

Senator Wayne A. Harper proposes the following substitute bill:

DEFENSE CONTRACTS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill modifies and enacts provisions related to indigent and parental defense.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ amends the powers, duties, and membership of the Utah Indigent Defense Commission;
- ▶ creates the Office of Indigent Defense Services;
- ▶ creates the powers and duties of the Office of Indigent Defense Services;
- ▶ requires the Office of Indigent Defense Services to administer the Child Welfare Parental Defense Program;
- ▶ modifies provisions relating to administration of the Child Welfare Parental Defense Program;
- ▶ creates a reporting requirement for indigent defense services; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides coordination clauses.

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **63M-7-204**, as last amended by Laws of Utah 2019, Chapter 435

30 **78A-6-1111**, as last amended by Laws of Utah 2019, Chapter 326

31 **78B-6-112**, as last amended by Laws of Utah 2019, Chapters 136, 326, and 491

32 **78B-22-102**, as enacted by Laws of Utah 2019, Chapter 326

33 **78B-22-201**, as enacted by Laws of Utah 2019, Chapter 326

34 **78B-22-401**, as renumbered and amended by Laws of Utah 2019, Chapter 326

35 **78B-22-402**, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and
36 amended by Laws of Utah 2019, Chapter 326

37 **78B-22-404**, as renumbered and amended by Laws of Utah 2019, Chapter 326

38 **78B-22-406**, as renumbered and amended by Laws of Utah 2019, Chapter 326

39 ENACTS:

40 **78B-22-451**, Utah Code Annotated 1953

41 **78B-22-452**, Utah Code Annotated 1953

42 **78B-22-801**, Utah Code Annotated 1953

43 RENUMBERS AND AMENDS:

44 **78B-22-453**, (Renumbered from 78B-22-403, as renumbered and amended by Laws of
45 Utah 2019, Chapter 326)

46 **78B-22-802**, (Renumbered from 63M-7-211, as enacted by Laws of Utah 2019, Chapter
47 435)

48 **78B-22-803**, (Renumbered from 63M-7-211.1, as enacted by Laws of Utah 2019,
49 Chapter 435)

50 **78B-22-804**, (Renumbered from 63M-7-211.2, as enacted by Laws of Utah 2019,
51 Chapter 435)

52 **Utah Code Sections Affected by Coordination Clause:**

53 **78B-22-402**, as last amended by Laws of Utah 2019, Chapter 435 and renumbered and
54 amended by Laws of Utah 2019, Chapter 326

55 **78B-22-406**, as renumbered and amended by Laws of Utah 2019, Chapter 326

56 **78B-22-451**, Utah Code Annotated 1953

57 **78B-22-452**, Utah Code Annotated 1953
58 **78B-22-453**, Renumbered from 78B-22-403, as renumbered and amended by Laws of
59 Utah 2019, Chapter 326
60 **78B-22-803**, Renumbered from 63M-7-211.1, as enacted by Laws of Utah 2019,
61 Chapter 435

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

64 Section 1. Section **63M-7-204** is amended to read:

65 **63M-7-204. Duties of commission.**

66 (1) The State Commission on Criminal and Juvenile Justice administration shall:

67 (a) promote the commission's purposes as enumerated in Section **63M-7-201**;
68 (b) promote the communication and coordination of all criminal and juvenile justice

69 agencies;

70 (c) study, evaluate, and report on the status of crime in the state and on the
71 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
72 reduction of crime in the state;

73 (d) study, evaluate, and report on programs initiated by state and local agencies to
74 address reducing recidivism, including changes in penalties and sentencing guidelines intended
75 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
76 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
77 alternative to incarceration, as resources allow;

78 (e) study, evaluate, and report on policies, procedures, and programs of other
79 jurisdictions which have effectively reduced crime;

80 (f) identify and promote the implementation of specific policies and programs the
81 commission determines will significantly reduce crime in Utah;

82 (g) provide analysis and recommendations on all criminal and juvenile justice
83 legislation, state budget, and facility requests, including program and fiscal impact on all
84 components of the criminal and juvenile justice system;

85 (h) provide analysis, accountability, recommendations, and supervision for state and
86 federal criminal justice grant money;

87 (i) provide public information on the criminal and juvenile justice system and give

88 technical assistance to agencies or local units of government on methods to promote public
89 awareness;

90 (j) promote research and program evaluation as an integral part of the criminal and
91 juvenile justice system;

92 (k) provide a comprehensive criminal justice plan annually;

93 (l) review agency forecasts regarding future demands on the criminal and juvenile
94 justice systems, including specific projections for secure bed space;

95 (m) promote the development of criminal and juvenile justice information systems that
96 are consistent with common standards for data storage and are capable of appropriately sharing
97 information with other criminal justice information systems by:

98 (i) developing and maintaining common data standards for use by all state criminal
99 justice agencies;

100 (ii) annually performing audits of criminal history record information maintained by
101 state criminal justice agencies to assess their accuracy, completeness, and adherence to
102 standards;

103 (iii) defining and developing state and local programs and projects associated with the
104 improvement of information management for law enforcement and the administration of
105 justice; and

106 (iv) establishing general policies concerning criminal and juvenile justice information
107 systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this
108 Subsection (1)(m);

109 (n) allocate and administer grants, from money made available, for approved education
110 programs to help prevent the sexual exploitation of children;

111 (o) allocate and administer grants funded from money from the Law Enforcement
112 Operations Account created in Section [51-9-411](#) for law enforcement operations and programs
113 related to reducing illegal drug activity and related criminal activity;

114 (p) request, receive, and evaluate data and recommendations collected and reported by
115 agencies and contractors related to policies recommended by the commission regarding
116 recidivism reduction;

117 (q) establish and administer a performance incentive grant program that allocates funds
118 appropriated by the Legislature to programs and practices implemented by counties that reduce

119 recidivism and reduce the number of offenders per capita who are incarcerated;

120 (r) oversee or designate an entity to oversee the implementation of juvenile justice
121 reforms;

122 (s) make rules and administer the juvenile holding room standards and juvenile jail
123 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements
124 pursuant to 42 U.S.C. Sec. 5633;

125 (t) allocate and administer grants, from money made available, for pilot qualifying
126 education programs; and

127 (u) oversee the trauma-informed justice program described in Section 63M-7-209[;
128 and].

