

Proposed Second Substitute HB 1592 (H-3464.1/26)
By Rep. Peterson

AN ACT RELATING TO PUBLIC DEFENSE SERVICES

The Proposed Second Substitute removes from the Substitute bill all provisions that reallocate funding responsibility for public defense services between the state and local governments, including the requirement for the state to fund all public defense services costs above the five-year average of public defense expenditures paid by local government.

The Proposed Second Substitute retains provisions that:

- Eliminate base allocation to counties and modify the pro rata formula for distribution of county moneys from the one based on county's population and number of criminal cases to the one based on the annual number of misdemeanor cases for which a public defender was assigned;
- Replace the grants-based distribution of city moneys with a pro rata distribution formula based on the annual number of misdemeanor cases for which a public defender was assigned;
- Specify eligibility criteria and application procedures that a county or city must follow when applying to receive pro rata distributions of appropriated funds.
- Permit a county with a population density of less than 50 person per square mile to request that the Office of Public Defense (OPD) assume responsibility for providing all or a portion of the public defense services for defendants in a court under the county's jurisdiction;
- Require the OPD to examine and make recommendations to the Legislature regarding reducing trial level public defense caseloads and backlogs and increasing retention of experienced public defenders in high-need counties; and
- Requires the Administrative Office of the Courts to collect data detailing the number of cases in which a public defender was assigned and to include the total number of such cases in its annual report.

The retained provisions on eligibility criteria and application procedures are reorganized and consolidated into one section. The retained provisions authorizing counties to request that the OPD provide public defense services are reorganized into a new section.

Committee: House Civil Rights & Judiciary Committee
Staff: Yelena Baker, Office of Program Research
Draft: H-3464.1/26
Date: February 6, 2026

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-3464.1/26

ATTY/TYPIST: RR:eab

BRIEF DESCRIPTION: Concerning public defense services.

1 AN ACT Relating to public defense services; amending RCW
2 10.101.050, 10.101.060, 10.101.070, and 10.101.080; adding new
3 sections to chapter 10.101 RCW; adding a new section to chapter 2.56
4 RCW; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 10.101.050 and 2005 c 157 s 3 are each amended to
7 read as follows:

8 The Washington state office of public defense shall disburse
9 appropriated funds to counties and cities for the purpose of
10 improving the quality of public defense services.

11 (1) Counties may apply in accordance with RCW 10.101.060 for up
12 to their pro rata share as set forth in ((RCW 10.101.060 provided
13 that counties conform to application procedures established by the
14 office of public defense and improve the quality of services for both
15 juveniles and adults)) RCW 10.101.070.

16 (2) Cities may apply in accordance with RCW 10.101.060 for
17 ((moneys pursuant to the grant program)) up to their pro rata share
18 as set forth in RCW 10.101.080. ((In order to receive funds, each
19 applying county or city must require that attorneys providing public
20 defense services attend training approved by the office of public
21 defense at least once per calendar year. Each applying county or city

1 shall report the expenditure for all public defense services in the
2 previous calendar year, as well as case statistics for that year,
3 including per attorney caseloads, and shall provide a copy of each
4 current public defense contract to the office of public defense with
5 its application. Each individual or organization that contracts to
6 perform public defense services for a county or city shall report to
7 the county or city hours billed for nonpublic defense legal services
8 in the previous calendar year, including number and types of private
9 cases.))

10 **Sec. 2.** RCW 10.101.060 and 2005 c 157 s 4 are each amended to
11 read as follows:

12 ((~~(1)(a)~~ Subject to the availability of funds appropriated for
13 this purpose, the office of public defense shall disburse to applying
14 counties that meet the requirements of RCW 10.101.050 designated
15 funds under this chapter on a pro rata basis pursuant to the formula
16 set forth in RCW 10.101.070 and shall disburse to eligible cities,
17 funds pursuant to RCW 10.101.080. Each fiscal year for which it
18 receives state funds under this chapter, a county or city must
19 document to the office of public defense that it is meeting the
20 standards for provision of indigent defense services as endorsed by
21 the Washington state bar association or that the funds received under
22 this chapter have been used to make appreciable demonstrable
23 improvements in the delivery of public defense services, including
24 the following:

