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**HOUSE BILL 2202**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Couture, Griffey, and Hutchins

AN ACT Relating to providing a state program of assistance for local government indigent public defense and law enforcement costs; adding new sections to chapter 36.26 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  A new section is added to chapter 36.26 RCW to read as follows:

The legislature recognizes that under the constitution, statutes, and case law, counties bring charges in the name of the state and that the state has delegated to the local governments the duty to provide indigent public defense. Under this legal framework, the legislature fulfills its duty to fund indigent public defense by enacting general laws to provide counties and cities with taxing authority.

The state recognizes the significance of indigent defense costs due to criminal case filings. In addition to taxing authority already provided, the legislature intends to provide local governments with state aid for these costs through formula-based funding that is proportional based upon the 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 counties, but also contingent on local governments' commitment to provide law enforcement services to their communities.

NEW SECTION. **Sec.**  A new section is added to chapter 36.26 RCW to read as follows:

(1) The state indigent defense and law enforcement assistance account is created in the state treasury. Revenues to the account consist of moneys appropriated by the legislature for distribution to local governments as financial assistance to support law enforcement and indigent public defense services.

(2) Pursuant to appropriation the state treasurer must annually distribute moneys deposited in the state indigent defense and law enforcement assistance account pursuant to this section to local governments determined to be eligible to receive moneys by the department of commerce. These funds may only be used for law enforcement and indigent defense as described in this section. The county moneys appropriated shall be distributed among the eligible counties as follows:

(a) 50 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) 50 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 and residents 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 fiscal year 2025 shall be based on 2024 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; and

(d) A local law enforcement officer has the same meaning as a "general authority Washington peace officer" as defined in RCW 10.93.020 who is employed by a unit of local government of this state.

(4) Local governments may expend moneys distributed under this section as follows:

(a) For distributions made in fiscal year 2025, a county and the municipalities within that county that employ 1.5 full-time local law enforcement officers per 1,000 residents residing in that county may use its allocated funding for indigent defense costs in that county. Both the number of full-time local law enforcement officers employed by the county and those employed by municipalities in total must be included in the determination of whether the 1.5 local law enforcement officers per 1,000 county residents threshold has been met. If the department of commerce determines that a local government cannot verify the full-time employment of 1.5 local law enforcement officers per 1,000 residents residing in that county, then the local government must use its allocated funding to hire additional law enforcement officers until the ratio of 1.5 law enforcement officers to 1,000 residents is met.

(b) For distributions made in fiscal year 2026, a county and the municipalities within that county that employ 1.75 full-time local law enforcement officers per 1,000 residents residing in that county may use its allocated funding for indigent defense costs in that county. Both the number of full-time local law enforcement officers employed by the county and those employed by municipalities in total must be included in the determination of whether the 1.75 local law enforcement officers per 1,000 county residents threshold has been met. If the department of commerce determines that a local government cannot verify the full-time employment of 1.75 local law enforcement officers per 1,000 residents residing in that county, then the local government must use its allocated funding to hire additional law enforcement officers until the ratio of 1.75 law enforcement officers to 1,000 residents is met.

(c) For distributions made in fiscal year 2027 and thereafter, a county and the municipalities within that county that employs 2.33 full-time local law enforcement officers or more per 1,000 residents residing in that county may use its allocated funding for indigent defense costs in that county. Both the number of full-time local law enforcement officers employed by the county and those employed by municipalities in total must be included in the determination of whether the 2.33 local law enforcement officers per 1,000 county residents threshold has been met. If the department of commerce determines that a county cannot verify the full-time employment of 2.33 local law enforcement officers per 1,000 residents residing in that county, then the local government must use its allocated funding to hire additional law enforcement officers until the ratio of 2.33 law enforcement officers to 1,000 residents is met.

(5) The department of commerce must annually consult with experts to determine if the law enforcement officer to resident ratios established under subsection (4) of this section need to be updated or recalibrated and make recommendations to the legislature regarding proposed changes. Any changes to the established ratios must be approved by the legislature before going into effect.

(6)(a) Beginning September 1, 2024, and September 1st of each year thereafter, the department of commerce shall jointly consult with the administrative office of the courts, the office of public defense, the Washington association of sheriffs and police chiefs, the Washington state association of counties, and the association of Washington cities to:

(i) Review how funds are distributed proportionally to the counties and the municipalities within the county to provide financial assistance for the hiring of county and municipal law enforcement officers;

(ii) Ensure that the formula in subsection (2)(b) of this section includes procedures for distributing funding proportionally based upon each county's actual criminal case filings from the previous state fiscal year. In adjusting for proportionality, these costs may be adjusted annually for inflation, population growth, or changes in criminal court filings; and

(iii) Review whether local governments have spent funds as authorized in subsection (4) of this section.

(b) Beginning October 1, 2024, and October 1st of each year thereafter, the department must, prior to the annual distribution date, determine whether each local government has in the previous calendar year maintained a law enforcement per capita ratio as defined in subsection (4) of this section. If the department determines that a local government has not maintained the required law enforcement per-capita ratio, then it must notify the office of the state treasurer by no later than October 30th of the same year that limitations apply to the local government's use of the moneys distributed under this section.

(c) By November 15th of each year, the department must inform each local government what proportion of its allocated funding must be used to employ additional law enforcement officers and what proportion of their remaining allocated funding may be used for indigent defense costs in that county.

(7) The department of commerce may require any funding not distributed under subsection (2) of this section or in instances where local governments cannot hire law enforcement officers to fulfill their respective annual ratio, that such moneys be returned to the state treasurer for deposit in the state indigent defense and law enforcement assistance account.

NEW SECTION. **Sec.**  Beginning July 1, 2024, the state treasurer shall annually transfer a minimum of $200,000,000 to the state indigent defense and law enforcement assistance account created in section 2 of this act.

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