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**SENATE BILL 5676**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Takko, Palumbo, and Hunt

AN ACT Relating to public defense fund distributions; amending RCW 10.101.050, 10.101.060, 10.101.070, and 10.101.080; and adding a new section to chapter 10.101 RCW.

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

**Sec.**  RCW 10.101.050 and 2005 c 157 s 3 are each amended to read as follows:

The Washington state office of public defense shall disburse appropriated funds to counties and cities for the purpose of improving the quality of public defense services. Counties may apply for up to their pro rata share as set forth in RCW 10.101.060 and section 5 of this act, provided that counties conform to application procedures established by the office of public defense and improve the quality of services for both juveniles and adults. Cities may apply for moneys pursuant to the grant program set forth in RCW 10.101.080 and section 5 of this act. In order to receive funds, each applying county or city must require that attorneys providing public defense services attend training approved by the office of public defense at least once per calendar year. Each applying county or city shall report the expenditure for all public defense services in the previous calendar year, as well as case statistics for that year, including per attorney caseloads, and shall provide a copy of each current public defense contract to the office of public defense with its application. Each individual or organization that contracts to perform public defense services for a county or city shall report to the county or city hours billed for nonpublic defense legal services in the previous calendar year, including number and types of private cases.

**Sec.**  RCW 10.101.060 and 2005 c 157 s 4 are each amended to read as follows:

(1)(a) Subject to the availability of funds appropriated for this purpose, the office of public defense shall disburse to applying counties that meet the requirements of RCW 10.101.050 designated funds under this chapter on a pro rata basis pursuant to the formulas set forth in RCW 10.101.070 and section 5 of this act and shall disburse funds to eligible cities((~~, funds~~)) pursuant to RCW 10.101.080 and section 5 of this act. Each fiscal year for which it receives state funds under this chapter, a county or city must document to the office of public defense that it is meeting the standards for provision of indigent defense services as endorsed by the Washington state bar association or that the funds received under this chapter have been used to make appreciable demonstrable improvements in the delivery of public defense services, including the following:

(i) Adoption by ordinance of a legal representation plan that addresses the factors in RCW 10.101.030. The plan must apply to any contract or agency providing indigent defense services for the county or city;

(ii) Requiring attorneys who provide public defense services to attend training under RCW 10.101.050;

(iii) Requiring attorneys who handle the most serious cases to meet specified qualifications as set forth in the Washington state bar association endorsed standards for public defense services or participate in at least one case consultation per case with office of public defense resource attorneys who are so qualified. The most serious cases include all cases of murder in the first or second degree, persistent offender cases, and class A felonies. This subsection (1)(a)(iii) does not apply to cities receiving funds under RCW 10.101.050 through 10.101.080 and section 5 of this act;

(iv) Requiring contracts to address the subject of compensation for extraordinary cases;

(v) Identifying funding specifically for the purpose of paying experts (A) for which public defense attorneys may file ex parte motions, or (B) which should be specifically designated within a public defender agency budget;

(vi) Identifying funding specifically for the purpose of paying investigators (A) for which public defense attorneys may file ex parte motions, and (B) which should be specifically designated within a public defender agency budget.

(b) The cost of providing counsel in cases where there is a conflict of interest shall not be borne by the attorney or agency who has the conflict.

(2) The office of public defense shall determine eligibility of counties and cities to receive state funds under this chapter. If a determination is made that a county or city receiving state funds under this chapter did not substantially comply with this section, the office of public defense shall notify the county or city of the failure to comply and unless the county or city contacts the office of public defense and substantially corrects the deficiencies within ninety days after the date of notice, or some other mutually agreed period of time, the county's or city's eligibility to continue receiving funds under this chapter is terminated. If an applying county or city disagrees with the determination of the office of public defense as to the county's or city's eligibility, the county or city may file an appeal with the advisory committee of the office of public defense within thirty days of the eligibility determination. The decision of the advisory committee is final.

**Sec.**  RCW 10.101.070 and 2005 c 157 s 5 are each amended to read as follows:

The moneys shall be distributed to each county determined to be eligible to receive moneys by the office of public defense as determined under this section. With the exception of funds identified in section 5 of this act, ninety percent of the funding appropriated shall be designated as "county moneys." ((~~and~~)) All county moneys under this chapter shall be distributed as follows:

(1) Six percent of the county moneys appropriated shall be distributed as a base allocation among the eligible counties. A county's base allocation shall be equal to this six percent divided by the total number of eligible counties.

(2) Ninety-four percent of the county moneys appropriated shall be distributed among the eligible counties as follows:

(a) Fifty percent of this amount shall be distributed on a pro rata basis to each eligible county based upon the population of the county as a percentage of the total population of all eligible counties; and

(b) Fifty percent of this amount shall be distributed on a pro rata basis to each eligible county based upon the annual number of criminal cases filed in the county superior court as a percentage of the total annual number of criminal cases filed in the superior courts of all eligible counties.

(3) Under this section:

(a) The population of the county is the most recent number determined by the office of financial management;

(b) The annual number of criminal cases filed in the county superior court is determined by the most recent annual report of the courts of Washington, as published by the office of the administrator for the courts;

(c) Distributions and eligibility for distributions in the 2005-2007 biennium shall be based on 2004 figures for the annual number of criminal cases that are filed as described under (b) of this subsection. Future distributions shall be based on the most recent figures for the annual number of criminal cases that are filed as described under (b) of this subsection.

**Sec.**  RCW 10.101.080 and 2007 c 59 s 1 are each amended to read as follows:

The moneys under RCW 10.101.050 shall be distributed to each city determined to be eligible under this section by the office of public defense. With the exception of funds identified in section 5 of this act, ten percent of the funding appropriated shall be designated as "city moneys." ((~~and~~)) All city moneys under this chapter shall be distributed as follows:

(1) The office of public defense shall administer a grant program to select the cities eligible to receive city moneys. Incorporated cities may apply for grants. Applying cities must conform to the requirements of RCW 10.101.050 and 10.101.060.

(2) City moneys shall be distributed in a timely manner to accomplish the goals of the grants.

(3) Criteria for award of grants shall be established by the office of public defense after soliciting input from the association of Washington cities. Award of the grants shall be determined by the office of public defense.

NEW SECTION. **Sec.**  A new section is added to chapter 10.101 RCW to read as follows:

Each fiscal year, nine hundred thousand dollars of the revenue generated by the 2015 supreme court order to increase the base traffic infraction fines is for the office of public defense. The office of public defense shall distribute fifty percent of the funds appropriated pursuant to this section to counties and fifty percent of the funds appropriated pursuant to this section to cities, according to the requirements established in RCW 10.101.070 and 10.101.080.

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