25 ~~(i) Adoption by ordinance of a legal representation plan that~~
26 ~~addresses the factors in RCW 10.101.030. The plan must apply to any~~
27 ~~contract or agency providing indigent defense services for the county~~
28 ~~or city;~~

29 ~~(ii) Requiring attorneys who provide public defense services to~~
30 ~~attend training under RCW 10.101.050;~~

31 ~~(iii) Requiring attorneys who handle the most serious cases to~~
32 ~~meet specified qualifications as set forth in the Washington state~~
33 ~~bar association endorsed standards for public defense services or~~
34 ~~participate in at least one case consultation per case with office of~~
35 ~~public defense resource attorneys who are so qualified. The most~~
36 ~~serious cases include all cases of murder in the first or second~~
37 ~~degree, persistent offender cases, and class A felonies. This~~
38 ~~subsection (1)(a)(iii) does not apply to cities receiving funds under~~
39 ~~RCW 10.101.050 through 10.101.080;~~

1 ~~(iv) Requiring contracts to address the subject of compensation~~
2 ~~for extraordinary cases;~~

3 ~~(v) Identifying funding specifically for the purpose of paying~~
4 ~~experts (A) for which public defense attorneys may file ex parte~~
5 ~~motions, or (B) which should be specifically designated within a~~
6 ~~public defender agency budget;~~

7 ~~(vi) Identifying funding specifically for the purpose of paying~~
8 ~~investigators (A) for which public defense attorneys may file ex~~
9 ~~parte motions, and (B) which should be specifically designated within~~
10 ~~a public defender agency budget.~~

11 ~~(b) The cost of providing counsel in cases where there is a~~
12 ~~conflict of interest shall not be borne by the attorney or agency who~~
13 ~~has the conflict.~~

14 ~~(2) The office of public defense shall determine eligibility of~~
15 ~~counties and cities to receive state funds under this chapter. If a~~
16 ~~determination is made that a county or city receiving state funds~~
17 ~~under this chapter did not substantially comply with this section,~~
18 ~~the office of public defense shall notify the county or city of the~~
19 ~~failure to comply and unless the county or city contacts the office~~
20 ~~of public defense and substantially corrects the deficiencies within~~
21 ~~ninety days after the date of notice, or some other mutually agreed~~
22 ~~period of time, the county's or city's eligibility to continue~~
23 ~~receiving funds under this chapter is terminated. If an applying~~
24 ~~county or city disagrees with the determination of the office of~~
25 ~~public defense as to the county's or city's eligibility, the county~~
26 ~~or city may file an appeal with the advisory committee of the office~~
27 ~~of public defense within thirty days of the eligibility~~
28 ~~determination. The decision of the advisory committee is final)) (1)~~
29 Counties and cities may apply in accordance with this section to
30 receive pro rata distributions of county moneys, as set forth in RCW
31 10.101.070, and city moneys, as set forth in RCW 10.101.080. Subject
32 to the availability of funds appropriated for this purpose, the
33 office of public defense shall disburse funds appropriated under RCW
34 10.101.050 to each county and city determined to be eligible under
35 this chapter by the office of public defense.

36 (2) Counties and cities shall conform to application procedures
37 established by the office of public defense and improve the quality
38 of services for both juveniles and adults.

39 (3) (a) In order to receive funds, each applying county shall:

1 (i) Require that attorneys providing public defense services
2 attend training approved by the office of public defense at least
3 once per calendar year;

4 (ii) Report the expenditure for all public defense services in
5 the previous calendar year, as well as case statistics for that year,
6 including per attorney caseloads, and shall provide a copy of each
7 current public defense contract to the office of public defense with
8 its application; and

9 (iii) Designate a public defense coordinator who shall serve as
10 the primary contact between the county and the office of public
11 defense. The public defense coordinator shall be a lawyer with public
12 defense experience.

