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Title: AN ORDINANCE relating to the department of public defense; requiring the department to provide legal representation in the inquest process to families of decedents; and adding a new section to K.C.C. chapter 2.60.

Sponsors: Jeanne Kohl-Welles, Rod Dembowski, Dave Upthegrove, Larry Gossett

Indexes: Legal Aid, Public Health

Code sections: 2.60 -

Attachments: 1. 18652.pdf, 2. 2018-0028_SR_DPD_inquest_counseldocx.docx, 3. 2018-0028_ATT1_Proposed_Ordinance.pdf, 4. 2018-0028_ATT2_Striking Amendment.docx, 5. 2018-0028_ATT3_Redline_Striker.doc, 6. 2017-0190_ATT4_AMD_T1 01-07-18.docx, 7. 2018-0028_ATT5_RCW.docx, 8. 2017-0028_ATT6_ExecOrder_Inquest Procedures.pdf, 9. 2018-0028_ATT7_RPC.pdf, 10. 2018-0028_Revised_SR_DPD_inquest_counseldocx.docx, 11. 18652 Amendment package 1-29-18.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------------------------|--|--------|
| 1/29/2018 | 2 | Metropolitan King County Council | Hearing Held | |
| 1/29/2018 | 2 | Metropolitan King County Council | Passed as Amended | Pass |
| 1/22/2018 | 2 | Metropolitan King County Council | Hearing Held | |
| 1/22/2018 | 2 | Metropolitan King County Council | Deferred | |
| 1/9/2018 | 1 | Law and Justice Committee | Passed Out of Committee Without a Recommendation | Pass |
| 1/8/2018 | 1 | Metropolitan King County Council | Introduced and Referred | |

AN ORDINANCE relating to the department of public defense; requiring the department to provide legal representation in the inquest process to families of decedents; and adding a new section to K.C.C. chapter 2.60.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. Section 895 of the King County Charter states, "An inquest shall be held to investigate the causes and circumstances of any death involving a member of the law enforcement agency of the county in the performance of the member's duties." Section 350.20.60 of the King County Charter establishes the department

of public defense and directs it to provide legal counsel to indigent individuals as required under the state and federal constitutions and to foster access to justice and equity in the criminal justice system, and also authorizes additional duties to be prescribed by ordinance.

B. Between 2012 and 2016, there have been thirty-four deaths involving a member of a law enforcement agency that resulted in an inquest.

C. Of those thirty-four inquests, twelve families obtained legal counsel.

D. Families whose loved ones have been killed by a member of a law enforcement agency may seek to understand through the inquest process the cause and circumstances of the decedent's death.

E. The inquest process serves the public function of fact finding related to a death and involves formal legal proceedings, discovery and examination of persons, including law enforcement personnel and expert witnesses.

F. In King County, the function of holding inquests is vested in the executive.

G. The executive has adopted Executive Order PHL 7-1-1 (AEO) establishing policies and procedures for the inquest process which includes the courts conducting the inquest on the executive's behalf. In those policies and procedures, although the family of the decedent is designated as a participating party in the inquest, a number of important steps in the inquest can only be done by legal counsel representing the family.

H. Families not represented by legal counsel will not have the benefit of legal expertise to assist them in understanding the inquest proceedings, and will not be able to fully participate in the inquest process, including participating in the preinquest hearings, engaging in discovery or examining witnesses at the inquest, including law enforcement personnel.

I. The lack of legal representation may result in families not fully participating in the inquest process and a less robust fact finding process.

NEW SECTION. SECTION 2. There is hereby added to K.C.C. chapter 2.60 a new section to read as follows:

A. There is a public benefit in providing publicly financed legal counsel to families of the decedents wishing to fully participate in the inquest process. The inquest process is a formal legal proceeding, involving discovery of evidence and examining of witnesses, including law enforcement personnel and experts. Publicly financed legal counsel will allow all families to fully and equitably participate in the inquest process regardless of financial means. Inquests serve a public function of determining the cause and circumstances of any death involving a member of a law enforcement agency in the performance of the member's duties. The findings of an inquest help the public, family members of decedents and policy makers understand the causes and circumstances of the decedent's death. Public financing of legal counsel for all families of decedents will better ensure each party to an inquest will have equal opportunity to participate. Increasing such participation will bolster the transparency of the inquest process, thus furthering the recognized public function of an inquest. Therefore, the department shall provide legal representation at public expense to the family participating in an inquest, regardless of the income level of the members of the family, of the person whose death is the subject of an inquest investigating the causes and circumstances of death involving a member of any law enforcement agency within King County under Section 895 of the King County Charter or RCW 36.24.020. Representation shall not be provided if the family does not wish to be represented by the department's attorneys. The legal representation shall be limited to preparation for the inquest and participation during the inquest and shall not include any representation for the purpose of potential related civil litigation.

B. The executive shall revise any executive orders relating to inquests to reflect this section within one hundred twenty days of enactment of this ordinance.

C. For the purposes of this section:

1. "Family" refers to the group of those individuals determined by the person conducting the inquest to have a right to participate as the family of the decedent.
2. "A member of a law enforcement agency" means a commissioned officer or noncommissioned staff of a local or state police force, jail or corrections agency.