Legislation Details (With Text)

File #:	2021-0194 **Version:** 1		
Type:	Ordinance	**Status:**	Passed
File created:	5/18/2021	**In control:**	Law and Justice Committee
On agenda:		**Final action:**	9/14/2021
Enactment date:	9/29/2021	**Enactment #:**	19332
Title:	AN ORDINANCE relating to the public defender selection process; and amending Ordinance 17588, Section 4, as amended, and K.C.C. 2.60.026.		
Sponsors:	Girmay Zahilay		
Indexes:	Public Defense		
Code sections:	2.60.026 - .		
Attachments:	1. Ordinance 19332, 2. 2021-0194_SR_DPD_Director.docx		

Date	Ver.	Action By	Action	Result
9/14/2021	1	Metropolitan King County Council	Passed	Pass
8/31/2021	1	Law and Justice Committee	Recommended Do Pass Consent	Pass
5/18/2021	1	Metropolitan King County Council	Introduced and Referred	

Clerk 05/13/2021

AN ORDINANCE relating to the public defender selection process; and

amending Ordinance 17588, Section 4, as amended, and K.C.C. 2.60.026.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 17588, Section 4, as amended, and K.C.C. 2.60.026 are each hereby amended to read as follows:

A. The department of public defense shall be directed by the county public defender, whose duties include:

1. Managing the department of public defense;

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

3. Representing the executive in all city, county, state and federal forums where the defense

perspective is required;

4. Ensuring that the American Bar Association Ten Principles for a Public Defense Delivery System, as approved by the American Bar Association House of Delegates in February of 2002, guide the management of the department and development of department standards for legal defense representation, and filing with the clerk of the council by April 1 of ((~~each~~)) at least every other year a report on the results of the county public defender's efforts in that regard;

5. Following the Washington State Standards for Indigent Defense Services; ((~~and~~))

6. Developing and maintaining appropriate standards and guidelines for the qualifications and experience level of public defense attorneys and paraprofessionals;

7. Working collaboratively with the public defense advisory board and providing relevant nonprivileged information to the board upon its reasonable request; and

8. Fostering and promoting system improvements, efficiencies, access to justice and equity in the criminal justice system.

B.1. The county public defender shall be appointed by the executive, subject to confirmation by the council. The executive shall appoint one of the three candidates recommended by the public defense advisory board, except that the executive may request three additional candidates from the public defense advisory board, and the executive may then appoint the county public defender from among the six candidates, subject to confirmation by motion by the council. Confirmation requires the affirmative votes of at least five members of the council.

2. Within seven days after either a vacancy occurs in the office of the county public defender or the county executive learns that a vacancy is expected to occur within one hundred eighty days, including but not limited to a vacancy that will result from the expiration of the term of a county public defender who the executive determines to not reappoint, the executive shall provide written notice of the vacancy or expected vacancy to each member of the public defense advisory board and to the clerk of the council and shall

commence a national recruitment for candidates to fill the vacancy. Within sixty ~~thirty~~ days after commencing the recruitment, the executive shall provide to each member of the public defense advisory board the names, resumes and all other relevant information about all candidates who meet the qualifications for office set forth in the county charter and subsection C. of this section. Within ((~~sixty~~)) ninety days after receiving the names, resumes((~~,~~)) and other relevant information about the qualified candidates from the executive, the public defense advisory board shall provide in writing at the same time to the executive and the clerk of the county council the names of three candidates to fill the vacancy, together with copies of the candidates' resumes and other relevant information, including all written information upon which the board relied in choosing the three candidates. The board shall not rank the candidates, but may summarize the particular strengths of each candidate. If the board is unable to provide the names of three candidates within ninety days, the board may request in writing additional time from the executive, not to exceed sixty days, to identify candidates.

3. The executive may request in writing to the board chair, within fifteen days after receiving the list of three candidates, that the board provide to the executive the names, resumes and other relevant written information of up to three additional candidates, depending on the number of qualified candidates remaining, and the board shall comply with such a request within ((~~thirty~~)) sixty days and shall at the same time provide a copy of the additional materials to the clerk of the council.

4. Within thirty days after receiving either the original list of three candidates or the list of up to three additional candidates, the executive shall appoint the county public defender by providing written notice of the appointment to the clerk of the council, who shall provide an electronic copy of the notice to each councilmember and to the chair of the public defense advisory board. If the board fails to timely recommend in writing to the executive the initial three or ((~~six~~)) sufficient additional candidates, as applicable, the executive may either appoint the county public defender from among the candidates who have been recommended or wait until the board has recommended the requisite number of candidates and make the appointment within thirty days thereafter.