13 (b) Each individual or organization that contracts to perform
14 public defense services for a county shall report to the county hours
15 billed for nonpublic defense legal services in the previous calendar
16 year, including number and types of private cases.

17 (4) (a) In order to receive funds, each applying city shall:

18 (i) Require that attorneys providing public defense services
19 attend training approved by the office of public defense at least
20 once per calendar year; and

21 (ii) Report the expenditure for all public defense services in
22 the previous calendar year, as well as case statistics for that year,
23 including per attorney caseloads, and shall provide a copy of each
24 current public defense contract to the office of public defense with
25 its application.

26 (b) Each individual or organization that contracts to perform
27 public defense services for a city shall report to the city hours
28 billed for nonpublic defense legal services in the previous calendar
29 year, including number and types of private cases.

30 (5) Each fiscal year for which it receives state funds under this
31 chapter, a county or city must annually document to the office of
32 public defense that it is meeting the standards for provision of
33 indigent defense services as endorsed by the Washington state supreme
34 court or that the funds received under this chapter have been used to
35 make appreciable demonstrable improvements in the delivery of public
36 defense services.

37 (6) The office of public defense may create standards to
38 determine the eligibility of counties and cities requesting funds.

39 (7) The office of public defense shall monitor trial level public
40 defense services to determine eligibility of counties and cities to

1 receive state funds under this chapter. The office of public defense
2 shall create data collection criteria and reporting forms to ensure
3 consistent statewide data and application.

4 (8) Cities and counties are encouraged to work together and with
5 the office of public defense to create public defender districts, if
6 needed, consistent with RCW 36.26.020.

7 **Sec. 3.** RCW 10.101.070 and 2005 c 157 s 5 are each amended to
8 read as follows:

9 ~~((The moneys shall be distributed to each county determined to be~~
10 ~~eligible to receive moneys by the office of public defense as~~
11 ~~determined under this section. Ninety percent of the funding~~
12 ~~appropriated shall be designated as "county moneys" and shall be~~
13 ~~distributed as follows:~~

14 ~~(1) Six percent of the county moneys appropriated shall be~~
15 ~~distributed as a base allocation among the eligible counties. A~~
16 ~~county's base allocation shall be equal to this six percent divided~~
17 ~~by the total number of eligible counties.~~

18 ~~(2) Ninety-four percent of the county moneys appropriated shall~~
19 ~~be distributed among the eligible counties as follows:~~

20 ~~(a) Fifty percent of this amount shall be distributed on a pro~~
21 ~~rata basis to each eligible county based upon the population of the~~
22 ~~county as a percentage of the total population of all eligible~~
23 ~~counties; and~~

24 ~~(b) Fifty percent of this amount shall be distributed on a pro~~
25 ~~rata basis to each eligible county based upon the annual number of~~
26 ~~criminal cases filed in the county superior court as a percentage of~~
27 ~~the total annual number of criminal cases filed in the superior~~
28 ~~courts of all eligible counties.~~

29 ~~(3) Under this section:~~

30 ~~(a) The population of the county is the most recent number~~
31 ~~determined by the office of financial management;~~

32 ~~(b) The annual number of criminal cases filed in the county~~
33 ~~superior court is determined by the most recent annual report of the~~
34 ~~courts of Washington, as published by the office of the administrator~~
35 ~~for the courts;~~

36 ~~(c) Distributions and eligibility for distributions in the~~
37 ~~2005-2007 biennium shall be based on 2004 figures for the annual~~
38 ~~number of criminal cases that are filed as described under (b) of~~
39 ~~this subsection. Future distributions shall be based on the most~~

1 ~~recent figures for the annual number of criminal cases that are filed~~
2 ~~as described under (b) of this subsection))~~ (1) Ninety percent of the
3 funding appropriated under RCW 10.101.050 shall be designated as
4 "county moneys" and shall be distributed among the counties
5 determined by the office of public defense to be eligible to receive
6 moneys on a pro rata basis based upon the annual number of cases
7 filed in courts under the county's jurisdiction for which a public
8 defender was assigned.

