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HOUSE BILL 116

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

CISCO MCSORLEY

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO PUBLIC DEFENDERS; ESTABLISHING A MINIMUM FUNDING  
LEVEL FOR THE PUBLIC DEFENDER DEPARTMENT; INCREASING THE LEVEL  
OF REIMBURSEMENT TO COUNSEL FOR SERVICES PROVIDED TO INDIGENT  
CLIENTS; AMENDING SECTIONS OF THE NMSA 1978; MAKING AN  
APPROPRIATION.

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

Section 1. Section 31-15-5 NMSA 1978 (being Laws 1978,  
Chapter 14, Section 1) is amended to read:

"31-15-5. PUBLIC DEFENDER DEPARTMENT-- CREATION--  
ADMINISTRATION-- FINANCE-- MINIMUM FUNDING LEVEL. --

A. There is created the "public defender  
department". The headquarters of the department shall be  
maintained at Santa Fe. The chief shall be the administrative  
head of the department. The department is administratively

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1 attached to the [~~criminal justice~~] corrections department.

2 B. All salaries and other expenses of the department  
3 shall be paid by warrants of the secretary of finance and  
4 administration, supported by vouchers signed by the chief or his  
5 authorized representative and in accordance with budgets  
6 approved by the state budget division of the department of  
7 finance and administration.

8 C. Beginning with fiscal year 1997, the general fund  
9 appropriation to the public defender department shall be not  
10 less than seventy-five percent of the sum of general fund  
11 appropriations to:

12 (1) all district attorneys' offices in the  
13 state; and

14 (2) the criminal appeals division of the office  
15 of the attorney general. "

16 Section 2. Section 31-15-9 NMSA 1978 (being Laws 1973,  
17 Chapter 156, Section 9) is amended to read:

18 "31-15-9. DUTY OF CHIEF PUBLIC DEFENDER TO ESTABLISH  
19 DISTRICT PUBLIC DEFENDER OFFICE--APPOINTMENT OF DISTRICT PUBLIC  
20 DEFENDER. --

21 A. The chief shall designate one or more public  
22 defender districts having boundaries coextensive with the  
23 boundaries of one or more judicial districts of this state. The  
24 chief shall consider the demand for legal services provided  
25 under the Public Defender Act, criminal case load statistics,

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1 population, geographical characteristics and any other relevant  
2 factor in the designation of public defender districts.

3 B. The chief may review the designation of districts  
4 at any time. The review shall be based on the same factors  
5 enumerated in Subsection A of this section. On the basis of the  
6 review, the chief may change the designation of any district so  
7 long as the new designation has boundaries coextensive with the  
8 boundaries of one or more judicial districts of this state.

9 C. The chief shall appoint a district public  
10 defender in each district. The district public defender shall  
11 administer the operation of the district and shall serve at the  
12 pleasure of the chief. Each district public defender shall be an  
13 attorney licensed to practice law in the highest courts of this  
14 state and a resident of this state.

15 D. Beginning with fiscal year 1997, the level of  
16 general fund money distributed to public defender districts  
17 shall be not less than seventy-five percent of the level of  
18 general fund money appropriated to district attorneys' offices  
19 located in judicial districts served by the public defender  
20 districts. "

21 Section 3. Section 31-16-8 NMSA 1978 (being Laws 1968,  
22 Chapter 69, Section 65) is amended to read:

23 "31-16-8. PAYMENT OF COSTS, EXPENSES AND ATTORNEY FEES. --

24 A. [~~Payments~~] Payment of costs, expenses and  
25 attorney fees under the Indigent Defense Act shall be made from:

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1 (1) funds appropriated to the supreme court  
2 with respect to habeas corpus matters initiated in that court;  
3 and

4 (2) funds appropriated to the district court  
5 with respect to all stages of proceedings initiated in the  
6 district court.

7 B. The court assigning counsel under the Indigent  
8 Defense Act shall pay costs, including the costs of transcripts  
9 where appropriate, shall reimburse counsel for direct expenses  
10 the court determines to have been properly incurred by him and  
11 shall pay to counsel fees:

12 (1) for services in magistrate, [~~courts~~]  
13 metropolitan and district courts where the proceedings are  
14 terminated prior to trial in the district court, a sum fixed by  
15 the court at not less than one dollar (\$1.00) [~~nor~~] or more than  
16 [~~three hundred dollars (\$300)] eight hundred dollars (\$800);~~

17 (2) for services in magistrate, [~~courts~~]  
18 metropolitan and district courts [~~which~~] that include trial in  
19 the district court and, where appropriate, filing notice of  
20 appeal, a sum fixed by the court at not less than one dollar  
21 (\$1.00) [~~nor~~] or more than [~~four hundred dollars (\$400)] two  
22 thousand five hundred dollars (\$2,500);~~

23 (3) for services in postconviction remedy  
24 proceedings in the district court, a sum fixed by the court at  
25 not less than one dollar (\$1.00) [~~nor~~] or more than [~~one hundred~~

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1  ~~fifty dollars (\$150)~~  five hundred dollars (\$500);

2 (4) for services in prosecuting any appeal or  
3 review in the court of appeals or the supreme court, a sum fixed  
4 by the court at not less than one dollar (\$1.00)  ~~[nø]~~  or more  
5  than [five hundred dollars (\$500)] one thousand two hundred  
6  dollars (\$1,200);

7 (5) for services in habeas corpus proceedings in  
8 the supreme court, a sum fixed by the court at not less than one  
9 dollar (\$1.00)  ~~[nø]~~  or more than [one hundred fifty dollars  
10  (\$150)] six hundred dollars (\$600); and

11 (6) for services in any case involving a capital  
12 offense, a sum fixed by the court. "

13 Section 4. APPROPRIATION. -- Six million dollars (\$6,000,000)  
14 is appropriated from the general fund to the public defender  
15 department for expenditure in fiscal year 1997 for the purpose  
16 of increasing the general fund appropriation to the public  
17 defender department to ensure that the general fund  
18 appropriation to the public defender department is not less than  
19 seventy-five percent of the sum of general fund appropriations  
20 made to all district attorneys' offices in the state and the  
21 criminal appeals division of the office of the attorney general.  
22 Any unexpected or unencumbered balance remaining at the end of  
23 fiscal year 1997 shall revert to the general fund.

24 Section 5. EFFECTIVE DATE. -- The effective date of the  
25 provisions of this act is July 1, 1996.