

## SB0155S01 compared with SB0155

~~text~~ shows text that was in SB0155 but was deleted in SB0155S01.

inserted text shows text that was not in SB0155 but was inserted into SB0155S01.

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Senator Todd Weiler proposes the following substitute bill:

### INDIGENT DEFENSE COMMISSION

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill creates the Utah Indigent Defense Commission.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Utah Indigent Defense Commission and describes the commission's membership;
- ▶ gives the commission authority to collect data from local indigent criminal defense authorities for the purpose of studying the provision of indigent criminal defense services statewide;
- ▶ requires the commission to study the indigent criminal defense system statewide and report to the Legislature on its findings, including recommendations to improve

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the system;

- ▶ authorizes the commission to assist local jurisdictions to meet minimum standards of effective representation by:
  - establishing advisory caseload principles and guidelines for defense services providers; and
  - reviewing contracts and interlocal agreements with defense services providers and providing recommendations for contract design;
- ▶ establishes a ~~{trust fund}~~restricted account to provide financial assistance to indigent criminal defense systems;
- ▶ conditions grants received from the ~~{trust fund}~~account on indigent criminal defense systems maintaining current funding levels for indigent criminal defense services; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

This bill appropriates for the fiscal year beginning July 1, 2015, and ending June 30, 2016:

- ▶ to the Commission on Criminal and Juvenile Justice -- Utah Indigent Defense Commission, as a one-time appropriation:
  - from the General Fund, \$3,000,000.

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**77-32-201**, as last amended by Laws of Utah 2012, Chapter 180

**77-32-301**, as last amended by Laws of Utah 2015, Chapter 258

**77-32-302**, as last amended by Laws of Utah 2012, Chapter 180

**77-32-306**, as last amended by Laws of Utah 2012, Chapter 180

ENACTS:

**77-32-801**, Utah Code Annotated 1953

**77-32-802**, Utah Code Annotated 1953

**77-32-803**, Utah Code Annotated 1953

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77-32-804, Utah Code Annotated 1953

77-32-805, Utah Code Annotated 1953

77-32-806, Utah Code Annotated 1953

77-32-807, Utah Code Annotated 1953

77-32-808, Utah Code Annotated 1953

77-32-809, Utah Code Annotated 1953

77-32-810, Utah Code Annotated 1953

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*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) "Commission" means the Utah Indigent Defense Commission created in Section 77-32-801.

~~[(2)]~~ (3) "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 is insufficient or lacks expertise to provide a complete defense.

~~[(3)]~~ (4) "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)]~~ (5) "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 includes any combination of counties or municipalities to provide regional ~~[legal defense]~~ indigent criminal defense services.

(6) "Effective representation" means legal representation consistent with the Sixth Amendment to the United States Constitution, and Utah Constitution, Article I, Section 12, as interpreted through federal and Utah state appellate courts.

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~~[(5)]~~ (7) "Indigent" means a person qualifying as an indigent under indigency standards established in Part 3, Counsel for Indigents.

(8) "Indigent criminal defense services" means the provision of a defense services provider and defense resources to a defendant who is:

(a) being prosecuted or sentenced for a crime for which the defendant may be incarcerated upon conviction, beginning with the defendant's initial appearance in court to answer to the criminal charge; and

(b) determined to be indigent under Section 77-32-202.

(9) "Indigent criminal defense system" means:

(a) indigent criminal defense services provided by local units of government, including counties, cities, and towns funded by state and local government; or

(b) indigent criminal defense services provided by regional legal defense funded by state and local government.

~~[(6)]~~ (10) "Legal aid association" means a nonprofit defense association or society that provides legal defense for indigent defendants.

~~[(7)]~~ (11) "Legal defender's office" means a division of county government created and authorized by the county legislative body to provide legal representation in criminal matters to indigent defendants.

~~[(8)]~~ (12) "Legal defense" means to:

(a) provide defense counsel for each indigent who faces the potential 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 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.

