

January 28, 2016

To: Dave Boyher, TYask Force on Public Defender Operations.

Fr: Mark Murphy, Montana County Attorneys Association.

Re: PROPOSAL TO MAKE THE OFFICE OF PUBLIC DEFENDER FINANCIALLY RESPONSIBLE AND EFFICIENT.

1. VOUCHER SYSTEM FOR MISDEMEANOR INDIGENT REPRESENTATION. THE INTENT OF THIS CHANGE IS TO PRIVITIZE THE ENTIRE INDIGENT MISDEMEANOR REPRESENTATION SYSTEM. THE VALUE OF THE VOUCHER WILL BE SET BY THE AVERAGE NUMBER OF HOURS SPENT (X THE HOURLY RATE FOR PRIVATE COUNSEL, APPROVED BY THE LEGISLATURE) OF THESE CASES AS SET OUT IN THE FISCAL NOTE IN SUPPORT OF SENATE BILL 90 IN THE 2015 LEGISLATIVE SESSION. ELIGIBILITY FOR VOUCHERS WILL BE DETERMINED UNDER THE TERMS AND CONDITIONS SET OUT IN PARAGRAPH 1 OF THIS PROPOSAL. THE VOUCHERS MAY BE USED TO PAY FOR PRIVATE DEFENSE COUNSEL, FINES AND SURCHARGES IMPOSED BY LOWER COURT JUDGES OR FOR COURT ORDERED TREATMENT AT THE DISCRETION OF THE INDIGENT DEFENDANT. THE DECISION TO ALLOW A PRIVATE ATTORNEY TO CONTINUE TO RECEIVE VOUCHERS WILL BE MADE BY REVIEWING CUSTOMER SATISFACTION SURVEYS FILLED OUT BY THE REPRESENTED INDIGENT DEFENDANTS. THE VOUCHER SYSTEM WILL BE FUNDED BY PLACING \$10,000,000 FROM THE OPD'S BUDGET IN THE CONTRACT MANAGER'S BUDGET AND MAKING

THE CONTRACT MANAGER'S POSITION INDEPENDENT AND REPORTS DIRECTLY TO THE OPD COMMISSION.

2. CO-PAYMENTS FROM INDIGENT REPRESENTED DEFENDANTS.

THIS PROPOSAL RECOMMENDS A RADICAL CHANGE FROM THE CURRENT CO-PAYMENT SYSTEM, WHICH HAS BEEN A COLOSSAL FAILURE. THE CO-PAYMENT SYSTEM SHOULD BE CHANGED FROM AN ADVERSARIAL SURCHARGE SYSTEM IMPOSED BY A JUDGE, TO AN ADMINISTRATIVE FEE THAT IS CHARGED EVERY TIME AN INDIGENT PERSON IS REPRESENTED BY THE OPD OR RECEIVES A VOUCHER. THERE WILL BE A \$150 FEE FOR EACH FELONY CASE/CHARGE AND \$75 FEE FOR EACH MISDEMEANOR CASE/CHARGE IN WHICH THE OPD PROVIDES EITHER A VOUCHER OR REPRESENTATION. THESE FEES WILL BE DEDUCTED FROM THE BUDGET OF THE OPD. THE OPD MAY COLLECT THESE FEES FROM THE INDIGENT PERSONS IT REPRESENTS OR PROVIDES A VOUCHER, AS A DEBT FOR SERVICES RENDERED. THE LEGISLATURE WILL ESTABLISH A REVOLVING REVENUE ACCOUNT INTO WHICH ALL FEES COLLECTED FROM DEFENDANTS ARE PLACED. THE OPD MAY SPEND ANY MONEY COLLECTED FROM DEFENDANTS, IN ANY MANNER ALLOWED BY THE LEGISLATURE. THE OPD MAY PRIVITIZE THE COLLECTION OF FEES AS ALLOWED BY THE LEGISLATURE.