~ legal defense ~~resources~~ for indigent defendants.

~~(6)~~ (7) "Legal defender's office" means a ~~department~~ division of county government created and authorized by the county legislative body to provide legal representation in criminal matters to indigent defendants.

~~(7)~~ (8) "Legal defense" means ~~legal counsel, defense resources, or both.~~ to:

(a) provide ~~competent~~ defense counsel for each indigent who faces the substantial probability of the deprivation of the indigent's liberty;

(b) afford timely representation by defense counsel;

(c) provide the defense resources necessary for a complete defense;

(d) assure undivided loyalty of defense counsel to the client;

(e) provide a first appeal ~~of~~ right; and

(f) prosecute other remedies ~~and~~ before or after a conviction, considered by defense counsel to be in the interest of justice except for other ~~and~~ subsequent discretionary appeals or discretionary writ proceedings.

~~(8)~~ (9) "Participating county" means a county which has complied with the provisions of this chapter for participation in the Indigent Capital Defense Trust Fund as provided in Sections 77-32-602 and 77-32-603 or the Indigent Felony Defense Trust Fund as provided in Sections 77-32-702 and 77-32-703.

(10) "Regional legal defense" means a defense services provider which provides legal defense to any combination of counties ~~and~~ or municipalities through an interlocal cooperation agreement pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and

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Subsection 77-32-306(3).

~~[(9)]~~ (11) "Serious offense" means a felony or capital felony.

Section 2. Section 77-32-202 is amended to read:

77-32-202. Procedure for determination of indigency -- Standards.

(1) A determination of indigency or continuing indigency of any defendant may be made by the court at any stage of the proceedings.

(2) (a) Any defendant claiming indigency who is charged with a crime the penalty of which is a class A misdemeanor or ~~[felony]~~ serious offense shall file with the court a fully complete affidavit verified by a notary or other person authorized by law to administer an oath and file a copy of that affidavit with the prosecuting entity. The affidavit shall contain the factual information required in this section and by the court.

(b) A defendant claiming indigency who is charged with a crime the penalty of which is less than a class A misdemeanor is not required to comply with the requirements of Subsection (2)(a) and Subsection (4).

(3) (a) "Indigency" means that a person:

(i) does not have sufficient income, assets, credit, or other means to provide for the payment of legal counsel and all other necessary expenses of representation without depriving that person or the family of that person of food, shelter, clothing, and other necessities; or

(ii) has an income level at or below 150% of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services; and

(iii) has not transferred or otherwise disposed of any assets since the commission of the offense with the intent of establishing eligibility for the appointment of counsel under this chapter.

(b) In making a determination of indigency, the court shall consider:

(i) the probable expense and burden of defending the case;

(ii) the ownership of, or any interest in, any tangible or intangible personal property or real property, or reasonable expectancy of any such interest;

(iii) the amounts of debts owned by the defendant or that might reasonably be incurred by the defendant because of illness or other needs within the defendant's family;

(iv) number, ages, and relationships of any dependents;

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(v) the reasonableness of fees and expenses charged to the defendant by the defendant's attorney and the scope of representation undertaken where the defendant is represented by privately retained defense counsel; and

(vi) other factors considered relevant by the court.

(4) (a) Upon making a finding of indigence, the court shall enter the findings on the record and enter an order assigning a defense [~~counsel~~] ~~{service}~~ services provider to represent the defendant in the case.

(b) Upon finding indigence when the defendant has privately retained counsel, the court, subject to Section 77-32-303, shall enter the findings into the record and issue an order directing the county or municipality to coordinate the providing of defense resources as appropriate.

(c) The clerk of the court shall send a copy of the affidavit and order to the prosecutor and to the county clerk or municipal recorder.

(5) If the county or municipality providing the defense [~~counsel~~] services provider has any objections to or concerns with the finding of indigence and assignment of a defense [~~counsel~~] services provider or the continuing of indigence status and assignment of a [~~public defender~~] defense services provider, it shall file notice with the court and a hearing shall be scheduled to review the findings and give the county or municipality the opportunity to present evidence and arguments as to the reasons the finding of indigence should be reversed and the court shall proceed as provided in Subsection 77-32-302(4).

(6) (a) If the trial court finds within one year after the determination of indigence that any defendant was erroneously or improperly determined to be indigent, the county or municipality may proceed against that defendant for the reasonable value of the services rendered to the defendant, including all costs paid by the county or municipality in providing the legal defense [~~counsel~~].