(13) "Local funding" includes funding by an indigent criminal defense system for defense services. Local funding may be adjusted annually to reflect population growth and inflation for consideration of state funding for indigent criminal defense resources and critical

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need indigent criminal defense providers.

~~[(9)]~~ (14) "Participating county" means a county ~~[which]~~ that has complied with the provisions of this chapter for participation in the Indigent ~~[Capital]~~ Aggravated Murder 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)]~~ (15) "Regional legal defense" means a defense services provider which provides legal defense to any combination of counties or municipalities through an interlocal cooperation agreement pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and Subsection 77-32-306(3).

~~[(11)]~~ (16) "Serious offense" means a felony or capital felony.

(17) "State funding" means funding by the state for:

(a) the establishment of a statewide indigent criminal defense data collection system;

(b) defense resources; and

(c) critical need defense services providers.

(18) "Shared state and local funding" means the recognition of the state's constitutional responsibility for the provision of indigent defense services and the collaborative assistance by indigent criminal defense systems to fairly provide effective representation in the state, consistent with the safeguards of the United States Constitution, the Utah Constitution, and this chapter.

Section 2. 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 legal defense standards as defined in Subsection 77-32-201~~[(8)]~~(12).

(2) (a) A county or municipality which contracts with a defense services provider shall provide that all legal defense elements be included 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) When needed to avoid a conflict of interest between:

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

(ii) counsel for co-defendants, a defense services provider contract shall also provide

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for separate trial counsel.

(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 publicly funded counsel or as provided in Subsection 77-32-303(2).

Section 3. Section **77-32-302** is amended to read:

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

(1) [~~The~~] An indigent criminal defense services provider shall be assigned to represent each indigent and shall provide the legal defense services necessary for [~~an~~] effective [~~defense~~] representation, 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 legal defense; or

(b) the court on its own motion or otherwise orders legal defense services and the defendant does not affirmatively waive or reject on the record the opportunity to be provided legal defense.

(2) (a) If a county responsible for providing indigent legal defense 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 has arranged by contract to provide those services through a defense services provider, and the court has received notice or a copy of the contract, the court shall assign the defense services provider named in the contract to provide legal defense.

(c) If no county or municipal defense services provider contract exists, the court shall select and assign a legal defense provider.

(d) If the court considers the assignment of a noncontracting legal defense provider to an indigent defendant despite the existence of 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

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attorney.

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

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

Section 4. 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 with a defense services provider; 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 as prescribed by this chapter.

(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)~~](5);

(b) multiple counties or municipalities to contract with a county legal defender's office, as defined in Subsection 77-32-201[~~(7)~~](11); or

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

(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 defense resources required by this chapter, the 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, under the provisions of

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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 of indigents.

Section 5. Section **77-32-801** is enacted to read:

### **Part 8. Utah Indigent Defense Commission**

#### **77-32-801. Indigent Defense Commission creation -- Purpose.**

(1) There is created within the Commission on Criminal and Juvenile Justice the Utah Indigent Defense Commission.

(2) The purpose of the commission is to assist the state in meeting the state's obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and this chapter.

Section 6. Section **77-32-802** is enacted to read:

**77-32-802. Commission members -- Membership qualifications -- Terms -- Vacancy -- Administrative support.**

(1) The commission is composed of ~~11~~ voting members:

~~(a) 11~~ 13 voting members.

(a) The governor, with the consent of the Senate, shall appoint the following eight members, chosen from three nominees per appointee whose names are submitted as provided in this Subsection (1)(a):

(i) two members who are practicing criminal defense lawyers, from nominees selected by the Utah Association of Criminal Defense Lawyers;

(ii) one member who is an attorney appointed to represent minority interests, from nominees selected by the Utah State Bar;

(iii) one member from nominees selected by the Utah Association of Counties from its membership in counties of the second class;

(iv) one member from nominees selected by the Utah Association of Counties from its membership in counties of the third through sixth class;

(v) two members from nominees selected by the Utah League of Cities and Towns from its membership; and

(vi) one member who is a retired judge, from nominees selected by the Judicial



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### Council.

