Chapter 2.70 RCW
OFFICE OF PUBLIC DEFENSE

Sections

2.70.005 Office of public defense established.
2.70.010 Director—Appointment—Qualifications—Salary.
2.70.020 Director—Duties—Limitations.
2.70.023 Direct representation of clients.
2.70.025 Director—Indigent defense services—Civil commitment of sexually violent predators.
2.70.027 Director—Commitment to psychiatric care—Postcommitment public defense services for indigent persons.
2.70.030 Advisory committee—Membership—Duties—Travel and other expenses.
2.70.040 Employees—Civil service exemption.
2.70.050 Transfer to office of appellate indigent defense powers, duties, functions, information, property, appropriations, employees, rules, and pending business—Apportionment—Effect on collective bargaining.
2.70.060 Parents for parents program—"Parent ally" defined.
2.70.070 Parents for parents program—Goal—Structured peer mentoring.
2.70.080 Parents for parents program—Components of program.
2.70.090 Parents for parents program—Funding, administration—Program advisors.
2.70.100 Parents for parents program—Evaluation—Reports to the legislature.
2.70.110 Identifying information of youth.
2.70.120 Law student rural public defense program.
2.70.125 Criminal defense training academy program—Expansion.
2.70.200 Representation of persons charged with violating certain counterfeit substances, controlled substances, cannabis, or legend drug provisions.
2.70.900 Transfer of certain powers, duties, and functions of the department of social and health services.
2.70.901 Transfer of certain powers, duties, and functions of the department of social and health services—Persons not guilty by reason of insanity.

RCW 2.70.005 Office of public defense established. In order to implement the constitutional and statutory guarantees of counsel and to ensure effective and efficient delivery of indigent defense services funded by the state of Washington, an office of public defense is established as an independent agency of the judicial branch. [2008 c 313 s 2; 1996 c 221 s 1.]

Findings—2008 c 313: "(1) The legislature finds that the office of public defense:

(a) Operates in an efficient and economical manner, with adequate cost controls in place;

(b) Meets established goals and targets; and

(c) Does not substantially duplicate services offered by other agencies or the private sector.

(2) Termination of the office of public defense would have substantial and wide-reaching ramifications on the court system in Washington state. The right to counsel is a constitutional right, and provision of counsel for indigent defendants is a government responsibility." [2008 c 313 s 1.]

RCW 2.70.010 Director—Appointment—Qualifications—Salary. The supreme court shall appoint the director of the office of public defense from a list of three names submitted by the advisory committee created under RCW 2.70.030. Qualifications shall include admission to the practice of law in this state for at least five years, experience in providing indigent defense services, and proven managerial or supervisory experience. The director shall serve at the pleasure of the supreme court and receive a salary to be fixed by the advisory committee. [2008 c 313 s 3; 1996 c 221 s 2.]

Findings—2008 c 313: See note following RCW 2.70.005.

RCW 2.70.020 Director—Duties—Limitations. The director shall:

(1) Administer all state-funded services in the following program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter and RCW 10.73.150;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW;

(g) Representation of indigent persons who are acquitted by reason of insanity and committed to state psychiatric care as provided in chapter 10.77 RCW; and

(h) At the request of the health care authority on behalf of a county under chapter 71.05 RCW, representation of indigent persons qualified for appointed counsel in involuntary commitment cases;

(2) Subject to availability of funds appropriated for this specific purpose, provide access to counsel for indigent persons incarcerated in a juvenile rehabilitation or adult correctional facility to file and prosecute a first, timely personal restraint petition under RCW 10.73.150. The office shall establish eligibility criteria that prioritize access to counsel for youth under age 25, youth or adults with sentences in excess of 120 months, youth or adults with disabilities, and youth or adults with limited English proficiency. Nothing in this subsection creates an entitlement to counsel at state expense to file a personal restraint petition;

(3) Subject to the availability of funds appropriated for this specific purpose, appoint counsel to petition the sentencing court if the legislature creates an ability to petition the sentencing court,

or appoint counsel to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a conviction or sentence. Nothing in this subsection creates an entitlement to counsel at state expense to petition the sentencing court;

(4) Provide access to attorneys for juveniles contacted by a law enforcement officer for whom a legal consultation is required under RCW 13.40.740;

(5) Submit a biennial budget for all costs related to the office's program areas;

(6) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

(7) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

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

(9) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(10) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided. [2025 c 226 s 10; 2024 c 294 s 1. Prior: 2023 c 261 s 2; 2023 c 120 s 2; 2021 c 328 s 3; 2012 c 257 s 1; 2008 c 313 s 4; 1996 c 221 s 3.]

