

HOUSE BILL REPORT

HB 2337

As Reported By House Committee On:
Judiciary

Title: An act relating to indigent defendants.

Brief Description: Specifying rights and responsibilities of indigent defendants.

Sponsors: Representative R. Meyers.

Brief History:

Reported by House Committee on:
Judiciary, February 2, 1994, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Appelwick, Chair; Johanson, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Eide; Forner; J. Kohl; Long; Morris; H. Myers; Schmidt; Scott and Tate.

Staff: Pat Shelledy (786-7149).

Background: The court may order a convicted defendant to pay costs based on certain criteria. The statute which authorizes recoupment of costs does not expressly include or exclude costs upon appeal.

Summary of Substitute Bill: The Court of Appeals, Supreme Court and Superior Courts may require convicted defendants to pay costs. The substantive provisions are similar to existing provisions concerning collection of costs.

Substitute Bill Compared to Original Bill: The provision restricting when the state will pay for attorneys for indigent defendants who file appeals is stricken.

Fiscal Note: Requested January 26, 1994.

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

Testimony For: Courts are too liberal in paying for indigent defendants' costs and attorneys' fees at public expense. Washington has a very liberal definition of "indigency." Hundreds of appeals and collateral attacks are filed by indigent defendants at a substantial cost to the state. Adopting the bill will save the state money and will reduce the number of frivolous appeals. There is no constitutional right to state funded counsel for appeals other than appeals granted as a matter of right.

Testimony Against: Appointment of counsel upon appeal greatly increases the efficiency of the appeal. Nothing is more aggravating for the court than to process a pro se defendant's appeal. Defense attorneys for indigent defendants get paid the same salary no matter how many appeals they file on behalf of clients, so they have an incentive not to file frivolous appeals. Counsel is rarely appointed for indigent defendants who raise collateral attacks unless the person is facing the death penalty. This bill will cause substantial litigation, especially concerning its application to the death penalty. There are constitutional issues that remain concerning the right to state funded counsel upon appeal.

Witnesses: John Ladenburg, Washington Association of Prosecuting Attorneys (pro); Danny Clem, Washington Association of Prosecuting Attorneys (pro); David Zuckerman, Washington Association of Criminal Defense Lawyers (con); and Jerry Sheehan, American Civil Liberties Union (con).