

# SENATE BILL REPORT

## SSB 6215

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As Passed Senate, February 12, 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:** Senate Committee on Law & Justice (originally sponsored by Senator Braun).

**Brief History:**

**Committee Activity:** Law & Justice: 1/23/20, 1/30/20 [DPS].

**Floor Activity:**

Passed Senate: 2/12/20, 46-0.

### Brief Summary of First Substitute Bill

- Requires DSHS and HCA to make online real-time verification of public assistance available to the courts to assist them in making a determination of indigence.
- Requires OPD to work in collaboration with DSHS and HCA to promote utilization of online verification and provide training and technical assistance to the courts.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 6215 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

**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.

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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.*

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
- 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 First Substitute Bill:** DSHS and HCA are required to make online real-time verification of public assistance available to the courts to assist them in making a determination of indigence. OPD must work in collaboration with DSHS and HCA to promote utilization of online verification and provide training and technical assistance to the courts.

**Appropriation:** None.

**Fiscal Note:** Available (Partial).

**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 on Original Bill:** *The committee recommended a different version of the bill than what was heard.* 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.