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LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

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AN ACT

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2 RELATING TO PUBLIC DEFENSE; AMENDING SECTION 19-859, IDAHO CODE, TO PROVIDE
3 A CODE REFERENCE; AND AMENDING CHAPTER 8, TITLE 19, IDAHO CODE, BY THE
4 ADDITION OF A NEW SECTION 19-859A, IDAHO CODE, TO PROVIDE THAT PROSECU-
5 TION OF A CITY ORDINANCE THAT IS A MISDEMEANOR SHALL REQUIRE THE CITY TO
6 BE RESPONSIBLE FOR THE COST OF PUBLIC DEFENSE, TO PROVIDE FOR HOW A CITY
7 SHALL PROVIDE PUBLIC DEFENSE AND TO PROVIDE AN OUTCOME IF A CITY DOES NOT
8 PROVIDE PUBLIC DEFENSE.

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 19-859, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 19-859. PUBLIC DEFENDER AUTHORIZED -- JOINT COUNTY PUBLIC DEFEND-
13 ERS. Except as provided in section 19-859A, Idaho Code, ~~the~~ board of county
14 commissioners of each county shall provide for the representation of indi-
15 gent persons and other individuals who are entitled to be represented by an
16 attorney at public expense. The board of county commissioners of each county
17 shall provide this representation by one (1) of the following:

- 18 (1) Establishing and maintaining an office of public defender;
19 (2) Joining with the board of county commissioners of one (1) or more
20 other counties within the same judicial district to establish and maintain
21 a joint office of public defender pursuant to an agreement authorized under
22 section 67-2328, Idaho Code;
23 (3) Contracting with an existing office of public defender; or
24 (4) Contracting with a defending attorney, provided that the terms of
25 the contract shall not include any pricing structure that charges or pays a
26 single fixed fee for the services and expenses of the attorney. The contract
27 provisions of this subsection shall apply to all contracts entered into or
28 renewed on or after the effective date of this act.

29 SECTION 2. That Chapter 8, Title 19, Idaho Code, be, and the same is
30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
31 ignated as Section 19-859A, Idaho Code, and to read as follows:

32 19-859A. CITY PUBLIC DEFENSE. (1) When a city prosecutes a violation
33 of a city ordinance that is a misdemeanor against a person who has been deter-
34 mined by the court to be indigent, the city shall be responsible for the cost
35 of the public defense related to that prosecution.

36 (2) The city shall provide for a defense attorney under subsection (1)
37 of this section by:

- 38 (a) Contracting with a private attorney qualified in public defense in
39 accordance with section 19-859(4), Idaho Code, and subject to the du-
40 ties and procedures under the provisions of this chapter;

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- 1 (b) Contracting with the county public defender; or
- 2 (c) Establishing a city public defense office subject to the same du-
- 3 ties and procedures established for counties under this chapter.
- 4 (3) If a prosecution requiring a public defender under subsection (1)
- 5 is brought by a city, and the city does not provide a public defender as
- 6 provided under subsection (2) at the first appearance following determina-
- 7 tion of qualification, the charge shall be dismissed, unless for good cause
- 8 shown, the court grants a continuance for the city to timely provide a de-
- 9 fender.