
HOUSE BILL 2319

State of Washington 54th Legislature 1996 Regular Session

By Representatives Ballasiotes, McMahan and Costa

Read first time 01/09/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to determination of indigency for legal
2 proceedings; 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))~~ determination of

1 indigency shall take into account whether the person has access through
2 friends and relatives to resources adequate to retain counsel, ((or
3 because)) but not whether the person has posted or is capable of
4 posting bond.

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

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

17 (5) All persons determined to be indigent and able to contribute,
18 shall be required to execute a promissory note at the time counsel is
19 appointed. The person shall be informed whether payment shall be made
20 in the form of a lump sum payment or periodic payments. The payment
21 and payment schedule must be set forth in writing. The person
22 receiving the appointment of counsel shall also sign an affidavit
23 swearing under penalty of perjury that all income and assets reported
24 are complete and accurate. In addition, the person must swear in the
25 affidavit to immediately report any change in financial status to the
26 court.

27 (6) The office or individual charged by the court to make the
28 determination of indigency shall provide a written report and opinion
29 as to indigency on a form prescribed by the office of the administrator
30 for the courts, based on information obtained from the defendant and
31 subject to verification. The form shall include information necessary
32 to provide a basis for making a determination with respect to indigency
33 as provided by this chapter.

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