

SENATE BILL REPORT

SB 6249

As of February 26, 2014

Title: An act relating to establishing new authority for courts to assess cost recovery fees for costs associated with new indigent defense standards.

Brief Description: Establishing new authority for courts to assess cost recovery fees for costs associated with new indigent defense standards.

Sponsors: Senators Dammeier, Rivers, Brown, Hobbs, Fain, Mullet, McCoy and Tom.

Brief History:

Committee Activity: Law & Justice: 2/05/14, 2/06/14 [DPS-WM, DNP].

Ways & Means: 2/11/14.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6249 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Pedersen.

Staff: Aldo Melchiori (786-7439)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Julie Murray (786-7711)

Background: Caseload Limits. Under statute, cities and counties must adopt standards for the delivery of public defense services, and must use the standards endorsed by the Washington State Bar Association (WSBA) as guidelines for the provision of public defense services. These standards include specific attorney experience requirements and caseload limits that vary based upon what kinds of cases the attorney is handling.

The Washington Supreme Court (WSC) has adopted amendments to court rules requiring that, in order to be appointed to represent an indigent person, counsel must certify compliance with specific numerical caseload standards for indigent defense services based

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upon those recommended by the WSBA. Since 2013 public defenders assigned a felony caseload have been required to certify that their caseload assignment does not exceed 150 cases per year, and those assigned a juvenile caseload have been required to certify that their caseload assignment does not exceed 250 per year. The WSC delayed implementation of the misdemeanor caseload limit until January 1, 2015. When the rule becomes effective, public defenders representing misdemeanor defendants must certify to the court that they are in compliance with a limit of 400 cases per attorney annually, or 300 cases annually if the court uses a weighted system described in the rule.

Legal Financial Obligations. When a person is convicted of a crime, they are obligated to pay various fees, fines, and victim restitution. An offender's payments made toward legal financial obligations are applied first to restitution and then proportionally to other monetary obligations after restitution has been satisfied. Among the various fees and assessments courts may collect is a fee of \$43 from a defendant upon conviction or guilty plea in a court of limited jurisdiction.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): The Legislature finds that caseload standards for public defenders have a fiscal impact on criminal justice and court operations of local jurisdictions. The Legislature states its intent to provide local courts and courts of limited jurisdiction with additional fee authority to offset growing expenditures associated with the indigent defense and public defender caseload standards.

The fee a court of limited jurisdiction may collect upon a defendant's conviction or plea of guilty is raised from \$43 to \$51. Revenue collected that is attributable to this increase must be used to support criminal justice matters connected with indigent defense cases. Additionally, to provide full and ample funding to support matters connected with the caseload limits for indigent defense set by court rule, in addition to the funds deposited into the city or county general fund attributable to the fee increase, the Administrative Office of the Courts must reimburse the city or county from existing resources in an amount of no less than \$528,000.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): The fee a court of limited jurisdiction may collect upon a defendant's conviction or plea of guilty is raised from \$43 to \$51 instead of \$47. Revenue collected that is attributable to this increase must be used only to support criminal justice matters connected with indigent defense cases, and not local court operations or prosecutorial functions.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee (Law & Justice): PRO: Cities will be significantly affected by the Supreme Court rule change. Cities will need help dealing with the increased costs of indigent defense. The state should find a way to fund indigent defense without demanding so much from city budgets. These targeted dollars will help cities deal with the issue.

CON: It is a bad idea to pile on legal financial obligations. The money is not sent to a fund dedicated for indigent defense.

OTHER: Superior court fees may not be the best place to try and increase fees to raise revenue because many of the defendants already cannot pay their legal financial obligations.

Persons Testifying (Law & Justice): PRO: Senator Dammeier, prime sponsor; Doug Levy, cities of Everett, Renton, Puyallup, Issaquah, Fircrest; Heidi Wachter, city of Lakewood; Candice Bock, Assn. of WA Cities; Steve Kirkelie, city of Puyallup.

CON: Bob Cooper, WA Defender Assn.

OTHER: James McMahan, WA Assn. of County Officials; Ramsey Radwan, Administrative Office of the Courts.

Staff Summary of Public Testimony (Ways & Means): PRO: We support the proposed second substitute bill. Cities need to respond to the increased costs new indigent defense rules will have. These fees are waived at the local level for indigent persons. Cities will still need more funds and will need to manage cases differently, but the increased fees will help mitigate new costs. We had to add staff in response to the new rules and will likely need to add more.

CON: Indigent defendants should not bear this cost. The legal financial obligation system is broken and revenue will not be released. Fees and costs will not be waived and will hurt poor people. Other strategies should be used to deal with this issue. The court's indigent defense rules are not a new mandate; the court is only enforcing current standards.

Persons Testifying (Ways & Means): PRO: Doug Levy, cities of Everett, Fife, Issaquah, Kent, Lake Stevens, Puyallup, Renton, Redmond; Candice Bock, Assn. of WA Cities; Jim Justin, cities of Yakima, Vancouver.

CON: Chris Kaasa, American Civil Liberties Union of WA; Bob Cooper, WA Defenders Assn., WA Assn. of Criminal Defense Lawyers.