
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6249

State of Washington

63rd Legislature

2014 Regular Session

By Senate Ways & Means (originally sponsored by Senators Dammeier, Rivers, Brown, Hobbs, Fain, Mullet, McCoy, and Tom)

READ FIRST TIME 02/27/14.

1 AN ACT Relating to establishing new authority for courts to assess
2 cost recovery fees for costs associated with new indigent defense
3 standards; amending RCW 3.62.085 and 10.01.160; reenacting and amending
4 RCW 10.64.120; adding a new section to chapter 3.62 RCW; adding a new
5 section to chapter 10.01 RCW; and creating new sections.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the state supreme
8 court has adopted new standards and caseload limits for public
9 defenders, which were originally scheduled to take effect in September
10 2013, but will not become effective until January 2015.

11 The legislature finds that while these standards of four hundred
12 misdemeanor cases per public defender per year, or weighted-system
13 standards of three hundred misdemeanor cases per public defender per
14 year, are intended to raise the quality of counsel provided to low-
15 income and indigent populations, they also will have a very real fiscal
16 impact on the criminal justice and court operations of cities and
17 counties which already are struggling to address these costs.

18 The legislature therefore intends to provide local courts and

1 courts of limited jurisdiction with additional fee authority to assess
2 costs on offenders that can be used to offset growing expenditures
3 associated with indigent defense and public defender caseload limits.

4 In addition, the legislature intends to review the fiscal impact
5 the new standards and limits will have on each local court and identify
6 appropriations to agencies of the state judicial branch for
7 nonconstitutional functions, program, and services that could be
8 redirected to local courts to mitigate those costs. The legislature
9 intends through its exclusive constitutional power of appropriation to
10 find existing resources within the agencies of the state judicial
11 branch to remedy the detrimental impact the state supreme court's
12 action will have on counties and cities.

13 **Sec. 2.** RCW 3.62.085 and 2005 c 457 s 10 are each amended to read
14 as follows:

15 Upon conviction or a plea of guilty in any court organized under
16 this title or Title 35 RCW, a defendant in a criminal case is liable
17 for a fee of (~~forty-three~~) fifty-five dollars. This fee shall be
18 subject to division with the state under RCW (~~(3.46.120(2),~~)
19 3.50.100(2), 3.62.020(2), 3.62.040(2), and 35.20.220(2).

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 3.62 RCW
21 to read as follows:

22 Funds deposited into the city or county general fund attributable
23 to the increase in fees imposed by section 2, chapter . . ., Laws of
24 2014 (this act) must be used to support contracts, programs, and
25 personnel specifically associated with indigent defense.

26 **Sec. 4.** RCW 10.01.160 and 2010 c 54 s 1 are each amended to read
27 as follows:

28 (1) The court may require a defendant to pay costs. Costs may be
29 imposed only upon a convicted defendant, except for costs imposed upon
30 a defendant's entry into a deferred prosecution program, costs imposed
31 upon a defendant for pretrial supervision, or costs imposed upon a
32 defendant for preparing and serving a warrant for failure to appear.

33 (2) Costs shall be limited to expenses specially incurred by the
34 state in prosecuting the defendant or in administering the deferred
35 prosecution program under chapter 10.05 RCW or pretrial supervision.

1 They cannot include expenses inherent in providing a constitutionally
2 guaranteed jury trial or expenditures in connection with the
3 maintenance and operation of government agencies that must be made by
4 the public irrespective of specific violations of law. Expenses
5 incurred for serving of warrants for failure to appear and jury fees
6 under RCW 10.46.190 may be included in costs the court may require a
7 defendant to pay. Costs for administering a deferred prosecution may
8 not exceed two hundred fifty dollars. Costs for administering a
9 pretrial supervision may not exceed one hundred fifty dollars. Costs
10 for preparing and serving a warrant for failure to appear may not
11 exceed one hundred seventy-five dollars. Costs of incarceration
12 imposed on a defendant convicted of a misdemeanor or a gross
13 misdemeanor may not exceed the actual cost of incarceration. In no
14 case may the court require the offender to pay more than one hundred
15 dollars per day for the cost of incarceration. Payment of other court-
16 ordered financial obligations, including all legal financial
17 obligations and costs of supervision take precedence over the payment
18 of the cost of incarceration ordered by the court. All funds received
19 from defendants for the cost of incarceration in the county or city
20 jail must be remitted for criminal justice purposes to the county or
21 city that is responsible for the defendant's jail costs. Costs imposed
22 constitute a judgment against a defendant and survive a dismissal of
23 the underlying action against the defendant. However, if the defendant
24 is acquitted on the underlying action, the costs for preparing and
25 serving a warrant for failure to appear do not survive the acquittal,
26 and the judgment that such costs would otherwise constitute shall be
27 vacated.

28 (3) The court shall not order a defendant to pay costs unless the
29 defendant is or will be able to pay them. In determining the amount
30 and method of payment of costs, the court shall take account of the
31 financial resources of the defendant and the nature of the burden that
32 payment of costs will impose.

