

FINAL BILL REPORT

SHB 1237

C 275 L 95

Synopsis as Enacted

Brief Description: Specifying responsibility for payment of costs incurred on appeal by indigent persons.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Padden, Foreman, Honeyford, Chandler, Mielke, Johnson, Blanton, Goldsmith, Clements, Hickel, Dyer, Backlund, Schoesler, McMahan, Boldt, Sheahan, Koster, Sherstad and Smith).

House Committee on Law & Justice
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background: The state must provide an indigent convicted defendant with appointed counsel at state expense to assist the defendant in prosecuting a first appeal that is granted as a matter of right. A number of statutes and court rules limit prosecution of subsequent appeals and collateral attacks.

The court determines whether to appoint counsel at public expense on a case-by-case basis in accordance with applicable court rules.

The court may order a convicted defendant to pay costs based on certain criteria. The statute that authorizes recoupment of costs does not expressly include or exclude costs on appeal.

When a juvenile is adjudicated of an offense, the court may order the juvenile, the juvenile's parent, or another person legally obligated to support the juvenile to pay for publicly funded counsel based on ability to pay. No statutory provision exists for payment of attorneys' fees or costs on appeal.

Summary: Additional restrictions are placed on providing counsel for indigent adults and juveniles convicted of offenses when filing petitions for "collateral attack" or motions for discretionary review.

Counsel will be provided at public expense to an adult defendant convicted of a crime and a juvenile offender convicted of an offense when the offender:

Files a direct appeal as a matter of right;

Responds to the state's direct or discretionary appeal;

Faces the death penalty and files a first collateral attack. The court may appoint counsel in a death penalty case to file a second or subsequent attack if the court determines the attack is not frivolous or time-barred.

Files a first collateral attack that the chief judge has determined is not frivolous;

Responds to a collateral attack by the state or files an appeal of a decision on a collateral attack filed by the state;

Pursues a motion or petition for review upholding a decision from a court of limited jurisdiction after the Supreme Court or an appellate court has accepted discretionary review; and

Pursues a motion or petition for review of an appellate court decision after the Supreme Court has accepted discretionary review.

Counsel will not be provided at state expense for an indigent person:

Who is facing the death penalty and files a second or subsequent collateral attack that is frivolous or time-barred; or

Who is not facing the death penalty files and prosecutes a first collateral attack that is determined to be frivolous, or files a second or subsequent collateral attack.

An offender may be required to pay appellate costs. A juvenile's parents or another person legally obligated to support a juvenile may also be required to pay appellate costs. Costs are limited to expenses specifically incurred by the state in prosecuting or defending an appeal or a collateral attack. A court may grant relief from the financial obligation if payment will impose a manifest hardship on the offender or the offender's immediate family.

Votes on Final Passage:

House	82	12	
Senate	47	1	(Senate amended)
House	93	3	(House concurred)

Effective: July 23, 1995