



Legislation Text

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Clerk 03/28/2013

A MOTION relating to the implementation timeframe for reorganizing public defense services in King County.

WHEREAS public defense services are mandated by the United States Constitution, the Washington State Constitution and state law, and

WHEREAS the Sixth Amendment of the United States Constitution and Article I, Section 22 of the Washington State Constitution guarantee assistance of counsel to every citizen accused of a matter where loss of liberty is possible, and

WHEREAS since the 1970s King County has contracted with private, nonprofit corporations for the provision of most indigent public defense services, and

WHEREAS these corporations were viewed by the county as independent contractors and these corporations' employees therefore did not receive King County benefits nor were they enrolled in the Public Employees' Retirement System, and

WHEREAS, in January 2006, a class action lawsuit was filed against King County, alleging that the employees of these corporations were county employees and that King County had a duty to enroll them in the Public Employees' Retirement System, and

WHEREAS, in February 2009, a Pierce county superior court judge ruled that the county had exercised such control over the corporations that they were effectively county agencies and their employees were employees of the county for purposes of enrollment in the Public Employees' Retirement System, and

WHEREAS, in August 2011, the Washington Supreme Court affirmed the trial court's decision in a five

to four decision and the county's motion for reconsideration was denied, and

WHEREAS, in March 2012, the trial court entered an order requiring King County to enroll the current employees of the public defense firms in the Public Employees' Retirement System, which the county did, and

WHEREAS, on March 18, 2013, the King County council adopted Ordinance 17537 approving a proposed settlement agreement that would recognize the current employees of the public defense firms as county employees on July 1, 2013, and

WHEREAS, the King County executive transmitted Proposed Ordinance 2013-0108, which would create a Department of Public Defense with two divisions, and

WHEREAS, the King County executive has indicated that he plans to begin taking steps to implement the new structure, including the hiring of two division directors, as early as April 2013 contingent on the King County council's approval of the proposed structure, and

WHEREAS, the King County council is committed to a thoughtful process for analyzing and considering the legal, fiscal, and policy issues of the proposal in order to ensure that the new public defense structure is consistent with best practices, such as the American Bar Association's ten principles of a public defense delivery system, and

WHEREAS, the council is committed to continue to include in its process close and collaborative consultation with indigent public defense corporations, employees, and others with interest and expertise in public defense services, and

WHEREAS, it might be impracticable for the council to act before May 2013 in light of the need for the council to fully analyze and explore potential options, and

WHEREAS, in coordination with enactment of an ordinance organizing the structure of delivery of public defense services sufficient time and care will be necessary to implement the structure and also ensure the continuous delivery to all persons of their constitutionally-guaranteed right to assistance of counsel;

NOW, THEREFORE, BE IT MOVED by the Council of King County:

The King County council requests that the executive work with the council to develop an interim plan to cover the timeframe between June 30, 2013, and full implementation of an ordinance organizing the structure of delivery of public defense services. The King County executive should consider the possibility that the interim timeframe might need to continue through December 31, 2013, or thereafter.