

'Totally unworkable.' New WA public defense rules spell disaster for Tri-Cities' budgets

Cory McCoy

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Oct. 28—As county leaders begin working through budget proposals, one thing is clear, if the proposed changes to Washington's public defense system go into effect next year, it will deal a disastrous blow to already struggling county coffers.

Benton County estimates the office's already substantial budget will nearly double for the 2025-26 budget cycle, forcing the office's funding to jump from an estimated \$7.7 million to about \$14.5 million. And that would just be the beginning of an increasingly costly three-year process.

That \$6.65 million increase is more than the combined total of every other Benton County department's new requests for the biennium.

That's because these new changes would cut the caseload maximums that public defenders can take on down to about one-third of what they currently handle, and also require the offices to hire new case managers and other employees in support roles.

Franklin County is starting their budget discussions with a looming deficit, just keeping their staffing at current levels is going to take hard work and creativity from their leaders.

The case limit reductions would begin to go into effect mid-2025 if given final approval by the Washington State Supreme Court.

Cost of public defense changes

Larry Ziegler, Benton County's interim Office of Public Defense manager, said that in addition to tripling the number of public defenders needed, the new guidelines will require hiring private investigators, support staff and new equipment and office furniture for those new employees.

He believes the bulk of that cost is going to have to come from local government.

"This thing is gonna hit counties and cities so hard," Ziegler told the Herald.

"I think a lot of counties and cities right now are just paralyzed because they look at the order itself and think, 'Where are we going to get this kind of money?'" he said. "Benton is trying to get ahead of that a little bit right now."

The number of cases a public defender would be allowed to handle in a year would be slashed from about 150 felony cases to 47 by 2028.

Some of the most serious cases, like murder cases, would count as 7 credits toward that total. Misdemeanors would be limited, going from 400 to 120.

Though Franklin County's budget presentation didn't include a projected cost estimate, its portion of Superior Court cases makes up about 29% of the total.

Its \$2 million projected OPD budget would likely nearly double as well for 2025.

Both counties are facing a tight budget season, with Franklin starting with a projected \$1.7 million deficit. They cannot afford for one of their largest departments to double in size overnight.

Already, only the sheriff's office patrol division and corrections department would command more funding on Benton County's projected spending.

As disastrous as that all sounds, that's not even taking into account that most experts in the area agree there simply aren't enough lawyers or qualified support staff to fill those new roles.

The Tri-Cities also would be competing with every county in the state for new lawyers and professionals, a task which already has proved to be a strain.

The prospects are so daunting that Franklin County's leaders asked their interim administrator to explore whether it might be better to recreate a bi-county Office of Public Defense, which split off from Benton County in 2016.

Such a move might take the counties out of competition with one another for already limited public defenders, but also give them an edge in competing against larger counties.

Ziegler, who opened Franklin County's Office of Public Defense in 2016 and ran it until his retirement this summer, isn't sure it's even possible to recombine the two offices.

Superior Court Judge Joe Burrowes told Franklin's commissioners that he wasn't positive that Washington's three law schools combined could graduate enough new attorneys to meet the proposed thresholds.

Ziegler points out that new graduates can't just jump into defending people charged with felonies, the bar association's own guidelines require them to work their way up through less serious crimes first. That can often take a year or longer, leaving a severe shortage of attorneys able to handle the most serious cases.

Ziegler said there will also likely be a lot of other unanticipated costs, such as a need for more court clerks to handle all of the new paperwork required.

He worries that it could also lead to a situation like the Blake Decision where police and prosecutors feel they aren't empowered to go after low level crimes.

"As it's currently structured it's totally unworkable, this thing was not done with any rational input from the people burdened with making it work," he said. "I think it's exactly backwards, if you're going to institute radical change, you better have some planning."

Other big expenses

Courts in general also are in need of more funding. Benton Franklin Superior Court has a proposal that would see the bi-county court move from using part-time court commissioners to three full-time court positions.

Commissioners do most things regular judges do, with the exception of sentencings.

With a backlog of nearly 10,000 cases across the two counties, they say these extra judicial officers are badly needed. The courts also are restructuring their traditional court reporter roles to a more technology-focused position to ensure broadcast systems are functioning properly and cases are being recorded.

In Benton County, the clerk's office is asking for more money to help staff election workers.

Animal Control will see its budget double as the county continues with plans to remove that responsibility from the sheriff's office, in order to ensure better responses.

Benton County is expecting a biennium budget of about \$184 million, but requests currently total just shy of \$196 million. More than \$8 million of that difference is just for the public defender office and courts.

The Superior Court is asking for about \$1.5 million, in part, to replace American Rescue Plan Act funds that were helping to pay for extra staffing.

Across the river departments are tightening their belts, trying to keep their budgets in line with projected shortfalls, in order to maintain staffing levels.

Franklin is starting with a \$1.7 million deficit for their regular budget, and down \$6 million when accounting for other miscellaneous budgets such as roads and the HAPO Center. Their projected 2025 revenue looks to come in at around \$48.8 million.

The county is considering ways to make up those holes, including a transfer from the road funds. They could also take their 1% budget increase from property tax, but that would only come out to about \$120,000.

That doesn't mean a 1% increase in bills for the county's portion of the property tax collection though, it's just 1% growth of their total collection over the past year, which is spread out to include all rooftops.

How they choose to make up those shortfalls will ultimately feed into where their projected 2025 budget lands.

Budget discussions will continue for the next few weeks, with final approval expected in late November or early December.