



Legislation Text

File #: 2013-0108, **Version:** 1

Clerk 02/19/2013

AN ORDINANCE approving the organization and operations of the department of public defense within the executive branch with a department of public defense advisory board to support the director of the department of public defense and the independence of the legal practice of public defense; amending Ordinance 11955, Section 6, as amended, and K.C.C. 2.16.130, Ordinance 8257, Section 2, as amended, and K.C.C. 2.60.020, Ordinance 10167, Section 1, as amended, and K.C.C. 2.60.054, adding a new section to K.C.C. Title 4A, adding a new section to K.C.C. chapter 2.60 and repealing Ordinance 8257, Section 6, and K.C.C. 2.60.070.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 11955, Section 6, as amended, and K.C.C. 2.16.130 are each hereby amended to read as follows:

A. The department of community and human services is responsible to manage and be fiscally accountable for the community services division, mental health, chemical abuse and dependency services division (~~(, the office of public defense)~~) and the developmental disabilities division.

B. The duties of the community services division shall include the following:

1. Working in partnership with communities and other funders to develop, support and provide human services which emphasize prevention, early intervention, and community education, and which strengthen individuals, families and communities in King County;
2. Managing programs which increase family self-sufficiency, enhance youth resiliency, reduce

community violence and strengthen communities. The division shall also manage programs which address housing and community development needs, and help implement improvements identified in subarea and neighborhood plans for low and moderate income communities and population. Such programs are to include, but not be limited to, providing employment and training for youth and adults and providing assistance to indigent veterans and their families as authorized by chapters 41.02 and 73.08 RCW. This division shall administer the county's federal housing and community development funds and other housing and community development programs;

3. Developing housing and community development policies and programs to implement the growth management policies throughout King County to provide affordable housing to low and moderate income residents; and

4. Duties regarding the women's advisory board specified in K.C.C. 2.30.040.

C. The duties of the mental health, chemical abuse and dependency services division shall include the following:

1. Managing and operating a system of mental health services for acutely disturbed, seriously disturbed and chronically mentally ill children and adults;

2. Managing and operating a twenty-four-hour crisis response system, including civil commitment as a last resort;

3. Providing treatment and rehabilitation service for alcoholism and for other drug addictions under federal and state laws and King County ordinances;

4. Selecting appropriate agencies for the provision of mental health services developing, implementing and monitoring the provision and outcomes of contracted services;

5. Being responsible for resource management of a comprehensive mental health system including provision of staff support to appropriate advisory boards, and serving as liaison to federal, state, and other governments and relevant organizations in carrying out planning and allocation processes;

6. Ensuring the continuing availability of appropriate treatment services for eligible individuals with a single diagnosis of a mental illness or a substance use or dependency disorder; and

7. Developing and maintaining a continuum of appropriate treatment services for eligible individuals with dual diagnoses of both a mental illness and a substance use or dependency disorder.

D. ~~((The duties of the office of public defense shall include those duties specified in K.C.C. chapter 2.60.~~

E.)) The duties of the developmental disabilities division shall include the following:

1. Managing and operating a system of services for persons with developmental disabilities in accordance with relevant state statutes and county policies and to provide staff support to the King County board for developmental disabilities; and

2. Negotiating, implementing and monitoring contracts with community agencies for the provision of developmental disabilities services.

SECTION 2. Ordinance 8257, Section 2, as amended, and K.C.C. 2.60.020 are each hereby amended to read as follows:

A. There is hereby established ~~((within the department of community and human services the))~~ a department of public defense within the executive branch. The duties of the department of public defense shall include:

1. Provide publicly financed legal defense services constitutionally required to the indigent and the near indigent person in all matters when there may be some factual likelihood that a person may be deprived of their liberty under the laws of the state of Washington or King County, including, but not limited to, a violation of any law of the state of Washington or ordinance of King County, juvenile and dependency matters, mental illness and similar commitment proceedings, revocations and habeas corpus proceedings when they arise in King County;

2. Provide such legal defense services available in an efficient manner that assures adequate

representation at reasonable cost to the county;

3. Investigate and determine eligibility for publically financed legal defense services. Indigent determination is controlled by RCW 10.101 et al. In addition, the department of public defense shall secure reimbursement from eligible persons, including the parents of juveniles represented by attorneys assigned by the department of public defense, where such persons can afford to pay some or all of the cost to King County of providing them such legal defense services;

4. Assign cases to one of the two divisions of the department staffed by attorneys who shall represent the highest percentage possible of all caseloads with unavoidable conflicts of interest in complex cases that may involve multiple defendants or multiple charges or other special circumstances being the cases receiving representation by assigned counsel; and

5. Establish and maintain a list of department credentialed lawyers on an assigned counsel panel who wish to participate in the defense of persons eligible under the public defense program.

