

CHAPTER 181

COURTS

HOUSE BILL 24-1374

BY REPRESENTATIVE(S) Marvin and Rutinel, Amabile, Bacon, Bird, Boesenecker, Brown, Clifford, Daugherty, deGruy Kennedy, Epps, Froelich, Garcia, Hernandez, Herod, Jodeh, Kipp, Lindsay, Lindstedt, Mabrey, Ricks, Sirota, Snyder, Titone, Weissman, Woodrow, McCluskie;
also SENATOR(S) Michaelson Jenet, Buckner, Cutter, Gardner, Gonzales, Hinrichsen, Jaquez Lewis, Priola, Roberts, Rodriguez, Winter F., Zenzinger.

AN ACT

CONCERNING MEANS OF ENSURING THAT INDEPENDENT CONTRACTORS WHO PERFORM LEGAL SERVICES ON BEHALF OF INDEPENDENT JUDICIAL AGENCIES ARE ELIGIBLE FOR THE FEDERAL PUBLIC SERVICE LOAN FORGIVENESS PROGRAM.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) Three independent judicial agencies, the office of the alternative defense counsel, the office of the child's representative, and the office of respondent parents' counsel, primarily use independent contractors to provide legal representation as required by state law because providing the same services through government employees would be impracticable due to the ethical conflicts that such employment would create;

(b) Providing legal representation through independent contractors is a common model to address such conflicts;

(c) In 2007, Congress created the public service loan forgiveness program to allow government and nonprofit full-time employees to have their federal student loans forgiven after ten years of qualifying service, but, unfortunately, independent contractors who provide crucial legal representation through contracts with government agencies were not eligible for the program;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(d) In 2023, the federal government changed the requirements for the program to make an independent contractor eligible for public service loan forgiveness if the work that the independent contractor performs for a government agency cannot be performed by a government employee;

(e) Providing opportunities for independent contractors who provide legal services on behalf of independent judicial agencies to be eligible for the same federal public service loan forgiveness that would be available for government employees performing similar work will improve recruitment and retention for crucial public service legal work and provide important financial benefits to Colorado residents and small business owners;

(f) Each year, these three independent judicial agencies lose highly qualified and trained contractors to full-time government or nonprofit jobs because these contractors want to be eligible for public service loan forgiveness, and this turnover is costly for the state and detrimental to clients; and

(g) Nothing in this act is intended to alter eligibility for state or local loan forgiveness, and the federal government will continue to be ultimately responsible for determining eligibility for federal public service loan forgiveness.

(2) The general assembly therefore declares that it is in the best interests of the state, the legal profession, and the people served by independent judicial agencies to clarify that independent contractors who provide legal services on behalf of independent judicial agencies can be eligible for federal public service loan forgiveness.

SECTION 2. In Colorado Revised Statutes, 13-91-105, **add** (3) as follows:

13-91-105. Duties of the office of the child's representative - guardian ad litem and counsel for youth programs. (3) COLORADO RELIES PRIMARILY ON AN INDEPENDENT CONTRACTOR MODEL OF LEGAL REPRESENTATION FOR CHILDREN AND YOUTH PROVIDED IN ACCORDANCE WITH THIS SECTION. WHILE THE OFFICE OF THE CHILD'S REPRESENTATIVE CURRENTLY PROVIDES LEGAL REPRESENTATION FOR CHILDREN AND YOUTH IN SOME CASE TYPES AND IN ONE COUNTY THROUGH STATE EMPLOYEES AND WILL CONTINUE TO EXPLORE THE USE OF A STATE EMPLOYEE STAFF MODEL OF LEGAL REPRESENTATION FOR CHILDREN AND YOUTH WHERE FEASIBLE, COLORADO'S NEED FOR LEGAL REPRESENTATION FOR CHILDREN AND YOUTH CANNOT BE FILLED OR PROVIDED STATEWIDE SOLELY BY EMPLOYEES OF THE OFFICE OF THE CHILD'S REPRESENTATIVE. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE IS AUTHORIZED TO SIGN A CERTIFICATION FOR ANY CURRENT OR PAST INDEPENDENT CONTRACTOR THAT CERTIFIES THAT THE CONTRACTOR APPEARS TO BE ELIGIBLE FOR FEDERAL PUBLIC SERVICE LOAN FORGIVENESS AS ALLOWED BY FEDERAL LAW OR REGULATIONS. WITH THE AUTHORIZATION OF AN INDEPENDENT CONTRACTOR WHO IS PROVIDING OR HAS PROVIDED LEGAL REPRESENTATION ON BEHALF OF THE OFFICE, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY SHARE INFORMATION, INCLUDING THE CONTRACTOR'S NAME, SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, AND THE TOTAL NUMBER OF HOURS BILLED BY THE CONTRACTOR BY CALENDAR YEAR, WITH OTHER INDEPENDENT JUDICIAL AGENCIES FOR THE PURPOSE OF CERTIFYING APPARENT PAST, CURRENT, AND FUTURE

ELIGIBILITY FOR PUBLIC SERVICE LOAN FORGIVENESS ALLOWED BY FEDERAL LAW OR REGULATIONS.

