

17588

4

5-20-13 Council Meeting

Sponsor: Dembowski

at

Proposed No.: 2013-0215

Rod Dembowski Moved  
LP 7 AM 5A

Rod Dem accepted as friendly

1 AMENDMENT TO PROPOSED ORDINANCE 2013-0215, VERSION 2

2 On page 9, beginning on line 191, strike lines 191 through 194, and insert:

3 "A. The department shall manage cases and assign counsel in a manner that avoids  
4 conflicts of interest. The department shall adopt a policy to determine when a conflict  
5 exists and to avoid conflicting representation. If the department is unable to provide  
6 representation when a conflict exists, the department may contract for services of outside  
7 counsel or assign counsel from the assigned counsel panel.

8 B. The director may also contract for services of outside counsel if the director  
9 finds it appropriate to seek outside defense services and funding is available, taking into  
10 account the projected annual fiscal needs of the department.

11 C. If the department contracts for services of outside counsel, any entity that is  
12 able to provide the service may apply, including, but not limited to, private law firms,  
13 nonprofit entities, or a public corporation formed by the county whose chartered duties  
14 include the provision of public defense and related services. "

15 On page 9, after line 194, insert a new section to read as follows:

16 " SECTION 8. A. The public defense criminal justice reform advisory task force is  
17 hereby established.

PASSED, as Amended  
7-1 Demco "no"  
JP Excused

18 B. The purpose of the task force is to utilize the expertise of the local and  
19 regional public defense communities to obtain their recommendation on county options  
20 for preserving the type of innovative thinking and criminal justice reform efforts that  
21 have been a part of the nationally recognized work of nonprofit public defender agencies  
22 serving King county over the past forty years.

23 C. 1. The task force shall issue a report and recommendation on the feasibility of  
24 the county using outside entities, such as one or more public corporations, nonprofit  
25 organizations or private corporations, to perform county public defense-related services  
26 that promote system improvements and efficiencies in the King county public defense  
27 system through innovative approaches to criminal justice reform. The report shall be  
28 advisory.

29 2. The task force should examine county public defense-related services that  
30 would supplement, not replace, the work performed by the department of public defense.

31 3. In making its report and recommendation, the task force should consider the  
32 pros and cons of each approach that it examines and the ability of each approach to  
33 efficiently and effectively promote system improvements and efficiencies compared to  
34 what could be achieved by the department.

35 4. The task force should give strong consideration in its analysis to the fact that  
36 indigent defense services are supported by the county's general fund; the task force  
37 should consider the financial cost of any recommended alternatives.

38 5. The report shall be based upon the assumptions that the public defense  
39 attorneys providing a majority of the county's indigent defense services will be county  
40 employees, and that the settlement that received preliminary judicial approval in the

41 Dolan lawsuit will be the final settlement. The task force shall include in its report and  
42 recommendation an assessment of the steps necessary to ensure that the independent  
43 entity will not be treated as an "arm and agency" of King County under the Dolan  
44 decision.

45 6. The task force is encouraged to seek input from other organizations, including  
46 but not limited to inviting other organizations to attend task force meetings as  
47 appropriate.

48 D. The task force shall consist of seven members, including one member  
49 appointed by the Washington state office of public defense, one member appointed by the  
50 King County Bar Association, two at-large members appointed by the executive, one  
51 member from the faculty of a Washington state law school appointed by the chair of the  
52 council and two at-large members appointed by the chair of the council. The task force  
53 members shall be appointed by June 3, 2013.

54 E. Task force members must have demonstrated interest and expertise in the  
55 subject of public defense. Members should also have knowledge of government  
56 operations and budget, a demonstrated history of working collaboratively to find  
57 solutions to complex problems and a willingness to commit the time necessary to attend  
58 meetings of the task force and to actively support development of the task force report.

59 F. The task force shall have technical and administrative staff support provided  
60 by the executive and council. The task force shall file its report with the clerk of the  
61 council by August 30, 2013, who shall forward a copy to the executive, all  
62 councilmembers and the lead staff of the committee of the whole.



63 G. The county council shall reimburse task force members for mileage at the  
64 standard county reimbursement rate for travel within the county to and from scheduled  
65 task force meetings. The county council shall provide parking space free of charge in the  
66 county garage to task force members while attending meetings at which task force  
67 business is conducted."

68 Renumber the remaining sections consecutively and correct any internal  
69 references accordingly.

70 **EFFECT:**

- 71 • **Add the ability of the department to use contract services to handle conflict**  
72 **cases that cannot be handled in-house or when deemed by the public**  
73 **defender to be appropriate subject to available funding.**
- 74 • **Convene a task force to issue a report on the public defense-related services**  
75 **that can be performed by outside entities that would support the promotion**  
76 **of system efficiencies.**

17588

5a

5-20-13 Council Meeting

Sponsor: Phillips

at

Proposed No.: 2013-0215

LP noted adding to existing language on Am #4

1 AMENDMENT TO AMENDMENT 2 TO PROPOSED ORDINANCE 2013-0215,

2 VERSION 2

3 On page 2, beginning on line 41, after "final settlement." delete all material through page  
4 2, line 44, and insert

5 "The task force shall include in its report and recommendation an assessment of the steps  
6 necessary to ensure that the independent entity will not be treated as an "arm and agency"  
7 of King County under the *Dolan* decision and create a risk of liability to the county for  
8 actions of the independent entity including, but not limited to, benefits such as enrollment  
9 in or contributions to the Public Employees Retirement System."

10 **EFFECT:**

- 11 • Adds additional legal considerations that the task force must include in its
- 12 report and recommendation. This amendment has had legal review.

5-20-13

Council Meeting

17588

1

at

Sponsor: Hague

Proposed No.: 2013-0215

IT MOVED 8-0 JP EXCUSED

1 **AMENDMENT TO PROPOSED ORDINANCE 2013-0215, VERSION 2**

2 On page 8, beginning on line 170, after "Indigent Defense Services;" insert "and"

3 On page 8, beginning on line 172, after "paraprofessionals" strike "; and" and insert "."

4

5 **EFFECT:**

- 6 • Technical correction moving the word "and" to the second-to-last item in a list
- 7 from its erroneous location at the end of the last item in a list.