Effective date—2025 c 226: See note following RCW 71.05.020.

Findings—Intent—2023 c 261: "The legislature recognizes that Washington authorizes personal restraint petitions to challenge potentially unjust criminal judgments and sentences, a procedural safeguard dating back to medieval common law. The legislature further recognizes that recent statutory amendments and Washington supreme court decisions allow thousands of persons impacted by injustices in the criminal legal system to pursue resentencing.

The legislature observes that wealthy people retain attorneys to represent them in these complex, high-stakes postconviction legal proceedings. However, at least 80 percent of persons charged with felonies are indigent and cannot afford to hire a lawyer. In addition, nearly 40 percent of incarcerated persons have a cognitive or physical disability that would limit their capacity to access or understand critical legal documents, draft required petitions, or otherwise effectively represent themselves pro se in legal proceedings. Up to 70 percent of persons in prison cannot read above a fourth-grade level.

The legislature finds that the criminal legal system disproportionately incarcerates people of color, and that most people in prison are poor and the poorest are women and people of color. The legislature further finds that current law may have the effect of limiting access to counsel to initiate legitimate claims for postconviction relief. The legislature believes this situation

perpetuates and exacerbates the disparate impacts of the criminal legal systems on poor persons and persons of color.

The legislature therefore declares that indigent incarcerated persons would benefit from access to public defense counsel to advise, initiate, and execute certain postconviction procedures. In addition, the legislature finds that the state should fund and administer access to counsel for certain types of postconviction procedures through the Washington state office of public defense. This act is intended to: Authorize the office of public defense, within amounts appropriated for this purpose, to provide counsel for certain indigent adults and juveniles to file and prosecute one, timely personal restraint petition; petition a sentencing court when the legislature creates an opportunity to do so; and challenge a conviction or sentence if a final decision of an appellate court creates an opportunity to do so." [2023 c 261 s 1.]

Effective date—2023 c 261: "This act takes effect January 1, 2024." [2023 c 261 s 4.]

Intent—Effective date—2023 c 120: See notes following RCW 2.70.027.

Effective date—2021 c 328: See note following RCW 13.40.740.

Effective date—2012 c 257: "This act takes effect July 1, 2012." [2012 c 257 s 14.]

Findings—2008 c 313: See note following RCW 2.70.005.

RCW 2.70.023 Direct representation of clients. (1) Except as otherwise provided in this section, the office of public defense shall not provide direct representation of clients.

(2) In order to protect and preserve client rights when administering the office's statutory duties to provide initial telephonic or video consultation services, managing and supervising attorneys of the office of public defense who meet applicable public defense qualifications may provide limited short-term coverage for the consultation services if office of public defense contracted counsel is unavailable to provide the consultation services. The office shall provide services in a manner consistent with the rules of professional conduct, chapter 42.52 RCW, and applicable policies of the office of public defense.

(3) The office of public defense may facilitate and supervise placement of law clerks, externs, and interns with office of public defense contracted counsel, in a manner consistent with the Washington admission and practice rules, the rules of professional conduct, chapter 42.52 RCW, and applicable policies of the office of public defense.

(4) Employees of the office of public defense may provide pro bono legal services in a manner consistent with the rules of professional conduct, chapter 42.52 RCW, and applicable policies of the office of public defense. The policies of the office of public defense must require that employees providing pro bono legal services obtain and provide to the office a written statement, signed by any pro bono client, acknowledging that:

(a) The pro bono legal services are provided by the employee acting in the employee's personal capacity and not as an employee of the office of public defense; and

(b) The state of Washington may not be held liable for any claim arising from the provision of pro bono legal services by the employees of the office of public defense.

The office of public defense shall retain the written statements in a manner consistent with records relating to potential conflicts of interest.

(5) The office of public defense shall provide public defense services for indigent persons qualified for appointed counsel in involuntary commitment cases under chapter 71.05 RCW at the request of the health care authority on behalf of a county, either directly or by contracting with persons admitted to practice law in this state or organizations that employ persons admitted to practice law in this state, using funds provided by the county pursuant to RCW 71.05.110. [2025 c 226 s 11; 2024 c 294 s 2.]

Effective date—2025 c 226: See note following RCW 71.05.020.