129 [~~(v) administer the Child Welfare Parental Defense Program in accordance with
130 Sections 63M-7-211, 63M-7-211.1, and 63M-7-211.2.~~]

131 (2) If the commission designates an entity under Subsection (1)(r), the commission
132 shall ensure that the membership of the entity includes representation from the three branches
133 of government and, as determined by the commission, representation from relevant stakeholder
134 groups across all parts of the juvenile justice system, including county representation.

135 Section 2. Section 78A-6-1111 is amended to read:

136 **78A-6-1111. Order for indigent defense service or guardian ad litem.**

137 [~~(1) A court shall order indigent defense services for a minor, parent, or legal guardian
138 as provided by Title 78B, Chapter 22, Indigent Defense Act.~~]

139 (1) A court shall order indigent defense services in accordance with Title 78B, Chapter
140 22, Indigent Defense Act, for a minor, parent, or legal guardian facing an action filed by a
141 private party or the state under this title.

142 (2) (a) In any action under Part 3, Abuse, Neglect, and Dependency Proceedings, or
143 Part 5, Termination of Parental Rights Act, the child shall be represented by a guardian ad
144 litem in accordance with Sections 78A-6-317 and 78A-6-902.

145 (b) The child shall [~~also~~] be represented by an attorney guardian ad litem in other
146 actions initiated under this chapter when appointed by the court under Section 78A-6-902 or as
147 otherwise provided by law.

148 Section 3. Section 78B-6-112 is amended to read:

149 **78B-6-112. District court jurisdiction over termination of parental rights**

150 **proceedings.**

151 (1) A district court has jurisdiction to terminate parental rights in a child if the party
152 [~~who~~] that filed the petition is seeking to terminate parental rights in the child for the purpose
153 of facilitating the adoption of the child.

154 (2) A petition to terminate parental rights under this section may be:

155 (a) joined with a proceeding on an adoption petition; or

156 (b) filed as a separate proceeding before or after a petition to adopt the child is filed.

157 (3) A court may enter a final order terminating parental rights before a final decree of
158 adoption is entered.

159 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to
160 proceedings to terminate parental rights as described in Section [78A-6-103](#).

161 (b) This section does not grant jurisdiction to a district court to terminate parental
162 rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,
163 neglect, dependency, or termination of parental rights proceeding.

164 (5) The district court may terminate an individual's parental rights in a child if:

165 (a) the individual executes a voluntary consent to adoption, or relinquishment for
166 adoption, of the child, in accordance with:

167 (i) the requirements of this chapter; or

168 (ii) the laws of another state or country, if the consent is valid and irrevocable;

169 (b) the individual is an unmarried biological father who is not entitled to consent to
170 adoption, or relinquishment for adoption, under Section [78B-6-120](#) or [78B-6-121](#);

171 (c) the individual:

172 (i) received notice of the adoption proceeding relating to the child under Section
173 [78B-6-110](#); and

174 (ii) failed to file a motion for relief, under Subsection [78B-6-110\(6\)](#), within 30 days
175 after the day on which the individual was served with notice of the adoption proceeding;

176 (d) the court finds, under Section [78B-15-607](#), that the individual is not a parent of the
177 child; or

178 (e) the individual's parental rights are terminated on grounds described in Title 78A,
179 Chapter 6, Part 5, Termination of Parental Rights Act, [~~if terminating the individual's parental~~
180 rights] and termination is in the best interests of the child.

181 (6) The court shall appoint an indigent defense service provider~~[, under]~~ in accordance
182 with Title 78B, Chapter 22, Indigent Defense Act, to represent [a party] an individual who
183 faces any action initiated by a private party under Title 78A, Chapter 6, Part 5, Termination of
184 Parental Rights Act₂ or whose parental rights are subject to termination under this section.

185 (7) If a county incurs expenses in providing indigent defense services to an indigent
186 individual facing any action initiated by a private party under Title 78A, Chapter 6, Part 5,
187 Termination of Parental Rights Act₂ or termination of parental rights under this section, the
188 county may apply for reimbursement from the Utah Indigent Defense Commission ~~[under]~~ in
189 accordance with Section 78B-22-406.

190 (8) A petition filed under this section is subject to the procedural requirements of this
191 chapter.

192 Section 4. Section **78B-22-102** is amended to read:

193 **78B-22-102. Definitions.**

194 As used in this chapter:

195 (1) "Account" means the Indigent Defense Resources Restricted Account created in
196 Section 78B-22-405.

197 (2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

198 (3) "Commission" means the Utah Indigent Defense Commission created in Section
199 78B-22-401.

200 (4) "Director" means the director of the Office of Indigent Defense Services, created in
201 Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

202 [~~4~~] (5) (a) "Indigent defense resources" means the resources necessary to provide an
203 effective defense for an indigent individual, including the costs for a competent investigator,
204 expert witness, scientific or medical testing, transcripts, and printing briefs.

205 (b) "Indigent defense resources" does not include an indigent defense service provider.

206 [~~5~~] (6) "Indigent defense service provider" means an attorney or entity appointed to
207 represent an indigent individual pursuant to:

208 (a) a contract with an indigent defense system to provide indigent defense services; or

209 (b) an order issued by the court under Subsection 78B-22-203(2)(a).

210 [~~6~~] (7) "Indigent defense services" means:

211 (a) the representation of an indigent individual by an indigent defense service provider;

212 and

213 (b) the provision of indigent defense resources for an indigent individual.

214 [(7)] (8) "Indigent defense system" means:

215 (a) a city or town that is responsible for providing indigent defense services [~~in the~~
216 ~~city's or town's justice court~~];

217 (b) a county that is responsible for providing indigent defense services in the district
218 court, juvenile court, [~~or~~] and the county's justice courts; or

219 (c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation
220 Act, that is responsible for providing indigent defense services according to the terms of an
221 agreement between a county, city, or town.

222 [(8)] (9) "Indigent individual" means:

223 (a) a minor who is:

224 (i) arrested and admitted into detention for an offense under Section 78A-6-103;

225 (ii) charged by petition or information in the juvenile or district court; or

226 (iii) described in this Subsection [(8)] (9)(a), who is appealing [~~a first appeal from~~] an
227 adjudication or other final court action; and

228 (b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to
229 Section 78B-22-202.

230 [(9)] (10) "Minor" means the same as that term is defined in Section 78A-6-105.

231 (11) "Office" means the Office of Indigent Defense Services created in Section
232 78B-22-451.

