**File #:** 2023-0419, **Version:** 1

A MOTION declaring King County's commitment to creating a more sustainable workload for the department of public defense and requesting the executive to convene a task force for the purpose of developing recommendations to address the class A attorney attrition crisis and a plan for fully adopting the recommendations made in the National Public Defense Workload Study by 2027.

WHEREAS, the sixth amendment to the United States Constitution provides the accused with a series of rights in all criminal prosecutions, including the right to a speedy and public trial by an impartial jury and the right to legal representation, and

WHEREAS, public defenders play a key role in ensuring equal justice for the accused by providing legal representation to adults and youth who have been charged with a crime and cannot afford an attorney, and

WHEREAS, about eighty to ninety percent of individuals charged with a felony in King County qualify for and rely on a public defender, and

WHEREAS, according to the most-recent proviso report on the county's legal system backlog, dated May 2023, the backlog has resulted in increased case resolution times, which has implications for defendants, particularly those awaiting case resolution in custody, and for alleged victims waiting for an outcome, and

WHEREAS, the proviso report dated May 2023 also states that challenges with recruiting, hiring, and retaining qualified staff, in particular experienced attorneys, is a key barrier to addressing the legal system backlog, and

WHEREAS, during the law, justice, health and human services committee meeting on October 3, 2023, the department of public defense reported that between January 1, 2022, and July 28, 2023, it has lost fifty-

eight attorneys, eighteen of which are class A qualified attorneys, and that this loss is, in significant part, due to unrealistic statewide caseload standards, and

WHEREAS, during that same law, justice, health and human services committee meeting, the Service Employees International Union, Local 925, Department of Public Defense chapter, shared that its members are exhausted and staff morale is at an all-time low due to unsustainable workloads, and

WHEREAS, according to data from the prosecuting attorney's office, pending class A felony cases have increased eighty percent in the last two years from approximately five hundred to nine hundred cases, and

WHEREAS, class A felony cases are the most serious felony offenses, including rape, murder, assault with a deadly weapon, and child sex offenses, and the accused in these cases face a maximum penalty of life in prison and a fifty thousand dollar fine, and

WHEREAS, class A felony cases make up a smaller percentage of criminal cases but tend to take significantly more resources since they are more likely to have extensive forensic evidence, require lengthy preparation, and the consequences of a conviction can include life in prison, and

WHEREAS, given the complexity of these cases and the dire consequences for defendants, attorneys representing a defendant accused of a class A felony must meet certain minimum requirements established in chapter 10.101 RCW and Washington state Supreme Court Criminal Rule CrR 3.1, and

WHEREAS, King County, like other jurisdictions around the country, is experiencing a crisis in attrition of experienced defender attorneys driven by extremely difficult workloads, and

WHEREAS, the current caseload limits for public defenders by the Washington state Supreme Court were based on National Advisory Commission standards that are over fifty years old, and

WHEREAS, a new National Public Defense Workload Study released by the Rand Corporation, the American Bar Association, the National Center for State Courts, and lawyer Steve Hanlon, found that the previous standards of one hundred and fifty felonies per lawyer per year reflect a criminal justice system that no longer exists and professional responsibilities that have since been greatly expanded, and

WHEREAS, the National Public Defense Workload Study found that a lawyer handling only low-level felonies could not effectively represent clients in more than about forty-seven felonies a year and states that a defender should not be assigned more than eight murder cases a year with no other assignments, and

WHEREAS, a public defender in King County handling the most complex cases may have more than eight open homicide cases in addition to other case types for a total of over ninety open cases, and

WHEREAS, in August 2023, the American Bar Association revised the Ten Principles of a Public Defense Delivery System, which states that "Workloads should never be so large as to interfere with the rendering of quality representation or to lead to the breach of ethical obligations," and that the national standards should never be exceeded, and

WHEREAS, the Washington State Bar Council on Public Defense Standards Committee has been reviewing the National Public Defense Workload Study and will likely recommend to the Washington state Supreme Court a three-year plan to implement dramatically lower caseloads, and

WHEREAS, King County has always been committed to supporting public defense best practices and is currently operating under stronger standards than those set at the state level, and

WHEREAS, King County strives to be a competitive employer and is at risk of losing experienced and talented attorneys to other jurisdictions with lower caseload maximums, which would further exacerbate the legal system backlog and put the county's ability to provide constitutionally protected rights at risk;

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

A. King County is committed to creating a more sustainable workload for the county's department of public defense, particularly for attorneys handling class A felony cases, and ensuring the department is equipped to deal with modern public defense work.

B. The council will partner with the executive, the director of the department of public defense, and Service Employees International Union, Local 925, Department of Public Defense chapter, and Teamsters 117,

Department of Public Defense chapter to identify and implement short- and long-term solutions to address the public defense caseload and class A attorney attrition crisis. The National Public Defense Workload Study shall serve as the guide for this work.

C.1. The executive is requested to convene a task force that includes, but is not limited to, the director of the department of public defense and representatives from the Service Employees International Union 925, Department of Public Defense chapter, Teamsters 117, Department of Public Defense chapter, and the King County council. The task force shall develop two documents to be transmitted to the county council: a letter detailing recommendations to immediately address the class A attorney attrition crisis within the department of public defense, and a report outlining the county's path for fully adopting the recommendations made in the National Public Defense Workload Study by 2027. The report shall also include the interim steps to be taken in 2025 and 2026 to achieve full adoption by 2027.

2. The executive should electronically file the letter detaling the task force's recommedations no later than March 1, 2024, with the clerk of the council, who shall retain an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff for the law, justice, health and human services committee.

3. The executive should electronically file the report outlining the county's path for fully adopting the recommendations made in the National Public Defense Workload Study by 2027, no later than October 1, 2024, with the clerk of the council, who shall retain an electronic copy and provide an electronic copy to all councilmembers, the council chief of staff, and the lead staff for the law, justice, health and human services committee.