
HOUSE BILL 2012

State of Washington 65th Legislature 2017 Regular Session

By Representatives Koster and Volz

Read first time 02/07/17. Referred to Committee on Appropriations.

1 AN ACT Relating to state funding for indigent criminal defense
2 services provided at the county and city level; amending RCW
3 82.14.310 and 82.14.320; creating a new section; repealing RCW
4 82.14.495 and 82.14.500; providing an effective date; and declaring
5 an emergency.

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

7 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that
8 additional state funding is necessary to assist counties and cities
9 in providing legal representation to indigent criminal defendants. To
10 provide additional funding, the legislature intends to eliminate the
11 streamlined sales tax mitigation program and redistribute an
12 equivalent amount of funding through the county and municipal
13 criminal justice assistance accounts for indigent criminal defense
14 services.

15 **Sec. 2.** RCW 82.14.310 and 2013 2nd sp.s. c 4 s 1004 are each
16 amended to read as follows:

17 COUNTY CRIMINAL JUSTICE ASSISTANCE ACCOUNT. (1) The county
18 criminal justice assistance account is created in the state treasury.
19 Beginning in fiscal year 2000, the state treasurer must transfer into
20 the county criminal justice assistance account from the general fund

1 the sum of twenty-three million two hundred thousand dollars divided
2 into four equal deposits occurring on July 1, October 1, January 1,
3 and April 1. For each fiscal year thereafter, the state treasurer
4 must increase the total transfer by the fiscal growth factor, as
5 defined in RCW 43.135.025, forecast for that fiscal year by the
6 office of financial management in November of the preceding year.

7 (2) The moneys deposited in the county criminal justice
8 assistance account for distribution under subsection (1) of this
9 section, less any moneys appropriated for purposes under subsection
10 (4) of this section, must be distributed ((at such times as
11 distributions are made under RCW 82.44.150)) during the same month
12 the transfer occurs pursuant to subsection (1) of this section and on
13 the relative basis of each county's funding factor as determined
14 under this subsection.

15 (a) A county's funding factor is the sum of:

16 (i) The population of the county, divided by one thousand, and
17 multiplied by two-tenths;

18 (ii) The crime rate of the county, multiplied by three-tenths;
19 and

20 (iii) The annual number of criminal cases filed in the county
21 superior court, for each one thousand in population, multiplied by
22 five-tenths.

23 (b) Under this section and RCW 82.14.320 and 82.14.330:

24 (i) The population of the county or city is as last determined by
25 the office of financial management;

26 (ii) The crime rate of the county or city is the annual
27 occurrence of specified criminal offenses, as calculated in the most
28 recent annual report on crime in Washington state as published by the
29 Washington association of sheriffs and police chiefs, for each one
30 thousand in population;

31 (iii) The annual number of criminal cases filed in the county
32 superior court must be determined by the most recent annual report of
33 the courts of Washington, as published by the administrative office
34 of the courts;

35 (iv) Distributions and eligibility for distributions in the
36 1989-1991 biennium must be based on 1988 figures for both the crime
37 rate as described under (b)(ii) of this subsection and the annual
38 number of criminal cases that are filed as described under (b)(iii)
39 of this subsection. Future distributions must be based on the most
40 recent figures for both the crime rate as described under (b)(ii) of

1 this subsection and the annual number of criminal cases that are
2 filed as described under (b)(iii) of this subsection.

3 (3) Moneys distributed under subsection (1) of this section must
4 be expended exclusively for criminal justice purposes and may not be
5 used to replace or supplant existing funding. Criminal justice
6 purposes are defined as activities that substantially assist the
7 criminal justice system, which may include circumstances where
8 ancillary benefit to the civil or juvenile justice system occurs, and
9 which includes (a) domestic violence services such as those provided
10 by domestic violence programs, community advocates, and legal
11 advocates, as defined in RCW 70.123.020, and (b) during the 2001-2003
12 fiscal biennium, juvenile dispositional hearings relating to
13 petitions for at-risk youth, truancy, and children in need of
14 services. Existing funding for purposes of this subsection is defined
15 as calendar year 1989 actual operating expenditures for criminal
16 justice purposes. Calendar year 1989 actual operating expenditures
17 for criminal justice purposes exclude the following: Expenditures for
18 extraordinary events not likely to reoccur, changes in contract
19 provisions for criminal justice services, beyond the control of the
20 local jurisdiction receiving the services, and major nonrecurring
21 capital expenditures.

22 (4) Not more than five percent of the funds deposited to the
23 county criminal justice assistance account under subsection (1) of
24 this section may be available for appropriations for enhancements to
25 the state patrol crime laboratory system and the continuing costs
26 related to these enhancements. Funds appropriated from this account
27 for such enhancements may not supplant existing funds from the state
28 general fund.

