

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1911

68th Legislature
2024 Regular Session

Passed by the House February 6, 2024
Yeas 79 Nays 18

**Speaker of the House of
Representatives**

Passed by the Senate February 29,
2024
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1911** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1911

Passed Legislature - 2024 Regular Session

State of Washington 68th Legislature 2024 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Taylor, Cheney, Ortiz-Self, Reed, Simmons, Ormsby, Reeves, Fosse, and Davis; by request of Office of Public Defense)

READ FIRST TIME 01/23/24.

1 AN ACT Relating to activities in which the office of public
2 defense may engage without violating the prohibition on providing
3 direct representation of clients; reenacting and amending RCW
4 2.70.020; and adding a new section to chapter 2.70 RCW.

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

6 **Sec. 1.** RCW 2.70.020 and 2023 c 261 s 2 and 2023 c 120 s 2 are
7 each reenacted and amended to read as follows:

8 The director shall:

9 (1) Administer all state-funded services in the following program
10 areas:

11 (a) Trial court criminal indigent defense, as provided in chapter
12 10.101 RCW;

13 (b) Appellate indigent defense, as provided in this chapter and
14 RCW 10.73.150;

15 (c) Representation of indigent parents qualified for appointed
16 counsel in dependency and termination cases, as provided in RCW
17 13.34.090 and 13.34.092;

18 (d) Extraordinary criminal justice cost petitions, as provided in
19 RCW 43.330.190;

20 (e) Compilation of copies of DNA test requests by persons
21 convicted of felonies, as provided in RCW 10.73.170;

1 (f) Representation of indigent respondents qualified for
2 appointed counsel in sexually violent predator civil commitment
3 cases, as provided in chapter 71.09 RCW; and

4 (g) Representation of indigent persons who are acquitted by
5 reason of insanity and committed to state psychiatric care as
6 provided in chapter 10.77 RCW;

7 (2) Subject to availability of funds appropriated for this
8 specific purpose, provide access to counsel for indigent persons
9 incarcerated in a juvenile rehabilitation or adult correctional
10 facility to file and prosecute a first, timely personal restraint
11 petition under RCW 10.73.150. The office shall establish eligibility
12 criteria that prioritize access to counsel for youth under age 25,
13 youth or adults with sentences in excess of 120 months, youth or
14 adults with disabilities, and youth or adults with limited English
15 proficiency. Nothing in this subsection creates an entitlement to
16 counsel at state expense to file a personal restraint petition;

17 (3) Subject to the availability of funds appropriated for this
18 specific purpose, appoint counsel to petition the sentencing court if
19 the legislature creates an ability to petition the sentencing court,
20 or appoint counsel to challenge a conviction or sentence if a final
21 decision of an appellate court creates the ability to challenge a
22 conviction or sentence. Nothing in this subsection creates an
23 entitlement to counsel at state expense to petition the sentencing
24 court;

25 (4) Provide access to attorneys for juveniles contacted by a law
26 enforcement officer for whom a legal consultation is required under
27 RCW 13.40.740;

28 (5) Submit a biennial budget for all costs related to the
29 office's program areas;

30 (6) Establish administrative procedures, standards, and
31 guidelines for the office's program areas, including cost-efficient
32 systems that provide for authorized recovery of costs;

33 (7) Provide oversight and technical assistance to ensure the
34 effective and efficient delivery of services in the office's program
35 areas;

36 (8) Recommend criteria and standards for determining and
37 verifying indigency. In recommending criteria for determining
38 indigency, the director shall compile and review the indigency
39 standards used by other state agencies and shall periodically submit

1 the compilation and report to the legislature on the appropriateness
2 and consistency of such standards;

3 (9) Collect information regarding indigent defense services
4 funded by the state and report annually to the advisory committee,
5 the legislature, and the supreme court;

6 (10) Coordinate with the supreme court and the judges of each
7 division of the court of appeals to determine how appellate attorney
8 services should be provided.

9 ~~((The office of public defense shall not provide direct
10 representation of clients.))~~

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.70 RCW
12 to read as follows:

13 (1) Except as otherwise provided in this section, the office of
14 public defense shall not provide direct representation of clients.

15 (2) In order to protect and preserve client rights when
16 administering the office's statutory duties to provide initial
17 telephonic or video consultation services, managing and supervising
18 attorneys of the office of public defense who meet applicable public
19 defense qualifications may provide limited short-term coverage for
20 the consultation services if office of public defense contracted
21 counsel is unavailable to provide the consultation services. The
22 office shall provide services in a manner consistent with the rules
23 of professional conduct, chapter 42.52 RCW, and applicable policies
24 of the office of public defense.

25 (3) The office of public defense may facilitate and supervise
26 placement of law clerks, externs, and interns with office of public
27 defense contracted counsel, in a manner consistent with the
28 Washington admission and practice rules, the rules of professional
29 conduct, chapter 42.52 RCW, and applicable policies of the office of
30 public defense.

31 (4) Employees of the office of public defense may provide pro
32 bono legal services in a manner consistent with the rules of
33 professional conduct, chapter 42.52 RCW, and applicable policies of
34 the office of public defense. The policies of the office of public
35 defense must require that employees providing pro bono legal services
36 obtain and provide to the office a written statement, signed by any
37 pro bono client, acknowledging that:

1 (a) The pro bono legal services are provided by the employee
2 acting in the employee's personal capacity and not as an employee of
3 the office of public defense; and

4 (b) The state of Washington may not be held liable for any claim
5 arising from the provision of pro bono legal services by the
6 employees of the office of public defense.

7 The office of public defense shall retain the written statements
8 in a manner consistent with records relating to potential conflicts
9 of interest.

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