

SENATE BILL REPORT

SB 5531

As Reported By Senate Committee On:
Judiciary, February 16, 2005

Title: An act relating to indigent defense services.

Brief Description: Providing indigent defense services.

Sponsors: Senators Kline, Johnson, Fraser, Stevens, Haugen, Swecker, Regala, Franklin, Kohl-Welles, Benton and Shin.

Brief History:

Committee Activity: Judiciary: 2/10/05, 2/16/05 [DP-WM].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Esser, Hargrove, Rasmussen and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: The Washington State Bar Association and the Board of Judicial Administration have determined that there is a large funding deficiency for the provision of trial level indigent defense services. \$79 million is spent annually on indigent defense services and these costs are borne almost exclusively by local government. Supporters of this legislation believe this amount does not allow a constitutionally adequate level of service and can lead to civil rights lawsuits and governmental liability for failure to meet constitutional standards. In addition, there is concern that inadequate funding of indigent defense services causes appeals, reversals of conviction, inefficiency in the court process, and wrongful convictions.

Summary of Bill: The Washington State Office of Public Defense (OPD) is directed to disburse appropriated funds to counties and cities for the purpose of improving the quality of public defense services. Counties may apply for their pro rata share of funding only if they conform to application procedures established by the OPD and improve the quality of services for juveniles and adults. Cities may apply for funding pursuant to a grant program. Expenditure and caseload information must be reported to the OPD by counties and cities along with their application for funding.

Funds will be distributed to each county determined to be eligible by the OPD. The funding distribution formula gives 90 percent of the funding to the eligible counties based on a formula that provides each county with a base minimum that is increased based on population and felony filings. 10 percent of the moneys appropriated are distributed to eligible cities through a grant program.

Each fiscal year for which a county or city receives funding for public defense services, it must document to the OPD that it is meeting the standards for provision of services as endorsed by the Washington State Bar Association or that the funds received have been used to make appreciable demonstrable improvements in the delivery of public defense services. Specific measures for the achievement of the Washington State Bar Association standards are enumerated.

Appropriation: None.

Fiscal Note: Requested on February 9, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For: Public defense caseloads in some places are so high that a lawyer has less than three hours per client. This isn't enough time to get to know the client, read police reports, conduct investigation, confer with the prosecutor, prepare written materials, and go to court. For cases involving juveniles or people with mental illness or developmental disability, the challenges are greater. The under-funding causes appeals, reversals, and loss of respect for the justice system. The cities participated in the court funding task force. The cities and counties pay the entire cost of indigent defense services now. The inadequate funding situation of public defense has now reached crisis proportions and Washington needs to respond to the calls for justice.

Testimony Against: None.

Who Testified: PRO: Jon Ostlund, WA State Bar Association; Eric Johnson, Lewis County Board of Commissioners; Joanne Moore, WA State Office of Public Defense; Tammy Fellin, Association of WA Cities; Deborah Fleck, Board for Judicial Administration.