5. The county council may confirm or reject the executive's appointment by adoption of a motion with the affirmative votes of at least five members. A motion to confirm or reject the appointment shall be referred for committee consideration to the council's committee of the whole.

6. ((~~If the council rejects the executive's appointment of the county public defender, the public defense advisory board shall, within thirty days, recommend and provide in writing at the same time to both the executive and the clerk of the council the name, resume and all other relevant written information for one additional candidate.~~

~~7.~~)) If the council rejects the executive's appointment of the county public defender and the executive has not previously elected to request additional candidates from the advisory board under ((~~this subsection B.7. or~~)) subsection B.3. of this section, the executive may request the public defense advisory board for recommendation of ((~~four additional candidates~~)) up to three additional candidates in accordance with subsection B.3. of this section. Such a request must be made in writing within seven days after the council rejects the executive's appointment, to the chair of the advisory board, with a copy to the clerk of the council. ((~~The advisory board shall, within thirty days after receiving the executive's request, recommend and provide in writing at the same time to both the executive and the clerk of the council the name, resume and all other relevant written information for four additional candidates.~~

~~8.~~)) 7. Within thirty days after receiving the additional name or names, the executive shall appoint the county public defender from among the recommended candidates, except that the executive may not reappoint any candidate whose appointment has been rejected by the council. If the advisory board fails to recommend the additional candidate or candidates required by subsection B.((~~6.~~)) 3. and ((~~7.~~)) 6. of this section and provide the required written information, the executive shall proceed in the same manner as set forth in subsection B.4. of this section.

((~~9.~~)) 8. At any time after the commencement of the national recruitment process required by subsection B.2. of this section, except when the executive has appointed a county public defender and the

council has not confirmed or rejected the appointment, the executive may request that the council authorize the commencement of a new national recruitment and public defense advisory board review and executive appointment process. Such a request must be submitted in writing to the clerk of the council with a copy to the chair of the advisory board. When so requested, the council may authorize commencement of a new recruitment, advisory board review, and appointment process by motion adopted with the affirmative votes of at least five councilmembers.

((~~10.~~)) 11. Within seven days after appointment, the county public defender shall designate an employee in the department of public defense to serve as a deputy and, in the event of a vacancy in that office, as interim county public defender until a new county public defender has been appointed.

C. The county public defender must be an attorney admitted to practice law in any jurisdiction within the United States and in active status and good standing. The county public defender shall, within two years after appointment, be an attorney admitted to practice law in the courts of the state of Washington and an active member of the Washington State Bar Association in good standing and shall, at the time of appointment, have at least seven years of experience as an attorney primarily practicing criminal defense, including both felonies and misdemeanors, as well as supervisory and managerial experience.

D. The term of office of the county public defender shall end at the same time as the term of the county prosecuting attorney. The county executive may reappoint the county public defender to additional four-year terms, subject to confirmation by the county council. The county council may confirm or reject the executive's reappointment by adoption of a motion with the affirmative votes of at least five members.

E. The executive may remove the county public defender from office for cause, which includes, but is not limited to:

1. The grounds for vacancy of elective office under Section 680 of the King County Charter;

2. Failure to meet the applicable legal requirements for serving as county public defender, as set forth in the county charter or the county code;

3. Conviction of a crime;

4. A finding or stipulation of misconduct under the Washington Rules of Professional Conduct; and

5. Failure to manage the department effectively.

F. To remove the county public defender for cause, the executive shall serve a written notice of removal, specifying the cause for removal, by delivering a copy of the notice to the county public defender personally or by leaving a copy of the notice at the office of the county public defender with a secretary or other assistant to the county public defender. The executive shall contemporaneously deliver a copy of the written notice of removal to the clerk of the council and to the chair of the public defense advisory board.

G. The county public defender may appeal removal to the council by delivering a written notice of appeal to the clerk of the council within ten days after service of the written notice of removal. The notice of appeal shall be delivered at the same time to the executive and to the chair of the public defense advisory board. The council shall review de novo the grounds for removal and either affirm or reverse the removal within thirty days after delivery of the notice of appeal by an affirmative vote of five members, or else the removal shall stand. Removal of the county public defender is effective upon the earliest of:

1. Ten days after service of notice of removal, if the county public defender serves no notice of appeal;

2. Affirmation of removal by the council following an appeal;

3. Thirty days after delivery of the notice of appeal, if the council neither affirms nor reverses the removal; or

4. The county public defender's delivery of a written notice of resignation to the executive or the clerk of the council.

H. The county public defender shall receive compensation at the same rate as the prosecuting attorney.