33 (4) A defendant who has been ordered to pay costs and who is not in
34 contumacious default in the payment thereof may at any time petition
35 the sentencing court for remission of the payment of costs or of any
36 unpaid portion thereof. If it appears to the satisfaction of the court
37 that payment of the amount due will impose manifest hardship on the

1 defendant or the defendant's immediate family, the court may remit all
2 or part of the amount due in costs, or modify the method of payment
3 under RCW 10.01.170.

4 (5) Except for direct costs relating to evaluating and reporting to
5 the court, prosecutor, or defense counsel regarding a defendant's
6 competency to stand trial as provided in RCW 10.77.060, this section
7 shall not apply to costs related to medical or mental health treatment
8 or services a defendant receives while in custody of the secretary of
9 the department of social and health services or other governmental
10 units. This section shall not prevent the secretary of the department
11 of social and health services or other governmental units from imposing
12 liability and seeking reimbursement from a defendant committed to an
13 appropriate facility as provided in RCW 10.77.084 while criminal
14 proceedings are stayed. This section shall also not prevent
15 governmental units from imposing liability on defendants for costs
16 related to providing medical or mental health treatment while the
17 defendant is in the governmental unit's custody. Medical or mental
18 health treatment and services a defendant receives at a state hospital
19 or other facility are not a cost of prosecution and shall be
20 recoverable under RCW 10.77.250 and 70.48.130, chapter 43.20B RCW, and
21 any other applicable statute.

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.01 RCW
23 to read as follows:

24 Funds collected as a result of the increase in the amount of costs
25 that may be imposed by section 4, chapter . . ., Laws of 2014 (this
26 act) must be used to support contracts, programs, and personnel
27 specifically associated with indigent defense.

28 **Sec. 6.** RCW 10.64.120 and 2005 c 400 s 7 and 2005 c 282 s 22 are
29 each reenacted and amended to read as follows:

30 (1) Every judge of a court of limited jurisdiction shall have the
31 authority to levy upon a person a monthly assessment not to exceed one
32 hundred fifty dollars for services provided whenever the person is
33 referred by the court to the misdemeanor probation department for
34 evaluation or supervision services. The assessment may also be made by
35 a judge in superior court when such misdemeanor or gross misdemeanor
36 cases are heard in the superior court.

1 (2) For the purposes of this section the administrative office of
2 the courts shall define a probation department and adopt rules for the
3 qualifications of probation officers based on occupational and
4 educational requirements developed by an oversight committee. This
5 oversight committee shall include a representative from the district
6 and municipal court judges' association, the misdemeanor corrections
7 association, the administrative office of the courts, and associations
8 of cities and counties. The oversight committee shall consider
9 qualifications that provide the training and education necessary to (a)
10 conduct presentencing and postsentencing background investigations,
11 including sentencing recommendations to the court regarding jail terms,
12 alternatives to incarceration, and conditions of release; and (b)
13 provide ongoing supervision and assessment of offenders' needs and the
14 risk they pose to the community.

15 (3) It shall be the responsibility of the probation services office
16 to implement local procedures approved by the court of limited
17 jurisdiction to ensure collection and payment of such fees into the
18 general fund of the city or county treasury.

19 (4)(a) Except as provided in (b) of this subsection, revenues
20 raised under this section shall be used to fund programs for probation
21 services and shall be in addition to those funds provided in RCW
22 3.62.050.

23 (b) Revenues raised as a result of the increase in the amount of
24 the assessment that may be imposed by section 6, chapter . . . , Laws of
25 2014 (this act) must be used to support contracts, programs, and
26 personnel specifically associated with indigent defense.

27 (5) Assessments and fees levied upon a probationer under this
28 section must be suspended while the probationer is being supervised by
29 another state under RCW 9.94A.745, the interstate compact for adult
30 offender supervision.

31 NEW SECTION. Sec. 7. The administrative office of the courts must
32 conduct an analysis to determine the increased cost and fiscal impact
33 of the state supreme court's new standards and caseload limits for
34 public defenders will have on county and city criminal justice system
35 and court operations. The analysis must be disaggregated and identify
36 costs for each county and city within the state. The office may
37 consult with representatives of counties and cities, judges,

1 prosecutors, and public defenders in conducting its analysis. The
2 analysis must be provided to the appropriate committees of the
3 legislature by December 1, 2014.

4 The administrative office of the courts must also provide the
5 legislature with a report identifying by program the amount of biennial
6 expenditures for functions and services provided by the agencies of the
7 state judicial branch that are not required under the federal or state
8 Constitution. The report must describe the purpose and beneficiaries
9 of each nonconstitutional program. Funding that is distributed by
10 formula or by grant must be disaggregated and reported by recipient.
11 For purposes of this section, agencies of the state judicial branch
12 include the supreme court, appellate courts, administrative office of
13 the courts, and office of public defense. The report must be provided
14 to the appropriate committees of the legislature by December 1, 2014.

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