
SENATE BILL 6215

State of Washington

66th Legislature

2020 Regular Session

By Senator Braun

Prefiled 01/10/20.

1 AN ACT Relating to establishing a collaborative process to
2 alleviate the burden on local courts to determine indigency through
3 proof of receipt of public assistance; amending RCW 10.101.020 and
4 74.04.060; and providing an effective date.

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

6 **Sec. 1.** RCW 10.101.020 and 1997 c 41 s 5 are each amended to
7 read as follows:

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

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

1 person, have resources adequate to retain counsel, or because the
2 person has posted or is capable of 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
7 the accused under this (~~section or sections~~) chapter shall be
8 confidential and shall not be available for use by the prosecution in
9 the pending case.

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

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

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

34 (7)(a) Except as provided in (b) of this subsection, receipt of
35 public assistance as defined in RCW 10.101.010(3)(a) shall be
36 determined solely by the department of social and health services or
37 the health care authority. The office of public defense, in
38 collaboration with the department of social and health services or
39 the health care authority, must develop a process or mechanism
40 through which the court or its designee will receive the department

1 of social and health services' or the health care authority's
2 determination.

3 (b) Upon request of the county legislative authority of the
4 jurisdiction of the court, the office of public defense may approve
5 an alternate process of determining the receipt of public assistance
6 as defined in RCW 10.101.010(3)(a). The office of public defense must
7 consider the impact that approval would have on county operations and
8 the consistency of indigency determinations statewide.

9 **Sec. 2.** RCW 74.04.060 and 2017 3rd sp.s. c 6 s 817 are each
10 amended to read as follows:

11 (1)(a) For the protection of applicants and recipients, the
12 department, the authority, and the county offices and their
13 respective officers and employees are prohibited, except as
14 hereinafter provided, from disclosing the contents of any records,
15 files, papers and communications, except for purposes directly
16 connected with the administration of the programs of this title. In
17 any judicial proceeding, except such proceeding as is directly
18 concerned with the administration of these programs, such records,
19 files, papers and communications, and their contents, shall be deemed
20 privileged communications and except for the right of any individual
21 to inquire of the office whether a named individual is a recipient of
22 (~~welfare~~) public assistance and such person shall be entitled to an
23 affirmative or negative answer.

24 (b) Unless prohibited by federal law, for the purpose of
25 investigating and preventing child abuse and neglect and providing
26 for the health care coordination and well-being of children in foster
27 care, the department and the authority shall disclose to the
28 department of children, youth, and families the following
29 information: Developmental disabilities administration client
30 records; home and community services client records; long-term care
31 facility or certified community residential supports records; health
32 care information; child support information; food assistance
33 information; and public assistance information. Disclosure under this
34 subsection (~~((1)(b))~~) is mandatory for the purposes of the federal
35 health insurance portability and accountability act.

36 (c) Upon written request of a parent who has been awarded
37 visitation rights in an action for divorce or separation or any
38 parent with legal custody of the child, the department shall disclose
39 to him or her the last known address and location of his or her

1 natural or adopted children. The secretary shall adopt rules which
2 establish procedures for disclosing the address of the children and
3 providing, when appropriate, for prior notice to the custodian of the
4 children. The notice shall state that a request for disclosure has
5 been received and will be complied with by the department unless the
6 department receives a copy of a court order which enjoins the
7 disclosure of the information or restricts or limits the requesting
8 party's right to contact or visit the other party or the child.
9 Information supplied to a parent by the department shall be used only
10 for purposes directly related to the enforcement of the visitation
11 and custody provisions of the court order of separation or decree of
12 divorce. No parent shall disclose such information to any other
13 person except for the purpose of enforcing visitation provisions of
14 the said order or decree.

15 (d) The department shall review methods to improve the protection
16 and confidentiality of information for recipients of welfare
17 assistance who have disclosed to the department that they are past or
18 current victims of domestic violence or stalking.

19 (2) The county offices shall maintain monthly at their offices a
20 report showing the names and addresses of all recipients in the
21 county receiving public assistance under this title, together with
22 the amount paid to each during the preceding month.

23 (3) The provisions of this section shall not apply to duly
24 designated representatives of approved private welfare agencies,
25 public officials, members of legislative interim committees and
26 advisory committees when performing duties directly connected with
27 the administration of this title, such as regulation and
28 investigation directly connected therewith: PROVIDED, HOWEVER, That
29 any information so obtained by such persons or groups shall be
30 treated with such degree of confidentiality as is required by the
31 federal social security law.

32 (4) It shall be unlawful, except as provided in this section, for
33 any person, body, association, firm, corporation or other agency to
34 solicit, publish, disclose, receive, make use of, or to authorize,
35 knowingly permit, participate in or acquiesce in the use of any lists
36 or names for commercial or political purposes of any nature. The
37 violation of this section shall be a gross misdemeanor.

1 NEW SECTION. **Sec. 3.** This act takes effect September 1, 2020.

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