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Benton prosecutor warns new WA public defense rules would make Tri-Cities more dangerous

Cameron Probert; Tri-City Herald (Kennewick, Wash.)

Oct. 30—Benton County prosecutors already have a pile of cases waiting to have charges filed, and their backlogs could spiral out of control if proposed changes to how case loads are handled go into effect next year.

Prosecutor Eric Eisinger warned new rules around public defense case loads, approved by the Washington State Bar Association earlier this year, are likely to have "catastrophic" effects on public safety and trust in law enforcement.

"That rule change threatens to effectively decriminalize non-violent felony offenses due to a lack of attorneys," he said at the press conference. "My concern is that the state Supreme Court should not solve a King County problem and effectively create chaos here in Benton County."

The rules are currently in front of the Washington State Supreme Court. Eisinger joins Benton and Franklin counties as well as several others in expressing his concerns.

For years, state law and bar association rules limited public defense attorneys to 150 felony cases and 400 misdemeanor cases in a year.

But a committee from the association found that was too many cases and it was burning out public defenders and discouraging new ones from entering the field.

So the association adopted an aggressive three-year timeline to slice the number of annual cases to a maximum of 47 in 2027.

Eisinger said this would cut the number of felony cases they could file each year from 1,100 to about 350, and eliminate their ability to charge people for crimes like identity theft and forgery.

The prosecutor's office is already feeling the squeeze. After a shortage of defense attorneys earlier this year, the office has been delaying filing charges on 65 non-violent felony cases, Eisinger said.

This will only become worse when the new rules start going into effect next year.

Eisinger said the rules are exacerbating an existing problems — there aren't enough attorneys in the Tri-Cities. It has the smallest ratio of any urban center in Washington — 1.5 for every 1,000 people.

Nearly 90 percent of the attorneys in the state work in Western Washington, and half of the attorneys are in King County.

Without more attorneys in the Tri-Cities, no amount of money from the legislature will let Benton and Franklin counties meet the demand, he said.

Many of the suggestions that have been made may take years to start seeing an effect — such as supporting local internships. Others, like opening a Tri-Cities law school, would take years to get approved and even longer to get off the ground.

More dangerous

The prosecutor warned that the new rules will make the Tri-Cities less safe because fewer cases can be filed, and it will lead to less trust in the state to prosecute people.

"The proposed rule change would impact our local justice system more than any legislative action, more than any prior rule change or case previously decided by this court," Eisinger said.

People trust that when police arrest suspects for crimes they will go to court, and that the system won't run out of space to handle those cases.

In addition, this would also undermine therapeutic courts that try to divert cases out of superior and district court. He said people being treated through these courts often need the threat of possible criminal charges to stay in the program.

"If this rule change goes through, even those cases that are assigned to therapy courts are included within the public defender case cap," he said.

Eisinger said he's seen the effectiveness of these courts first hand when a family friend was struggling with drug addiction and facing felony charges. She decided to pursue therapeutic courts as she faced her third felony offense. She was able to improve her life because of it.

A final decision on the new case load rules could be made in November.