

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

HB24-1289 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds that:

5 (a) Indigent defendants deserve legal representation
6 commensurate with the legal representation that nonindigent defendants
7 receive;

8 (b) Public defenders have a constitutional, statutory, and ethical
9 duty to provide competent, diligent, and effective representation and legal
10 services to indigent defendants. However, excessive workloads may
11 prevent public defenders from fulfilling these obligations.

12 (c) Validated and weighted case measurements are an important
13 tool for public defender agencies, policymakers, and other stakeholders
14 to have to evaluate public defender workloads within their communities.

15 (2) Therefore, the general assembly declares that workload
16 standards are critical to the office of the state public defender's ability to
17 obtain the necessary resources to provide competent, diligent, and
18 effective legal counsel guaranteed by the federal and state constitutions,
19 the Colorado Rules of Professional Conduct, and the office of the state
20 public defender's mandate to provide legal services that are
21 commensurate with those available to nonindigent individuals.

22 **SECTION 2.** In Colorado Revised Statutes, **add** 21-1-108 as
23 follows:

24 **21-1-108. State public defender workload standards - study -**
25 **report.** (1) NO LATER THAN NOVEMBER 1, 2025, THE OFFICE OF THE
26 STATE PUBLIC DEFENDER SHALL COMPLETE A WORKLOAD STUDY THAT IS
27 SPECIFIC TO THE WORKLOAD OF THE DEPUTY STATE PUBLIC DEFENDERS.
28 THE STUDY MUST COLLECT AND ANALYZE DATA AND RELEVANT
29 INFORMATION REGARDING THE WORKLOAD OF THE DEPUTY STATE PUBLIC
30 DEFENDERS IN ORDER TO:

31 (a) ASSIST THE OFFICE OF THE STATE PUBLIC DEFENDER IN
32 OBTAINING THE RESOURCES NEEDED TO PROVIDE COMPETENT, DILIGENT,
33 AND EFFECTIVE REPRESENTATION CONSISTENT WITH THE STATUTORY
34 MANDATE PURSUANT TO SECTION 21-1-101(1);

35 (b) ASSIST THE OFFICE OF THE STATE PUBLIC DEFENDER
36 SUPERVISING STAFF IN MONITORING AND MANAGING DEPUTY STATE PUBLIC
37 DEFENDER AND OTHER OFFICE OF THE STATE PUBLIC DEFENDER STAFF
38 WORKLOADS WITHIN EACH REGIONAL OFFICE OF THE STATE PUBLIC
39 DEFENDER AND IN RESPONDING TO EXCESSIVE WORKLOADS;