RCW 2.70.025 Director—Indigent defense services—Civil commitment of sexually violent predators. In providing indigent defense services for sexually violent predator civil commitment cases under chapter 71.09 RCW, the director shall:

(1) In accordance with state contracting laws, contract with persons admitted to practice law in this state and organizations employing persons admitted to practice law in this state for the provision of legal services to indigent persons;

(2) Establish annual contract fees for defense legal services within amounts appropriated based on court rules and court orders;

(3) Ensure an indigent person qualified for appointed counsel has one contracted counsel appointed to assist him or her. Upon a showing of good cause, the court may order additional counsel;

(4) Consistent with court rules and court orders, establish procedures for the reimbursement of expert witness and other professional and investigative costs;

(5) Review and analyze existing caseload standards and make recommendations for updating caseload standards as appropriate;

(6) Annually, with the first report due December 1, 2013, submit a report to the chief justice of the supreme court, the governor, and the legislature, with all pertinent data on the operation of indigent defense services for commitment proceedings under this section, including:

(a) Recommended levels of appropriation to maintain adequate indigent defense services to the extent constitutionally required;

(b) The time to trial for all commitment trial proceedings including a list of the number of continuances granted, the party that requested the continuance, the county where the proceeding is being heard, and, if available, the reason the continuance was granted;

(c) Recommendations for policy changes, including changes in statutes and changes in court rules, which may be appropriate for the improvement of sexually violent predator civil commitment proceedings. [2012 c 257 s 2.]

Effective date—2012 c 257: See note following RCW 2.70.020.

Indigent defense services—Scope of representation: RCW 71.09.045.

RCW 2.70.027 Director—Commitment to psychiatric care—Postcommitment public defense services for indigent persons. In providing postcommitment public defense services for indigent persons who are committed to state psychiatric care following acquittal by reason of insanity under chapter 10.77 RCW, the director shall:

(1) In accordance with state contracting laws, contract with persons admitted to practice law in this state and with government or nongovernment organizations employing persons admitted to practice law in this state;

(2) Establish annual contract fees for public defense legal services within amounts appropriated;

(3) Ensure an indigent person qualified for public defense counsel has contracted counsel appointed to assist him or her;

(4) Consistent with applicable statutes, court orders, and court rules, establish office policies and procedures for the payment of expert costs, other professional and investigative costs, and litigation costs;

(5) Review and analyze existing caseload standards and make recommendations for updating caseload standards as appropriate for this area of legal practice; and

(6) Periodically, as needed, submit reports to the chief justice of the supreme court of the state of Washington, the governor, and the legislature. The purpose of such reports is to communicate new information regarding public defense services for persons who are committed following acquittal by reason of insanity under chapter 10.77 RCW and to recommend changes in statutes and court rules for the improvement of insanity commitment and postcommitment proceedings. [2023 c 120 s 3.]

Intent—2023 c 120: "Out of concern for inconsistent practices for providing postcommitment right to counsel services, the legislature directed the Washington state office of public defense to develop a statewide proposal to administer the right to counsel for persons acquitted by reason of insanity and committed to state psychiatric care.

In response to the office's proposal, the legislature intends that the office of public defense shall administer a program of statewide public defense services to ensure the right to counsel for indigent persons who are committed to state psychiatric care following acquittal by reason of insanity. The legislature intends that the office shall administer these postcommitment public defense services in a manner that provides for statewide effectiveness, efficiency, and equity." [2023 c 120 s 1.]

Effective date—2023 c 120: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 20, 2023]." [2023 c 120 s 15.]

RCW 2.70.030 Advisory committee—Membership—Duties—Travel and other expenses. (1) There is created an advisory committee consisting of the following members:

(a) Three persons appointed by the chief justice of the supreme court, who shall also appoint the chair of the committee;

(b) Two nonattorneys appointed by the governor;

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

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

(e) One person appointed by the Washington state bar association;

(f) One person appointed by the Washington state association of counties; and

(g) One person appointed by the association of Washington cities.

(2) During the term of his or her appointment, no appointee may: (a) Provide indigent defense services funded by a city, a county, or the state, except on a pro bono basis; (b) serve as a judge except on a pro tem basis or as a court employee; or (c) serve as a prosecutor or prosecutor employee.

(3) Members of the advisory committee shall receive no compensation for their services as members of the committee, but may be reimbursed for travel and other expenses in accordance with state law.

