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**SENATE BILL 198**  
**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**  
**INTRODUCED BY**  
**Michael S. Sanchez**

**FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE**

**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**

1 operations of the department and to:

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

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

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

10 (1) exercise general supervisory authority  
11 over all employees of the department subject to the Personnel  
12 Act;

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

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

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

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

24 (6) provide courses of instruction and  
25 practical training for employees of the department that will

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1 improve the operation of the department and the administration  
2 of the Public Defender Act;

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

5 (8) maintain records and statistical data  
6 [which] that reflect the operation and administration of the  
7 department;

8 (9) submit an annual report covering the  
9 operation of the department together with appropriate  
10 recommendations to the governor, secretary of corrections and  
11 legislature;

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

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

17 (12) adopt a standard to determine indigency;

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

25 (14) require each person who desires legal

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1 representation or another benefit under the Public Defender  
2 Act to enter into a contract with the department agreeing to  
3 reimburse the department if a determination is made that he  
4 was not indigent according to the standard for indigency  
5 adopted by the department; and

6 (15) certify contracts and expenditures for  
7 litigation expenses, including contracts and expenditures for  
8 professional and nonprofessional experts, investigators and  
9 witness fees, but not including attorney contracts, pursuant  
10 to the provisions of the Procurement Code, Section 13-1-98  
11 NMSA 1978. "

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

14 "31-15-10. DUTIES OF DISTRICT PUBLIC DEFENDER. --

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

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

23 ~~[B.]~~ C. The district public defender shall  
24 represent every person without counsel who is financially  
25 unable to obtain counsel and who is charged in any court

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1 within the district with any crime that carries a possible  
2 sentence of imprisonment. The representation shall begin not  
3 later than the time of the initial appearance of the person  
4 before any court and shall continue throughout all stages of  
5 the proceedings against him, including any appeal, as directed  
6 by the chief.

7 ~~[C-]~~ D. The district public defender shall  
8 represent any person within the district who is without  
9 counsel and who is financially unable to obtain counsel in any  
10 state postconviction proceeding.

11 ~~[D-]~~ E. The district public defender shall notify  
12 the chief if, for any reason, he is unable to represent a  
13 person entitled to his representation, and the chief shall  
14 make provision for representation.

15 ~~[E-]~~ F. The district public defender may confer  
16 with any person who is not represented by counsel and who is  
17 being forcibly detained. "

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