

HOUSE BILL REPORT

2SSB 5780

As Passed House:

February 29, 2024

Title: An act relating to encouraging participation in public defense and prosecution professions.

Brief Description: Encouraging participation in public defense and prosecution professions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Torres, Dhingra, Padden, Boehnke, Wilson, L., Braun, Frame, Hasegawa, Kuderer, Lovick, Mullet, Nguyen, Warnick and Wilson, J.).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/20/24, 2/21/24 [DP];

Appropriations: 2/26/24 [DP].

Floor Activity:

Passed House: 2/29/24, 92-0.

Brief Summary of Second Substitute Bill

- Requires the Office of Public Defense (OPD) to administer a law student rural defense program and the Criminal Justice Training Commission (CJTC) to administer a law student rural prosecution program.
- Requires the OPD to expand the capacity of the Criminal Defense Training Academy program to train practitioners who are new to public defense, and the CJTC to provide trial skills training for practitioners who are new to prosecution.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

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

Majority Report: Do pass. Signed by 11 members: Representatives Taylor, Chair; Farivar, Vice Chair; Walsh, Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Cheney, Entenman, Goodman, Peterson, Thai and Walen.

Staff: Matt Sterling (786-7289).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Yvonne Walker (786-7841).

Background:

Caseloads for Indigent Defense.

The Washington Supreme Court adopts standards for indigent defense which require that the caseload of a full-time public defense attorney or assigned counsel should not exceed:

- 150 felonies per attorney per year;
- 300 misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system, 400 cases per year;
- 250 juvenile offender cases per attorney per year;
- 80 open juvenile dependency cases per attorney;
- 250 civil commitment cases per attorney per year;
- 1 active death penalty trial court case at a time plus a limited number of non-death-penalty cases compatible with the time demands of the death penalty case; or
- 36 appeals to an appellate court hearing a case on the record and briefs per attorney per year.

Full-time interns who have not graduated from law school may not have caseloads that exceed 25 percent of the caseload limits established for full-time attorneys. The standards require a public defender to file a signed certification of compliance quarterly in each court where the attorney has been appointed as counsel stating the public defender:

- has the requisite experience; and
- resources needed for the cases which they are assigned and is abiding by caseload standards.

Assignment of Public Defenders.

The cost of public defense counsel appointments is handled by local jurisdictions. Local jurisdictions rely on a variety of service models to provide public defense services,

including county defense agencies, in which public defenders are employed by local government, and contract systems in which the local government contracts with a nonprofit agency, private law firm, or individual attorneys to perform appointed counsel services.

Public defense services handled by locally appointed attorneys include:

- felony and misdemeanor charges for youth and adults;
- civil commitment cases;
- therapeutic court cases;
- youth cases related to truancy, contempt, and at-risk youth;
- extraditions;
- revocations of special sentencing alternatives; and
- appeals from courts of limited jurisdiction.

Office of Public Defense.

The Office of Public Defense (OPD) is an independent office in the judicial branch of government established to implement the constitutional and statutory guarantees of counsel

and ensure the effective and efficient delivery of indigent defense services that are funded by the state. The OPD contracts with attorneys, local governments, and law firms to provide representation for:

- parents in dependency cases;
- persons civilly committed as sexually violent predators;
- persons with criminal appeals and personal restraint petitions originating from superior courts;
- persons committed for treatment after a finding of not guilty by reason of insanity; and
- other programs.

Criminal Defense Training Academy. The Criminal Defense Training Academy (Academy) is a five-day training program offered by the OPD. The stated purpose of the Academy is to strengthen public defenders by providing fundamental skills development in an interactive, supportive learning environment that uses a variety of educational methods for students to develop and apply client-centered defense advocacy skills.

Criminal Justice Training Commission.

The Criminal Justice Training Commission (CJTC) is a state entity established in 1974 to establish standards and provide education and training to criminal justice professionals. The responsibilities of the CJTC include establishing and administering standards and processes for the certification, suspension, and decertification of peace officers and corrections officers.