B. A ((public)) director of the ((office)) department of public defense shall be appointed by the ((county)) executive and approved by the ((county)) council. The ((county)) executive shall consult with county, state, and federal representatives of the criminal justice system during the recruitment and selection of the appointee. The duties of the director of the department of public defense shall include:

1. Manage the department of public defense;

2. Ensure the department of public defense employs the needed technical and public defense expertise to ensure effective delivery of public defense services;

3. Represent the executive in all forums where the defense perspective is required;

4. Ensure that the American Bar Association Ten Principles for a Public Defense System guide the development, management and department standards for legal defense representation;

5. Follow the Washington State Supreme Court Standards for Indigent Defense in establishing caseload limits for attorneys;

6. Develop and maintain appropriate standards and guidelines for the qualification and experience level of public defense attorneys and paraprofessionals;

7. Establish a reasonable fee for legal defense services, subject to the approval of the court, made available, at a client's expense, to a person charged in King County with a felony of public notoriety when the court finds that the defendant is unable to employ adequate private counsel as a result of such public notoriety;
and

8. Consult with a public defense advisory board and receive its recommendations on department policies, operations, and matters of budget.

SECTION 3. There is hereby added to K.C.C. Title 4A a new section to read as follows:

The processing fee for a defendant requesting counsel at public expense under K.C.C. chapter 2.60 is twenty-five dollars. All processing fee payments received shall be credited to the county current expense fund.

SECTION 4. Ordinance 10167, Section 1, as amended, and K.C.C. 2.60.054 are each hereby amended to read as follows:

A. A defendant requesting counsel at public expense shall pay a processing fee of twenty five dollars as reimbursement to ~~((King))~~ the ((€))county for the administrative costs and expenses incurred in the processing of the application. The processing fees is payable at the time the request for public counsel is made to the ~~office~~ department of public defense. Processing fees are not refundable, even if the defendant is determined to be not eligible for counsel at public expense. A defendant will not be denied counsel because the defendant cannot pay the processing fee. All processing fee payments received shall be credited to the county current expense fund.

B. To be eligible to receive legal defense services through the public defense program at no cost, the person must be financially unable to obtain adequate representation without substantial hardship to the person and the person's family and there must be some factual likelihood that the person will be deprived of his or her liberty. If a person has some resources available that can be used to secure representation but not sufficient

resources to pay the entire costs of private legal services without substantial hardship to the person and the person's family, the department of public defense shall determine how much the person shall pay for the legal defense services provided through the department of public defense.

C. The department of public defense may provide its services to other municipalities in King County on a reimbursable basis and is authorized to negotiate appropriate contractual agreements therefor.

SECTION 5. Ordinance 8257, Section 6, and K.C.C. 2.60.070 are each hereby repealed.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 2.60 a new section to read as follows:

A. There is created a King County department of public defense advisory board to support the director of the department of public defense and the independence of the legal practice of public defense within the executive branch.

B. The board shall review the activities and plans of the department of public defense and make recommendations to the director of public defense, and advise the director on matters of concern to the practice of public defense in King County.

C. The board shall consist of seven members. Board members shall be nominated by the executive and confirmed by the council. The board shall establish its own rules of procedure and choose its own chairperson.

D. The board's members shall be representative of the King County criminal defense community and shall include:

1. One member representing the Washington state Bar Association;
2. One member representing the King County Bar Association;
3. One member representing a minority bar association with representation revolving among these groups each membership term;
4. One member shall be a judge retired from the King County superior or district court;
5. One member from the faculty of a law school in Washington state; and

6. Two members shall be associated with community organizations that serve the indigent population of King County.

E. Members of the board shall serve two-year terms and until their successors are nominated and confirmed. Beginning in 2013, initial member representatives in designated in subsection D.1, 3. and 5. of this section shall be appointed for one-year terms, and member representatives designated in subsection D.2, 4. and 6. of this section shall be appointed for two-year terms. The terms of designated representative members shall coincide with the terms of the persons who are vacating those seats. Members of the board shall not be compensated for the performance of their duties as members of the board, but may be paid subsistence rates and mileage in the amounts consistent with county policy.

F. The board shall meet at least once every two months and shall issue a report to the executive and council at least twice each calendar year on the state of King County public defense. One of the reports shall consist of the board's review of the executive proposed annual budget for public defense.

G. Any reporting to the council under this subsection shall be made in the form of a paper and electronic copy of the report filed with the clerk of the council, who shall forward electronic copies to all councilmembers and the lead staff of the budget and fiscal management committee or its successor.

H. The board shall exercise those powers and authorities, and incur those duties, responsibilities and liabilities as are provided for by K.C.C. chapter 2.28.