29 ~~(5) ((During the 2011-2013 fiscal biennium, the amount that would~~
30 ~~otherwise be transferred into the county criminal justice assistance~~
31 ~~account from the general fund under subsection (1) of this section~~
32 ~~must be reduced by 3.4 percent.~~

33 ~~(6) During the 2013-2015 fiscal biennium, for the purposes of~~
34 ~~substance abuse and other programs for offenders, the legislature may~~
35 ~~appropriate from the county criminal justice assistance account such~~
36 ~~amounts as are in excess of the amounts necessary to fully meet the~~
37 ~~state's obligations to the counties and to the Washington state~~
38 ~~patrol. Excess amounts in this account are not the result of~~
39 ~~subsection (5) of this section)) In addition to funding distributed~~
40 ~~pursuant to subsection (1) of this section, the state must allocate~~

1 additional funding through the county criminal justice assistance
2 account for purposes of county indigent criminal defense as provided
3 in this subsection (5).

4 (a) Beginning in fiscal year 2018, the state treasurer must
5 transfer into the county criminal justice assistance account from the
6 general fund the sum of twenty million seven hundred thousand dollars
7 divided into four equal deposits occurring on July 1st, October 1st,
8 January 1st, and April 1st. For each fiscal year thereafter, the
9 state treasurer must increase the total transfer by the fiscal growth
10 factor, as defined in RCW 43.135.025, forecast for that fiscal year
11 by the office of financial management in November of the preceding
12 year.

13 (b) The treasurer must distribute this funding during the same
14 month the transfer occurs pursuant to subsection (1) of this section
15 to counties on the basis of each county's funding factor as
16 determined under subsection (2) of this section.

17 (c) Counties may use funding distributed under this subsection
18 (5) only for indigent criminal defense as "indigent" is defined in
19 chapter 10.101 RCW.

20 (d) Funding provided under this subsection (5) must supplement,
21 and may not supplant, existing state funding for county-level public
22 defense, including but not limited to amounts appropriated to the
23 office of public defense for distribution under chapter 10.101 RCW
24 and funding allocated under subsection (1) of this section.

25 **Sec. 3.** RCW 82.14.320 and 2011 1st sp.s. c 50 s 971 are each
26 amended to read as follows:

27 MUNICIPAL CRIMINAL JUSTICE ASSISTANCE ACCOUNT. (1) The municipal
28 criminal justice assistance account is created in the state treasury.
29 Beginning in fiscal year 2000, the state treasurer must transfer into
30 the municipal criminal justice assistance account for distribution
31 under this (~~section~~) subsection (1) from the general fund the sum
32 of four million six hundred thousand dollars divided into four equal
33 deposits occurring on July 1, October 1, January 1, and April 1. For
34 each fiscal year thereafter, the state treasurer must increase the
35 total transfer by the fiscal growth factor, as defined in RCW
36 43.135.025, forecast for that fiscal year by the office of financial
37 management in November of the preceding year.

1 (2) No city may receive a distribution under subsection (1) of
2 this section from the municipal criminal justice assistance account
3 unless:

4 (a) The city has a crime rate in excess of one hundred twenty-
5 five percent of the statewide average as calculated in the most
6 recent annual report on crime in Washington state as published by the
7 Washington association of sheriffs and police chiefs;

8 (b) The city has levied the tax authorized in RCW 82.14.030(2) at
9 the maximum rate or the tax authorized in RCW 82.46.010(3) at the
10 maximum rate; and

11 (c) The city has a per capita yield from the tax imposed under
12 RCW 82.14.030(1) at the maximum rate of less than one hundred fifty
13 percent of the statewide average per capita yield for all cities from
14 such local sales and use tax.

15 (3) The moneys deposited in the municipal criminal justice
16 assistance account for distribution under subsection (1) of this
17 section, less any moneys appropriated for purposes under subsection
18 (7) of this section, must be distributed ~~((at such times as~~
19 ~~distributions are made under RCW 82.44.150))~~ during the same month
20 the transfer occurs pursuant to subsection (1) of this section. The
21 distributions under subsection (1) of this section must be made as
22 follows:

23 (a) Unless reduced by this subsection, thirty percent of the
24 moneys must be distributed ratably based on population as last
25 determined by the office of financial management to those cities
26 eligible under subsection (2) of this section that have a crime rate
27 determined under subsection (2)(a) of this section which is greater
28 than one hundred seventy-five percent of the statewide average crime
29 rate. No city may receive more than fifty percent of any moneys
30 distributed under this subsection (a) but, if a city distribution is
31 reduced as a result of exceeding the fifty percent limitation, the
32 amount not distributed must be distributed under (b) of this
33 subsection.

