

Prepared by The Seattle Courant (<http://www.seattlecourant.com>)  
Information updated as of March 22, 2009 6:20 PM

City of Seattle Legislative Information Service

Council Bill Number: 116472

AN ORDINANCE amending SMC 12A.10.110, establishing a fee to fund the mandatory counseling program for persons convicted of, or entering into a non-conviction disposition for, prostitution and patronizing a prostitute, exempting from the fee those who have been deemed financially eligible for public defender services and those who have been convicted of or entered into a diversion program for prostitution, removing the provision that only first offenders must attend the counseling programs, and substituting the Human Services Department for the 'local health department' as the responsible party providing oversight of the counseling program.

Date introduced/referred: March 16, 2009

Status: In Committee

Note: Sex Industry Counseling

Committee: Public Safety, Human Services and Education

Sponsor: BURGESS

Index Terms: PROSTITUTION, AIDS, EDUCATION, PREVENTIVE-MEDICINE, FEES

References/Related Documents: Amending: Ord 117074

Text

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WHEREAS, in 1994, the City of Seattle enacted Ordinance 117074 creating a mandatory counseling program for individuals convicted of, or entering a diversion program for, prostitution or patronizing a prostitute to inform those individuals of the dangers associated with sexually transmitted diseases and the human immunodeficiency virus; and

WHEREAS, although Ordinance 117074 directs that those ordered to complete STD/HIV counseling, including prostitutes, will also be responsible for the cost of the counseling, the fee amount was not set, nor have fees been collected; and

WHEREAS, in March 2005, the Seattle Municipal Court, in cooperation with the Seattle City Attorney and the Associated Counsel for the Accused, created the Seattle Municipal Community Court to address the underlying problems presented by individuals charged with non-violent misdemeanor crimes, including prostitution and patronizing a prostitute; and

WHEREAS, as part of the Seattle Municipal Court program, individuals charged with prostitution were referred to a peer counseling class that was provided without cost, but this class is no longer able to be provided; and

WHEREAS, imposing a mandatory fee on persons convicted of or entering into a non-conviction disposition for patronizing a prostitute would provide funds to pay for the counseling program for individuals convicted of, or entering a diversion program for, prostitution or patronizing a prostitute; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 12A.10.110 of the Seattle Municipal Code is hereby amended as follows:

SMC 12A.10.110 Convicted persons -- Mandatory counselling and costs for certain offenses.

A. The Human Services Department local health department shall conduct or cause to be conducted, sexually transmitted disease STD/HIV counselling for all persons convicted of, or entering a non-conviction disposition for, a first offense of prostitution or patronizing a prostitute under this chapter. Such counseling shall be based on best practices for peer counseling for individuals charged with prostitution and prostitution awareness for those charged with patronizing a prostitute. Counseling will at a minimum provide education about the risks from prostitution of sexually transmitted diseases, including HIV, the risks of victimization amongst prostitutes, and the consequences of drug injection. The term non-conviction disposition is a pretrial diversion or any agreement to continue the case for dismissal or amendment of the charge upon successful completion of certain conditions. The term "first offense" shall include, for persons previously convicted of, or entering a diversion program for, an offense of prostitution or patronizing a prostitute, the first offense occurring after the effective date of the ordinance codified in this section, and thereafter, the first offense occurring one (1) year from the date of last conviction or completion of diversion. Inclusion of such persons as first offenders shall not negate his or her previous conviction(s) or diversion for other sentencing purposes.

B. Such counselling shall be conducted and successfully completed as soon as possible after dispositionsentencing or entering of a diversion program, and shall be so ordered by the sentencing judge or diversion programjudge approving the non-conviction disposition.

C. All persons ordered to complete suchSTD/HIV counsel ling as a result of a conviction or non-conviction disposition of diversion of a prostitution or apatronizing a prostitute charge shall also be responsible for the cost of the counselling. Effective in 2009, the amount of the charge is set at \$150.00. This charge is based upon the anticipated cost of the counseling program and the number of individuals who are likely to receive and pay for the counseling in each calendar year. This base fee will increase annually beginning in 2010 consistent with the rate of increase in the Seattle-Tacoma CPI, rounded to the nearest \$.50. Every three years, the Director of the Human Services Department may recommend a further change of the fee based upon evaluation of program costs and revenues. FundsCosts collected pursuant to this subsection shall be collected by the Seattle Municipal Court and deposited in the General Subfund (00100); and an allocation equal to the program costs as projected in the current year adopted budget shall be made annually to the Human Services Operating Fund (16200) for the purpose of directed tofunding ofthe STD/HIVcounseling program.

D. In the event that the sentencing judge or other authorized individual determines that a person is unable to pay all, or any portion of, the additional costs, those costs, or any portion thereof, may be waived.the defendant has been determined to be eligible for public defense services, the Court shall waive the fee imposed by this section.

Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2009, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2009.  
\_\_\_\_\_ President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2009. \_\_\_\_\_  
Gregory J. Nickels, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2009. \_\_\_\_\_  
City Clerk