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HOUSE BILL 2202

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State of Washington

68th Legislature

2024 Regular Session

By Representatives Couture and Griffey

1 AN ACT Relating to providing a state program of assistance for  
2 local government indigent public defense and law enforcement costs;  
3 adding new sections to chapter 36.26 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 36.26  
6 RCW to read as follows:

7 The legislature recognizes that under the constitution, statutes,  
8 and case law, counties bring charges in the name of the state and  
9 that the state has delegated to the local governments the duty to  
10 provide indigent public defense. Under this legal framework, the  
11 legislature fulfills its duty to fund indigent public defense by  
12 enacting general laws to provide counties and cities with taxing  
13 authority.

14 The state recognizes the significance of indigent defense costs  
15 due to criminal case filings. In addition to taxing authority already  
16 provided, the legislature intends to provide local governments with  
17 state aid for these costs through formula-based funding that is  
18 proportional based upon the number of criminal cases filed in the  
19 county superior court as a percentage of the total annual number of  
20 criminal cases filed in the superior courts of all counties, but also

1 contingent on local governments' commitment to provide law  
2 enforcement services to their communities.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 36.26  
4 RCW to read as follows:

5 (1) The state indigent defense and law enforcement assistance  
6 account is created in the state treasury. Revenues to the account  
7 consist of moneys appropriated by the legislature for distribution to  
8 local governments as financial assistance to support law enforcement  
9 and indigent public defense services.

10 (2) Pursuant to appropriation the state treasurer must annually  
11 distribute moneys deposited in the state indigent defense and law  
12 enforcement assistance account pursuant to this section to local  
13 governments determined to be eligible to receive moneys by the  
14 department of commerce. These funds may only be used for law  
15 enforcement and indigent defense as described in this section. The  
16 county moneys appropriated shall be distributed among the eligible  
17 counties as follows:

18 (a) 50 percent of this amount shall be distributed on a pro rata  
19 basis to each eligible county based upon the population of the county  
20 as a percentage of the total population of all eligible counties; and

21 (b) 50 percent of this amount shall be distributed on a pro rata  
22 basis to each eligible county based upon the annual number of  
23 criminal cases filed in the county superior court as a percentage of  
24 the total annual number of criminal cases filed in the superior  
25 courts of all eligible counties.

26 (3) Under this section:

27 (a) The population and residents of the county is the most recent  
28 number determined by the office of financial management;

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

33 (c) Distributions and eligibility for distributions in fiscal  
34 year 2025 shall be based on 2024 figures for the annual number of  
35 criminal cases that are filed as described under (b) of this  
36 subsection. Future distributions shall be based on the most recent  
37 figures for the annual number of criminal cases that are filed as  
38 described under (b) of this subsection; and

1 (d) A local law enforcement officer has the same meaning as a  
2 "general authority Washington peace officer" as defined in RCW  
3 10.93.020 who is employed by a unit of local government of this  
4 state.

5 (4) Local governments may expend moneys distributed under this  
6 section as follows:

7 (a) For distributions made in fiscal year 2025, a county and the  
8 municipalities within that county that employ 1.5 full-time local law  
9 enforcement officers per 1,000 residents residing in that county may  
10 use its allocated funding for indigent defense costs in that county.  
11 Both the number of full-time local law enforcement officers employed  
12 by the county and those employed by municipalities in total must be  
13 included in the determination of whether the 1.5 local law  
14 enforcement officers per 1,000 county residents threshold has been  
15 met. If the department of commerce determines that a local government  
16 cannot verify the full-time employment of 1.5 local law enforcement  
17 officers per 1,000 residents residing in that county, then the local  
18 government must use its allocated funding to hire additional law  
19 enforcement officers until the ratio of 1.5 law enforcement officers  
20 to 1,000 residents is met.