(4) The advisory committee shall:

(a) Meet at least quarterly;

(b) Review at least biennially the performance of the director, and submit each review to the chief justice of the supreme court;

(c) Receive reports from the director;

(d) Make policy recommendations, as appropriate, to the legislature and the supreme court;

(e) Approve the office's budget requests;

(f) Advise the director regarding administration and oversight of the office's program areas; and

(g) Carry out other duties as authorized or required by law. [2008 c 313 s 5; 2005 c 111 s 1; 1996 c 221 s 4.]

Findings—2008 c 313: See note following RCW 2.70.005.

RCW 2.70.040 Employees—Civil service exemption. All employees of the office of public defense shall be exempt from state civil service under chapter 41.06 RCW. [1996 c 221 s 5.]

RCW 2.70.050 Transfer to office of appellate indigent defense powers, duties, functions, information, property, appropriations, employees, rules, and pending business—Apportionment—Effect on collective bargaining. (1) All powers, duties, and functions of the supreme court and the administrative office of the courts pertaining to appellate indigent defense are transferred to the office of public defense.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the supreme court or the administrative office of the courts pertaining to the powers,

functions, and duties transferred shall be delivered to the custody of the office of public defense. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the supreme court or the administrative office of the courts in carrying out the powers, functions, and duties transferred shall be made available to the office of public defense. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of public defense.

(b) Any appropriations made to the supreme court or the administrative office of the courts for carrying out the powers, functions, and duties transferred shall, on June 6, 1996, be transferred and credited to the office of public defense.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

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

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

(5) The transfer of the powers, duties, functions, and personnel of the supreme court or the administrative office of the courts shall not affect the validity of any act performed before June 6, 1996.

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

(7) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law. [2005 c 282 s 12; 1996 c 221 s 6.]

RCW 2.70.060 Parents for parents program—"Parent ally" defined. For the purposes of RCW 2.70.070 through 2.70.090, "parent ally" means a parent who has successfully resolved the issues that led the parent's child into the care of the juvenile dependency court system, resulting in family reunification or another permanency outcome, and

who has an interest in working collaboratively to improve the lives of children and families. [2020 c 33 s 3; 2015 c 117 s 2.]

Intent—2020 c 33: See note following RCW 74.13.715.

Intent—2015 c 117: "Early outreach and education helps shift the attitudes of parents involved in the dependency court system from anger and resentment to acknowledgment and acceptance, enhances parents' engagement in court-ordered plans in the dependency system, and increases the likelihood of family reunification. The parents for parents program has been shown to increase the number of family reunifications, where appropriate, while decreasing the length of time needed to establish permanence. The program currently exists in nine counties: Grays Harbor/Pacific, King, Kitsap, Pierce, Snohomish, Spokane, and Thurston/Mason. It is the legislature's goal to continue to support the program in these counties, standardize the parents for parents curriculum among counties in which it is currently utilized, and replicate the program statewide by the end of the 2019-2021 biennium." [2015 c 117 s 1.]

RCW 2.70.070 Parents for parents program—Goal—Structured peer mentoring. (1) The goal of the parents for parents program is to increase the permanency and well-being of children in foster care through peer mentoring that increases parental engagement and contributes to family reunification.

(2) The parents for parents program may provide structured peer mentoring for families entering the dependency court system, administered by parent allies. [2020 c 33 s 4; 2015 c 117 s 3.]

Intent—2020 c 33: See note following RCW 74.13.715.

Intent—2015 c 117: See note following RCW 2.70.060.

RCW 2.70.080 Parents for parents program—Components of program. Subject to the availability of amounts appropriated for this specific purpose, components of the parents for parents program, provided by parent allies, may include:

(1) Outreach and support to parents at dependency-related hearings, beginning with the shelter care hearing;

(2) A class that educates parents about the dependency system they must navigate in order to have their children returned, empowers them with tools and resources they need to be successful with their case plan, and provides information that helps them understand and support the needs of their children;

(3) Ongoing individual peer support to help parents involved with the child welfare system;

(4) Structured, curriculum-based peer support groups. [2020 c 33 s 5; 2015 c 117 s 4.]

Intent—2020 c 33: See note following RCW 74.13.715.

Intent—2015 c 117: See note following RCW 2.70.060.

RCW 2.70.090 Parents for parents program—Funding, administration—Program advisors. (1) Subject to the availability of amounts appropriated for this specific purpose, the parents for parents program shall be funded through the office of public defense and centrally administered through a pass-through to a Washington state nonprofit-lead organization that has extensive experience supporting parent allies.

