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HOUSE BILL 445

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Gail C. Beam

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO THE PUBLIC DEFENDER DEPARTMENT; REVISING THE FEE SCHEDULE FOR CONTRACT ATTORNEYS WHO SERVE AS COUNSEL FOR INDIGENT PERSONS PURSUANT TO THE PUBLIC DEFENDER ACT; AMENDING A SECTION OF THE NMSA 1978.

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

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(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

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1 lease real property for the use of the department;

2 (8) maintain records and statistical data  
3 which reflect the operation and administration of the  
4 department;

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

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

11 (11) formulate a fee schedule for attorneys  
12 who are not employees of the department who serve as counsel  
13 for indigent persons under the Public Defender Act. The fee  
14 schedule shall conform to the rates paid by the risk  
15 management division of the general services department to  
16 contract attorneys who defend tort liability claims against  
17 governmental entities and public employees pursuant to the  
18 Tort Claims Act;

19 (12) adopt a standard to determine indigency;

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

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1 treasurer for credit to the general fund; and

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

8 Section 2. EFFECTIVE DATE. --The effective date of the  
9 provisions of this act is July 1, 1999.

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