

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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March 6, 2024  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB24-1289 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

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 ATTORNEYS EMPLOYED BY THE OFFICE  
28 OF THE STATE PUBLIC DEFENDER WHO REGULARLY ENGAGE IN THE

1 REPRESENTATION OF CLIENTS. THE STUDY MUST COLLECT AND ANALYZE  
2 DATA AND RELEVANT INFORMATION REGARDING THE WORKLOAD OF THE  
3 ATTORNEYS EMPLOYED BY THE OFFICE OF THE STATE PUBLIC DEFENDER  
4 WHO REGULARLY ENGAGE IN THE REPRESENTATION OF CLIENTS IN ORDER  
5 TO:

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

10 (b) ASSIST THE OFFICE OF THE STATE PUBLIC DEFENDER  
11 SUPERVISING STAFF IN MONITORING AND MANAGING OFFICE OF THE STATE  
12 PUBLIC DEFENDER STAFF WORKLOADS WITHIN EACH REGIONAL OFFICE OF  
13 THE STATE PUBLIC DEFENDER AND IN RESPONDING TO EXCESSIVE  
14 WORKLOADS;

15 (c) ASSIST THE OFFICE OF THE STATE PUBLIC DEFENDER IN  
16 ALLOCATING STAFF RESOURCES ACROSS THE REGIONAL OFFICES; AND

17 (d) ASSIST IN THE DEVELOPMENT OF WORKLOAD STANDARDS THAT  
18 WILL GUIDE AN ATTORNEY EMPLOYED BY THE OFFICE OF THE STATE PUBLIC  
19 DEFENDER WHO REGULARLY ENGAGES IN THE REPRESENTATION OF  
20 CLIENTS IN IDENTIFYING EXCESSIVE WORKLOADS.

21 (2) THE WORKLOAD STUDY MUST:

22 (a) RECOMMEND A WEIGHTED UNIT OF WORKLOAD MEASUREMENT  
23 BY CASE TYPE AND OFFENSE FOR ALL CASE TYPES AND OFFENSES AS  
24 DESCRIBED IN TITLE 18, ARTICLE 2.5 OF TITLE 19, AND TITLE 42, AND ANY  
25 OTHER CASE TYPES OR OFFENSES SPECIFIED IN STATE LAW THAT REQUIRE  
26 LEGAL ASSISTANCE FROM THE OFFICE OF THE STATE PUBLIC DEFENDER;

27 (b) NOT RELY SOLELY ON THE AMOUNT OF TIME THAT AN  
28 ATTORNEY, EMPLOYED BY THE OFFICE OF THE STATE PUBLIC DEFENDER  
29 WHO REGULARLY ENGAGES IN THE REPRESENTATION OF CLIENTS,  
30 CURRENTLY SPENDS ON A CASE.

31 (c) ACCOUNT FOR JURISDICTIONAL DIFFERENCES;

32 (d) ACCOUNT FOR THE TIME NEEDED TO MANAGE JOB  
33 RESPONSIBILITIES UNRELATED TO DIRECT CASE REPRESENTATION,  
34 INCLUDING, BUT NOT LIMITED TO, ATTENDING TRAINING, PAID TIME OFF,  
35 FAMILY AND MEDICAL LEAVE, EXTENDED SICK LEAVE, SUPERVISOR  
36 RESPONSIBILITIES, AND PERFORMING ADMINISTRATIVE TASKS;

37 (e) CONSIDER ANY EXISTING METHODOLOGIES AND DATA USED TO  
38 ESTIMATE THE NECESSARY TIME FOR THE CASEWORK OF ATTORNEYS  
39 EMPLOYED BY THE OFFICE OF THE STATE PUBLIC DEFENDER WHO  
40 REGULARLY ENGAGE IN THE REPRESENTATION OF CLIENTS, INCLUDING  
41 METHODS USED IN PRIOR PUBLIC DEFENDER WORKLOAD STUDIES IN  
42 COLORADO AND IN OTHER STATES, AND ANY OTHER AVAILABLE RESEARCH  
43 ON PUBLIC DEFENDER WORKLOAD ALLOCATION INCLUDING RELEVANT

1 STUDIES AND WEIGHTED CASE MEASUREMENTS ADOPTED IN OTHER  
2 STATES; AND

3 (f) CONSIDER TIMELY INPUT REGARDING THE DESIGN OF THE  
4 WORKLOAD STUDY FROM OFFICE OF THE STATE PUBLIC DEFENDER  
5 EMPLOYEES, REGARDLESS OF EMPLOYMENT STATUS, JOB CLASSIFICATION,  
6 OR AFFILIATION WITH EMPLOYEE ORGANIZATIONS AS DEFINED IN SECTION  
7 29-33-103.

8 (3) ON OR BEFORE JULY 1, 2026, THE OFFICE OF THE STATE PUBLIC  
9 DEFENDER SHALL ESTABLISH WORKLOAD STANDARDS BY CASE TYPE AND  
10 OFFENSE BASED ON THE INFORMATION GATHERED IN THE WORKLOAD  
11 STUDY REQUIRED IN SUBSECTION (1) OF THIS SECTION. THESE WORKLOAD  
12 STANDARDS MUST:

13 (a) ASSIST THE COLORADO STATE PUBLIC DEFENDER AND ANY  
14 EMPLOYEES OF THE OFFICE OF THE STATE PUBLIC DEFENDER WITH  
15 SUPERVISORY AUTHORITY IN MONITORING AND MANAGING ATTORNEYS  
16 EMPLOYED BY THE OFFICE OF THE STATE PUBLIC DEFENDER WHO  
17 REGULARLY ENGAGE IN THE REPRESENTATION OF CLIENTS AND OTHER  
18 OFFICE OF THE STATE PUBLIC DEFENDER STAFF WORKLOADS WITHIN EACH  
19 REGIONAL OFFICE TO ENSURE THAT THE WORKLOADS ARE NOT EXCESSIVE;  
20 AND

21 (b) ASSIST THE OFFICE OF THE STATE PUBLIC DEFENDER IN  
22 IDENTIFYING WORKLOAD NEEDS TO ADJUST STAFFING IN REGIONAL  
23 OFFICES AS NECESSARY AND IN DEVELOPING REQUESTS FOR INCREASED  
24 RESOURCES FROM THE GENERAL ASSEMBLY.