#### (b) The remaining five members of the commission shall be:

(i) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

~~(b) two members who are practicing criminal defense lawyers initially appointed by the governor, after considering recommendations from the Utah State Bar and the Utah Association of Criminal Defense Lawyers;~~

~~(c)ii) the director of the Salt Lake Legal Defender Association or the director's designee;~~

~~(d) two members appointed by the Utah Association of Counties from the association's membership, one from a county of the second class and one from a county of the third through sixth class;~~

~~(e) two members appointed by the Utah League of Cities and Towns;~~

~~(f) one member appointed by the Utah State Bar to represent minority interests; and~~

~~(g)iii) the deans of the state's two law schools, or the deans' designees; and~~

~~(2) After the initial appointments by the governor to the commission, the members appointed under Subsection (1)(b) shall be appointed by the commission for subsequent appointments;~~

~~(3)iv) the state court administrator, or the administrator's designee.~~

(2) Members appointed to the commission shall have significant experience in the defense or prosecution of criminal proceedings or have demonstrated a strong commitment to providing effective representation in indigent criminal defense services.

(3) Members shall serve four-year terms, except as provided in Subsection (4).

(4) (a) To ensure the terms of members are staggered, the following members chosen by the governor shall serve two-year terms upon creation of the commission:

(i) one ~~practicing criminal defense attorney~~ member appointed ~~by the governor~~ pursuant to Subsection (1)(~~b~~)a(i);

(ii) ~~one~~ the member ~~from the Utah Association of Counties from a county of the second class;~~

~~(iii) appointed pursuant to Subsection (1)(a)(ii);~~

(iii) the member appointed pursuant to Subsection (1)(a)(iii); and

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(iv) one member appointed ~~by the Utah League of Cities and Towns;~~

~~(iv) the member appointed by the Utah State Bar to represent minority interests; and~~

~~(v) a dean of one of the state's law schools, selected by the governor;~~ pursuant to

Subsection (1)(a)(v).

(b) At the conclusion of the initial two-year term identified in Subsection ~~(5)4~~(a), those membership positions shall have four-year terms.

~~(6)5~~ (a) Commission members appointed by the governor may not hold office longer than ~~eight~~two consecutive ~~years~~.

~~(7) four-year terms, except as described in Subsection (5)(b).~~

(b) Commission members appointed to an initial two-year term, as described in Subsection (4)(a), may serve two consecutive four-year terms following the initial two-year term.

(6) Commission members shall hold office until their successors are appointed.

~~(8)7~~ The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

~~(9)8~~ 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.

~~(10)9~~ The governor shall appoint one of the initial commission members to serve as chair of the commission for a term of one year. At the expiration of that year, or upon the vacancy in the membership of the appointed chair, the commission shall annually elect a chair from the commission's membership to serve a one-year term. A commission member may not serve as chair of the commission for more than three consecutive terms.

~~(11)10~~ 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.

~~(12)11~~ ~~Six~~Seven members constitute a quorum, however, the affirmative vote of at least ~~six~~seven members of the commission is required for official action of the commission.

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Section 7. Section **77-32-803** is enacted to read:

### **77-32-803. Director -- Qualifications -- Staff.**

(1) The commission shall appoint a director to carry out the following duties:

(a) establish an annual budget;

(b) assist the commission in developing and regularly reviewing advisory caseload guidelines and procedures, including recommending to the commission suggested changes to the criteria for an indigent defendant's eligibility to receive criminal defense services under this chapter; and

(c) perform all other duties as assigned.

(2) The director shall be a full-time licensed attorney with appropriate background and experience to serve as the full-time director.