233 [(10)] (12) "Participating county" means a county that complies with this chapter for
234 participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections
235 78B-22-702 and 78B-22-703.

236 Section 5. Section 78B-22-201 is amended to read:

237 **78B-22-201. Right to counsel.**

238 (1) A court shall advise the following of the individual's right to counsel when the
239 individual first appears before the court:

240 (a) an adult charged with a criminal offense the penalty for which includes the
241 possibility of incarceration regardless of whether actually imposed;

242 (b) a parent or legal guardian facing [~~any~~] an action initiated by the state under:

- 243 (i) Title 78A, Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings;
- 244 (ii) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or
- 245 (iii) Title 78A, Chapter 6, Part 10, Adult Offenses; [~~or~~]
- 246 [~~(iv) Section 78B-6-112; or~~]
- 247 (c) a parent or legal guardian facing an action initiated by any party under:
- 248 (i) Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act; or
- 249 (ii) Section 78B-6-112; or
- 250 [~~(c)~~] (d) an individual described in this Subsection (1), who is appealing [a first appeal
- 251 from] a conviction or other final court action.

252 (2) If an individual described in Subsection (1) does not knowingly and voluntarily
 253 waive the right to counsel, the court shall determine whether the individual is indigent under
 254 Section 78B-22-202.

255 Section 6. Section 78B-22-401 is amended to read:

256 **78B-22-401. Utah Indigent Defense Commission -- Creation -- Purpose.**

257 (1) There is created the Utah Indigent Defense Commission within the State
 258 Commission on Criminal and Juvenile Justice [~~the "Utah Indigent Defense Commission."~~].

259 (2) The purpose of the commission is to assist:

260 (a) the state in meeting the state's obligations for the provision of indigent defense
 261 services, consistent with the United States Constitution, the Utah Constitution, and the Utah
 262 Code[-]; and

263 (b) the office with carrying out the statutory duties assigned to the commission and
 264 office.

265 Section 7. Section 78B-22-402 is amended to read:

266 **78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.**

267 (1) (a) The commission is composed of 15 [~~voting~~] members [~~and one ex officio,~~
 268 ~~nonvoting member~~].

269 [~~(a)~~] (b) The governor, with the consent of the Senate, shall appoint the following [~~13~~
 270 ~~voting~~] 11 members:

271 (i) two practicing criminal defense attorneys recommended by the Utah Association of
 272 Criminal Defense Lawyers;

273 (ii) one attorney practicing in juvenile delinquency defense recommended by the Utah

274 Association of Criminal Defense Lawyers;

275 (iii) one attorney practicing in the area of parental defense, recommended by an entity
276 funded under the Child Welfare Parental Defense Program created in Section 78B-22-802;

277 ~~[(iii) an]~~ (iv) one attorney representing minority interests recommended by the Utah
278 Minority Bar Association;

279 ~~[(iv)]~~ (v) one member recommended by the Utah Association of Counties from a
280 county of the first or second class;

281 ~~[(v)]~~ (vi) one member recommended by the Utah Association of Counties from a
282 county of the third through sixth class;

283 ~~[(vi)]~~ (vii) a director of a county public defender organization recommended by the
284 Utah Association of Criminal Defense Lawyers;

285 ~~[(vii)]~~ (viii) two members recommended by the Utah League of Cities and Towns from
286 its membership; and

287 ~~[(viii) a]~~ (ix) one retired judge recommended by the Judicial Council[;].

288 ~~[(ix) one attorney practicing in the area of parental defense, recommended by an entity~~
289 ~~funded under the Child Welfare Parental Defense Program created in Section 63M-7-211; and]~~

290 ~~[(x)]~~ (c) The speaker of the House of Representatives and the president of the Senate
291 shall appoint two members of the Utah Legislature, one from the House of Representatives and
292 one from the Senate[; selected jointly by the Speaker of the House and President of the Senate].

293 ~~[(b)]~~ (d) The Judicial Council shall appoint a ~~[voting]~~ member from the Administrative
294 Office of the Courts.

295 ~~[(e)]~~ (e) The executive director of the State Commission on Criminal and Juvenile
296 Justice or the executive director's designee is a ~~[voting]~~ member of the commission.

297 ~~[(d) The director of the commission, appointed under Section 78B-22-403, is an ex~~
298 ~~officio, nonvoting member of the commission.]~~

299 (2) A member appointed by the governor shall serve a four-year term, except as
300 provided in Subsection (3).

301 (3) The governor shall stagger the initial terms of appointees so that approximately half
302 of the members appointed by the governor are appointed every two years.

303 (4) A member appointed to the commission shall have significant experience in
304 indigent criminal defense, parental defense, or juvenile defense in delinquency proceedings or

305 have otherwise demonstrated a strong commitment to providing effective representation in
306 indigent defense services.

307 (5) ~~[A person]~~ An individual who is currently employed solely as a criminal
308 prosecuting attorney may not serve as a member of the commission.

309 (6) A commission member shall hold office until the member's successor is appointed.

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

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

314 (9) (a) The commission shall ~~[annually]~~ elect annually a chair from the commission's
315 membership to serve a one-year term.

316 (b) A commission member may not serve as chair of the commission for more than
317 three consecutive terms.

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

320 (a) Section [63A-3-106](#);

321 (b) Section [63A-3-107](#); and

322 (c) rules made by the Division of Finance ~~[pursuant to]~~ in accordance with Sections
323 [63A-3-106](#) and [63A-3-107](#).

324 (11) (a) A majority of the members of the commission constitutes a quorum.

325 (b) If a quorum is present, the action of a majority of the voting members present
326 constitutes the action of the commission.