(b) Subsection (6)(a) does not affect any restitution required of the defendant by the court pursuant to [~~Title 77,~~] Chapter 32a, Defense Costs.

(c) A defendant claiming indigence has a continuing duty to inform the court of any material changes or change in circumstances that may affect the determination of his eligibility for indigence.

(d) Any person who intentionally or knowingly makes a material false statement or

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omits a material fact in an affidavit for indigency is guilty of a class B misdemeanor.

Section 3. Section **77-32-301** is amended to read:

77-32-301. Minimum standards for defense of an indigent.

(1) Each county, city, and town shall provide for the legal defense of an indigent in criminal cases in the courts and various administrative bodies of the state in accordance with ~~[the following minimum]~~ legal defense standards as defined in ~~Section 77-32-201~~ Subsection 77-32-208(8).

~~[(1) provide counsel for each indigent who faces the substantial probability of the deprivation of the indigent's liberty;]~~

~~[(2) afford timely representation by competent legal counsel;]~~

~~[(3) provide the investigatory resources necessary for a complete defense;]~~

~~[(4) assure undivided loyalty of defense counsel to the client;]~~

~~[(5) proceed with a first appeal of right; and]~~

~~[(6) prosecute other remedies before or after a conviction, considered by defense counsel to be in the interest of justice except for other and subsequent discretionary appeals or discretionary writ proceedings.]~~

(2) (a) A county or municipality ~~that~~ which contracts with a defense services provider shall provide that all legal defense elements be included ~~in~~ as a single package of legal defense services made available to indigents, except as provided in Sections 77-32-302 and 77-32-303.

(b) ~~If necessary~~ When needed to avoid a conflict of interest between:

(i) trial counsel and counsel on appeal, a defense services provider ~~may utilize different~~ contract shall also provide for separate trial and appellate counsel; and

(ii) counsel for co-defendants, a defense services provider ~~may utilize different~~ contract shall also provide for separate trial counsel ~~for each defendant~~.

(c) If a county or municipality contracts to provide all legal defense elements as a single package, a defendant may not receive funding for defense resources unless represented by ~~publically~~ publicly funded counsel or as provided in Subsection 77-32-303(2).

Section 4. Section **77-32-302** is amended to read:

77-32-302. Assignment of counsel on request of indigent or order of court.

(1) ~~[Legal counsel]~~ The defense services provider shall be assigned to represent each

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indigent and ~~[the indigent]~~ shall ~~[also be provided access to]~~ provide the legal defense ~~[resources]~~ services necessary for an ~~{}~~effective~~{}~~ ~~{}~~adequate~~{}~~ defense, if the indigent is under arrest for or charged with a crime in which there is a substantial probability that the penalty to be imposed is confinement in either jail or prison if:

(a) the indigent requests ~~[counsel or]~~ legal defense ~~[resources, or both]~~ ~~{}~~services~~{}~~; or

(b) the court on its own motion or otherwise orders ~~[counsel, {} legal]~~ defense ~~{}~~resources, or both~~{}~~ legal defense services and the defendant does not affirmatively waive or reject on the record the opportunity to be ~~[represented and]~~ provided legal defense ~~[resources]~~ ~~{}~~services~~{}~~.

(2) (a) If a county responsible for providing indigent legal defense~~[- including counsel and defense resources;]~~ has established a county legal defender's office and the court has received notice of the establishment of the office, the court shall assign to the county legal defender's office the responsibility to defend indigent defendants within the county and provide defense resources.

(b) If the county or municipality responsible to provide for the legal defense of an indigent~~[- including defense resources and counsel;]~~ has arranged by contract to provide those services through a ~~[legal aid association {}]~~ defense services provider, and the court has received notice or a copy of the contract, the court shall assign the ~~[legal aid association]~~ defense services provider named in the contract to ~~[defend the indigent and]~~ provide legal defense ~~[resources]~~ ~~{}~~services~~{}~~.

~~[(c) If the county or municipality responsible for providing indigent legal defense, including counsel and defense resources, has contracted to provide those services through individual attorneys, individual defense resources, or associations providing defense resources, and the court has received notice or a copy of the contracts, the court shall assign a contracting attorney as the legal counsel to represent an indigent and a contracted defense resource to provide defense-related services.]~~

~~[(d)]~~ (c) If no county ~~[legal defender's office]~~ or municipal defense services provider contract exists, the court shall select and assign ~~[an attorney or]~~ a legal defense ~~[resource if:]~~ ~~{}~~services~~{}~~ provider.