34 (b) The remainder of the moneys, including any moneys not
35 distributed in subsection (2)(a) of this section, must be distributed
36 to all cities eligible under subsection (2) of this section ratably
37 based on population as last determined by the office of financial
38 management.

1 (4) No city may receive more than thirty percent of all moneys
2 distributed under (~~subsection~~) subsections (1) through (3) of this
3 section.

4 (5) Notwithstanding other provisions of this section, the
5 distributions to any city that substantially decriminalizes or
6 repeals its criminal code after July 1, 1990, and that does not
7 reimburse the county for costs associated with criminal cases under
8 RCW 3.50.800 or 3.50.805(2), must be made to the county in which the
9 city is located.

10 (6) Moneys distributed under subsections (1) through (3) of this
11 section must be expended exclusively for criminal justice purposes
12 and may not be used to replace or supplant existing funding. Criminal
13 justice purposes are defined as activities that substantially assist
14 the criminal justice system, which may include circumstances where
15 ancillary benefit to the civil justice system occurs, and which
16 includes domestic violence services such as those provided by
17 domestic violence programs, community advocates, and legal advocates,
18 as defined in RCW 70.123.020, and publications and public educational
19 efforts designed to provide information and assistance to parents in
20 dealing with runaway or at-risk youth. Existing funding for purposes
21 of this subsection is defined as calendar year 1989 actual operating
22 expenditures for criminal justice purposes. Calendar year 1989 actual
23 operating expenditures for criminal justice purposes exclude the
24 following: Expenditures for extraordinary events not likely to
25 reoccur, changes in contract provisions for criminal justice
26 services, beyond the control of the local jurisdiction receiving the
27 services, and major nonrecurring capital expenditures.

28 (7) Not more than five percent of the funds deposited to the
29 municipal criminal justice assistance account may be available for
30 appropriations for enhancements to the state patrol crime laboratory
31 system and the continuing costs related to these enhancements. Funds
32 appropriated from this account for such enhancements may not supplant
33 existing funds from the state general fund.

34 (~~During the 2011-2013 fiscal biennium, the amount that would~~
35 ~~otherwise be transferred into the municipal criminal justice~~
36 ~~assistance account from the general fund under subsection (1) of this~~
37 ~~section must be reduced by 3.4 percent~~)) In addition to funding
38 distributed pursuant to subsection (1) of this section and RCW
39 82.14.330, the state must allocate additional funding through the
40 municipal criminal justice assistance account for purposes of

1 municipal indigent criminal defense as provided in this subsection
2 (8).

3 (a) Beginning in fiscal year 2018, the state treasurer must
4 transfer into the municipal criminal justice assistance account from
5 the general fund the sum of two million three hundred thousand
6 dollars divided into four equal deposits occurring on July 1st,
7 October 1st, January 1st, and April 1st. For each fiscal year
8 thereafter, the state treasurer must increase the total transfer by
9 the fiscal growth factor, as defined in RCW 43.135.025, forecast for
10 that fiscal year by the office of financial management in November of
11 the preceding year.

12 (b) The treasurer must distribute this funding quarterly to
13 cities on the basis of the formula in subsection (3) of this section
14 and subject to the conditions in subsections (2), (4), and (5) of
15 this section.

16 (c) Cities may use funding distributed under this subsection (8)
17 only for indigent criminal defense as "indigent" is defined in
18 chapter 10.101 RCW.

19 (d) Funding provided under this subsection (8) must supplement,
20 and may not supplant, existing state funding for city-level public
21 defense, including but not limited to amounts appropriated to the
22 office of public defense for distribution under chapter 10.101 RCW
23 and funding allocated under subsection (1) of this section and RCW
24 82.14.330.

25 NEW SECTION. Sec. 4. STREAMLINED SALES TAX MITIGATION
26 DISTRIBUTIONS REPEALED. The following acts or parts of acts are each
27 repealed:

28 (1) RCW 82.14.495 (Streamlined sales and use tax mitigation
29 account—Creation) and 2010 1st sp.s. c 37 s 952, 2009 c 4 s 907, &
30 2007 c 6 s 902; and

31 (2) RCW 82.14.500 (Streamlined sales and use tax mitigation
32 account—Funding—Determination of losses) and 2011 1st sp.s. c 50 s
33 974 & 2007 c 6 s 903.

34 NEW SECTION. Sec. 5. This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect July 1, 2017.

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