

# SENATE BILL REPORT

## SHB 1911

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As Reported by Senate Committee On:  
Law & Justice, February 20, 2024

**Title:** An act relating to activities in which the office of public defense may engage without violating the prohibition on providing direct representation of clients.

**Brief Description:** Concerning activities in which the office of public defense may engage without violating the prohibition on providing direct representation of clients.

**Sponsors:** House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Taylor, Cheney, Ortiz-Self, Reed, Simmons, Ormsby, Reeves, Fosse and Davis; by request of Office of Public Defense).

**Brief History:** Passed House: 2/6/24, 79-18.

**Committee Activity:** Law & Justice: 2/15/24, 2/20/24 [DP, w/oRec].

### Brief Summary of Bill

- Specifies three activities in which the Office of Public Defense may engage without violating the prohibition on direct representation of clients.

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## SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon, Torres and Valdez.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; McCune, Wagoner and Wilson, L..

**Staff:** Joe McKittrick (786-7287)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** The Office of Public Defense (OPD) is a judicial branch agency established to implement the constitutional and statutory guarantees of counsel and to deliver indigent defense services funded by the state. OPD is prohibited from providing direct representation of clients and instead administers state funded services. OPD contracts with attorneys, local governments, and law firms to provide representation of indigent client appeals, indigent parents in dependency cases, individuals committed as sexually violent predators, and initial consultations for youth who are stopped or arrested by law enforcement.

**Summary of Bill:** OPD may engage in the following activities without violating the prohibition against direct representation:

- managing and supervising OPD attorneys who meet applicable qualifications may provide limited short-term coverage for initial telephonic or video consultation services when contracted counsel is unavailable;
- OPD may facilitate and supervise placement of clerks, externs, and interns with contracted counsel; and
- OPD employees may provide pro bono services in a manner consistent with the rules of professional conduct and applicable OPD policies. OPD policies must include a requirement that OPD employees providing pro bono services obtain a signed, written statement by all pro bono clients acknowledging that the services are provided by the employee in the employee's personal capacity and that the state of Washington may not be held liable for claims arising from the provided services. OPD must retain the written statements in a manner consistent with records relating to potential conflicts of interest.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Public defense services throughout the state are in crisis. This problem is particularly acute in rural areas. This bill is a measured way to build out and support attorneys who provide public defense services. While providers of public defense are doing outstanding work, they do not have capacity to put together infrastructure to build out these services. Attorneys in rural areas do not have the resources to recruit clerks and externs and often must take pay cuts to hire support staff. This will help singular attorneys who provide public defense gain the assistance of clerks, interns, and externs, finally allowing the attorneys who work for the Office of Public Defense to do the work to which they dedicated their lives.

**Persons Testifying:** PRO: Representative Jamila Taylor, Prime Sponsor; Larry Jefferson, Director, Washington State Office of Public Defense; Rachel Cortez.

**Persons Signed In To Testify But Not Testifying:** No one.