

# SENATE BILL REPORT

## SB 6215

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As of January 29, 2020

**Title:** An act relating to establishing a collaborative process to alleviate the burden on local courts to determine indigency through proof of receipt of public assistance.

**Brief Description:** Establishing a collaborative process to alleviate the burden on local courts to determine indigency through proof of receipt of public assistance.

**Sponsors:** Senator Braun.

**Brief History:**

**Committee Activity:** Law & Justice: 1/23/20.

**Brief Summary of Bill**

- Requires the Health Care Authority (HCA) and Department of Social and Health Services (DSHS) to provide information to the court on a person's receipt of public assistance for purposes of determining indigency.
- Requires the Office of Public Defense (OPD), HCA, and DSHS to develop a process for the court to receive information on a person's receipt of public assistance.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Shani Bauer (786-7468)

**Background:** In Washington, individuals are guaranteed the right to be represented by an attorney when they are threatened with loss of liberty, or when their children may be taken from them. When a defendant is indigent, they are eligible for a court appointed defense attorney at government expense.

A determination of indigence is to be made for any person requesting the appointment of counsel in a criminal, juvenile, involuntary commitment, dependency, or other case in which the right to counsel attaches. An indigent person is defined as one who:

- receives public assistance in one of several enumerated forms;
- has been involuntarily committed to a public mental health facility;
- has an income of 125 percent or less of the federal poverty level; or

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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 a part of the legislation nor does it constitute a statement of legislative intent.*

- has insufficient available funds to retain counsel.

The office or individual charged by the court to assist in making the determination of indigency must provide a written report and opinion as to indigency on a form prescribed by the OPD. The determination is based on information obtained from the defendant and subject to verification.

If a criminal defendant is found to be indigent, the person is eligible for legal representation at public expense. The court may determine a person is indigent, but nevertheless able to contribute to the cost of their legal counsel. In such cases, the court will require the person to make payments toward the cost of their legal representation.

**Summary of Bill:** In making a determination of indigence, whether a person is receiving public assistance must be based solely on information provided by the HCA and DSHS. The OPD, HCA, and DSHS must develop a process for the court to receive this information.

The Office of Public Defense may approve an alternate process of determining the receipt of public assistance upon request of the county legislative authority.

**Appropriation:** None.

**Fiscal Note:** Requested on January 13, 2020.

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

**Effective Date:** The bill takes effect on September 1, 2020.

**Staff Summary of Public Testimony:** PRO: I have worked for a number of years on the challenge of indigent defense. A 2014 report from OPD highlights the burden of determining whether a person is indigent rests with courts around the state. Some do it differently and have robust screening efforts, some less so. This bill simply mandates a specific process—requiring HCA and DSHS to work on a verification process as they do for other programs in the state. This will alleviate the burden from the courts and ensure the process is consistent across the state.

**Persons Testifying:** PRO: Senator John Braun, Prime Sponsor.

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