

SENATE BILL 295

IN THE SENATE

January 30, 1979	Introduced and referred to Committee on Judiciary.
February 13, 1979	Fiscal note requested. Committee recommend bill, do not pass.
February 14, 1979	On motion, Senate reconsider its action taken on Adverse Committee Report and order printed and placed on second reading. Motion failed.
February 16, 1979	Fiscal note returned.

1 *Amend* BILL NO. *295*
 2 INTRODUCED BY *Van Valkenburg*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE THE POSITION
 5 OF PUBLIC DEFENSE COORDINATOR; TO PROVIDE FOR THE
 6 COORDINATOR'S APPOINTMENT, QUALIFICATIONS, REMOVAL, SALARY,
 7 STAFF, AND DUTIES; AND TO PROVIDE FOR A COUNTY CONTRIBUTION
 8 TO THE COSTS OF THE COORDINATOR'S SERVICES."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definition of coordinator. In [this act]
 12 "coordinator" means the public defense coordinator provided
 13 for in [section 2].

14 Section 2. Position established. (1) There is created
 15 the position of public defense coordinator.

16 (2) The office of the coordinator is allocated to the
 17 department of community affairs for administrative purposes
 18 only, as provided in 2-15-121, except that the provisions of
 19 subsections (1)(b), (1)(c), (2)(a), (2)(b), (2)(d), (2)(e),
 20 and (3)(a) of 2-15-121 do not apply.

21 Section 3. Appointment. The coordinator shall be
 22 appointed by the governor from a list of three names
 23 submitted by the chief justice of the supreme court.

24 Section 4. Qualifications. The coordinator shall be an
 25 attorney in good standing admitted to practice law in

1 Montana who has engaged in the active practice of law for at
 2 least 2 years before his appointment.

3 Section 5. Removal from office. The coordinator may be
 4 removed from office only for cause by the governor.

5 Section 6. Salary. The salary of the coordinator shall
 6 be fixed by the governor and shall be commensurate with that
 7 of the training coordinator employed by the department of
 8 justice.

9 Section 7. Additional attorneys and staff. The
 10 coordinator may hire one or more attorneys and such office
 11 staff as he considers necessary to assist him in carrying
 12 out his duties.

13 Section 8. Duties of coordinator. The coordinator
 14 shall:

15 (1) provide for and coordinate training of public
 16 defenders and court-appointed counsel in current aspects of
 17 criminal law;

18 (2) plan for the future provision of public defense
 19 services in Montana;

20 (3) consolidate present and past information in
 21 important aspects of the criminal law and provide a pool of
 22 official opinions, legal briefs, and other relevant criminal
 23 law information;

24 (4) assist public defenders and court-appointed
 25 defense counsel in the prosecution of direct appeals to the

1 supreme court whenever the requirements of his other duties
2 and budgetary considerations allow;

3 (5) act as trial counsel whenever the requirements of
4 his other duties and budgetary considerations allow and,
5 upon the request of the county commissioners, he is
6 appointed as such by a district judge in any criminal case
7 which is expected to be so complicated or prolonged as to
8 place an unreasonable burden on the county responsible for
9 providing counsel by the usual means; and

10 (6) apply for, accept, and disburse federal funds
11 available for aid to give fuller and more efficient
12 realization of the right to counsel.

13 Section 9. County's contribution to costs of defense.
14 Whenever the coordinator acts as defense counsel under
15 [subsection (4) or (5) of section 8], the county responsible
16 for providing counsel shall pay into the earmarked revenue
17 fund for the use of the coordinator's office an hourly
18 compensation, agreed upon by the coordinator and the county
19 commissioners of the responsible county, for the services of
20 the coordinator or his assistant.

-End-

STATE OF MONTANA

Request No. 323-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 13, 1979, there is hereby submitted a Fiscal Note for Senate Bill 295 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 295 creates the position of public defense coordinator within the Department of Community Affairs.

ASSUMPTIONS:

1. The approximate amount contracted for deputy defense coordinators will be recovered by the state through negotiation.
2. The Office of the Coordinator will consist of the Coordinator and a legal secretary.

FISCAL IMPACT:

	<u>FY 1980</u>	<u>FY 1981</u>
Expenditures under proposed law	\$ 75,348	\$ 75,152
Anticipated revenue thru negotiation	20,000	20,000
Net additional cost of proposed legislation	<u>\$ 55,348</u>	<u>\$ 55,152</u>

The additional cost must be funded from the State General Fund.

LOCAL IMPACT:

County expenses for public defense would be reduced to the extent that the negotiated fee provided in Section 9 is less than the fee claimed by local attorneys.

Richard D. Drayton
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 2/16/79

STATE OF MONTANA

REQUEST NO. _____

FISCAL NOTE

Form BD-15

In compliance with a written request received _____, 19 _____, there is hereby submitted a Fiscal Note for SB 295 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF LEGISLATION:

Senate Bill 295 creates the position of public defense coordinator within the Department of Community Affairs.

FISCAL IMPACT:

Estimated Effect on Revenue and/or Expenditures	Estimated	Estimated	Estimated	Estimated	Estimated	Estimated
	Amount	Amount		Amount	Amount	
	Under	Under	Increase	Under	Under	Increase
	Current	Proposed	(Decrease)	Current	Proposed	(Decrease)
	Law	Law		Law	Law	
Effect on Revenue By Source						
Earmarked Revenue Fund Department of Community Affairs	\$ - 0 -	\$20,000	\$20,000	\$ - 0 -	\$20,000	\$20,000
TOTAL REVENUE	\$ - 0 -	\$20,000	\$20,000	\$ - 0 -	\$20,000	\$20,000
Effect on Expenditures By Category						
Personal Services	\$ - 0 -	\$43,698	\$43,698	\$ - 0 -	\$46,002	\$46,002
Operating Expenses	- 0 -	29,150	29,150	- 0 -	29,150	29,150
Capital Outlay	- 0 -	2,500	2,500	- 0 -	- 0 -	- 0 -
TOTAL EXPENDITURES	\$ - 0 -	\$75,348	\$75,348	\$ - 0 -	\$75,152	\$75,152
NET EFFECT	\$ - 0 -	\$55,348	\$55,348	\$ - 0 -	\$55,152	\$55,152

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: _____