(2) Through the contract with the lead organization, each local program must be locally administered by the county superior court or a nonprofit organization that shall serve as the host organization.

(3) Local stakeholders representing key child welfare systems shall serve as parents for parents program advisors. Examples of local stakeholders include the department of children, youth, and families, the superior court, attorneys for the parents, assistant attorneys general, and court-appointed special advocates or guardians ad litem.

(4) A parent ally lead shall provide program coordination and maintain local program information.

(5) The lead organization shall provide ongoing training to the host organizations, statewide program oversight and coordination, and maintain statewide program information. [2020 c 33 s 6; 2018 c 58 s 66; 2015 c 117 s 5.]

Intent—2020 c 33: See note following RCW 74.13.715.

Effective date—2018 c 58: See note following RCW 28A.655.080.

Intent—2015 c 117: See note following RCW 2.70.060.

RCW 2.70.100 Parents for parents program—Evaluation—Reports to the legislature. (1) Subject to the availability of amounts appropriated for this specific purpose, a research entity with experience in child welfare research shall conduct an evaluation of the parents for parents program. The evaluation design must meet the standards necessary to determine whether parents for parents can be considered a research-based program.

(2) A preliminary report to the legislature must be provided by December 1, 2016. At a minimum, the preliminary report must include statistics showing rates of attendance at court hearings and compliance with court-ordered services and visitation. The report must also address whether participation in the program affected participants' overall understanding of the dependency court process.

(3) A subsequent report must be delivered to the legislature by December 1, 2019. In addition to the information required under subsection (2) of this section, this report must include statistics demonstrating the effect of the program on reunification rates and lengths of time families were engaged in the dependency court system before achieving permanency. [2015 c 117 s 6.]

Intent—2015 c 117: See note following RCW 2.70.060.

RCW 2.70.110 Identifying information of youth. Subject to the rules of discovery, the office of public defense is authorized to collect identifying information for any youth who speaks with a

consulting attorney pursuant to RCW 13.40.740; provided, however, that such records are exempt from public disclosure. [2021 c 328 s 4.]

Effective date—2021 c 328: See note following RCW 13.40.740.

RCW 2.70.120 Law student rural public defense program. (1) Subject to the availability of amounts appropriated for this specific purpose, the office of public defense shall administer a law student rural public defense program. The program shall coordinate with one or more law schools to place law students who are eligible to practice as a licensed legal intern under Washington state admission and practice rule 9 and/or recent law school graduates as legal interns with experienced public defense attorneys located in underserved areas and rural areas of the state. The program must allow the intern to gain real-world public defense experience under the mentorship of the experienced public defense attorney, including active representation and litigation opportunities, with the purpose of encouraging the intern to consider, or not be deterred from pursuing, employment opportunities in public defense in underserved areas and rural areas of Washington state. The internship may be structured to correspond with time periods relevant to the academic calendar. Eligible internship placements shall include government and nonprofit public defense agencies as well as private firms that contract to provide public defense services.

(2) Contracts established by the office of public defense under this section shall include monthly compensation and housing stipends for program participants. Contracts may include partial reimbursement for the supervising attorney. [2024 c 293 s 2.]

Finding—Intent—2024 c 293: "The legislature finds that the lack of availability of public defense attorneys and deputy prosecutors is an increasing problem in Washington and neighboring states which threatens the ability of court systems to process criminal filings, particularly within rural areas. The legislature intends to encourage law students to enter public defense practice and prosecution and to remove barriers to practice in underserved areas and rural areas of the state." [2024 c 293 s 1.]

RCW 2.70.125 Criminal defense training academy program—Expansion. Subject to the availability of amounts appropriated for this specific purpose, the office of public defense shall expand the capacity of its criminal defense training academy program to train practitioners who are new to public defense. The program must include and prioritize training for practitioners in underserved areas and rural areas of the state. The program must offer intensive trial skill development, incorporate public defense best practices and applicable standards, and offer networking opportunities. Trainings may incorporate in-person, remote, and recorded resources. By June 30, 2026, the office of public defense shall expand program offerings to also provide training to public defense practitioners who are seeking to achieve advanced qualifications. [2024 c 293 s 3.]

Finding—Intent—2024 c 293: See note following RCW 2.70.120.

