
SUBSTITUTE SENATE BILL 6189

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Smith and McCaslin; by request of Supreme Court)

Read first time 02/06/96.

1 AN ACT Relating to criminal defense; adding new sections to chapter
2 43.131 RCW; adding a new chapter to Title 2 RCW; and creating a new
3 section.

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

5 NEW SECTION. **Sec. 1.** In order to implement the constitutional
6 guarantee of counsel and to ensure the effective and efficient delivery
7 of the indigent appellate services funded by the state of Washington,
8 an office of public defense is established as an independent agency of
9 the judicial branch.

10 NEW SECTION. **Sec. 2.** The supreme court shall appoint the director
11 of the office of public defense from a list of three names submitted by
12 the advisory committee created under section 4 of this act.
13 Qualifications shall include admission to the practice of law in this
14 state for at least five years, experience in the representation of
15 persons accused of a crime, and proven managerial or supervisory
16 experience. The director shall serve at the pleasure of the supreme
17 court and receive a salary to be fixed by the advisory committee.

1 NEW SECTION. **Sec. 3.** The director, under the supervision and
2 direction of the advisory committee, shall:

3 (1) Administer all criminal appellate indigent defense services;

4 (2) Submit a biennial budget for all costs related to state
5 appellate indigent defense;

6 (3) Establish administrative procedures, standards, and guidelines
7 for the program including a cost-efficient system that provides for
8 recovery of costs;

9 (4) Recommend criteria and standards for determining and verifying
10 indigency. In recommending criteria for determining indigency, the
11 director shall compile and review the indigency standards used by other
12 state agencies and shall periodically submit the compilation and report
13 to the legislature on the appropriateness and consistency of such
14 standards;

15 (5) Collect information regarding indigency cases funded by the
16 state and report annually to the legislature and the supreme court;

17 (6) Coordinate with the supreme court and the judges of each
18 division of the court of appeals to determine how attorney services
19 should be provided.

20 The office of public defense shall not provide direct
21 representation of clients.

22 NEW SECTION. **Sec. 4.** (1) There is created an advisory committee
23 consisting of the following members:

24 (a) Three persons appointed by the chief justice of the supreme
25 court, including the chair of the appellate indigent defense commission
26 identified in subsection (3) of this section;

27 (b) Two nonattorneys appointed by the governor;

28 (c) Two senators, one from each of the two largest caucuses,
29 appointed by the president of the senate; and two members of the house
30 of representatives, one from each of the two largest caucuses,
31 appointed by the speaker of the house of representatives;

32 (d) One person appointed by the court of appeals executive
33 committee;

34 (e) One person appointed by the Washington state bar association.
35 Appointments to the advisory committee should reflect diversity in
36 gender and race and be geographically representative of the state.

37 (2) During the term of his or her appointment, no appointee may:

38 (a) Provide indigent defense services except on a pro bono basis; (b)

1 serve as an appellate judge or an appellate court employee; or (c)
2 serve as a prosecutor or prosecutor employee.

3 (3) The initial advisory committee shall be comprised of the
4 current members of the appellate indigent defense commission, as
5 established by Supreme Court Order No. 25700-B, dated March 9, 1995,
6 plus two additional legislator members appointed under subsection
7 (1)(c) of this section. Members shall serve until the termination of
8 their current terms, and may be reappointed. The two additional
9 legislator members, who are not on the appellate indigent defense
10 commission, shall each serve three-year terms. Members of the advisory
11 committee shall receive no compensation for their services as members
12 of the commission, but may be reimbursed for travel and other expenses
13 in accordance with rules adopted by the office of financial management.

14 NEW SECTION. **Sec. 5.** All employees of the office of public
15 defense shall be exempt from state civil service under chapter 41.06
16 RCW.

17 NEW SECTION. **Sec. 6.** (1) All powers, duties, and functions of the
18 supreme court and the office of the administrator for the courts
19 pertaining to appellate indigent defense are transferred to the office
20 of public defense.

21 (2)(a) All reports, documents, surveys, books, records, files,
22 papers, or written material in the possession of the supreme court or
23 the office of the administrator for the courts pertaining to the
24 powers, functions, and duties transferred shall be delivered to the
25 custody of the office of public defense. All cabinets, furniture,
26 office equipment, motor vehicles, and other tangible property employed
27 by the supreme court or the office of the administrator for the courts
28 in carrying out the powers, functions, and duties transferred shall be
29 made available to the office of public defense. All funds, credits, or
30 other assets held in connection with the powers, functions, and duties
31 transferred shall be assigned to the office of public defense.

32 (b) Any appropriations made to the supreme court or the office of
33 the administrator for the courts for carrying out the powers,
34 functions, and duties transferred shall, on the effective date of this
35 section, be transferred and credited to the office of public defense.

36 (c) Whenever any question arises as to the transfer of any
37 personnel, funds, books, documents, records, papers, files, equipment,

1 or other tangible property used or held in the exercise of the powers
2 and the performance of the duties and functions transferred, the
3 director of financial management shall make a determination as to the
4 proper allocation and certify the same to the state agencies concerned.

5 (3) All employees of the supreme court or the office of the
6 administrator for the courts engaged in performing the powers,
7 functions, and duties transferred are transferred to the jurisdiction
8 of the office of public defense. All employees classified under
9 chapter 41.06 RCW, the state civil service law, are assigned to the
10 office of public defense to perform their usual duties upon the same
11 terms as formerly, without any loss of rights, subject to any action
12 that may be appropriate thereafter in accordance with the laws and
13 rules governing state civil service.

14 (4) All rules and all pending business before the supreme court or
15 the office of the administrator for the courts pertaining to the
16 powers, functions, and duties transferred shall be continued and acted
17 upon by the office of public defense. All existing contracts and
18 obligations shall remain in full force and shall be performed by the
19 office of public defense.

20 (5) The transfer of the powers, duties, functions, and personnel of
21 the supreme court or the office of the administrator for the courts
22 shall not affect the validity of any act performed before the effective
23 date of this section.

24 (6) If apportionments of budgeted funds are required because of the
25 transfers directed by this section, the director of financial
26 management shall certify the apportionments to the agencies affected,
27 the state auditor, and the state treasurer. Each of these shall make
28 the appropriate transfer and adjustments in funds and appropriation
29 accounts and equipment records in accordance with the certification.

30 (7) Nothing contained in this section may be construed to alter any
31 existing collective bargaining unit or the provisions of any existing
32 collective bargaining agreement until the agreement has expired or
33 until the bargaining unit has been modified by action of the personnel
34 board as provided by law.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131 RCW
36 to read as follows:

37 The office of public defense and its powers and duties shall be
38 terminated on June 30, 2000, as provided in section 8 of this act.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.131 RCW
2 to read as follows:

3 The following acts or parts of acts, as now existing or hereafter
4 amended, are each repealed, effective June 30, 2001:

5 (1) RCW 2.--.-- and 1996 c -- s 1 (section 1 of this act);

6 (2) RCW 2.--.-- and 1996 c -- s 2 (section 2 of this act);

7 (3) RCW 2.--.-- and 1996 c -- s 3 (section 3 of this act);

8 (4) RCW 2.--.-- and 1996 c -- s 4 (section 4 of this act); and

9 (5) RCW 2.--.-- and 1996 c -- s 5 (section 5 of this act).

10 NEW SECTION. **Sec. 9.** Sections 1 through 5 of this act shall
11 constitute a new chapter in Title 2 RCW.

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