(3) The director shall hire staff as necessary to carry out the duties of the commission, including at least one individual with data collection and analysis skills to carry out duties as outlined in Subsection 77-32-804(1)(a).

Section 8. Section **77-32-804** is enacted to read:

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

(1) The commission shall:

(a) 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;

(b) 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;

(c) 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;

(d) investigate, audit, and review the provision of indigent criminal defense services for

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compliance with minimum principles;

(e) establish procedures for the receipt, acceptance, and resolution of complaints regarding the provision of indigent criminal defense services;

(f) establish procedures that enable indigent criminal defense systems to apply for state funding as provided under Section 77-32-805;

(g) award grants to indigent criminal defense systems consistent with metrics established by the commission under this part and appropriations by the state;

(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) 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;

(j) 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

(k) 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 ~~juveniles and adults~~ 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.

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(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.

Section 9. Section **77-32-805** is enacted to read:

**77-32-805. Indigent Defense Resources ~~{Trust Fund}~~Account -- Administration.**

(1) For purposes of this part, "~~{fund}~~account" means the Indigent Defense Resources ~~{Trust Fund}~~Account.

(2) (a) There is ~~{established a public purpose trust fund}~~created within the General Fund a restricted account known as the "Indigent Defense Resources Trust ~~{Fund}~~Account."

(b) ~~{The fund}~~Funds from the account shall be disbursed by the Division of Finance at the direction of the commission and subject to the provisions of this chapter.

(3) The ~~{fund}~~account consists of:

(a) funds appropriated by the Legislature based upon recommendations from the commission consistent with principles of shared state and local funding;

(b) other moneys received by the commission pursuant to Subsection ~~77-32-809~~(6)3;  
and

(c) interest and earnings from the investment of ~~{fund money}~~account funds.

(4) ~~{Fund money}~~Funds from the account shall be invested by the state treasurer with the earnings and interest accruing to the ~~{fund}~~account.

(5) The ~~{fund}~~account shall be administered by the commission for:

(a) the establishment and maintenance of a statewide indigent criminal defense data collection system;

(b) grants to indigent criminal defense systems for defense resources; and

(c) grants to indigent criminal defense systems for defense services providers.

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(6) Money allocated to or deposited into ~~{this fund}~~ the account shall be used:

(a) to reimburse participating systems for commission-approved expenditures for the purposes listed in Subsection (5); and

(b) for administrative costs.

Section 10. Section 77-32-806 is enacted to read:

### **77-32-806. Indigent criminal defense system participation.**

~~{~~ (1) (a) ~~An indigent criminal defense system may participate in the Indigent Defense Resources Trust Fund subject to the provisions of this part.~~

~~\_\_\_\_\_ (b) An indigent criminal defense system that chooses not to participate is ineligible to receive money from the fund.~~

~~\_\_\_\_\_ (c) The commission may revoke an indigent criminal defense system's participation in the fund if the system fails to meet minimum principles for effective representation.~~

~~}~~ ~~(2)1~~ To ~~{participate in the fund}~~ qualify for grant funds described in Subsection 77-32-805(5), the legislative body responsible for an indigent criminal defense system shall:

(a) adopt a resolution ~~{approving participation in the fund}~~ stating the intent to apply for grant funds from the account and committing that the indigent criminal defense system shall meet minimum principles for effective representation; and

(b) submit a certified copy of that resolution together with an application to the commission.

(2) The commission may revoke an indigent criminal defense system's grant award if the system fails to meet minimum principles for effective representation.

Section 11. Section 77-32-807 is enacted to read:

### **77-32-807. Application for ~~{trust fund grants}~~ grant funds.**

(1) A participating indigent criminal defense system may apply to the commission for grant moneys from the ~~{fund}~~ account for:

(a) establishment and maintenance of an indigent criminal defense data collection system;

(b) defense resources;

(c) matching fund grants for defense services providers; and

(d) critical need grants for defense services providers.

