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HOUSE BILL 1022

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State of Washington

58th Legislature

2003 Regular Session

By Representative Nixon

Prefiled 1/3/2003. Read first time 01/13/2003. Referred to  
Committee on Judiciary.

1 AN ACT Relating to establishing prosecutors pro tem; adding a new  
2 section to chapter 36.27 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature makes the following  
5 findings:

6 (1) Meritorious cases involving criminal acts are not prosecuted  
7 many times because of a lack of resources such as funding and  
8 personnel.

9 (2) A viable alternative is to supplement existing resources by  
10 establishing prosecutors pro tem who work either pro bono, at reduced  
11 rates, or at the expense of interested parties, such as the victims of  
12 a crime or their survivors, family, or friends.

13 (3) If public prosecuting attorneys are unable or unwilling for  
14 whatever reasons to pursue a meritorious case, then citizens have the  
15 right and the duty to initiate prosecutions under an alternative method  
16 in order to achieve justice.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.27 RCW  
18 to read as follows:

1 (1) In the interest of justice, a prosecutor pro tem may be  
2 appointed to appear in any superior court in any action on behalf of  
3 the government and conduct the prosecution upon request of the court,  
4 the local prosecutor, the attorney general, the governor, or a private  
5 citizen for good cause shown.

6 (2) A prosecutor pro tem may be appointed to appear on behalf of  
7 the government and conduct the prosecution only if the court has first  
8 reviewed the attorney certification submitted on a form prescribed by  
9 the supreme court, ruled on the contents of the certification, and  
10 granted the attorney's motion to act as a prosecutor pro tem for good  
11 cause shown. The finding of good cause shall be made on the record.

12 (3) A prosecutor pro tem shall represent the government in criminal  
13 cases in the court granting the attorney's motion and in appeals for  
14 which the attorney was appointed, except in cases where the attorney  
15 has a conflict of interest.

16 (4) While acting as prosecutor pro tem, the attorney has all of the  
17 powers of a prosecuting attorney. It is the primary duty of all  
18 prosecutors pro tem not to convict, but to see that justice is done.  
19 They shall not suppress facts or secrete witnesses capable of  
20 establishing the innocence of the accused.

21 (5) If the appointed prosecutor pro tem is also an attorney for the  
22 government, the duties of the appointed office are additional duties of  
23 the attorney's present office, and the attorney is not entitled to  
24 additional compensation. Nothing in this section prevents a court of  
25 a county from contracting with another court to pay expenses and  
26 reimburse compensation paid by a county to an attorney for the  
27 government who is appointed to perform additional duties.

28 (6) If the appointed prosecutor pro tem is not an attorney for the  
29 government, before the attorney enters upon the duties of the office of  
30 prosecutor pro tem, the attorney shall take and subscribe an oath or  
31 affirmation that he or she will faithfully and impartially discharge  
32 the duties of his or her office of prosecutor pro tem to the best of  
33 his or her ability. This oath, or affirmation, shall be administered  
34 and certified by an officer authorized to administer oaths, without  
35 charge. The attorney is qualified to perform the duties of the office  
36 of prosecutor pro tem for which the attorney is appointed on filing an  
37 oath with the clerk of the court. The attorney shall act pro bono or  
38 receive nonpublic compensation from interested parties for the

1 performance of the attorney's duties as prosecutor pro tem. If the  
2 attorney receives public compensation for the performance of the  
3 attorney's duties as prosecutor pro tem, the attorney shall receive  
4 compensation in the same amount and manner as an attorney appointed to  
5 represent an indigent person.

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