
SENATE BILL 5404

State of Washington

69th Legislature

2025 Regular Session

By Senators Trudeau, Lovick, Frame, and Schoesler

1 AN ACT Relating to public defense services; amending RCW
2 10.101.050, 10.101.060, and 10.101.070; adding a new section to
3 chapter 10.101 RCW; and adding a new section to chapter 2.56 RCW.

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

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

7 (1) Beginning in fiscal year 2026, funding responsibility for
8 public defense services shall be shared by the state, counties, and
9 cities.

10 (a) Beginning in fiscal year 2026, the state shall be responsible
11 for 50 percent of the cost of public defense services based on an
12 average of the actual expenditures for public defense services
13 reported, and paid for, by eligible counties for the previous five
14 years looking back from fiscal year 2024. Beginning in fiscal year
15 2026, eligible counties shall not be responsible for public defense
16 services costs that exceed this five-year average.

17 (b) In fiscal year 2026 and thereafter, the state shall be
18 responsible for all public defense services costs that exceed the
19 five-year average set forth in this section.

20 The Washington state office of public defense shall disburse
21 appropriated funds to eligible counties (~~(and—cities)~~) for the

1 ~~((purpose of improving the quality of public defense services))~~ costs
2 that exceed the five-year average set forth in this section
3 consistent with RCW 10.101.060(2) (a) through (d).

4 (c) Any county funds supplanted by the funding distributions
5 described in this section that were previously spent on public
6 defense services may only be used for the following activities:

7 (i) Pretrial or precharge diversion programs;
8 (ii) Alternatives to incarceration;
9 (iii) Reentry services for those exiting incarceration;
10 (iv) Administrative expenditures related to the provision of
11 public defense services including, but not limited to:

12 (A) Information technology;
13 (B) Human resources;
14 (C) Office space;
15 (D) Other indirect costs;
16 (v) Behavioral health facilities and services;
17 (vi) Costs of developing affordable and supportive housing,
18 consistent with eligible activities outlined in RCW 82.14.540;
19 (vii) Other activities as approved by the Washington state office
20 of public defense. ((Counties))

21 (2) Eligible counties may apply for up to their pro rata share as
22 set forth in RCW 10.101.060 provided that counties conform to
23 application procedures established by the office of public defense
24 and improve the quality of services for both juveniles and adults.
25 ~~((Cities may apply for moneys pursuant to the grant program set forth~~
26 ~~in RCW 10.101.080.))~~

27 (3) In order to receive funds, each ((applying)) county ((or
28 city)) must ((require that attorneys providing public defense
29 services attend training approved by the office of public defense at
30 least once per calendar year. Each applying county or city shall
31 report)):

32 (a) Report the expenditure for all public defense services in the
33 previous calendar year, as well as case statistics for that year,
34 including per attorney caseloads, and shall provide a copy of each
35 current public defense contract to the office of public defense
36 ~~((with its application. Each individual or organization that~~
37 ~~contracts to perform public defense services for a county or city~~
38 ~~shall report to the county or city));~~

39 (b) Require public defense lawyers to keep and report hours
40 worked on each public defense case. The county shall collect data of

1 assigned and resolved cases and annually report to the office of
2 public defense and the Washington state bar association the (i)
3 number of assigned and resolved cases of each case type consistent
4 with appendix B of the Washington state bar association indigent
5 defense standards, and (ii) average number of billable attorney hours
6 spent on resolved cases of each type. The office of public defense
7 shall create forms consistent with the collection of necessary data
8 and regularly use the billable hour data to review and reconsider the
9 categorization of each case type included in appendix B of the
10 Washington state bar association indigent defense standards;

11 (c) Designate a public defense coordinator who shall serve as the
12 primary contact between the county and the office of public defense.
13 The public defense coordinator shall be a lawyer with public defense
14 experience. Cities and counties are encouraged to work together and
15 with the office of public defense to create public defense districts,
16 if needed, consistent with RCW 36.26.020.

17 (4) Cities may apply for moneys pursuant to the grant program set
18 forth in RCW 10.101.080. In order to receive funds, each applying
19 city must require that attorneys providing public defense services
20 attend training approved by the office of public defense at least
21 once per calendar year. Each applying city shall report the
22 expenditure for all public defense services in the previous calendar
23 year, as well as case statistics for that year, including per
24 attorney caseloads, and shall provide a copy of each current public
25 defense contract to the office of public defense with its
26 application. Each individual or organization that contracts to
27 perform public defense services for a city shall report to the city
28 hours billed for nonpublic defense legal services in the previous
29 calendar year, including number and types of private cases.

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

32 ~~(1) ((a) Subject to the availability of funds appropriated for~~
33 ~~this purpose, the))~~ The office of public defense shall disburse to
34 ~~((applying))~~ all counties that meet the requirements of RCW
35 10.101.050 designated funds under this chapter on a pro rata basis
36 pursuant to the formula set forth in RCW 10.101.070 and shall
37 disburse to eligible cities, funds pursuant to RCW 10.101.080.

38 (2) Any county with a population density of less than 50 persons
39 per square mile may request that the office of public defense assume

1 responsibility for providing all or a designated portion of the
2 public defense services for defendants appearing in a court under the
3 county's jurisdiction. If the office of public defense determines
4 that it has the capacity to provide these services on behalf of the
5 county:

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

8 (b) The county's pro rata share of funding described in RCW
9 10.101.070 shall be retained by the office of public defense for the
10 purposes of delivering public defense services within the county. The
11 office of public defense may designate employees of the department or
12 contract with external legal counsel to deliver public defense
13 services within the county.

