

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 40

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

1 A CONCURRENT RESOLUTION  
2 STATING FINDINGS OF THE LEGISLATURE AND AUTHORIZING THE LEGISLATIVE COUNCIL  
3 TO APPOINT A COMMITTEE TO UNDERTAKE AND COMPLETE A STUDY OF POTENTIAL  
4 APPROACHES TO PUBLIC DEFENSE REFORM.

5 Be It Resolved by the Legislature of the State of Idaho:

6 WHEREAS, the Public Defense Reform Interim Committee was authorized by  
7 the Legislative Council at the recommendation of the members of the First  
8 Regular Session of the Sixty-second Idaho Legislature for the purpose of un-  
9 dertaking and completing a study of potential approaches to the public de-  
10 fense system; and

11 WHEREAS, the Public Defense Reform Interim Committee committed itself  
12 to the task of identifying potential deficiencies in Idaho's public defense  
13 system and developing recommendations for public defense reform; and

14 WHEREAS, the Public Defense Reform Interim Committee identified defi-  
15 ciencies in Idaho's public defense system. Such deficiencies include, but  
16 are not limited to: a lack of uniformity in financial contribution and re-  
17 coupment practices, public defense contracting practices and data report-  
18 ing; excessive caseloads and workloads; a lack of independence of the public  
19 defense function; a lack of training and resources for public defense attor-  
20 neys; a lack of qualifications and experience standards for public defense  
21 attorneys; and the existence of flat fee contracts for public defense ser-  
22 vices; and

23 WHEREAS, the Public Defense Reform Interim Committee has sought to  
24 address such deficiencies through legislation that includes a public de-  
25 fense model where, although public defense delivery at the trial level would  
26 remain primarily funded and administered at the county level, certain over-  
27 sight and administration authority would be statutorily delegated to an  
28 independent commission authorized to promulgate certain rules with which  
29 counties are required to comply, including statewide training and continu-  
30 ing legal education requirements for public defense attorneys and uniform  
31 data reporting requirements. In addition, the independent commission would  
32 be statutorily required to make recommendations to the First Regular Session  
33 of the Sixty-third Idaho Legislature, and may make recommendations during  
34 the regular sessions of the Legislature thereafter as deemed necessary, for  
35 legislation relating to core requirements for public defense contracts;  
36 standards for the qualification and experience of public defense attorneys;  
37 enforcement mechanisms; and funding issues; and

38 WHEREAS, the legislation recommended by the Public Defense Reform  
39 Interim Committee also provides for a public defense model where the coun-  
40 ties' statutory duty to provide for counsel at public expense would be  
41 accomplished by one of the following: (1) establish an office of public  
42 defender; (2) establish a joint office of public defender with one or more  
43 other counties; (3) contract with an existing office of public defender; or

1 (4) contract with a defending attorney provided that no such contract shall  
2 include a flat fee pricing structure; and

3 WHEREAS, during the course of its study, the Public Defense Reform In-  
4 terim Committee identified additional issues in need of further study. Such  
5 issues include funding issues; the municipalities' participation in and  
6 potential financial contribution to the public defense system; and effec-  
7 tive enforcement mechanisms to ensure compliance with public defense system  
8 standards and requirements.

9 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Ses-  
10 sion of the Sixty-second Idaho Legislature, the House of Representatives and  
11 the Senate concurring therein, that the Legislative Council is authorized  
12 to appoint a committee to undertake and complete a study of potential ap-  
13 proaches to public defense reform including, but not limited to: funding  
14 issues; municipalities' participation in and potential financial contri-  
15 bution to the public defense system; and effective enforcement mechanisms  
16 to ensure compliance with public defense system standards and requirements.  
17 The committee shall consist of ten legislators, with five from the Senate  
18 and five from the House of Representatives. The Legislative Council shall  
19 authorize the committee to receive input, advice and assistance from inter-  
20 ested and affected parties who are not members of the Legislature.

21 BE IT FURTHER RESOLVED that the cochairmen of the committee are autho-  
22 rized to appoint advisors with technical expertise in the area of public de-  
23 fense and are expected to receive input from stakeholders in the criminal  
24 justice system of Idaho.

25 BE IT FURTHER RESOLVED that any advisors to the committee who are not  
26 legislative members shall not be reimbursed from legislative funds for per  
27 diem, mileage or other expenses and shall not have voting privileges.

28 BE IT FURTHER RESOLVED that the commission shall report its findings,  
29 recommendations and proposed legislation, if any, to the First Regular Ses-  
30 sion of the Sixty-third Idaho Legislature.