327 Section 8. Section **78B-22-404** is amended to read:

328 **78B-22-404. Powers and duties of the commission.**

329 (1) The commission shall:

330 (a) adopt minimum guidelines for an indigent defense system to ensure the effective
331 representation of indigent individuals consistent with the requirements of the United States
332 Constitution, the Utah Constitution, and the Utah Code, which guidelines at a minimum shall
333 address the following:

334 (i) an indigent defense system shall ensure that in providing indigent defense services:

335 (A) an indigent individual receives conflict-free indigent defense services; and

336 (B) there is a separate contract for each type of indigent defense service; and
337 (ii) an indigent defense system shall ensure an indigent defense service provider has:
338 (A) the ability to exercise independent judgment without fear of retaliation and is free
339 to represent an indigent individual based on the indigent defense service provider's own
340 independent judgment;
341 (B) adequate access to indigent defense resources;
342 (C) the ability to provide representation to accused individuals in criminal cases at the
343 critical stages~~[, and at the]~~ of proceedings, and at all stages to indigent individuals in juvenile
344 delinquency and child welfare proceedings;
345 (D) a workload that allows for sufficient time to meet with clients, investigate cases,
346 file appropriate documents with the courts, and otherwise provide effective assistance of
347 counsel to each client;
348 (E) adequate compensation without financial disincentives;
349 (F) appropriate experience or training in the area for which the indigent defense service
350 provider is representing indigent individuals;
351 (G) compensation for legal training and education in the areas of the law relevant to the
352 types of cases for which the indigent defense service provider is representing indigent
353 individuals; and
354 (H) the ability to meet the obligations of the Utah Rules of Professional Conduct,
355 including expectations on client communications and managing conflicts of interest;
356 (b) encourage and aid indigent defense systems in the state in the regionalization of
357 indigent defense services to provide for effective and efficient representation to the indigent
358 individuals;
359 ~~[(c) identify and collect data from any source, which is necessary for the commission~~
360 ~~to:]~~
361 ~~[(i) aid, oversee, and review compliance by indigent defense systems with the~~
362 ~~commission's minimum guidelines for the effective representation of indigent individuals; and]~~
363 ~~[(ii) provide reports regarding the operation of the commission and the provision of~~
364 ~~indigent defense services by indigent defense systems in the state;]~~
365 ~~[(d) assist indigent defense systems by reviewing contracts and other agreements, to~~
366 ~~ensure compliance with the commission's minimum guidelines for effective representation of~~

367 indigent individuals;]

368 ~~[(e) investigate, audit, and review the provision of indigent defense services to ensure~~

369 ~~compliance with the commission's minimum guidelines for the effective representation of~~

370 ~~indigent individuals;]~~

371 ~~[(f) establish procedures for the receipt and acceptance of complaints regarding the~~

372 ~~provision of indigent defense services in the state;]~~

373 ~~[(g) establish procedures to award grants to indigent defense systems under Section~~

374 ~~78B-22-406 consistent with the commission's minimum guidelines for the effective~~

375 ~~representation of indigent individuals and appropriations by the state;]~~

376 ~~[(h)] (c) emphasize the importance of ensuring constitutionally effective indigent~~

377 ~~defense services;~~

378 ~~[(i)] (d) encourage members of the judiciary to provide input regarding the delivery of~~

379 ~~indigent defense services; and~~

380 ~~[(j)] (e) oversee individuals and entities involved in providing indigent defense~~

381 ~~services[;].~~

382 ~~[(k) annually report to the governor, Legislature, Judiciary Interim Committee, and~~

383 ~~Judicial Council, regarding:]~~

384 ~~[(i) the operations of the commission;]~~

385 ~~[(ii) the operations of the indigent defense systems in the state; and]~~

386 ~~[(iii) compliance with the commission's minimum guidelines by indigent defense~~

387 ~~systems receiving grants from the commission;]~~

388 ~~[(l) submit recommendations for improving indigent defense services in the state, to~~

389 ~~legislative, executive, and judicial leadership; and]~~

390 ~~[(m) publish an annual report on the commission's website.]~~

391 (2) The commission may:

392 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

393 Rulemaking Act, to carry out the commission's duties under this part[-];

394 (b) assign duties related to indigent defense services to the office to assist the

395 commission with the commission's statutory duties; and

396 (c) request supplemental appropriations from the Legislature to address a deficit in the

397 Child Welfare Parental Defense Fund created in Section 78B-22-804.

398 Section 9. Section **78B-22-406** is amended to read:

399 **78B-22-406. Indigent defense services grant program.**

400 (1) The commission may award grants to supplement local spending by an indigent
401 defense system for indigent defense.

402 [~~(2) Commission grant money may be used for the following expenses:~~]

403 (2) The commission may use grant money:

404 (a) to assist an indigent defense system to provide indigent defense services that meet
405 the commission's minimum guidelines for the effective representation of indigent individuals;

406 (b) [~~the establishment and maintenance of~~] to establish and maintain local indigent
407 defense data collection systems;

408 (c) to provide indigent defense services in addition to [~~those~~] indigent defense services
409 that are currently being provided by an indigent defense system; [~~and~~]

410 (d) to provide training and continuing legal education for indigent defense service
411 providers[-]; and

412 (e) to pay for indigent defense resources and costs and expenses for parental defense
413 attorneys as described in Subsection [78B-22-804\(2\)](#).

414 (3) To receive a grant from the commission, an indigent defense system shall
415 demonstrate to the commission's satisfaction that:

416 (a) the indigent defense system has incurred or reasonably anticipates incurring
417 expenses for indigent defense services that are in addition to the indigent defense system's
418 average annual spending on indigent defense services in the three fiscal years immediately
419 preceding the grant application; and

420 (b) a grant from the commission is necessary for the indigent defense system to meet
421 the commission's minimum guidelines for the effective representation of indigent individuals.

422 (4) The commission may revoke a grant if an indigent defense system fails to meet
423 requirements of the grant or any of the commission's minimum guidelines for the effective
424 representation of indigent individuals.

425 Section 10. Section **78B-22-451** is enacted to read:

426 **Part 4a. Office of Indigent Defense Services**

427 **78B-22-451. Office of Indigent Defense Services -- Creation.**

428 There is created the Office of Indigent Defense Services within the State Commission

429 on Criminal and Juvenile Justice.

