



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

September 25, 2018

Ordinance 18800

Proposed No. 2018-0412.2

Sponsors Gossett, Kohl-Welles and
Dembowski

1 AN ORDINANCE authorizing the department of public
2 defense to provide indigent individuals counsel for the
3 purpose of clearing criminal records; and amending
4 Ordinance 383, Section 2, as amended, and K.C.C.
5 2.06.020.

6 **STATEMENT OF FACTS:**

- 7 1. In 2017 the King County department of public defense served more
8 than 15,000 individuals.
- 9 2. Of those cases almost 6,700 were for felony cases, 5,000 cases were
10 involuntary treatment act cases and 4,500 were for misdemeanor cases.
- 11 3. In addition, the department of public defense provide numerous other
12 services through specialty courts and other services.
- 13 4. The individuals served by the department of public defense are
14 disproportionately persons of color who are impacted by institutional bias
15 throughout the criminal justice system.
- 16 5. A criminal record has severe impact on individuals' lives that can
17 extend far beyond the case itself and any associated sentencing period.
- 18 6. Washington state law allows for criminal convictions to be vacated in
19 limited circumstances.

20 7. For individuals with arrest records, but not convictions, the
21 expungement process in RCW 10.97.060 allows in limited circumstances,
22 nonconviction data to be removed by the Washington State Patrol.

23 8. A request to vacate a record is discretionary, meaning a judge does not
24 have to grant it, even if a person otherwise qualifies under state law.

25 9. If a request to vacate a conviction is granted, the effect is that the
26 charges are dismissed. While the record of the case is not deleted, RCW
27 9.94A.640 allows an offender whose conviction has been vacated to
28 legally say they have not been convicted of the offense and they would not
29 need to disclose it as a conviction on future applications.

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

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

36 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

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

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

42 1. Providing legal defense services in accordance with Section 350.20.60 of the

43 King County Charter and this chapter;

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

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

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

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

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

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

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

66 by ordinance when required by law.

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

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

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

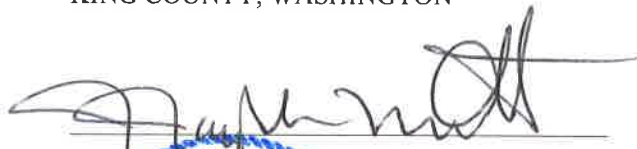
76 3. For the purposes of this subsection E., "clearing criminal records" means
77 vacating, deleting, modifying or sealing of conviction records from King County courts
78 where the department of public defense practices, or Washington state criminal history
79 record information including nonconviction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

80 SECTION 2. The public defender may begin offering these service when it is
81 ready to do so, but must be offering the services by March 1, 2019.
82

Ordinance 18800 was introduced on 9/4/2018 and passed as amended by the Metropolitan King County Council on 9/24/2018, by the following vote:

Yes: 8 - Mr. von Reichbauer, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci
No: 1 - Mr. Dunn
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



J. Joseph McDermott, Chair

ATTEST:



Melani Pedroza, Clerk of the Council



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KING COUNTY COUNCIL

APPROVED this 3 day of OCTOBER, 2018.



Dow Constantine, County Executive

Attachments: None