

RCW 2.70.020 Director—Duties—Limitations. (Effective until January 1, 2024.) The director shall:

(1) Administer all state-funded services in the following program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW; and

(g) Representation of indigent persons who are acquitted by reason of insanity and committed to state psychiatric care as provided in chapter 10.77 RCW;

(2) Provide access to attorneys for juveniles contacted by a law enforcement officer for whom a legal consultation is required under RCW 13.40.740;

(3) Submit a biennial budget for all costs related to the office's program areas;

(4) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

(5) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

(6) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;

(7) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(8) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

The office of public defense shall not provide direct representation of clients. [2023 c 120 § 2; 2021 c 328 § 3; 2012 c 257 § 1; 2008 c 313 § 4; 1996 c 221 § 3.]

Intent—Effective date—2023 c 120: See notes following RCW 2.70.027.

Effective date—2021 c 328: See note following RCW 13.40.740.

Effective date—2012 c 257: "This act takes effect July 1, 2012." [2012 c 257 § 14.]

Findings—2008 c 313: See note following RCW 2.70.005.

RCW 2.70.020 Director—Duties—Limitations. (Effective January 1, 2024.) The director shall:

(1) Administer all state-funded services in the following program areas:

(a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;

(b) Appellate indigent defense, as provided in this chapter and RCW 10.73.150;

(c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;

(d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;

(e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;

(f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW; and

(g) Representation of indigent persons who are acquitted by reason of insanity and committed to state psychiatric care as provided in chapter 10.77 RCW;

(2) Subject to availability of funds appropriated for this specific purpose, provide access to counsel for indigent persons incarcerated in a juvenile rehabilitation or adult correctional facility to file and prosecute a first, timely personal restraint petition under RCW 10.73.150. The office shall establish eligibility criteria that prioritize access to counsel for youth under age 25, youth or adults with sentences in excess of 120 months, youth or adults with disabilities, and youth or adults with limited English proficiency. Nothing in this subsection creates an entitlement to counsel at state expense to file a personal restraint petition;

(3) Subject to the availability of funds appropriated for this specific purpose, appoint counsel to petition the sentencing court if the legislature creates an ability to petition the sentencing court, or appoint counsel to challenge a conviction or sentence if a final decision of an appellate court creates the ability to challenge a conviction or sentence. Nothing in this subsection creates an entitlement to counsel at state expense to petition the sentencing court;

(4) Provide access to attorneys for juveniles contacted by a law enforcement officer for whom a legal consultation is required under RCW 13.40.740;

(5) Submit a biennial budget for all costs related to the office's program areas;

(6) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

(7) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

(8) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;

(9) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(10) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

The office of public defense shall not provide direct representation of clients. [2023 c 261 § 2; 2023 c 120 § 2; 2021 c 328 § 3; 2012 c 257 § 1; 2008 c 313 § 4; 1996 c 221 § 3.]

Reviser's note: This section was amended by 2023 c 120 § 2 and by 2023 c 261 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—Intent—2023 c 261: "The legislature recognizes that Washington authorizes personal restraint petitions to challenge potentially unjust criminal judgments and sentences, a procedural safeguard dating back to medieval common law. The legislature further recognizes that recent statutory amendments and Washington supreme court decisions allow thousands of persons impacted by injustices in the criminal legal system to pursue resentencing.

The legislature observes that wealthy people retain attorneys to represent them in these complex, high-stakes postconviction legal proceedings. However, at least 80 percent of persons charged with felonies are indigent and cannot afford to hire a lawyer. In addition, nearly 40 percent of incarcerated persons have a cognitive or physical disability that would limit their capacity to access or understand critical legal documents, draft required petitions, or otherwise effectively represent themselves pro se in legal proceedings. Up to 70 percent of persons in prison cannot read above a fourth-grade level.

The legislature finds that the criminal legal system disproportionately incarcerates people of color, and that most people in prison are poor and the poorest are women and people of color. The legislature further finds that current law may have the effect of limiting access to counsel to initiate legitimate claims for postconviction relief. The legislature believes this situation perpetuates and exacerbates the disparate impacts of the criminal legal systems on poor persons and persons of color.

The legislature therefore declares that indigent incarcerated persons would benefit from access to public defense counsel to advise, initiate, and execute certain postconviction procedures. In addition, the legislature finds that the state should fund and administer access to counsel for certain types of postconviction procedures through the Washington state office of public defense. This act is intended to: Authorize the office of public defense, within amounts appropriated for this purpose, to provide counsel for certain indigent adults and juveniles to file and prosecute one, timely personal restraint petition; petition a sentencing court when the legislature creates an opportunity to do so; and challenge a conviction or sentence if a final decision of an appellate court creates an opportunity to do so." [2023 c 261 § 1.]

Effective date—2023 c 261: "This act takes effect January 1, 2024." [2023 c 261 § 4.]

Intent—Effective date—2023 c 120: See notes following RCW 2.70.027.

Effective date—2021 c 328: See note following RCW 13.40.740.

Effective date—2012 c 257: "This act takes effect July 1, 2012."
[2012 c 257 § 14.]

Findings—2008 c 313: See note following RCW 2.70.005.