
SENATE BILL 5046

State of Washington

53rd Legislature

1993 Regular Session

By Senators Haugen, Winsley and Newhouse

Read first time 01/11/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to repayment of cost of counsel provided to
2 indigent persons; and amending RCW 10.101.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 10.101.020 and 1989 c 409 s 3 are each amended to read
5 as follows:

6 (1) A determination of indigency shall be made for all persons
7 wishing the appointment of counsel in criminal, juvenile, involuntary
8 commitment, and dependency cases, and any other case where the right to
9 counsel attaches. The court or its designee shall determine whether
10 the person is indigent pursuant to the standards set forth in this
11 chapter.

12 (2) In making the determination of indigency, the court shall also
13 consider the anticipated length and complexity of the proceedings and
14 the usual and customary charges of an attorney in the community for
15 rendering services, and any other circumstances presented to the court
16 which are relevant to the issue of indigency. The appointment of
17 counsel shall not be denied to the person because the person's friends
18 or relatives, other than a spouse who was not the victim of any offense
19 or offenses allegedly committed by the person, have resources adequate

1 to retain counsel, or because the person has posted or is capable of
2 posting bond.

3 (3) The determination of indigency shall be made upon the
4 defendant's initial contact with the court or at the earliest time
5 circumstances permit. The court or its designee shall keep a written
6 record of the determination of indigency. Any information given by the
7 accused under this section or sections shall be confidential and shall
8 not be available for use by the prosecution in the pending case.

9 (4) If a determination of eligibility cannot be made before the
10 time when the first services are to be rendered, the court shall
11 appoint an attorney on a provisional basis. If the court subsequently
12 determines that the person receiving the services is ineligible, the
13 court shall notify the person of the termination of services, subject
14 to court-ordered reinstatement.

15 (5) All persons determined to be indigent (~~and able to~~
16 ~~contribute,~~) shall be required to execute a promissory note at the
17 time counsel is appointed. The (~~person shall be informed whether~~
18 ~~payment shall be made in the form of a lump sum payment or periodic~~
19 ~~payments. The payment and payment schedule must be set forth in~~
20 ~~writing~~) note shall include the following terms and provisions:

21 (a) The face amount shall be for the anticipated value of services
22 to be rendered. This amount may be adjusted at the conclusion of the
23 representation to reflect the actual value of services rendered.

24 (b) Payment may be either a single lump sum or divided into
25 installments.

26 (c) Interest shall be fixed at the rate paid on United States
27 Treasury ninety-day obligations at the time the note is initially
28 prepared and signed.

29 (d) The maturity of the note may not be fixed at more than five
30 years from the date the note is signed.

31 (e) The note shall contain a provision that payments may be
32 deferred or forgiven if the maker's indigency continues.

33 (f) The note shall contain provisions that collection costs
34 incurred, including reasonable attorneys' fees, shall be added to the
35 principal balance due and that the note may be assigned to a private
36 collection agency. The person receiving the appointment of counsel
37 shall also sign an affidavit swearing under penalty of perjury that all
38 income and assets reported are complete and accurate. In addition, the

1 person must swear in the affidavit to immediately report any change in
2 financial status to the court.

3 (6) The office or individual charged by the court to make the
4 determination of indigency shall provide a written report and opinion
5 as to indigency on a form prescribed by the office of the administrator
6 for the courts, based on information obtained from the defendant and
7 subject to verification. The form shall include information necessary
8 to provide a basis for making a determination with respect to indigency
9 as provided by this chapter.

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