

SENATE BILL REPORT

SB 6788

As of February 12, 2008

Title: An act relating to extraordinary medical expenses of offenders.

Brief Description: Assisting local governments with payment for extraordinary prisoner medical expenses.

Sponsors: Senators Keiser, Brandland, Fairley and Honeyford.

Brief History:

Committee Activity: Ways & Means: 2/11/08.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Paula Moore (786-7449)

Background: The Office of Public Defense (OPD) is an independent agency within the judicial branch, whose duties include: (1) administering state-funded appellate defense to indigent criminal defendants; (2) operating a grant program to assist counties and cities with their indigent criminal defense needs at the trial level; (3) providing training and education for public defenders at the trial level; (4) operating a program that contracts for representation of indigent parents in dependency and termination proceedings; and (5) processing petitions from counties to the Legislature for reimbursement for "extraordinary criminal justice costs."

Since 1999 counties have had the option of submitting petitions for "extraordinary criminal justice costs" to OPD. Extraordinary criminal justice costs are defined as those associated with investigation, prosecution, indigent defense, jury impanelment, expert witnesses, interpreters, incarceration, and other adjudication costs of aggravated murder cases.

OPD, together with the Washington Association of Sheriffs and Police Chiefs (WASPC) and the Washington Association of Prosecuting Attorneys (WAPA), processes, audits, and prioritizes the reimbursement petitions. Prioritization of the petitions must include the disproportionate fiscal impact relative to the county budget, efficient use of resources, and whether the costs are extraordinary and could not be reasonably accommodated and anticipated in the normal budget process.

OPD, WASPC, and WAPA submit to the Legislature a list prioritizing the reimbursement petitions. The Legislature considers the prioritized list as part of its budget deliberations. Any funding it opts to provide towards reimbursement is appropriated to the Office of Financial Management (OFM). The appropriation includes the counties and amounts to be reimbursed.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Public Safety and Education Account (PSEA) was created in 1984. Allowable uses for the account include highway safety, criminal justice training, crime victims' compensation, judicial education, and the judicial information system. The largest source of revenue deposited into the account is traffic infraction penalties. In 2005 the Equal Justice Sub Account (EJSA) was created within the PSEA. Most of its revenue derives from increased court filing fees authorized by the Legislature in 2005.

PSEA and EJSA expenditures are included in the calculation of the state's expenditure limit.

Summary of Bill: The intent of the Legislature is expressed to provide some assistance to local jurisdictions experiencing extreme medical expenses exceeding \$10,000 per individual offender per calendar year. Additionally, the Legislature finds that local governments experience hardships in financing the cost of catastrophic medical expenses of incarcerated individuals, and that most of these costs are unavoidable, given mandatory minimum sentences imposed on incarcerated individuals.

The responsibility of administering a program to assist local jurisdictions with extraordinary medical expenses is added to OPD's duties. The OPD Director may seek assistance from the Health Care Authority and Department of Corrections when reviewing extraordinary medical expenses.

To be eligible for assistance, a city or county must submit actual copies of its bills, protected for patient confidentiality, no later than 90 days following the end of each calendar year. The total costs for an individual offender during the calendar year must exceed \$10,000 in order for the jurisdiction to qualify for assistance.

Reimbursement rates will follow the Medicaid reimbursement rate, regardless of the rate at which the city or county was billed. If the appropriation is not enough to provide assistance to all applications, assistance must be provided on a proportional basis, linking the proportion of the aggregate requests in relation to the proportion of the total funding available. Reimbursement must be made to the jurisdiction that is ultimately financially responsible for the medical bills.

Establishes a new sub account within the PSEA, titled the Excessive Medical Expenses Sub Account (EMESA). Each biennium \$3 million must be appropriated to OPD to provide assistance to local jurisdictions for extraordinary costs incurred for prisoner medical expenses. Fifty percent of the assistance must go to the counties and the other 50 percent must go to the cities.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: We have very sick inmates in our jails, costing cities and counties millions of dollars. This is indicative of a failure in our health care system. Cities and counties are constitutionally and statutorily required to provide medical care. These offenders rarely have private insurance. Most enter on public assistance, and that is

terminated upon entry into the facility. Several of these offenders have methamphetamine and alcohol issues. Most of these costs are not budgeted as they are not anticipated. In 2005 the cities had over 33 offenders with annual medical costs exceeding \$15,000. This bill is a work in progress, and we are willing to work with the agency that administers it, and the language around the PSEA.

CON: We oppose Section 2 placing responsibility with the OPD. With regard to the extraordinary criminal justice costs, OPD understands trial costs, and the number of applications is limited to five or six a year. We do not have expertise in dealing with health care issues. We appreciate the sponsor willing to identify an alternative agency to administer the program.

Persons Testifying: PRO: Senator Kaiser, prime sponsor; Tammy Fellin, Association of Washington Cities; Doug Levy, Cities of Renton, Everett, Federal Way, Puyallup; Pat Fitzpatrick, City of Kent.

CON: Sophia Byrd McSherry, Office of Public Defense.