Summary of Bill:

Programs for Public Defenders and Prosecutors.

The OPD must administer a law student rural public defense program that coordinates with

one or more law schools to place law students who are eligible to practice as legal interns or recent law school graduates with experienced public defense attorneys located in underserved areas and rural areas of the state. The program must allow interns to gain real-world public defense experience under the mentorship of an experienced public defense attorney, with the purpose of encouraging the intern to consider employment opportunities in public defense in underserved areas and rural areas.

The CJTC must administer a law student rural prosecution program that coordinates with one or more law schools to place law students who are eligible to practice as legal interns or recent law school graduates with experienced prosecutors located in underserved areas and rural areas of the state. The program must allow interns to gain real-world prosecution experience under the mentorship of an experienced prosecutor, including litigation opportunities, with the purpose of encouraging the intern to consider employment opportunities in prosecution in underserved areas and rural areas.

Placements of law students and recent graduates may be in government or nonprofit public defense agencies or private firms that contract to provide public defense services. Interns in the OPD and CJTC programs must receive monthly compensation and housing stipends, and the programs may include partial reimbursement for the supervising attorney. The OPD must expand the capacity of the Academy program to train practitioners who are new to public defense, and the CJTC must provide or contract to provide trial skills training to train practitioners who are new to prosecution. The programs must prioritize training for practitioners in underserved areas and rural areas of the state. By June 30, 2026:

- the OPD must expand the Academy program offerings to include training for public defense practitioners seeking to achieve advanced qualifications; and
- the CJTC must expand a trial skills program to include training for prosecutors seeking to achieve advanced qualifications.

The bill contains provisions to limit implementation to the availability of amounts that are appropriated for the purposes of the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Civil Rights & Judiciary):

(In support) Public defense attorneys and prosecutors are facing a crisis of insufficient personnel to handle caseloads. This bill will open doorways and create career pathways for these careers in rural communities. The bill will ensure that there is critical training and skill development for attorneys across the state. There will be sufficient oversight to

oversee the management of state funds used to support student internships and professional training for the benefit of rural and underserved jurisdictions.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) County costs for public defense has continued to increase over the years, and it is difficult to retain lawyers across the state. Counties have limited revenue options. This bill is critical to help both public defense and prosecution as there is a desperate need for attorneys across the state, particularly in rural areas. There is such a shortage of all types of attorneys across the state today that some organizations are making job offers to applicants directly on the spot.

This bill is important for prosecutors, defenders, and for the administration of justice across the state. Jurisdictions across the state are failing at their promise of providing constitutionally mandated assistance of counsel. Public defense representation saves the state money in preventing unnecessary appeals, unnecessarily long prison sentences, and costly lawsuits.

This bill will incentivize law students and interns to search for opportunities outside of the law school localities. Rural communities will benefit from this effort. Increasing training and the ability to recruit additional attorneys will enhance the criminal justice system.

(Opposed) None.

Persons Testifying (Civil Rights & Judiciary): Larry Jefferson, Washington State Office of Public Defense.

Persons Testifying (Appropriations): Russell Brown, Washington Association of Prosecuting Attorneys; Larry Jefferson, Washington State Office of Public Defense; Juliana Roe, Washington State Association of Counties; Ramona Brandes, Washington Association of Criminal Defense Lawyers and Washington Defender Association; Mike Gonzalez; LaDon Linde, Yakima County Commissioner; Jason Schwarz; and Paul Kelley, Yakima County Department of Assigned Counsel.

Persons Signed In To Testify But Not Testifying (Civil Rights & Judiciary): Juliana Roe, Washington State Association of Counties; Travis Stearns, Washington State Office of Public Defense; LaDon Linde, Yakima County; Kari Reardon, Washington Defender Association and Washington Association of Criminal Defense Lawyers; and Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying (Appropriations): None.