40 (c) ASSIST THE OFFICE OF THE STATE PUBLIC DEFENDER IN

1 ALLOCATING STAFF RESOURCES ACROSS THE REGIONAL OFFICES; AND
2 (d) ASSIST IN THE DEVELOPMENT OF WORKLOAD STANDARDS THAT
3 WILL GUIDE DEPUTY STATE PUBLIC DEFENDERS IN IDENTIFYING EXCESSIVE
4 WORKLOADS.
5 (2) THE WORKLOAD STUDY MUST:
6 (a) RECOMMEND A WEIGHTED UNIT OF WORKLOAD MEASUREMENT
7 BY CASE TYPE AND OFFENSE FOR ALL CASE TYPES AND OFFENSES AS
8 DESCRIBED IN TITLE 18, ARTICLE 2.5 OF TITLE 19, AND TITLE 42, AND ANY
9 OTHER CASE TYPES OR OFFENSES SPECIFIED IN STATE LAW THAT REQUIRE
10 LEGAL ASSISTANCE FROM THE OFFICE OF THE STATE PUBLIC DEFENDER;
11 (b) ACCOUNT FOR THE AMOUNT OF TIME THAT A DEPUTY STATE
12 PUBLIC DEFENDER SHOULD SPEND ON A CASE INSTEAD OF THE AMOUNT OF
13 TIME THAT A DEPUTY STATE PUBLIC DEFENDER CURRENTLY SPENDS ON A
14 CASE.
15 (c) ACCOUNT FOR JURISDICTIONAL DIFFERENCES;
16 (d) ACCOUNT FOR THE TIME NEEDED TO MANAGE JOB
17 RESPONSIBILITIES UNRELATED TO DIRECT CASE REPRESENTATION,
18 INCLUDING, BUT NOT LIMITED TO, ATTENDING TRAINING, PAID TIME OFF,
19 FAMILY AND MEDICAL LEAVE, EXTENDED SICK LEAVE, SUPERVISOR
20 RESPONSIBILITIES, AND PERFORMING ADMINISTRATIVE TASKS;
21 (e) CONSIDER ANY EXISTING METHODOLOGIES AND DATA USED TO
22 ESTIMATE THE NECESSARY TIME FOR DEPUTY STATE PUBLIC DEFENDERS'
23 CASEWORK, INCLUDING THE DELPHI METHOD USED IN PRIOR PUBLIC
24 DEFENDER WORKLOAD STUDIES IN COLORADO AND IN OTHER STATES, AND
25 ANY OTHER AVAILABLE RESEARCH ON PUBLIC DEFENDER WORKLOAD
26 ALLOCATION INCLUDING NATIONWIDE STUDIES AND WEIGHTED CASE
27 MEASUREMENTS ADOPTED IN OTHER STATES; AND
28 (f) CONSIDER TIMELY INPUT REGARDING THE DESIGN OF THE
29 WORKLOAD STUDY FROM OFFICE OF THE STATE PUBLIC DEFENDER
30 EMPLOYEES, REGARDLESS OF EMPLOYMENT STATUS, JOB CLASSIFICATION,
31 OR AFFILIATION WITH EMPLOYEE ORGANIZATIONS AS DEFINED IN SECTION
32 29-33-103.
33 (3) ON OR BEFORE JULY 1, 2026, THE OFFICE OF THE STATE PUBLIC
34 DEFENDER SHALL ESTABLISH WORKLOAD STANDARDS BY CASE TYPE AND
35 OFFENSE BASED ON THE INFORMATION GATHERED IN THE WORKLOAD
36 STUDY REQUIRED IN SUBSECTION (1) OF THIS SECTION. THESE WORKLOAD
37 STANDARDS MUST:
38 (a) ASSIST OFFICE OF THE STATE PUBLIC DEFENDER SUPERVISORS
39 AND OTHER OFFICE OF THE STATE PUBLIC DEFENDER STAFF IN MONITORING
40 AND MANAGING DEPUTY STATE PUBLIC DEFENDERS AND OTHER OFFICE OF
41 THE STATE PUBLIC DEFENDER STAFF WORKLOADS WITHIN EACH REGIONAL
42 OFFICE TO ENSURE THAT THE WORKLOADS ARE NOT EXCESSIVE;
43 (b) ASSIST DEPUTY STATE PUBLIC DEFENDERS IN ASSESSING EACH

1 DEPUTY STATE PUBLIC DEFENDER'S INDIVIDUAL WORKLOAD IN ORDER TO
2 PROVIDE COMPETENT, DILIGENT, AND EFFECTIVE REPRESENTATION AS
3 REQUIRED BY SECTION 21-1-101(1); AND

4 (c) ASSIST THE OFFICE OF THE STATE PUBLIC DEFENDER IN
5 IDENTIFYING WORKLOAD NEEDS TO ADJUST STAFFING IN REGIONAL
6 OFFICES AS NECESSARY AND IN DEVELOPING REQUESTS FOR INCREASED
7 RESOURCES FROM THE GENERAL ASSEMBLY.

8 (4) ON OR BEFORE JULY 1, 2026, THE OFFICE OF THE STATE PUBLIC
9 DEFENDER SHALL ESTABLISH POLICIES AND PROCEDURES FOR THE
10 IMPLEMENTATION OF THE WORKLOAD STANDARDS AS DESCRIBED IN
11 SUBSECTION (3) OF THIS SECTION. THE POLICIES AND PROCEDURES MUST:

12 (a) GUIDE THE SUPERVISORS, CHIEF DEPUTY PUBLIC DEFENDERS,
13 DEPUTY STATE PUBLIC DEFENDERS, AND OTHER OFFICE OF THE STATE
14 PUBLIC DEFENDER STAFF ON HOW TO IMPLEMENT THE WORKLOAD
15 STANDARDS;

16 (b) ESTABLISH A PROCESS FOR NOTIFYING THE OFFICE OF THE
17 STATE PUBLIC DEFENDER OF ANY EXCESSIVE WORKLOAD CONCERNS BASED
18 ON THE WORKLOAD STANDARDS;

19 (c) REQUIRE THE OFFICE OF THE STATE PUBLIC DEFENDER TO MAKE
20 INFORMATION AND DATA ABOUT WORKLOAD STANDARDS AS APPLIED TO
21 EACH REGIONAL OFFICE AVAILABLE TO ALL OFFICE OF THE STATE PUBLIC
22 DEFENDER EMPLOYEES AT LEAST EVERY SIX MONTHS; AND

23 (d) NOT CONFLICT WITH THE COLORADO RULES OF PROFESSIONAL
24 CONDUCT.