~~[(i) the contract for indigent legal services is with multiple attorneys or resources; or]~~

~~[(ii) the contract is with another attorney in the event of a conflict of interest.]~~

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~~[(e)]~~ (d) If the court considers the assignment of a noncontracting ~~[attorney or defense resource to provide]~~ legal ~~[services]~~ ~~{legal}~~ defense ~~{services}~~ provider to an indigent defendant despite the existence of ~~[an indigent legal]~~ a defense services provider contract and the court has a copy or notice of the contract, before the court may make the assignment, it shall:

- (i) set the matter for a hearing;
- (ii) give proper notice of the hearing to the attorney of the responsible county or municipality and county clerk or municipal recorder; and
- (iii) make findings that there is a compelling reason to appoint a noncontracting attorney ~~[or defense resource]~~.

~~[(f)]~~ (e) The indigent's preference for other counsel or defense resources may not be considered a compelling reason justifying the appointment of a noncontracting ~~[attorney or]~~ defense ~~[resource]~~ services provider.

- (3) The court may make a determination of indigency at any time.

Section 5. Section 77-32-303 is amended to read:

77-32-303. Standard for court to appoint noncontracting attorney or order the provision of defense ~~{resource}~~resources -- Hearing.

(1) If a county or municipality has contracted ~~{or otherwise provided}~~ ~~[for a defense provider]~~, ~~{}~~ or otherwise made arrangements for, the legal defense of indigents, including a competent attorney and defense resources ~~{,}~~ or otherwise provided for a defense services provider, the court may not appoint a noncontracting attorney ~~[or { defense} resource either]~~ under this part, Section 78B-1-151, or Rule 15, Utah Rules of Criminal Procedure, unless the court:

~~[(1)]~~ (a) conducts a hearing with proper notice to the ~~[responsible entity]~~ county clerk or municipal recorder, with a copy of the notice provided to the prosecutor, to consider the authorization or designation of a noncontract attorney ~~[or { defense} resource]~~; and

~~[(2)]~~ (b) makes a finding that there is a compelling reason to authorize or designate a noncontracting attorney ~~[or { defense} resources]~~ for the indigent defendant.

(2) ~~{If a court conducts a hearing under Subsection (1)(a) to consider the provision of}~~ Except as provided in Subsection (3), if a county or municipality has contracted or otherwise provided for a defense services provider, the court may not order under this part,

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Section 78B-1-151, or Rule 15, Utah Rules of Criminal Procedure, and the county or municipality may not provide defense resources for a defendant who has retained private ~~legal~~ ~~counsel, the~~.

(3) The court shall consider the following:

~~— (a) the reasons offered by defendant for not using the defense services provider;~~

~~— (b) the financial circumstances which permit the defendant to retain private counsel, but not pay for;~~ may order, and the county or municipality may provide, defense resources ~~;~~

~~— (c) the financial arrangement between the defendant and the defendant's} to a defendant represented by private counsel, reviewed by the court in camera without counsel present, including} only if:~~

(a) the court conducts a hearing with proper notice to the county clerk or municipal recorder, with a copy of the notice provided to the prosecutor;

(b) the court conducts an in camera review of the defense contract, a full accounting of the defense retainer and counsel's}, anticipated costs of defense resources;

~~— (d) whether requiring the defendant to agree to} and other relevant defense records and finds by clear and convincing evidence all of the following:~~

(i) the defendant would be prejudiced by the substitution of a contracted defense services provider } would} and any prejudice } an adequate defense, with or without a reasonable continuance; and

~~— (e) whether the request is} cannot be remedied by a continuance or other alternative means;~~

(ii) at the time of retention of private counsel, the defendant and attorney entered into a written contract which provided that the defendant had the means to pay for fees and defense resources;

(iii) there has been an unforeseen change in circumstances which requires defense resources beyond the defendant's ability to pay; and

(iv) all of the above representations are made in good faith;

~~— (3) In considering a defendant's motion under Subsection (2), the} and are not calculated to allow the defendant or defense attorney to avoid the requirements of this section.~~

(4) The court may not order} the county or municipality to provide defense resources independently of the defendant's use of} the defense services provider, absent clear and

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~~convincing evidence that the defendant's rights to due process and an adequate defense will be denied if the request is not granted;~~ to act as co-counsel with a privately retained legal counsel as a means of circumventing the requirements of this section.

Section 6. Section 77-32-304 is amended to read:

77-32-304. Duties of assigned counsel -- Compensation.