SECTION 3. In Colorado Revised Statutes, 13-92-104, **add** (3) as follows:

13-92-104. Duties of the office of the respondent parents' counsel.

(3) EMPLOYEES OF THE OFFICE ARE PROHIBITED FROM PROVIDING DIRECT LEGAL REPRESENTATION TO RESPONDENT PARENTS. FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR FEDERAL PUBLIC SERVICE LOAN FORGIVENESS, AN INDEPENDENT CONTRACTOR, INCLUDING AN ATTORNEY, A SOCIAL WORKER, A FAMILY ADVOCATE, OR A PARENT ADVOCATE, WHO IS PROVIDING OR HAS PROVIDED LEGAL SERVICES TO RESPONDENT PARENTS PURSUANT TO THE CONTRACTOR'S CONTRACT HAS A CONFLICT THAT PROHIBITS THE CONTRACTOR FROM PROVIDING THESE SERVICES AS A STATE EMPLOYEE. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE IS AUTHORIZED TO SIGN A CERTIFICATION FOR ANY CURRENT OR PAST INDEPENDENT CONTRACTOR THAT CERTIFIES THAT THE CONTRACTOR APPEARS TO BE ELIGIBLE FOR FEDERAL PUBLIC SERVICE LOAN FORGIVENESS AS ALLOWED BY FEDERAL LAW OR REGULATIONS. WITH THE AUTHORIZATION OF AN INDEPENDENT CONTRACTOR, THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY SHARE INFORMATION, INCLUDING THE CONTRACTOR'S NAME, SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, AND TOTAL NUMBER OF HOURS BILLED BY THE CONTRACTOR BY CALENDAR YEAR, WITH OTHER JUDICIAL AGENCIES FOR THE PURPOSE OF CERTIFYING APPARENT PAST, CURRENT, AND FUTURE ELIGIBILITY FOR PUBLIC SERVICE LOAN FORGIVENESS ALLOWED BY FEDERAL LAW OR REGULATIONS.

SECTION 4. In Colorado Revised Statutes, 21-2-105, **add** (3) as follows:

21-2-105. Contracts with attorneys and other legal services providers.

(3) COLORADO RELIES PRIMARILY ON AN INDEPENDENT CONTRACTOR MODEL OF LEGAL REPRESENTATION FOR COURT-APPOINTED ADULT AND YOUTH REPRESENTATION IN ACCORDANCE WITH THIS SECTION WHEN THE PUBLIC DEFENDER'S OFFICE HAS A LEGAL CONFLICT OF INTEREST. WHILE THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL PROVIDES SOME LEGAL REPRESENTATION FOR INDIGENT INDIVIDUALS ON SOME CASES THROUGH STATE EMPLOYEES AND WILL CONTINUE TO EXPLORE THE USE OF STATE EMPLOYEE STAFF MODEL SOLUTIONS WHERE FEASIBLE, COLORADO'S NEED FOR CONFLICT-FREE INDIGENT DEFENSE COUNSEL CANNOT BE FILLED OR PROVIDED STATEWIDE BY DIRECT EMPLOYEES OF THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL. FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR FEDERAL PUBLIC SERVICE LOAN FORGIVENESS, ANY INDEPENDENT CONTRACTOR, INCLUDING, BUT NOT LIMITED TO, A RESOURCE ADVOCATE, AN INVESTIGATOR, A CASE ASSISTANT, AN ATTORNEY, A SOCIAL WORKER, A PARALEGAL, OR A LEGAL RESEARCHER, WHO IS CURRENTLY PROVIDING OR HAS PREVIOUSLY PROVIDED LEGAL SERVICES OR SERVICES THROUGH AN INTERDISCIPLINARY LEGAL TEAM HAS A CONFLICT IN PROVIDING THESE SERVICES AS A STATE EMPLOYEE. THE DIRECTOR OF THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL OR THE DIRECTOR'S DESIGNEE IS AUTHORIZED TO SIGN A CERTIFICATION FOR ANY CURRENT OR PAST INDEPENDENT CONTRACTOR THAT CERTIFIES THAT THE CONTRACTOR APPEARS TO BE ELIGIBLE FOR FEDERAL PUBLIC SERVICE LOAN FORGIVENESS AS ALLOWED BY FEDERAL LAW OR REGULATIONS. WITH THE AUTHORIZATION OF AN INDEPENDENT CONTRACTOR, THE DIRECTOR OF THE OFFICE OF THE ALTERNATE DEFENSE COUNSEL OR THE DIRECTOR'S DESIGNEE MAY SHARE

INFORMATION, INCLUDING THE CONTRACTOR'S NAME, SOCIAL SECURITY NUMBER OR FEDERAL EMPLOYER IDENTIFICATION NUMBER, AND THE TOTAL NUMBER OF HOURS BILLED BY THE CONTRACTOR BY CALENDAR YEAR, WITH OTHER INDEPENDENT JUDICIAL AGENCIES FOR THE PURPOSE OF CERTIFYING APPARENT PAST, CURRENT, AND FUTURE ELIGIBILITY FOR PUBLIC SERVICE LOAN FORGIVENESS ALLOWED BY FEDERAL LAW OR REGULATIONS.

SECTION 5. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: May 15, 2024