430 Section 11. Section **78B-22-452** is enacted to read:

431 **78B-22-452. Duties of the office.**

432 (1) The office shall:

433 (a) establish an annual budget for the office for the Indigent Defense Resources

434 Restricted Account created in Section [78B-22-405](#);

435 (b) assist the commission in performing the commission's statutory duties described in
436 this chapter;

437 (c) identify and collect data that is necessary for the commission to:

438 (i) aid, oversee, and review compliance by indigent defense systems with the
439 commission's minimum guidelines for the effective representation of indigent individuals; and

440 (ii) provide reports regarding the operation of the commission and the provision of
441 indigent defense services by indigent defense systems in the state;

442 (d) assist indigent defense systems by reviewing contracts and other agreements, to
443 ensure compliance with the commission's minimum guidelines for effective representation of
444 indigent individuals;

445 (e) establish procedures for the receipt and acceptance of complaints regarding the
446 provision of indigent defense services in the state;

447 (f) establish procedures to award grants to indigent defense systems under Section
448 [78B-22-406](#) that are consistent with the commission's minimum guidelines;

449 (g) assist the commission in developing and reviewing advisory caseload guidelines
450 and procedures;

451 (h) investigate, audit, and review the provision of indigent defense services to ensure
452 compliance with the commission's minimum guidelines for the effective representation of
453 indigent individuals;

454 (i) administer the Child Welfare Parental Defense Program in accordance with Part 8,
455 Child Welfare Parental Defense Program;

456 (j) annually report to the governor, Legislature, Judiciary Interim Committee, and
457 Judicial Council, regarding:

458 (i) the operations of the commission;

459 (ii) the operations of the indigent defense systems in the state; and

460 (iii) compliance with the commission's minimum guidelines by indigent defense
461 systems receiving grants from the commission;

462 (k) submit recommendations to the commission for improving indigent defense
463 services in the state;

464 (l) publish an annual report on the commission's website; and

465 (m) perform all other duties assigned by the commission related to indigent defense
466 services.

467 (2) The office may enter into contracts and accept, allocate, and administer funds and
468 grants from any public or private person to accomplish the duties of the office.

469 (3) Any contract entered into under this part shall require that indigent defense services
470 are provided in a manner consistent with the commission's minimum guidelines implemented
471 under Section [78B-22-404](#).

472 Section 12. Section **78B-22-453**, which is renumbered from Section 78B-22-403 is
473 renumbered and amended to read:

474 ~~[78B-22-403].~~ **78B-22-453. Director -- Qualifications -- Staff.**

475 (1) The ~~[commission]~~ executive director of the State Commission on Criminal and
476 Juvenile Justice shall appoint a director to carry out the ~~[following duties:]~~ duties of the office
477 described in Section [78B-22-452](#).

478 ~~[(a) establish an annual budget;]~~

479 ~~[(b) assist the commission in performing the commission's statutory duties;]~~

480 ~~[(c) assist the commission in developing and regularly reviewing advisory caseload~~
481 ~~guidelines and procedures; and]~~

482 ~~[(d) perform all other duties as assigned.]~~

483 (2) The director shall be an active member of the Utah State Bar with an appropriate
484 background and experience to serve as the full-time director.

485 (3) The director shall hire staff as necessary to carry out the duties of the ~~[commission]~~
486 office as described in Section [78B-22-452](#), including:

487 (a) one individual who is an active member of the Utah State Bar to serve as a full-time
488 assistant director; and

489 (b) one individual with data collection and analysis skills ~~[to carry out duties as~~
490 ~~outlined in Subsection [78B-22-404\(1\)\(c\)](#)].~~

491 ~~[(4) The commission in appointing the director, and the director in hiring the assistant~~
492 ~~director, shall give a preference to individuals]~~

493 (4) When appointing the director of the office under Subsection (1), the executive
494 director of the State Commission on Criminal and Juvenile Justice shall give preference to an
495 individual with experience in adult criminal defense, child welfare parental defense, or juvenile
496 delinquency defense.

497 (5) When hiring the assistant director, the director shall give preference to an
498 individual with experience in adult criminal defense, child welfare parental defense, or juvenile
499 delinquency defense.

500 Section 13. Section **78B-22-801** is enacted to read:

501 **Part 8. Child Welfare Parental Defense Program**

502 **78B-22-801. Definitions.**

503 As used in this part:

504 (1) "Child welfare case" means a proceeding under Title 78A, Chapter 6, Part 3,
505 Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

506 (2) "Contracted parental defense attorney" means an attorney who represents an
507 indigent individual who is a parent in a child welfare case under a contract with the office or a
508 contributing county.

509 (3) "Contributing county" means a county that complies with this part for participation
510 in the Child Welfare Parental Defense Fund described in Section [78B-22-804](#).

511 (4) "Fund" means the Child Welfare Parental Defense Fund created in Section
512 [78B-22-804](#).

513 (5) "Program" means the Child Welfare Parental Defense Program created in Section
514 [78B-22-802](#).

515 Section 14. Section **78B-22-802**, which is renumbered from Section 63M-7-211 is
516 renumbered and amended to read:

517 ~~[63M-7-211].~~ **78B-22-802. Child Welfare Parental Defense Program --**
518 **Creation -- Duties -- Administrator -- Annual report -- Budget.**

519 ~~[(1) As used in this section and Sections [63M-7-211.1](#) and [63M-7-211.2](#):]~~

520 ~~[(a) "Child welfare case" means a proceeding under Title 78A, Chapter 6, Part 3,~~
521 ~~Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.]~~

522 ~~[(b) "Commission" means the Commission on Criminal and Juvenile Justice created in~~
523 ~~Section 63M-7-201.]~~

524 ~~[(c) "Contracted parental defense attorney" means a parental defense attorney who is~~
525 ~~under contract with the commission to provide parental defense in a child welfare case.]~~

526 ~~[(d) "Executive director" means the executive director of the commission appointed~~
527 ~~under Section 63M-7-203.]~~

528 ~~[(e) "Fund" means the Child Welfare Parental Defense Fund established in Section~~
529 ~~63M-7-211.2.]~~

530 ~~[(f) "Parental defense attorney" means an attorney, law firm, or group of attorneys~~
531 ~~who:]~~

532 ~~[(i) are authorized to practice law in the state; and]~~

533 ~~[(ii) provide legal representation under contract with the commission, or a county in the~~
534 ~~state, to a parent who is a party in a child welfare case.]~~

535 ~~[(g) "Program" means the Child Welfare Parental Defense Program created in this~~
536 ~~section.]~~

537 ~~[(2)] (1) There is created within the [commission] office the Child Welfare Parental~~
538 ~~Defense Program.~~

539 ~~[(3) The commission shall:]~~

540 ~~[(a) administer and enforce this section;]~~

541 ~~[(b) manage the operation and budget of the program;]~~

542 ~~[(c) provide assistance and advice to parental defense attorneys;]~~

543 ~~[(d) develop and provide educational and training programs for parental defense~~
544 ~~attorneys; and]~~

545 ~~[(e) provide information and advice to assist a parental defense attorney to comply with~~
546 ~~the attorney's professional, contractual, and ethical duties.]~~

547 ~~[(4) The commission may]~~

548 (2) (a) The office shall:

549 (i) administer and enforce the program in accordance with this part;

550 (ii) manage the operation and budget of the program;

551 (iii) develop and provide educational and training programs for contracted parental
552 defense attorneys; and

553 (iv) provide information and advice to assist a contracted parental defense attorney to
 554 comply with the attorney's professional, contractual, and ethical duties.

