



## Legislation Text

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**File #:** 2009-0176, **Version:** 2

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Clerk 05/26/2009

AN ORDINANCE making a supplemental appropriation of \$19,706,096 to the office of the public defender; to enter into contracts for indigent defense services with four defender agencies to begin July 1, 2009, implementing recommended changes to the public defense funding model; amending the 2009 Budget Ordinance, Ordinance 16312, Section 49, as amended.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. There is hereby approved and adopted an ordinance making a supplemental appropriation of \$19,706,096 to the office of the public defender appropriation unit of the general fund, contracts for indigent defense services with four defender agencies to begin July 1, 2009, implementing recommended changes to the public defense funding model.

SECTION 2. Ordinance 16312, Section 49, as amended, is hereby amended by adding thereto and inserting therein the following:

OFFICE OF THE PUBLIC DEFENDER - From the general fund there is hereby appropriated to:

Office of the public defender	\$19,706,096
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ER1 PROVIDED THAT:

Of this appropriation, \$250,000 shall be expended solely for the costs associated with hiring an outside expert consultant to oversee a study of the county's public defense payment model and to consider and make recommendations on whether the county should move to a case-weighting methodology in paying for public defense services.

P1 PROVIDED THAT:

Of this appropriation, funding for contracts between the office of public defense and the public defense nonprofit corporations that provide indigent defense services for King County shall be expended solely on contracts that ensure that expedited gross misdemeanor cases resulting from the prosecuting attorney's filing and disposition standards ("FADS") continue to be reimbursed using the existing case credit, and not calendar-basis, reimbursement methods and shall also ensure that clerical staffing levels are reimbursed at the levels generated by the 2008 model, until the council approves by motion an updated methodology for reimbursement consistent with the intent of Motion 12160. It is the intent of the council that the office of public defense shall work collaboratively with the nonprofit defense corporations and the King County Bar Association to update the reimbursement methodology as soon as possible. Further, it is the intent of the council that new contracts for indigent defense to cover the period July 1, 2009, through June 30, 2010, be negotiated by the office of public defense and public defense nonprofit corporations and submitted to the council by March 31, 2009, for approval. These contracts shall be developed in accordance with the model adopted by the council in Motion 12160 and shall be developed with regularly updated information and input from the contract defense agencies regarding caseload, staffing and calendaring of cases for felony, complex felony, juvenile, misdemeanor, involuntary treatment, persistent offender and dependency cases, as well as review and input by the King County Bar Association.

P2 PROVIDED FURTHER THAT:

Of this appropriation, \$1,000,000 shall not be expended or encumbered until the council receives and approves by motion the components and justification for each component that will be used to develop the indigent defense contracts between King County and the nonprofit defense corporations. These components shall be consistent with the model adopted by the council in Motion 12160. The report shall be developed by the department of community and human services, in conjunction with the office of management and budget, and shall include current data and input from the contract defense agencies and the King County Bar

Association. The data shall include, but not be limited to, information on caseload, staffing and calendaring of cases for felony, complex felony, juvenile, misdemeanor, involuntary treatment, persistent offender and dependency cases. The report shall be submitted no later than February 1, 2009, to ensure council approval of the proposed methodology prior to negotiation of the new contracts between the county and the contract defense firms. It is the intent of the council that the office of public defense shall work collaboratively with the nonprofit defense corporations and the King County Bar Association to complete the report and transmit it to the council as soon as possible.

The report must be filed in the form of 11 copies with the clerk of the council, who shall retain the original and will forward copies to each councilmember and to the lead staff of the operating budget, fiscal management and select issues committee, or its successor.

P3 PROVIDED FURTHER THAT:

By June 30, 2009, the executive shall form a steering committee for the selection and oversight of outside consulting work, procured for the purpose of studying the county's public defense payment model and considering and making recommendations on whether the county should move to a case-weighting methodology in paying for public defense services.

The steering committee shall, at a minimum, contain a representative from the office of public defense, office of management and budget, the prosecuting attorney's office, the superior court, the district court, each of the four nonprofit public defense contractors, assigned counsel with experience service as a public defender, the King County Bar Association and the Washington Defender Association. The appointments to the steering committee shall be made no later than May 31, 2009.

The steering committee shall prepare a work plan that includes a scope of work, tasks, schedule, milestones and budget, as well as selection criteria for expert consultant assistance. The scope of work shall contain, at a minimum:

A. A review of the current public defense caseload;

B. A review of caseloads at comparable jurisdictions throughout the country;

C. A discussion of key differences or similarities between the complexity of caseloads faced by felony attorneys in King County and other jurisdictions throughout the country;

D. A review of the advantages and disadvantages of a methodology change to a case-weighting methodology for how the county pays for public defense services;

E. A recommendation as to whether the county would be well-advised to switch to a case-weighting methodology; and

F. If a changed to a case-weighting methodology is recommended, the consultant shall provide a recommended methodology for doing so.

The consultant's work shall be completed no later than April 30, 2010. The consultant's final report shall be submitted to the steering committee for distribution to the executive and county council.

The executive shall notify the council in writing of the appointments to the steering committee. The notification shall be in the form of 12 copies filed with the clerk of the council who will retain the original and will forward copies to each councilmember and the committee coordinators for the budget and fiscal management committee and the law, justice, health and human services committee, or their successors.

P 4 PROVIDED FURTHER THAT:

Until a case weighting study has been transmitted and the council has approved the study by motion, none of this appropriation shall be used to support contracts for public defense services that do not include the following initial payments for the following charges:

A. 10 Credits for homicides

1. Murder 1 - RCW 9A.32.040

2. Murder 2 - RCW 9A.32.050

3. Homicide by abuse - RCW 9A.32.055

4. Manslaughter 1 - RCW 9A.32.060

5. Vehicular homicide

B. 5 Credits for indeterminate sex cases

1. Rape 1 - RCW 9A.44.040

2. Rape 2 - RCW 9A.44.050

3. Rape Child 1 - RCW 9A.44.073

4. Rape Child 2 - RCW 9A.44.076

5. Indecent liberties with forcible compulsion - RCW 9A.44.100(2)(b)

6. Child molestation 1 - RCW 9A.44.083

7. Kidnapping 1 with sexual motivation - RCW 9A.40.020

8. Kidnapping 2 with sexual motivation - RCW 9A.40.030

9. Assault 1 with sexual motivation - RCW 9A.36.011 and RCW 9A.94A.030(43)

10. Assault 2 with sexual motivation - RCW 9A.36.021(2)(b)

11. Assault of a child 1 with sexual motivation - RCW 9A.36.120

12. Burglary 1 with sexual motivation - RCW 9A.52.020

C. Additional Credits

1. Any other felony case: 3 credits for every 50 hours over the initial presumed 12.1

2. If A or B above exceed 220 hours of attorney time, 3 additional credits for every 50 attorney hours

over 200 attorney hours.