9 (2) For the purposes of this section, the annual number of cases
10 filed in courts under the county's jurisdiction for which a public
11 defender was assigned is determined by the most recent annual report
12 of the courts of Washington, as published by the office of the
13 administrator for the courts.

14 **Sec. 4.** RCW 10.101.080 and 2007 c 59 s 1 are each amended to
15 read as follows:

16 ~~((The moneys under RCW 10.101.050 shall be distributed to each~~
17 ~~city determined to be eligible under this section by the office of~~
18 ~~public defense. Ten percent of the funding appropriated shall be~~
19 ~~designated as "city moneys" and distributed as follows:~~

20 ~~(1) The office of public defense shall administer a grant program~~
21 ~~to select the cities eligible to receive city moneys. Incorporated~~
22 ~~cities may apply for grants. Applying cities must conform to the~~
23 ~~requirements of RCW 10.101.050 and 10.101.060.~~

24 ~~(2) City moneys shall be distributed in a timely manner to~~
25 ~~accomplish the goals of the grants.~~

26 ~~(3) Criteria for award of grants shall be established by the~~
27 ~~office of public defense after soliciting input from the association~~
28 ~~of Washington cities. Award of the grants shall be determined by the~~
29 ~~office of public defense))~~ (1) Ten percent of the funding
30 appropriated under RCW 10.101.050 shall be designated as "city
31 moneys" and shall be distributed among the cities determined by the
32 office of public defense to be eligible to receive moneys on a pro
33 rata basis based upon the annual number of misdemeanor criminal cases
34 filed in courts under the city's jurisdiction or for which the city
35 is financially responsible for which a public defender was assigned.

36 (2) For the purposes of this section, the annual number of
37 misdemeanor criminal cases filed in courts under the city's
38 jurisdiction or for which the city is financially responsible for
39 which a public defender was assigned is determined by the most recent

1 annual report of the courts of Washington, as published by the office
2 of the administrator for the courts.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.101
4 RCW to read as follows:

5 (1) Any county with a population density of less than 50 persons
6 per square mile may request that the office of public defense assume
7 responsibility for providing all or a designated portion of the
8 public defense services for defendants appearing in a court under the
9 county's jurisdiction.

10 (2) If the office of public defense determines that it has the
11 capacity to provide these services on behalf of the county:

12 (a) The office of public defense must notify the county of its
13 decision to accept the request within 180 days.

14 (b) The county's pro rata share of funding described in RCW
15 10.101.070 shall be retained by the office of public defense for the
16 purposes of delivering public defense services within the county. The
17 office of public defense may designate employees of the office or
18 contract with external legal counsel to deliver public defense
19 services within the county.

20 (c) The office of public defense, at its discretion and
21 consistent with standards for the provision of indigent defense
22 services as endorsed by the Washington state supreme court, may
23 establish service delivery standards, support staff, and
24 administrative functions to facilitate the effective delivery of
25 public defense services within the county.

26 (d) The county shall contribute funds in an amount equal to its
27 responsibility for public defense services within its jurisdiction
28 toward the delivery of public defense services by the office of
29 public defense within its jurisdiction.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.101
31 RCW to read as follows:

32 The office of public defense shall:

33 (1) Examine and make recommendations to reduce trial level public
34 defense caseloads and backlogs;

35 (2) Require counties to report to the office of public defense
36 the number of accused who are unrepresented because of a shortage of
37 qualified lawyers;

1 (3) Make recommendations to increase retention of experienced
2 public defenders in high-need counties; and

3 (4) Report findings and recommendations to the appropriate fiscal
4 and policy committees of the legislature not later than December 1,
5 2027.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 2.56 RCW
7 to read as follows:

8 The office of the administrator for the courts shall collect data
9 in a manner consistent with the responsibilities outlined in chapter
10 2.68 RCW detailing the number of cases assigned a public defender and
11 shall include in its annual report of the courts of Washington the
12 total number of such cases in each county and city.

13 NEW SECTION. **Sec. 8.** Sections 1 through 5 of this act take
14 effect January 1, 2027.

--- END ---