555 (b) In administering the program, the office shall contract with:

556 ~~[(a)]~~ (i) a person who is qualified to perform the program duties under this section; and

557 ~~[(b)]~~ (ii) an attorney ~~[authorized to practice law in the state], as an independent~~
 558 ~~contractor, [to serve as a parental defense attorney under this section.]~~ in accordance with
 559 Section 78B-22-803.

560 ~~[(5)(a) On or before October 1 of each year, the executive director shall report to the~~
 561 ~~governor and the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year~~
 562 ~~on the operations, activities, and goals of the program.]~~

563 ~~[(b)]~~ (3)(a) The ~~[executive]~~ director shall prepare a budget of:

564 (i) the administrative expenses for the program; and

565 (ii) the amount estimated to fund needed contracts and other costs.

566 ~~[(c) The professional legislative staff may include summary data and nonidentifying~~
 567 ~~information in the staff's audits and reports to the Legislature.]~~

568 (b) On or before October 1 of each year, the director shall report to the governor and
 569 the Child Welfare Legislative Oversight Panel regarding the preceding fiscal year on the
 570 operations, activities, and goals of the program.

571 ~~[(6)(a)(i) Notwithstanding Title 63G, Chapter 2, Government Records Access and~~
 572 ~~Management Act, and except as provided in Subsection (6)(b), a record of a contracted parental~~
 573 ~~defense attorney is protected and may not be released or made public upon subpoena, search~~
 574 ~~warrant, discovery proceedings, or otherwise.]~~

575 ~~[(ii) A record of a contracted parental defense attorney is subject to legislative~~
 576 ~~subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers.]~~

577 ~~[(b) The Legislature shall maintain a record released in accordance with Subsection~~
 578 ~~(6)(a)(ii) as confidential.]~~

579 Section 15. Section **78B-22-803**, which is renumbered from Section 63M-7-211.1 is
 580 renumbered and amended to read:

581 ~~[63M-7-211.1].~~ **78B-22-803. Child welfare parental defense contracts.**

582 (1) (a) The ~~[commission]~~ office may enter into a contract with ~~[a parental defense]~~ an
 583 attorney to provide indigent defense services for [an indigent] a parent who is the subject of a

584 petition alleging abuse, neglect, or dependency, and requires ~~[a parental defense attorney~~
585 ~~under]~~ indigent defense services under Section 78A-6-1111.

586 (b) ~~[Payment]~~ The office shall make payment for the representation, costs, and
587 expenses of a contracted parental defense attorney ~~[shall be made]~~ from the Child Welfare
588 Parental Defense Fund in accordance with Section ~~[63M-7-211.2]~~ 78B-22-804.

589 ~~[(c) The parental defense attorney shall maintain the minimum qualifications as~~
590 ~~provided by this section.]~~

591 ~~[(2) A contracted parental defense attorney shall:]~~

592 ~~[(a) adequately prepare for and attend all court hearings, including initial and continued~~
593 ~~shelter hearings and mediations;]~~

594 ~~[(b) fully advise the client of the nature of the proceedings and of the client's rights,~~
595 ~~communicate to the client any offers of settlement or compromise, and advise the client~~
596 ~~regarding the reasonably foreseeable consequences of any course of action in the proceedings;]~~

597 ~~[(c) be reasonably available to consult with the client outside of court proceedings;]~~

598 ~~[(d) where attendance is reasonably necessary, attend meetings regarding the client's~~
599 ~~case with representatives of one or more of the Division of Child and Family Services, the~~
600 ~~Office of the Attorney General, or the Office of Guardian Ad Litem;]~~

601 ~~[(e) represent the interest of the client at all stages of the proceedings before the trial~~
602 ~~court, and on appeal as required by law; and]~~

603 ~~[(f) participate in the training courses and otherwise maintain the standards described~~
604 ~~in Subsection (4).]~~

605 ~~[(3) If the commission enters into a contract with a firm to provide parental defense~~
606 ~~attorney services under this section, the contract shall require that each attorney in the firm who~~
607 ~~will provide representation of a parent in a child welfare case under the contract perform the~~
608 ~~duties described in Subsection (2).]~~

609 ~~[(4)]~~ (2) (a) Except as ~~[otherwise]~~ provided in Subsection ~~[(4)]~~ (2)(b), a contracted
610 parental defense attorney shall:

611 (i) complete a basic training course provided by the ~~[program]~~ office;

612 (ii) provide parental defense services consistent with the commission's minimum
613 guidelines described in Section 78B-22-404;

614 ~~[(ii)]~~ (iii) have experience in child welfare cases; and

615 [(iii)] (iv) participate each calendar year in continuing legal education courses
 616 providing no fewer than eight hours of instruction in child welfare law.

617 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 618 commission may, by rule, exempt from the requirements of Subsection [(4)] (2)(a) an attorney
 619 who has equivalent training or adequate experience.

620 Section 16. Section **78B-22-804**, which is renumbered from Section 63M-7-211.2 is
 621 renumbered and amended to read:

622 ~~[63M-7-211.2].~~ **78B-22-804. Child Welfare Parental Defense Fund --**

623 **Contracts for coverage by the Child Welfare Parental Defense Fund.**

624 (1) There is created an expendable special revenue fund known as the "Child Welfare
 625 Parental Defense Fund."

626 (2) Subject to availability, the [commission] office may make distributions from the
 627 fund [as required in this section or Section 63M-7-211 or 63M-7-211.1] for the following
 628 purposes:

629 (a) to pay for [~~the representation, costs, expert witness fees, and expenses of~~] indigent
 630 defense resources for contracted parental defense attorneys [~~who are under contract with the~~
 631 ~~commission to provide parental defense in child welfare cases for an indigent parent that is the~~
 632 ~~subject of a petition alleging abuse, neglect, or dependency~~];

633 (b) for administrative costs [~~under this section or Section 63M-7-211 or 63M-7-211.1]~~
 634 of the program; and

635 (c) for reasonable expenses directly related to the functioning of the program, including
 636 training and travel expenses.