(1) When representing an indigent, the assigned counsel shall:

(a) counsel and defend the indigent at every stage of the proceeding following assignment; and

(b) file any first appeal of right or other remedy before or after conviction that the assigned counsel considers to be in the interest of justice, except for other and subsequent discretionary appeals or discretionary writ proceedings.

(2) An assigned counsel may not ~~have the duty or power under this section to~~ represent an indigent in any discretionary appeal or action for a discretionary writ, other than in a meaningful first appeal of right to assure the indigent an adequate opportunity to present the indigent's claims fairly in the context of the appellate process of this state.

(3) An assigned counsel for an indigent shall be entitled to compensation upon:

(a) approval of the district court where the original trial was held;

(b) a showing that:

(i) the indigent has been denied a constitutional right; or

(ii) there was newly discovered evidence that would show the indigent's innocence; and

(c) a clear showing that the legal services rendered by counsel were:

(i) other than that required under this chapter or under a separate fee arrangement; and

(ii) necessary for the adequate defense of the indigent and not for the purpose of delaying the judgment of the original trier of fact.

Section 7. Section 77-32-304.5 is amended to read:

77-32-304.5. Reasonable compensation for defense counsel for indigents.

(1) This section does not apply to any ~~ff~~attorney~~[-(a)]~~ acting as a defense services provider or otherwise under contract with the county or municipality for defense of an indigent person~~[-]~~.

~~[(b) in the legal defender organization, legal aid agency, law firm, or public defender association with which that attorney is professionally associated; or]~~

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~~[(c) who is an employee of a county legal defender's office.]~~

(2) (a) The county or municipality shall pay reasonable compensation to any attorney assigned by the court under Subsection 77-32-306 at the conclusion of the representation or any segment of the representation, as provided in Subsections (2)(b), (c), (d), and (e):

- (i) before the district or justice courts, including interlocutory appeals; and
- (ii) before the appellate court on a first appeal of right.

(b) The legislative body of each county and municipality shall establish and annually review guidelines for the rate of compensation, taking into account:

- (i) the nature and complexity of the case;
- (ii) the competency and years of experience in criminal defense of the assigned

attorney;

(iii) the adjusted net hourly rate incurred by the county or municipality for a prosecutor or public defender of equivalent experience and competency; and

- (iv) the prevailing rates within the judicial district for comparable services.

(c) If the legislative body of a county or municipality does not establish the rate guidelines, the rate of compensation shall be determined by the trial judge or a judge other than the trial judge if requested by:

- (i) the assigned attorney; or
- (ii) the county or municipality.

(d) If the assigned attorney disagrees with the amount of compensation paid or contemplated for payment by the county or municipality, the assigned attorney shall nonetheless continue to represent the indigent defendant and may file a claim against:

(i) the county pursuant to Section 17-50-401, in which event the period for a denial by the county shall be 20 days; or

(ii) the municipality pursuant to Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(e) In determining the reasonable compensation to be paid to defense counsel under Subsections (2)(c) and (d), the court shall consider the factors contained in Subsections (2)(b)(i) through (iv).

(f) The total compensation in a noncapital case may not, without prior court approval following a hearing, exceed:

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- (i) \$3,500 for each assigned attorney in a case in which one or more felonies is charged;
- (ii) \$1,000 for each assigned attorney in a case in which only misdemeanors or lesser offenses are charged; or
- (iii) \$2,500 for each assigned attorney in the representation of an indigent in an appellate court on a first appeal of right.

Section 8. Section **77-32-305.5** is amended to read:

77-32-305.5. Reimbursement of extraordinary expense.

(1) For the purposes of this section, an "extraordinary expense" means the collective expense which exceeds \$500 for defense resources or any particular service or item such as experts, investigators, surveys, or demonstrative evidence.

(2) The county or municipality shall reimburse expenses, exclusive of overhead and extraordinary expense not approved by the court in accordance with this chapter, reasonably incurred by assigned attorneys for indigent defendants through a contracted defense services provider, ~~or~~ or if so ordered by the court based on a hearing held in accordance with Subsections 77-32-303(2) and (3), or for an appointed counsel under Section 77-32-304.5.

(3) The assigned attorney shall file a motion with the court for approval of the proposed expenditure for any extraordinary expense before the expense is incurred. The motion shall be heard and ruled upon by a judge other than the trial judge if so requested by either party or upon the motion of the trial judge.

