

**Complete Shaded Areas**

Form last update 1/18/2012

**Proposed 2013 Session Legislation**

**Agency Name & No:** Office of the State Public Defender - 61080

**Priority Number:** **Filename:**

**Short Title:** Allow for Flat Fee Contracts

**Agency Contact Person/Phone:** Harry Freebourn, 496-6084

**1. Purpose:**

To allow OPD to award flat fee contracts for contract attorneys providing services to specialty courts and in dependent neglect cases.

**2. Background:**

Current law does not allow for flat fee contracts. Amend Section 47-1-216 (3)

**3. Fiscal Impact by Fund Type:** *This impact should be as specific as possible.*

Unknown level of cost savings

**4. Summary Checklist [Check & complete all that apply]--**

- Housekeeping Only     Federal Requirement     Audit Recommendation (Audit No.)     Major Legislation
- Anticipated to be Controversial Legislation     Bill Draft has been included in Legislation Submittal (if available)
- Supports Submitted EPP Item Number:     Local Government Fiscal Impact
- Increases FTE, or  Decreases FTE by    List FTE amount and program
- Increases Existing Revenue     Tax     Fee     Penalty [amount in #3]
- Decreases Existing Revenue     Tax     Fee     Penalty [amount in #3]
- Establishes New Revenue     Tax     Fee     Penalty [amount in #3]
- Leg. has been Submitted in Previous Legislative Sessions (list priority no, LC no, or bill no):
- Legislation would affect other state agencies (list):
- Special Interest Groups Affected (list):
- Other:

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 BY REQUEST OF THE PUBLIC DEFENDER COMMISSION

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE PUBLIC DEFENDER COMMISSION TO AGREE  
7 TO CERTAIN TYPES OF CONTRACTS FOR LEGAL REPRESENTATION SERVICES BASED ON A FIXED  
8 FEE; AND AMENDING SECTION 47-1-216, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 **Section 1.** Section 47-1-216, MCA, is amended to read:

13 **"47-1-216. Contracted services -- rules.** (1) The commission shall establish standards for a statewide  
14 contracted services program that ensures that contracting for public defender services is done fairly and  
15 consistently statewide and within each public defender region.

16 (2) Beginning July 1, 2006, the state office and each regional office, in a manner consistent with  
17 statewide standards adopted by the commission pursuant to this section, may contract to provide public defender,  
18 professional nonattorney, and other personal services necessary to deliver public defender services within each  
19 public defender region. All contracting pursuant to this section is exempt from the Montana Procurement Act, as  
20 provided in 18-4-132.

21 (3) (a) ~~Contracts~~ Except as provided in subsection (3)(b), contracts may not be awarded based solely  
22 on the lowest bid or provide compensation to contractors based solely on a fixed fee paid irrespective of the  
23 number of cases assigned.

24 (b) The following contracts may be awarded based on a fixed fee:

25 (i) contracts for legal representation of individuals appearing before specialty courts, such as drug courts;

26 and

27 (ii) contracts with consortiums for legal representation of individuals in proceedings pursuant to Title 41,  
28 chapter 3. A consortium is a group of attorneys who have joined together for representation of individuals for a  
29 fixed fee in certain types of proceedings and have agreed to monitor the monetary charges for legal  
30 representation.