637 (3) The fund consists of:

638 (a) appropriations made to the fund by the Legislature;

639 (b) interest and earnings from the investment of fund money;

640 (c) proceeds deposited by [~~participating~~] contributing counties under this section; and

641 (d) private contributions to the fund.

642 (4) The state treasurer shall invest the money in the fund by following the procedures
 643 and requirements of Title 51, Chapter 7, State Money Management Act.

644 (5) (a) If the [commission] office anticipates a deficit in the fund during a fiscal year:

645 (i) the commission [~~shall~~] may request an appropriation from the Legislature; and

646 (ii) the Legislature may fund the anticipated deficit through appropriation.

647 (b) If the anticipated deficit is not funded by the Legislature, the ~~[commission]~~ office
648 may request an interim assessment to participating counties as described in Subsection (6) to
649 fund the anticipated deficit.

650 (6) (a) A county legislative body and the ~~[commission]~~ office may annually enter into a
651 ~~[written agreement]~~ contract for the ~~[commission]~~ office to provide parental defense attorney
652 services in the contributing county out of the fund.

653 (b) The ~~[agreement]~~ contract described under Subsection (6)(a) shall:

654 (i) require the contributing county to pay into the fund an amount defined by a formula
655 established by the commission by rule under Title 63G, Chapter 3, Utah Administrative
656 Rulemaking Act; and

657 (ii) provide for revocation of the agreement for failure to pay an assessment on the due
658 date established by the commission by rule under Title 63G, Chapter 3, Utah Administrative
659 Rulemaking Act.

660 (7) (a) After the first year of operation of the fund, any contributing county that elects
661 to initiate participation in the fund, or reestablish participation in the fund after participation
662 was terminated, ~~[shall be]~~ is required to make an equity payment, in addition to the assessment
663 provided in Subsection (5).

664 (b) The commission shall determine the amount of the equity payment described in
665 Subsection (7)(a) by rule established by the commission under Title 63G, Chapter 3, Utah
666 Administrative Rulemaking Act.

667 (8) A contributing county that elects to withdraw from participation in the fund, or
668 whose participation in the fund is revoked due to failure to pay the contributing county's
669 assessment, as described in Subsection (6), when due, shall forfeit any right to any previously
670 paid assessment by the contributing county or coverage from the fund.

671 Section 17. **Coordinating S.B. 175 with S.B. 139 -- Substantive and technical**
672 **amendments.**

673 If this S.B. 175 and S.B. 139, Amendments to Indigent Defense, both pass and become
674 law, it is the intent of the Legislature that the Office of Legislative Research and General
675 Counsel shall prepare the Utah Code database for publication as follows:

676 (1) the amendments to Section 78B-22-451 in this bill supersede the amendments to

677 Section 78B-22-451 in S.B. 139;

678 (2) the amendments to Section 78B-22-403, renumbered and amended by this bill,
679 supersede the amendments to Section 78B-22-403, renumbered and amended by S.B. 139;

680 (3) the amendments to Section 78B-22-402 in this bill supersede the amendments to
681 Section 78B-22-402 in S.B. 139;

682 (4) the terminology in Subsection 78B-22-803(2)(a)(ii) in this bill is changed from
683 "minimum guidelines" to "core principles"; and

684 (5) Section 78B-22-452 is modified to read:

685 **"78B-22-452. Duties of the office.**

686 (1) The office shall:

687 (a) establish an annual budget for the Indigent Defense Resources Restricted Account
688 created in Section 78B-22-405;

689 (b) assist the commission in performing the commission's statutory duties described in
690 this chapter;

691 (c) identify and collect data that is necessary for the commission to:

692 (i) aid, oversee, and review compliance by indigent defense systems with the
693 commission's core principles for the effective representation of indigent individuals; and

694 (ii) provide reports regarding the operation of the commission and the provision of
695 indigent defense services by indigent defense systems in the state;

696 (d) assist indigent defense systems by reviewing contracts and other agreements to
697 ensure compliance with the commission's core principles for the effective representation of
698 indigent individuals;

699 (e) establish procedures for the receipt and acceptance of complaints regarding the
700 provision of indigent defense services in the state;

701 (f) establish procedures to award grants to indigent defense systems under Section
702 78B-22-406 that are consistent with the commission's core principles;

703 (g) assist the commission in developing and reviewing advisory caseload guidelines
704 and procedures;

705 (h) investigate, audit, and review the provision of indigent defense services to ensure
706 compliance with the commission's core principles for the effective representation of indigent
707 individuals;

708 (i) administer the Child Welfare Parental Defense Program in accordance with Part 8,
709 Child Welfare Parental Defense Program;

710 (j) annually report to the governor, Legislature, Judiciary Interim Committee, and
711 Judicial Council, regarding:

712 (i) the operations of the commission;

713 (ii) the operations of the indigent defense systems in the state; and

714 (iii) compliance with the commission's core principles by indigent defense systems
715 receiving grants from the commission;

716 (k) submit recommendations to the commission for improving indigent defense
717 services in the state;

718 (l) publish an annual report on the commission's website; and

719 (m) perform all other duties assigned by the commission related to indigent defense
720 services.

721 (2) The office may enter into contracts and accept, allocate, and administer funds and
722 grants from any public or private person to accomplish the duties of the office.

723 (3) Any contract entered into under this part shall require that indigent defense services
724 are provided in a manner consistent with the commission's core principles implemented under
725 Section [78B-22-404](#)."

