

SENATE BILL REPORT

SB 5819

As of February 19, 2009

Title: An act relating to increasing the proportion of state public defense funding that constitute city moneys.

Brief Description: Increasing the proportion of state public defense funding that constitute city moneys.

Sponsors: Senator Kline.

Brief History:

Committee Activity: Judiciary: 2/18/09.

SENATE COMMITTEE ON JUDICIARY

Staff: Kim Johnson (786-7472)

Background: Criminal defendants determined to be indigent have a right to counsel at public expense. Generally, counties and cities are responsible for funding indigent defense costs at the trial level.

The Office of Public Defense (OPD) was created by the Legislature in 1996 to implement the constitutional guarantee of counsel and to ensure the effective and efficient delivery of the indigent appellate services funded by the state of Washington. Since 2007 the OPD has operated a grant program that distributes "public defense improvement funds" to counties and cities to improve trial level public defense. The grants are distributed according to a formula set out in statute. The formula provides that 10 percent of the appropriated funds are to be distributed to cities, and the remaining 90 percent to the counties.

Summary of Bill: The statutory formula for distribution of public defense improvement funds is changed to allot 42 percent to cities and 58 percent to counties.

Appropriation: None.

Fiscal Note: Requested on February 16, 2009.

Committee/Commission/Task Force Created: No.

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

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

Staff Summary of Public Testimony: PRO: This bill reapportions funds that are administered by the OPD. At some level this recognizes that we have over the years pushed more cases to the municipal courts. We determined the allocation percentages by taking the nearly 200,000 cases that counties handled statewide and determined how many of those cases were misdemeanors. We then determined that 60,523 of those cases, or 46.9 percent, were referred to a public defender. We multiplied the number of municipal court misdemeanor cases by 46.9 percent to determine the approximate number of municipal court cases referred to a public defender. We then totaled all the cases in county court and municipal courts that were referred to a public defender and the percentage of the cases that were municipal misdemeanor cases came to 42 percent. In the city of Longview, we spent over \$290,000 on public defense. Our caseloads far exceed the state bar association guidelines. We clearly understand that there is not enough public defense money available statewide to counties or cities, but there is a great need at the city court level for more state funds.

CON: We wish we could support a bill to help the cities, but it comes at the expense of the counties. No one has a whole lot of money right now. We're already implementing drastic measures to cut costs in our county and don't know where money is going to come from to provide essential services. Counties have complex juvenile and felony cases. To be frank, the jeopardy for the individuals involved in the county cases is of a higher level than those cases in municipal court, and the formula for distributing the funding under this legislation simply does not reflect the complexity of the cases that are handled at the county level. When you are talking about felony cases, death penalty cases, and juvenile dependency cases, the need for state funds to help us improve the representation of these people is critically important. My suggestion is that the split should be based on a weighted case load, rather than any sort of population or simple number of cases filed basis. We will have to roll back the improvements we have worked so hard to make in King County if the funding is cut back for counties in this manner.

OTHER: The funds we are talking about must be used by counties and cities to improve the public defense being provided. We have seen improvements in both the counties and the cities that have received funding from the OPD. We have a long way to go to improve public defense to the level that it really should be under the constitution. We have great concern over taking funding away from one group who needs it, only to give it to another. We're not sure that the 90/10 split of funds is correct, but 58/42 may not be correct either.

Persons Testifying: PRO: Tammy Fellin, Washington Association of Cities; Bob Gregory, city of Longview.

CON: David Hocrafter, Office of Public Defenders King Count; Ann Christian, Clark County Indigent Defense Coordinator; Lynda Ring Erickson, Mason County Commissioner.

OTHER: Joanne Moor, Office of Public Defense; Mellani McAleenan, Board of Judicial Administration.