

Legislation Text

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AN ORDINANCE authorizing the department of public defense to provide indigent individuals counsel for the purpose of clearing criminal records; and amending Ordinance 383, Section 2, as amended, and K.C.C. 2.06.020.

STATEMENT OF FACTS:

1. In 2017 the King County department of public defense served more than 15,000 individuals.
2. Of those cases almost 6,700 were for felony cases, 5,000 cases were involuntary treatment act cases and 4,500 were for misdemeanor cases.
3. In addition, the department of public defense provide numerous other services through specialty courts and other services.
4. The individuals served by the department of public defense are disproportionately persons of color who are impacted by institutional bias throughout the criminal justice system.
5. A criminal record has severe impact on individuals' lives that can extend far beyond the case itself and any associated sentencing period.
6. Washington state law allows for criminal convictions to be vacated in limited circumstances.
7. For individuals with arrest records, but not convictions, the expungement process in RCW 10.97.060 allows in limited circumstances, nonconviction data to be removed by the Washington State Patrol.
8. A request to vacate a record is discretionary, meaning a judge does not have to grant it, even if a person otherwise qualifies under state law.
9. If a request to vacate a conviction is granted, the effect is that the charges are dismissed.

While the record of the case is not deleted, RCW 9.94A.640 allows an offender whose conviction has been vacated to legally say they have not been convicted of the offense and they would not need to disclose it as a conviction on future applications.

10. While clearing criminal records cannot change the historical disadvantages persons of color face in the criminal justice system, it can help to reduce barriers going forward.

11. This ordinance provides legal counsel to indigent people who face criminal conviction histories if they have complied with provisions of state law necessary to allow for clearing of records.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 383, Section 2, as amended, and K.C.C. 2.60.020 are each hereby amended to read as follows:

A. The department of public defense is responsible for managing and being fiscally accountable for the provision of public defense services.

B. The duties of the department of public defense shall include:

1. Providing legal defense services in accordance with Section 350.20.60 of the King County Charter and this chapter;

2. Providing legal defense services in an efficient manner that ensures effective representation at reasonable cost to the county;

3. Screening and determining eligibility for legal defense services through the department. In addition, the department shall secure reimbursement from eligible persons, including the parents of juveniles receiving legal defense service through the department, when the person can afford to pay some or all of the cost to King County of providing them such legal defense services;

4. Establishing and maintaining an assigned counsel panel that includes attorneys acceptable to the department who wish to participate in the defense of persons eligible for services through the department;

5. Assigning cases to assigned counsel where conflicts of interest or other special circumstances exist which require use of assigned counsel;

6. Preparing an annual budget for the department that evaluates and forecasts service delivery levels and department expenses for service delivery, contractors, assigned counsel and administration. The evaluations and forecasts shall include an analysis of the impact, if any, of changes in the procedures or practices of the courts, prosecutor, police or other elements of the criminal justice system; and

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

C. The department may provide its services to the state of Washington, tribal governments and municipalities in King County on a full cost recovery basis and is authorized to negotiate appropriate contractual agreements, subject to council approval by ordinance when required by law.

D. The department may provide services related to the Raising Our Youth As Leaders (ROYAL) project and is authorized to enter into appropriate contractual agreements.

E.1. The department may provide individuals defined as indigent with criminal records from King County courts where the department of public defense practices public defense representation for the purpose of clearing criminal records.

2. When doing intake for an individual for any authorized representation, the department may endeavor to assist eligible individuals with clearing prior criminal records.

3. For the purposes of this subsection E., "clearing criminal records" means vacating, deleting, modifying or sealing of conviction records from King County courts where the department of public defense practices, or Washington state criminal history record information including nonconviction data as defined in RCW 10.97.030.

SECTION 2. The public defender may begin offering these service when it is ready to do so, but must be offering the services by March 1, 2019.