726 Section 18. **Coordinating S.B. 175 with S.B. 170 -- Substantive and technical**
727 **amendments.**

728 If this S.B. 175 and S.B. 170, Indigent Defense Amendments, both pass and become
729 law, it is the intent of the Legislature that the Office of Legislative Research and General
730 Counsel shall prepare the Utah Code database for publication as follows:

731 (1) the amendments in Section [78B-22-451](#) in this bill supersede the amendments to
732 Section [78B-22-451](#) in S.B. 170;

733 (2) the amendments to Section [78B-22-403](#), as renumbered and amended by this bill,
734 supersede the amendments to Section [78B-22-403](#), renumbered and amended by S.B. 170;

735 (3) the amendments to Section [78B-22-402](#) in this bill supersede the amendments to
736 Section [78B-22-402](#) in S.B. 170;

737 (4) the terminology in Subsection [78B-22-803](#)(2)(a)(ii) in this bill is changed from
738 "minimum guidelines" to "core principles"; and

- 739 (5) Section 78B-22-452 is modified to read:
740 "78B-22-452. Duties of the office.
741 (1) The office shall:
742 (a) establish an annual budget for the office for the Indigent Defense Resources
743 Restricted Account created in Section 78B-22-405;
744 (b) assist the commission in performing the commission's statutory duties described in
745 this chapter;
746 (c) identify and collect data that is necessary for the commission to:
747 (i) aid, oversee, and review compliance by indigent defense systems with the
748 commission's core principles for the effective representation of indigent individuals; and
749 (ii) provide reports regarding the operation of the commission and the provision of
750 indigent defense services by indigent defense systems in the state;
751 (d) assist indigent defense systems by reviewing contracts and other agreements, to
752 ensure compliance with the commission's core principles for effective representation of
753 indigent individuals;
754 (e) establish procedures for the receipt and acceptance of complaints regarding the
755 provision of indigent defense services in the state;
756 (f) establish procedures to award grants to indigent defense systems under Section
757 78B-22-406 that are consistent with the commission's core principles;
758 (g) create and enter into contracts consistent with Section 78B-22-454 to provide
759 indigent defense services for an indigent defense inmate who:
760 (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth
761 class as defined in Section 17-50-501;
762 (ii) is charged with having committed a crime within that state prison; and
763 (iii) has been appointed counsel in accordance with Section 78B-22-203;
764 (h) assist the commission in developing and reviewing advisory caseload guidelines
765 and procedures;
766 (i) investigate, audit, and review the provision of indigent defense services to ensure
767 compliance with the commission's core principles for the effective representation of indigent
768 individuals;
769 (j) administer the Child Welfare Parental Defense Program in accordance with Part 8,

770 Child Welfare Parental Defense Program;

771 (k) annually report to the governor, Legislature, Judiciary Interim Committee, and
772 Judicial Council, regarding:

773 (i) the operations of the commission;

774 (ii) the operations of the indigent defense systems in the state; and

775 (iii) compliance with the commission's core principles by indigent defense systems
776 receiving grants from the commission;

777 (l) submit recommendations to the commission for improving indigent defense services
778 in the state;

779 (m) publish an annual report on the commission's website; and

780 (n) perform all other duties assigned by the commission related to indigent defense
781 services.

782 (2) The office may enter into contracts and accept, allocate, and administer funds and
783 grants from any public or private person to accomplish the duties of the office.

784 (3) Any contract entered into under this part shall require that indigent defense services
785 are provided in a manner consistent with the commission's core principles implemented under
786 Section [78B-22-404](#)."

787 Section 19. **Coordinating S.B. 175 with S.B. 139 and S.B. 170 -- Substantive and**
788 **technical amendments.**

789 If this S.B. 175 and S.B. 139, Amendments to Indigent Defense, and S.B. 170, Indigent
790 Defense Amendments, all pass and become law, it is the intent of the Legislature that the
791 Office of Legislative Research and General Counsel shall prepare the Utah Code database for
792 publication as follows:

793 (1) the amendments in Section [78B-22-451](#) in this bill supersede the amendments to
794 Section [78B-22-451](#) in S.B. 139 and S.B. 170;

795 (2) the amendments to Section [78B-22-403](#), as renumbered and amended by this bill,
796 supersede the amendments to Section [78B-22-403](#), renumbered and amended by S.B. 139 and
797 S.B. 170;

798 (3) the amendments to Section [78B-22-402](#) in this bill supersede the amendments to
799 Section [78B-22-402](#) in S.B. 139 and S.B. 170;

800 (4) the terminology in Subsection [78B-22-803](#)(2)(a)(ii) in this bill is changed from

801 "minimum guidelines" to "core principles"; and
802 (5) Section 78B-22-452 is modified to read:
803 "78B-22-452. Duties of the office.
804 (1) The office shall:
805 (a) establish an annual budget for the office for the Indigent Defense Resources
806 Restricted Account created in Section 78B-22-405;
807 (b) assist the commission in performing the commission's statutory duties described in
808 this chapter;
809 (c) identify and collect data that is necessary for the commission to:
810 (i) aid, oversee, and review compliance by indigent defense systems with the
811 commission's core principles for the effective representation of indigent individuals; and
812 (ii) provide reports regarding the operation of the commission and the provision of
813 indigent defense services by indigent defense systems in the state;
814 (d) assist indigent defense systems by reviewing contracts and other agreements, to
815 ensure compliance with the commission's core principles for effective representation of
816 indigent individuals;
817 (e) establish procedures for the receipt and acceptance of complaints regarding the
818 provision of indigent defense services in the state;
819 (f) establish procedures to award grants to indigent defense systems under Section
820 78B-22-406 that are consistent with the commission's core principles;
821 (g) create and enter into contracts consistent with Section 78B-22-454 to provide
822 indigent defense services for an indigent defense inmate who:
823 (i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth
824 class as defined in Section 17-50-501;
825 (ii) is charged with having committed a crime within that state prison; and
826 (iii) has been appointed counsel in accordance with Section 78B-22-203;
827 (h) assist the commission in developing and reviewing advisory caseload guidelines
828 and procedures;
829 (i) investigate, audit, and review the provision of indigent defense services to ensure
830 compliance with the commission's core principles for the effective representation of indigent
831 individuals;

832 (j) administer the Child Welfare Parental Defense Program in accordance with Part 8,
833 Child Welfare Parental Defense Program;

834 (k) annually report to the governor, Legislature, Judiciary Interim Committee, and
835 Judicial Council, regarding:

836 (i) the operations of the commission;

837 (ii) the operations of the indigent defense systems in the state; and

838 (iii) compliance with the commission's core principles by indigent defense systems
839 receiving grants from the commission;

840 (l) submit recommendations to the commission for improving indigent defense services
841 in the state;

842 (m) publish an annual report on the commission's website; and

843 (n) perform all other duties assigned by the commission related to indigent defense
844 services.

845 (2) The office may enter into contracts and accept, allocate, and administer funds and
846 grants from any public or private person to accomplish the duties of the office.

847 (3) Any contract entered into under this part shall require that indigent defense services
848 are provided in a manner consistent with the commission's core principles implemented under
849 Section [78B-22-404](#)."