RCW 2.70.200 Representation of persons charged with violating certain counterfeit substances, controlled substances, cannabis, or legend drug provisions. (1) Subject to amounts appropriated for this specific purpose, the office of public defense may provide reimbursement of eligible expenses or contract directly with indigent defense providers for consultation and representation services for indigent adults facing pending charges or charged with violations of RCW 69.50.4011(1) (b) or (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c), or charged with offenses involving allegations of possession or public use of a controlled substance, counterfeit substance, or legend drug, in courts of limited jurisdiction in counties with a population of 500,000 or less and cities with a population of 200,000 or less. The county or city may enter into an agreement with the office of public defense for reimbursement of eligible expenses or designate the office of public defense to contract directly with indigent defense providers for consultation and representation services in their jurisdiction.

(2) Nothing in this section creates an entitlement to counsel at state expense or a right by counties or cities for the provision of services by the office of public defense that would exceed the amounts appropriated for this specific purpose. [2023 sp.s. c 1 s 39.]

RCW 2.70.900 Transfer of certain powers, duties, and functions of the department of social and health services. (1) All powers, duties, and functions of the department of social and health services and the special commitment center pertaining to indigent defense under chapter 71.09 RCW are transferred to the office of public defense.

(2)(a) The office of public defense may request any written materials in the possession of the department of social and health services and the special commitment center pertaining to the powers, functions, and duties transferred, which shall be delivered to the custody of the office of public defense. Materials may be transferred electronically and/or in hard copy, as agreed by the agencies. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of public defense.

(b) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on July 1, 2012, be transferred and credited to the office of public defense.

(3) Notwithstanding July 1, 2012, if implementation of office of public defense contracts would result in the substitution of counsel within one hundred eighty days of a scheduled trial date, the director of the office of public defense may continue defense services with existing counsel to facilitate continuity of effective representation and avoid further continuance of a trial. When existing counsel is maintained, payment to complete the trial shall be prorated based on standard contract fees established by the office of public defense under RCW 2.70.025 and, at the director's discretion, may include extraordinary compensation based on attorney documentation. [2012 c 257 s 3.]

Effective date—2012 c 257: See note following RCW 2.70.020.

RCW 2.70.901 Transfer of certain powers, duties, and functions of the department of social and health services—Persons not guilty by reason of insanity. (1) All powers, duties, and functions of county government and the department of social and health services pertaining to public defense services for indigent persons who are committed following acquittal by reason of insanity under chapter 10.77 RCW are transferred to the office of public defense. County government and the department of social and health services shall retain powers, duties, and functions to ensure public defense services for indigent persons prior to acquittal by reason of insanity under chapter 10.77 RCW.

(2)(a) The office of public defense may request copies of records in the possession of a county public defense administrator, the department of social and health services, or the behavioral health administration pertaining to the powers, functions, and duties transferred, which shall be timely delivered to the custody of the office of public defense. In order to implement the office's administration and oversight of postcommitment public defense services authorized by chapter 120, Laws of 2023, the office of public defense shall be entitled to personal identifying information for any person committed following acquittal by reason of insanity, as well as information about underlying criminal or other pending court proceedings, and the identity of any existing legal counsel. The county public defense administrator, the department of social and health services, or the behavioral health administration shall not require the office of public defense to obtain consent by the person committed following acquittal by reason of insanity in order to share this information. The office of public defense shall maintain the confidentiality of all confidential information included in the records. Records may be transferred electronically or in hard copy, as agreed by the agencies. When the office of public defense has satisfied its business needs related to the transferred records, the office shall destroy the records following appropriate procedures.

(b) All funds, credits, or other assets held by the department of social and health services in connection with the powers, functions, and duties transferred shall be assigned to the office of public defense.

(c) Any appropriations made to the department of social and health services for carrying out the powers, functions, and duties transferred shall, on July 1, 2023, be transferred and credited to the office of public defense.

(3) Notwithstanding July 1, 2023, if implementation of office of public defense contracts would result in the substitution of counsel within 180 days of a scheduled hearing, the director of the office of public defense may continue defense services with existing counsel to facilitate continuity of effective representation and avoid further continuance of a trial. When existing counsel is maintained, payment to complete the trial shall be prorated based on standard contract fees established by the office of public defense under chapter 120, Laws of 2023 and, at the director's discretion, may include extraordinary compensation based on attorney documentation. [2023 c 120 s 4.]

Intent—Effective date—2023 c 120: See notes following RCW 2.70.027.