(2) (a) Matching fund grants, as described in Subsection (1)(c), may be awarded if the

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indigent criminal defense system spends an amount ~~above~~ greater than the system's baseline budget, as described in Subsection 77-32-809(2)(a), for defense services providers.

(b) For the purposes of Subsection (2)(a), matching funds is an amount equal to the product of:

(i) the indigent criminal defense system's spending above the system's baseline budget;

and

(ii) (A) 50% for counties of the first class;

(B) 100% for counties of the second or third class; or

(C) 200% for counties of the fourth through sixth class.

(3) Critical need grant moneys, as described in Subsection (1)(d), may be awarded if the indigent criminal defense system can demonstrate to the commission's satisfaction that:

(a) the system has incurred or reasonably anticipates incurring expenses in excess of the system's annual local funding, as adjusted for population growth and inflation;

(b) the funding for the expenses described in Subsection (3)(a) is necessary for the indigent criminal defense system to meet minimum standards for effective representation; and

(c) increasing the system's local share for indigent criminal defense providers would constitute an undue burden on the indigent criminal defense system.

(4) If the application of a participating indigent criminal defense system is approved by the commission, the director of the commission shall negotiate, enter into, and administer a contract with the participating indigent criminal defense system for the purposes listed in Subsection (1).

(5) Nonparticipating systems remain responsible for meeting minimum principles for effective representation but may not be eligible for any legislative relief.

(6) A county or municipality may not be required to increase the county or municipality's certified tax rate pursuant to Section 59-2-924 to participate in the fund.

Section 12. Section **77-32-808** is enacted to read:

**77-32-808. Annual report, budget, and listing of expenditures -- Availability on website.**

(1) As used in this section, "expenditures" means all payments or disbursements of commission funds, received from any source, made by the commission.

(2) The commission shall publish and make available to the public on a website the

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commission's annual report, budget, salary information, a listing of all expenditures, and a list of all indigent criminal defense systems.

(3) Publication and availability of the listing of expenditures shall be on a quarterly basis. The commission's budget and salary information may be published and made available on an annual basis.

Section 13. Section **77-32-809** is enacted to read:

**77-32-809. Investigation, audit, and review of indigent criminal defense services - Cooperation and participation with commission -- Maintenance of local share -- Necessity for excess funding -- Funds received by commission as state funds.**

(1) All indigent criminal defense systems and attorneys engaged in providing indigent criminal defense services shall cooperate and participate with the commission in the investigation, audit, and review of all indigent criminal defense services.

(2) (a) For purposes of this part, "baseline budget" means an indigent criminal defense system's share of local funding, adjusted annually for growth in population and inflation.

(b) An indigent criminal defense system shall maintain the system's baseline budget each year.

(c) If the commission determines that funding in excess of the indigent criminal defense system's baseline budget is necessary to achieve minimum principles for effective representation, the excess funding shall be paid from state or local funding, or a combination of both, as determined by the ~~{trust fund}~~ grant application process described in Section 77-32-807.

(d) An indigent criminal defense system is not required to expend all of the system's local funding if minimum principles for effective representation may be met for less than local funding.

(3) The commission may apply for and obtain state funding from any source to carry out the purposes of this part. All funds received by the commission, from any source, are state funds and shall be appropriated as provided by law.

Section 14. Section **77-32-810** is enacted to read:

**77-32-810. Applicability of GRAMA and Open and Public Meetings Act.**

(1) Official business conducted by the commission is subject to Title 63G, Chapter 2, Government Records Access and Management Act.



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(2) Meetings convened by the commission in the commission's official capacity are subject to Title 52, Chapter 4, Open and Public Meetings Act.

### Section 15. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or amounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2016.

To Commission on Criminal and Juvenile Justice --

Utah Indigent Defense Commission

From General Fund, One-time \$3,000,000

Schedule of Programs:

Administration \$3,000,000

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**Legislative Review Note**

**Office of Legislative Research and General Counsel**