Section 9. Section **77-32-306** is amended to read:

77-32-306. County or municipal legislative body to provide legal defense.

(1) The county or municipal legislative body shall either:

(a) ~~contract [to provide the legal defense, including counsel, defense resources, or both, as prescribed by this chapter, and as available, through:]~~ with a defense services provider; or

~~[(i) a legal aid association; or]~~

~~[(ii) one or more defense associations or attorneys and qualified defense resources; or]~~

(b) authorize the court to provide the services prescribed by this chapter by assigning a qualified attorney in each case.

(2) A county may create a county legal defender's office to provide for the legal defense~~[- including counsel and defense resources or both,]~~ as prescribed by this chapter.

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(3) A county legal defender's office may, through the county legislative body contract with other counties and municipalities within a judicial district to provide the legal services as prescribed.

(4) Counties and municipalities are encouraged to enter into interlocal cooperation agreements pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, for the provision of legal defense, including multiple counties and municipalities contracting with either a private defense services provider or with a legal defender's office. An interlocal agreement may provide for:

(a) the creation of or contract with a private defense services provider, as defined in Subsection 77-32-201(4) ~~and~~;

(b) multiple counties or municipalities to contract with a county legal defender's office, as defined in ~~Subsection~~ 77-32-201(7); or

(c) the creation of an interlocal entity ~~as provided in~~ under the provisions of Section 11-13-203.

~~[(4)] (5)~~ When a county or municipality has contracted under Subsection (1)(a) or a county has created a legal defender's office as provided under Subsection (2) to provide the legal ~~[counsel and]~~ defense resources required by this chapter, the ~~[contracted legal aid association or attorneys, contracted defense resources, and the county legal defender's office are]~~ legal services provider is the exclusive source from which the legal defense may be provided, unless the court finds a compelling reason for the appointment of noncontracting attorneys and defense resources ~~for~~, ~~for~~ under the provisions of Section 77-32-302 or 77-32-303, in which case the judge shall state the compelling reason and the findings of the hearing held under Subsections 77-32-303(2) and (3) on the record.

(6) A county or municipality may, by ordinance, provide for some other means which are constitutionally adequate for legal defense ~~for~~ of indigents.

Section 10. Section 77-32-307 is amended to read:

77-32-307. Expenditures of county or municipal funds declared proper -- Tax levy authorized.

(1) An expenditure by any county or ~~[incorporated]~~ municipality is considered a proper use of public funds if the expenditure is necessary to carry out the purposes defined in this chapter.

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(2) A donation to a nonprofit legal aid or other association charged with the duty to provide the services is a proper use of public funds.

(3) Any county or ~~[incorporated area]~~ municipality of the state is authorized to levy and collect taxes to meet the requirements of this chapter.

Section 11. Section **77-32-401** is amended to read:

77-32-401. Indigent Defense Funds Board -- Members -- Administrative support.

(1) There is created within the Division of Finance the Indigent Defense Funds Board composed of the following nine members:

(a) two members who are current commissioners or county executives of participating counties appointed by the board of directors of the Utah Association of Counties;

(b) one member at large appointed by the board of directors of the Utah Association of Counties;

(c) two members who are current county attorneys of participating counties appointed by the Utah Prosecution Council;

(d) the director of the Division of Finance or his designee;

(e) one member appointed by the Administrative Office of the Courts; and

(f) two members who are private attorneys engaged in or familiar with the criminal defense practice appointed by the members of the board listed in Subsections (1)(a) through (e).

(2) Members shall serve four-year terms ~~[-; however, one]~~ One of the county commissioners ~~[-]~~ and one of the county attorneys appointed to the initial board shall serve two-year terms ; and the remaining other members of the initial board shall be appointed for four-year terms. After the initial two-year ~~{term}; terms~~ of the county commissioner and county attorney, those board positions shall ~~{also}~~ have four-year terms.

(3) A vacancy is created if a member appointed under:

(a) Subsection (1)(a) no longer serves as a county commissioner or county executive;

or

(b) Subsection (1)(c) no longer serves as a county attorney.

(4) When a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(5) The board may contract for administrative support for up to \$15,000 annually to be

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paid proportionally from each fund.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) Per diem and expenses for board members shall be paid proportionally from each fund.

(8) Five members shall constitute a quorum and, if a quorum is present, the action of a majority of the members present shall constitute the action of the board.

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~~Legislative Review Note~~

~~as of 2-6-12 10:52 AM~~

~~Office of Legislative Research and General Counsel~~