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

29 (a) GUIDE THE SUPERVISORS, CHIEF DEPUTY PUBLIC DEFENDERS,  
30 ATTORNEYS EMPLOYED BY THE OFFICE OF THE STATE PUBLIC DEFENDER  
31 WHO REGULARLY ENGAGE IN THE REPRESENTATION OF CLIENTS, AND  
32 OTHER OFFICE OF THE STATE PUBLIC DEFENDER STAFF ON HOW TO  
33 IMPLEMENT THE WORKLOAD STANDARDS;

34 (b) ESTABLISH A PROCESS FOR NOTIFYING THE OFFICE OF THE  
35 STATE PUBLIC DEFENDER OF ANY EXCESSIVE WORKLOAD CONCERNS BASED  
36 ON THE WORKLOAD STANDARDS;

37 (c) REQUIRE THE OFFICE OF THE STATE PUBLIC DEFENDER TO MAKE  
38 INFORMATION AND DATA ABOUT WORKLOAD STANDARDS AS APPLIED TO  
39 EACH REGIONAL OFFICE AVAILABLE TO ALL OFFICE OF THE STATE PUBLIC  
40 DEFENDER EMPLOYEES AT LEAST EVERY SIX MONTHS; AND

41 (d) NOT CONFLICT WITH THE COLORADO RULES OF PROFESSIONAL  
42 CONDUCT.

43 (5) (a) ON OR BEFORE JANUARY 1, 2027, AND EACH JANUARY 1

1 THEREAFTER, THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL SUBMIT  
2 A REPORT TO THE SENATE JUDICIARY COMMITTEE AND THE HOUSE OF  
3 REPRESENTATIVES JUDICIARY COMMITTEE, OR THEIR SUCCESSOR  
4 COMMITTEES, CONTAINING INFORMATION ABOUT THE IMPLEMENTATION  
5 AND EXECUTION OF THE WORKLOAD STANDARDS.

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

8 (6) (a) IN CREATING THE WORKLOAD STANDARDS PURSUANT TO  
9 SUBSECTION (3) OF THIS SECTION AND THE POLICIES AND PROCEDURES  
10 PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE OFFICE OF THE STATE  
11 PUBLIC DEFENDER SHALL SOLICIT INPUT FROM OFFICE OF THE STATE  
12 PUBLIC DEFENDER EMPLOYEES REGARDLESS OF THE EMPLOYEES'  
13 EMPLOYMENT STATUS, JOB CLASSIFICATION, OR AFFILIATION WITH  
14 EMPLOYEE ORGANIZATIONS AS DEFINED BY SECTION 29-33-103.

15 (b) THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL HOLD AT  
16 LEAST ONE MEETING FOR INTERESTED OFFICE OF THE STATE PUBLIC  
17 DEFENDER EMPLOYEES TO PROVIDE INPUT ON THE WORKLOAD STANDARDS  
18 AND POLICIES AND PROCEDURES AND MUST ALLOW EMPLOYEES TO SUBMIT  
19 WRITTEN FEEDBACK AND COMMENTS. AT LEAST ONE MEETING MUST BE  
20 HELD PRIOR TO CREATING THE WORKLOAD STANDARDS.

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

23 (d) THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL PROVIDE  
24 SUFFICIENT NOTICE OF A MEETING TO ALL EMPLOYEES OF THE OFFICE OF  
25 THE STATE PUBLIC DEFENDER. THE NOTICE MUST INCLUDE THE DATE, TIME,  
26 AND LOCATION OF THE MEETING, AND INFORMATION ON HOW TO ATTEND  
27 REMOTELY.

28 (e) THE OFFICE OF THE STATE PUBLIC DEFENDER SHALL PROVIDE  
29 A COPY OF ANY PROPOSED WORKLOAD STANDARDS AND POLICIES AND  
30 PROCEDURES TO ALL OFFICE OF THE STATE PUBLIC DEFENDER EMPLOYEES  
31 PRIOR TO A SCHEDULED MEETING. THE OFFICE OF THE STATE PUBLIC  
32 DEFENDER SHALL PROVIDE A COPY OF THE FINAL WORKLOAD STANDARDS  
33 AND POLICIES AND PROCEDURES DEVELOPED AFTER THE FINAL MEETING TO  
34 ALL OFFICE OF THE STATE PUBLIC DEFENDER EMPLOYEES AT LEAST THIRTY  
35 DAYS PRIOR TO IMPLEMENTATION OF THE WORKLOAD STANDARDS AND  
36 POLICIES AND PROCEDURES TO ALLOW FOR ADDITIONAL COMMENTS AND  
37 INPUT.

38 **SECTION 3. Act subject to petition - effective date.** This act  
39 takes effect at 12:01 a.m. on the day following the expiration of the  
40 ninety-day period after final adjournment of the general assembly; except  
41 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
42 of the state constitution against this act or an item, section, or part of this  
43 act within such period, then the act, item, section, or part will not take

1 effect unless approved by the people at the general election to be held in  
2 November 2024 and, in such case, will take effect on the date of the  
3 official declaration of the vote thereon by the governor."

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