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*** Bill No. ***

Introduced By *****

By Request of the Office of the State Public Defender

A Bill for an Act entitled: "An Act amending section 47-01-216, MCA."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 47-01-216, MCA, is amended to read:

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

(2) Beginning July 1, 2006, the state office and each regional office, in a manner consistent with statewide standards adopted by the commission pursuant to this section, may contract to provide public defender, professional nonattorney, and other personal services necessary to deliver public defender services within each public defender region. All contracting pursuant to this

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section is exempt from the Montana Procurement Act, as provided in 18-4-132.

(3) Contracts may not be awarded based solely on the lowest bid or provide compensation to contractors based solely on a fixed fee paid irrespective of the number of cases assigned except:-

(a) flat fee contracts may be entered into for those who participate in specialty courts; and

(b) contracts to consortiums.

(c) No contract shall be entered into without approval of the Public Defender Commission and without verifiable assurances that effective representation is being provided.

(4) Contracting for public defender services must be done through a competitive process that must, at a minimum, involve the following considerations:

(a) attorney qualifications necessary to provide effective assistance of counsel that meets the standards established by the commission;

(b) attorney qualifications necessary to provide effective assistance of counsel that meet the standards issued by the Montana supreme court for counsel for indigent persons in capital cases;

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(c) attorney access to support services, such as paralegal and investigator services;

(d) attorney caseload, including the amount of private practice engaged in outside the contract;

(e) reporting protocols and caseload monitoring processes;

(f) a process for the supervision and evaluation of performance;

(g) a process for conflict resolution; and

(h) continuing education requirements in accordance with standards set by the commission.

(5) The chief public defender and deputy public defenders shall provide for contract oversight and enforcement to ensure compliance with established standards.

(6) The commission shall adopt rules to establish reasonable compensation for attorneys contracted to provide public defender services and for others contracted to provide nonattorney services."

{Internal References to 47-01-216: None }

-END-

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