25 (5) (a) ON OR BEFORE JANUARY 1, 2027, AND EACH JANUARY 1
26 THEREAFTER, THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL SUBMIT
27 A REPORT TO THE SENATE JUDICIARY COMMITTEE AND THE HOUSE OF
28 REPRESENTATIVES JUDICIARY COMMITTEE, OR THEIR SUCCESSOR
29 COMMITTEES, CONTAINING INFORMATION ABOUT THE IMPLEMENTATION
30 AND EXECUTION OF THE WORKLOAD STANDARDS.

31 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
32 REQUIRED IN THIS SUBSECTION (5) CONTINUES INDEFINITELY.

33 (6) (a) IN CREATING THE WORKLOAD STANDARDS PURSUANT TO
34 SUBSECTION (3) OF THIS SECTION AND THE POLICIES AND PROCEDURES
35 PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE OFFICE OF THE STATE
36 PUBLIC DEFENDER SHALL SOLICIT INPUT FROM OFFICE OF THE STATE
37 PUBLIC DEFENDER EMPLOYEES REGARDLESS OF THE EMPLOYEES'
38 EMPLOYMENT STATUS, JOB CLASSIFICATION, OR AFFILIATION WITH
39 EMPLOYEE ORGANIZATIONS AS DEFINED BY SECTION 29-33-103.

40 (b) THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL HOLD AT
41 LEAST ONE MEETING FOR INTERESTED OFFICE OF THE STATE PUBLIC
42 DEFENDER EMPLOYEES TO PROVIDE INPUT ON THE WORKLOAD STANDARDS
43 AND POLICIES AND PROCEDURES AND MUST ALLOW EMPLOYEES TO SUBMIT

1 WRITTEN FEEDBACK AND COMMENTS. AT LEAST ONE MEETING MUST BE
2 HELD PRIOR TO CREATING THE WORKLOAD STANDARDS.

3 (c) THE MEETING MUST BE CONDUCTED IN PERSON AND ALLOW FOR
4 REMOTE PARTICIPATION.

5 (d) THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL PROVIDE
6 SUFFICIENT NOTICE OF A MEETING TO ALL EMPLOYEES OF THE OFFICE OF
7 THE STATE PUBLIC DEFENDER. THE NOTICE MUST INCLUDE THE DATE, TIME,
8 AND LOCATION OF THE MEETING, AND INFORMATION ON HOW TO ATTEND
9 REMOTELY.

10 (e) THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL PROVIDE
11 A COPY OF ANY PROPOSED WORKLOAD STANDARDS AND POLICIES AND
12 PROCEDURES TO ALL OFFICE OF THE STATE PUBLIC DEFENDER EMPLOYEES
13 PRIOR TO A SCHEDULED MEETING. THE OFFICE OF THE STATE PUBLIC
14 DEFENDER SHALL PROVIDE A COPY OF THE FINAL WORKLOAD STANDARDS
15 AND POLICIES AND PROCEDURES DEVELOPED AFTER THE FINAL MEETING TO
16 ALL OFFICE OF THE STATE PUBLIC DEFENDER EMPLOYEES AT LEAST THIRTY
17 DAYS PRIOR TO IMPLEMENTATION OF THE WORKLOAD STANDARDS AND
18 POLICIES AND PROCEDURES TO ALLOW FOR ADDITIONAL COMMENTS AND
19 INPUT.

20 **SECTION 3. Act subject to petition - effective date.** This act
21 takes effect at 12:01 a.m. on the day following the expiration of the
22 ninety-day period after final adjournment of the general assembly; except
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V
24 of the state constitution against this act or an item, section, or part of this
25 act within such period, then the act, item, section, or part will not take
26 effect unless approved by the people at the general election to be held in
27 November 2024 and, in such case, will take effect on the date of the
28 official declaration of the vote thereon by the governor."

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