14 (c) The office of public defense, at its discretion and
15 consistent with standards for the provision of indigent defense
16 services as endorsed by the Washington state bar association, may
17 establish service delivery standards, support staffing, and
18 administrative functions to facilitate the effective delivery of
19 public defense services within the county.

20 (d) The county shall contribute funds in an amount equal to its
21 responsibility for public defense services within its jurisdiction as
22 described in RCW 10.101.050 toward the delivery of public defense
23 services by the office of public defense within its jurisdiction.

24 (3) Each fiscal year for which it receives state funds under this
25 chapter, a county or city must annually document to the office of
26 public defense that it is meeting the standards for provision of
27 indigent defense services as endorsed by the Washington state bar
28 association or that the funds received under this chapter have been
29 used to make appreciable demonstrable improvements in the delivery of
30 public defense services (~~, including the following:~~

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

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

37 ~~(iii) Requiring attorneys who handle the most serious cases to~~
38 ~~meet specified qualifications as set forth in the Washington state~~
39 ~~bar association endorsed standards for public defense services or~~
40 ~~participate in at least one case consultation per case with office of~~

1 public defense resource attorneys who are so qualified. The most
2 serious cases include all cases of murder in the first or second
3 degree, persistent offender cases, and class A felonies. This
4 subsection (1)(a)(iii) does not apply to cities receiving funds under
5 RCW 10.101.050 through 10.101.080;

6 (iv) Requiring contracts to address the subject of compensation
7 for extraordinary cases;

8 (v) Identifying funding specifically for the purpose of paying
9 experts (A) for which public defense attorneys may file ex parte
10 motions, or (B) which should be specifically designated within a
11 public defender agency budget;

12 (vi) Identifying funding specifically for the purpose of paying
13 investigators (A) for which public defense attorneys may file ex
14 parte motions, and (B) which should be specifically designated within
15 a public defender agency budget.

16 (b) The cost of providing counsel in cases where there is a
17 conflict of interest shall not be borne by the attorney or agency who
18 has the conflict)). The office of public defense may create standards
19 to determine the eligibility of counties and cities requesting funds.

20 ((+2)) (4) The office of public defense shall monitor trial
21 level public defense services to determine eligibility of counties
22 and cities to receive state funds under this chapter. ((If a
23 determination is made that a county or city receiving state funds
24 under this chapter did not substantially comply with this section,
25 the office of public defense shall notify the county or city of the
26 failure to comply and unless the county or city contacts the office
27 of public defense and substantially corrects the deficiencies within
28 ninety days after the date of notice, or some other mutually agreed
29 period of time, the county's or city's eligibility to continue
30 receiving funds under this chapter is terminated. If an applying
31 county or city disagrees with the determination of the office of
32 public defense as to the county's or city's eligibility, the county
33 or city may file an appeal with the advisory committee of the office
34 of public defense within thirty days of the eligibility
35 determination. The decision of the advisory committee is final)) The
36 office of public defense shall create data collection criteria and
37 reporting forms to ensure consistent statewide data and application.

38 (5) The moneys under RCW 10.101.050 shall be distributed to each
39 county and city determined to be eligible under this section by the
40 office of public defense.

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

3 The moneys shall be distributed to each county determined to be
4 eligible to receive moneys by the office of public defense as
5 determined under this section. ~~((Ninety percent of the funding
6 appropriated))~~ Beginning in fiscal year 2026 and in each year
7 thereafter, the state shall appropriate to the office of public
8 defense funds necessary to comply with RCW 10.101.050. These funds
9 shall be designated as "county moneys" and shall be distributed as
10 follows:

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

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

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

21 (b) Fifty percent of this amount shall be distributed on a pro
22 rata 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 (2) Beginning in fiscal year 2027 and each year thereafter, the
27 county moneys appropriated shall be distributed among the eligible
28 counties on a pro rata basis based upon the annual number of cases
29 filed in courts under the county's jurisdiction for which a public
30 defender was assigned.

31 (3) Under this section:

32 (a) The population of the county is the most recent number
33 determined by the office of financial management;

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

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

1 ~~this subsection. Future distributions shall be based on the most~~
2 ~~recent figures for the annual number of criminal cases that are filed~~
3 ~~as described under (b) of this subsection))~~ The annual number of
4 cases filed in courts under the county's jurisdiction for which a
5 public defender was assigned is determined by the most recent annual
6 report of the courts of Washington, as published by the office of the
7 administrator for the courts.

8 NEW SECTION. Sec. 4. A new section is added to chapter 10.101
9 RCW to read as follows:

10 The office of public defense shall:

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

13 (2) Require counties to report to the office of public defense
14 the number of accused who are unrepresented because of a shortage of
15 qualified lawyers;

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

18 (4) Report findings and recommendations to the appropriate fiscal
19 and policy committees of the legislature not later than December 1,
20 2026.

21 NEW SECTION. Sec. 5. A new section is added to chapter 2.56 RCW
22 to read as follows:

23 The office of the administrator for the courts shall collect data
24 in a manner consistent with the responsibilities outlined in chapter
25 2.68 RCW detailing the number of cases assigned a public defender and
26 shall include in its annual report of the courts of Washington the
27 total number of such cases in each county and city.

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