21 (b) For distributions made in fiscal year 2026, a county and the  
22 municipalities within that county that employ 1.75 full-time local  
23 law enforcement officers per 1,000 residents residing in that county  
24 may use its allocated funding for indigent defense costs in that  
25 county. Both the number of full-time local law enforcement officers  
26 employed by the county and those employed by municipalities in total  
27 must be included in the determination of whether the 1.75 local law  
28 enforcement officers per 1,000 county residents threshold has been  
29 met. If the department of commerce determines that a local government  
30 cannot verify the full-time employment of 1.75 local law enforcement  
31 officers per 1,000 residents residing in that county, then the local  
32 government must use its allocated funding to hire additional law  
33 enforcement officers until the ratio of 1.75 law enforcement officers  
34 to 1,000 residents is met.

35 (c) For distributions made in fiscal year 2027 and thereafter, a  
36 county and the municipalities within that county that employs 2.33  
37 full-time local law enforcement officers or more per 1,000 residents  
38 residing in that county may use its allocated funding for indigent  
39 defense costs in that county. Both the number of full-time local law  
40 enforcement officers employed by the county and those employed by

1 municipalities in total must be included in the determination of  
2 whether the 2.33 local law enforcement officers per 1,000 county  
3 residents threshold has been met. If the department of commerce  
4 determines that a county cannot verify the full-time employment of  
5 2.33 local law enforcement officers per 1,000 residents residing in  
6 that county, then the local government must use its allocated funding  
7 to hire additional law enforcement officers until the ratio of 2.33  
8 law enforcement officers to 1,000 residents is met.

9 (5) The department of commerce must annually consult with experts  
10 to determine if the law enforcement officer to resident ratios  
11 established under subsection (4) of this section need to be updated  
12 or recalibrated and make recommendations to the legislature regarding  
13 proposed changes. Any changes to the established ratios must be  
14 approved by the legislature before going into effect.

15 (6) (a) Beginning September 1, 2024, and September 1st of each  
16 year thereafter, the department of commerce shall jointly consult  
17 with the administrative office of the courts, the office of public  
18 defense, the Washington association of sheriffs and police chiefs,  
19 the Washington state association of counties, and the association of  
20 Washington cities to:

21 (i) Review how funds are distributed proportionally to the  
22 counties and the municipalities within the county to provide  
23 financial assistance for the hiring of county and municipal law  
24 enforcement officers;

25 (ii) Ensure that the formula in subsection (2) (b) of this section  
26 includes procedures for distributing funding proportionally based  
27 upon each county's actual criminal case filings from the previous  
28 state fiscal year. In adjusting for proportionality, these costs may  
29 be adjusted annually for inflation, population growth, or changes in  
30 criminal court filings; and

31 (iii) Review whether local governments have spent funds as  
32 authorized in subsection (4) of this section.

33 (b) Beginning October 1, 2024, and October 1st of each year  
34 thereafter, the department must, prior to the annual distribution  
35 date, determine whether each local government has in the previous  
36 calendar year maintained a law enforcement per capita ratio as  
37 defined in subsection (4) of this section. If the department  
38 determines that a local government has not maintained the required  
39 law enforcement per-capita ratio, then it must notify the office of  
40 the state treasurer by no later than October 30th of the same year

1 that limitations apply to the local government's use of the moneys  
2 distributed under this section.

3 (c) By November 15th of each year, the department must inform  
4 each local government what proportion of its allocated funding must  
5 be used to employ additional law enforcement officers and what  
6 proportion of their remaining allocated funding may be used for  
7 indigent defense costs in that county.

8 (7) The department of commerce may require any funding not  
9 distributed under subsection (2) of this section or in instances  
10 where local governments cannot hire law enforcement officers to  
11 fulfill their respective annual ratio, that such moneys be returned  
12 to the state treasurer for deposit in the state indigent defense and  
13 law enforcement assistance account.

14 NEW SECTION. **Sec. 3.** Beginning July 1, 2024, the state  
15 treasurer shall annually transfer a minimum of \$200,000,000 to the  
16 state indigent defense and law enforcement assistance account created  
17 in section 2 of this act.

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