

AN ACT

RELATING TO THE PUBLIC DEFENDER DEPARTMENT; PROVIDING THE CHIEF PUBLIC DEFENDER WITH AUTHORITY TO CERTIFY CERTAIN CONTRACTS AND EXPENDITURES FOR LITIGATION EXPENSES; AUTHORIZING REPRESENTATION OF A PERSON WHO IS UNDER INVESTIGATION FOR ALLEGEDLY COMMITTING MURDER OR ANY OTHER FELONY CRIMINAL OFFENSE; AMENDING SECTIONS OF THE PUBLIC DEFENDER ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 31-15-7 NMSA 1978 (being Laws 1973, Chapter 156, Section 7, as amended) is amended to read:

"31-15-7. CHIEF PUBLIC DEFENDER--GENERAL DUTIES AND POWERS. --

A. The chief is responsible to the governor for the operation of the department. It is his duty to manage all operations of the department and to:

(1) administer and carry out the provisions of the Public Defender Act with which he is charged; and

(2) exercise authority over and provide general supervision of employees of the department.

B. To perform his duties, the chief has every power implied as necessary for that purpose, those powers expressly enumerated in the Public Defender Act or other laws and full power and authority to:

(1) exercise general supervisory authority

over all employees of the department subject to the Personnel Act;

(2) delegate authority to subordinates as he deems necessary and appropriate;

(3) within the limitations of applicable appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge his duties;

(4) organize the department into those units he deems necessary and appropriate to carry out his duties;

(5) conduct research and studies that will improve the operation of the department and the administration of the Public Defender Act;

(6) provide courses of instruction and practical training for employees of the department that will improve the operation of the department and the administration of the Public Defender Act;

(7) purchase or lease personal property and lease real property for the use of the department;

(8) maintain records and statistical data that reflect the operation and administration of the department;

(9) submit an annual report covering the operation of the department together with appropriate recommendations to the governor, secretary of corrections

and legislature;

(10) serve as defense counsel under the Public Defender Act as necessary and appropriate;

(11) formulate a fee schedule for attorneys who are not employees of the department who serve as counsel for indigent persons under the Public Defender Act;

(12) adopt a standard to determine indigency;

(13) provide for the collection of reimbursement from each person who has received legal representation or another benefit under the Public Defender Act after a determination is made that he was not indigent according to the standard for indigency adopted by the department. Any amounts recovered shall be paid to the state treasurer for credit to the general fund;

(14) require each person who desires legal representation or another benefit under the Public Defender Act to enter into a contract with the department agreeing to reimburse the department if a determination is made that he was not indigent according to the standard for indigency adopted by the department; and

(15) certify contracts and expenditures for litigation expenses, including contracts and expenditures for professional and nonprofessional experts, investigators and witness fees, but not including attorney contracts, pursuant to the provisions of the Procurement Code, Section

13-1-98 NMSA 1978. "

Section 2. Section 31-15-10 NMSA 1978 (being Laws 1973, Chapter 156, Section 10) is amended to read:

"31-15-10. DUTIES OF DISTRICT PUBLIC DEFENDER. --

A. Under the supervision and control of the chief, each district public defender shall administer the operation of the department office within his district.

B. The district public defender or the chief may authorize the representation of a person who is without counsel and who is financially unable to obtain counsel when that person is under investigation for allegedly committing murder or any other felony criminal offense.

C. The district public defender shall represent every person without counsel who is financially unable to obtain counsel and who is charged in any court within the district with any crime that carries a possible sentence of imprisonment. The representation shall begin not later than the time of the initial appearance of the person before any court and shall continue throughout all stages of the proceedings against him, including any appeal, as directed by the chief.

D. The district public defender shall represent any person within the district who is without counsel and who is financially unable to obtain counsel in any state postconviction proceeding.

E. The district public defender shall notify the

chief if, for any reason, he is unable to represent a person entitled to his representation, and the chief shall make provision for representation.

F. The district public defender may confer with any person who is not represented by counsel and who is being forcibly detained. "

Section 3. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. \_\_\_\_\_