
HOUSE BILL 2337

State of Washington

53rd Legislature

1994 Regular Session

By Representative R. Meyers

Read first time 01/14/94. Referred to Committee on Judiciary.

1 AN ACT Relating to indigent defendants; and adding new sections to
2 chapter 10.73 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.73 RCW
5 to read as follows:

6 The legislature is aware that the constitutional requirements of
7 equal protection and due process require that counsel be provided for
8 indigent persons and persons who are indigent and unable to contribute
9 for the first appeal as a matter of right from a judgment and sentence
10 in a criminal case, and no further. There is no constitutional right
11 to the appointment of counsel at public expense to collaterally attack
12 a judgment and sentence in a criminal matter or to seek discretionary
13 review of a lower appellate court decision.

14 The legislature finds that it is appropriate to extend the right to
15 counsel at state expense to indigent persons and persons who are
16 indigent and able to contribute as those terms are defined in RCW
17 10.101.010 in the following instances:

18 (1) For indigent persons filing a direct appeal as a matter of
19 right from a judgment and sentence in a criminal case;

1 (2) For indigent persons responding to a direct appeal filed as a
2 matter of right or who are responding to a motion for discretionary
3 review or petition for review filed by the state in a criminal case;

4 (3) For indigent persons under a sentence of death, counsel shall
5 be provided, upon request, for the purpose of filing and prosecution of
6 a motion or petition for collateral attack. However, counsel shall not
7 be provided at public expense for the filing or prosecution of a second
8 or subsequent collateral attack on the same judgment and sentence;

9 (4) For indigent persons not under a sentence of death to prosecute
10 a collateral attack after the chief judge has determined that the
11 issues raised by the petition are not frivolous in accordance with the
12 procedure contained in RAP 16.11. However, counsel shall not be
13 provided at public expense for the filing or prosecution of a second or
14 subsequent collateral attack on the same judgment and sentence;

15 (5) For indigent persons who are responding to a collateral attack
16 filed by the state or who are responding to or prosecuting an appeal
17 from a collateral attack that was filed by the state;

18 (6) For indigent persons to prosecute an appeal after the supreme
19 court or court of appeals has accepted discretionary review of a
20 decision of a court of limited jurisdiction;

21 (7) For indigent persons to prosecute an appeal after the supreme
22 court has accepted discretionary review of a court of appeals decision.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.73 RCW
24 to read as follows:

25 (1) The court of appeals, supreme court, and superior courts may
26 require a convicted defendant to pay costs.

27 (2) Appellate costs are limited to expenses specifically incurred
28 by the state in prosecuting or defending an appeal or collateral attack
29 from a criminal conviction or sentence. They cannot include
30 expenditures in connection with the maintenance and operation of
31 government agencies that must be made irrespective of specific
32 violations of the law. Expenses incurred for producing a verbatim
33 report of proceedings and clerk's papers may be included in costs the
34 court may require a convicted defendant to pay.

35 (3) Costs, including recoupment of fees for court appointed
36 counsel, shall be requested in accordance with the procedures contained
37 in Title 14 of the Rules of Appellate Procedure and in Title 9 of the
38 Rules for Appeal of Decisions of Courts of Limited Jurisdiction, as now

1 existing or hereafter amended. An award of costs becomes part of the
2 trial court judgment and sentence.

3 (4) A defendant who has been sentenced to pay costs and who is not
4 in contumacious default in the payment of the costs may at any time
5 petition the court that sentenced the defendant for remission of the
6 payment of costs or of any unpaid portion of them. If it appears to
7 the satisfaction of the sentencing court that payment of the amount due
8 will impose manifest hardship on the defendant or the defendant's
9 immediate family, the sentencing court may remit all or part of the
10 amount due in costs, or modify the method of payment under RCW
11 10.01.170.

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