

# SENATE BILL REPORT

## SB 5098

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As of January 23, 2019

**Title:** An act relating to public defense services.

**Brief Description:** Increasing appropriated funding for public defense services.

**Sponsors:** Senators Braun, Takko, Dhingra, Conway, Darneille, Zeiger, Short and Wagoner.

**Brief History:**

**Committee Activity:** Law & Justice: 1/24/19.

**Brief Summary of Bill**

- Phases in state reimbursement of county and city public defense costs by 2029.
- Requires the Office of Public Defense (OPD) to disburse appropriated funds, establish policies for the distribution of funds, and monitor trial-level public defense services to determine eligibility for reimbursement.
- Repeals the county formulas for the OPD public defense services grant program.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Shani Bauer (786-7468)

**Background:** Indigent Defense Services. In Washington, individuals are guaranteed the right to be represented by an attorney when they are threatened with loss of liberty or when their children may be taken from them. When a defendant is indigent, they are eligible for a court appointed defense attorney at government expense.

Trial-level public defense services are administered and generally funded by county and city governments. Local jurisdictions are required to adopt standards for the provision of public defense services guided by standards endorsed by the Washington State Bar Association.

Office of Public Defense. Created in 1996 as an independent agency within the judicial branch, OPD was established to implement the constitutional and statutory guarantees to

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counsel for indigent persons and to ensure effective and efficient delivery of state-funded public defense services.

OPD administers four specialty programs:

- Trial Defense Services—Public Defense Improvement Grants—provides grants and consultation to counties and cities to improve trial-level public defense services;
- Parents Representation Program—contracts with attorneys to represent indigent parents in dependency and termination cases;
- Chapter 71.09 RCW Civil Commitment Defense—contracts with attorneys to represent indigent clients alleged or found to be sexually violent predators; and
- Appellate Services—contracts with attorneys for state-funded appellate public defense.

OPD manages and distributes approximately \$6.8 million in appropriated funds for Public Defense Improvement Grants. Local jurisdictions apply for grant funds on an annual basis. Statute specifies eligibility criteria, identifies categories of programs and actions for which the funds can be spent, and establishes a formula for disbursing the funds.

Local jurisdictions receiving state grants must submit annual reports to the OPD documenting completion of annual training requirements; reporting the expenditure for all public defense services in the previous year, as well as annual case statistics; and providing information pertaining to contract attorneys' nonpublic defense work.

**Summary of Bill:** Beginning in fiscal year 2020, the state of Washington is directed to appropriate funds for not less than 10 percent of county and city public defense costs, with state appropriations increasing by 10 percent per year, ending in fiscal year 2029 with state appropriation of 100 percent of the cost of public defense services.

OPD must reimburse all eligible counties and cities for public defense expenditures in the previous year. In order to meet eligibility for reimbursement, local jurisdictions must meet current training and reporting requirements with the addition of documentation that attorneys providing public defense services are in compliance with the Washington Supreme Court indigent defense standards.

OPD must:

- annually determine the cost of public defense services based on actual expenditures reported by local jurisdictions for the prior two years;
- establish policies for distribution of state funds to eligible jurisdictions; and
- monitor trial-level criminal public defense services to determine eligibility of jurisdictions to receive funds.

The current funding formula for the trial-level public defense services grant is repealed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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