

Ordinance No. 122939

Council Bill No. 16472

ORDINANCE

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 Re-referred:	To: (committee):
3-16-09	Public Safety, Human Services & Education (PSHSE)
Date Re-referred:	To: (committee):
Date of Final Action:	Date Presented to Mayor:
3.23.09	3.23.09
Date Signed by Mayor:	Date Returned to City Clerk:
3-26-09	3-27-09
Published by Title Only	Date Vetoed by Mayor:
Published in Full Text	4/1/09
Date Veto Published:	Date Passed Over Veto:
Date Veto Sustained:	Date Returned Without Signature:

The City of Seattle – Legislative Department

Council Bill/Ordinance sponsored by: 102

Committee Action:

Date	Recommendation	Vote
3/16/09	MSP to approve ordinance	2-0-0 BH, JB

This file is complete and ready for presentation to Full Council.

Full Council Action:

Date	Decision	Vote
3/23/09	Passed	9-0

Leg Department



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

February 17, 2009

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am transmitting the attached proposed Council Bill that amends Ordinance 117074 and SMC 12A.10.110 by imposing a mandatory \$150 fee on persons who are convicted of, or who enter into a non-conviction disposition for, patronizing a prostitute. The fees will fund a mandatory counseling program to inform those individuals on the dangers associated with sexually transmitted diseases and the human immunodeficiency virus (HIV).

Prostitution can be harmful to prostitutes, their clients, and to the neighborhoods where prostitution takes place. This legislation will more effectively target prostitution reduction efforts by establishing a fee that will fund classes for both patronizers and prostitutes; by exempting prostitutes from paying this fee; by removing the limitation of mandatory counseling for only the first offense; and by exempting those who have been deemed eligible for public defender services from paying the fee.

The attached legislation will allow the Municipal Court to direct persons who are convicted of, or who enter into a non-conviction disposition for, prostitution or patronizing a prostitute, to attend counseling classes and will provide an ongoing funding source to support the program. Thank you for your consideration of this legislation. Please contact Terri Kimball at (206) 684-4691 if you have additional questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Greg Nickels', written over a large, stylized, looping flourish.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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ORDINANCE

122939

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.

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 counsel~~((ing))~~ 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))~~ counsel~~((ing))~~ 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 counsel~~((ing))~~ shall be conducted and successfully completed as soon as possible after disposition~~((sentencing or entering of a diversion program))~~, and shall be so ordered by the sentencing judge or ~~((diversion program))~~ judge approving the non-conviction disposition.



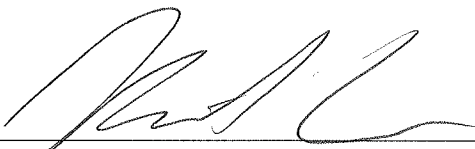
1 C. All persons ordered to complete ~~such~~((STD/HIV)) counsel((f))ing as a result of a conviction
2 or ~~non-conviction disposition of ((diversion of a prostitution or a))~~patronizing a prostitute charge
3 shall also be responsible for the cost of the counsel((f))ing. Effective in 2009, the amount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

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

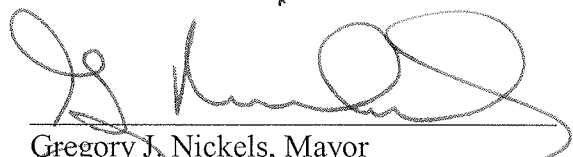
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22 Section 2. This ordinance shall take effect and be in force thirty (30) days from and after
23 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
24 after presentation, it shall take effect as provided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



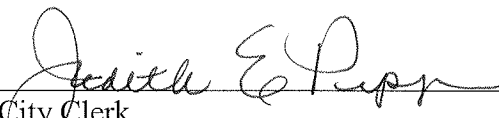
1 Passed by the City Council the 23 day of March, 2009, and
2 signed by me in open session in authentication of its passage this
3 23 day of March, 2009.

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6 
President _____ of the City Council

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9 Approved by me this 26th day of March, 2009.

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11 
12 Gregory J. Nickels, Mayor

13
14 Filed by me this 26th day of MARCH, 2009.

15
16 
17 City Clerk

18 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:**Contact Person/Phone:****DOF Analyst/Phone:**

Human Services
Department

Terri Kimball / 4-4691

Becky Guerra / 4-5339

Legislation Title:

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.

- **Summary of the Legislation:**

This legislation amends Ordinance 117074 and SMC 12A.10.110 by imposing a mandatory fee on persons convicted of or entering into a non-conviction disposition for patronizing a prostitute. This fee will be used to pay for the mandatory counseling program for all persons convicted of or entering a non-conviction disposition for prostitution or patronizing a prostitute. Those who have been deemed financially eligible for public defender services are exempt from the fee.

- **Background:**

In 1994, the City of Seattle enacted Ordinance 117074 creating a mandatory counseling program for individuals convicted of or entering a non-conviction disposition for prostitution or patronizing a prostitute to inform those individuals of the dangers associated with sexually transmitted diseases. Although this ordinance did direct that those ordered to complete STD/HIV counseling would also be responsible for the cost of the counseling, the fee amount was not set and a fee was never charged. The ordinance also directed that prostitutes were required to pay the cost of their counseling.

This legislation amends Seattle Municipal Code 12A.10.110. It proposes exempting those convicted of prostitution from the fee, and sets a fee for those who patronize prostitutes which would cover the cost of counseling for both prostitutes and patronizers. Additionally, the legislation removes the provision that those ordered to complete the counseling classes must be first offenders, because repeat offenders may benefit from taking the classes more than once. In March 2005, as part of the newly created Seattle Municipal Community Court program, individuals charged with prostitution were referred to a peer counseling class that was provided



without cost to the individuals, and covered with City funds. This peer counseling class is no longer available.

Imposing a mandatory fee on persons convicted of or entering into a non-conviction disposition for patronizing a prostitute (excluding those deemed eligible for public defender services) would provide ongoing funds to pay for the mandatory counseling program.

Please check one of the following:

☐ **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*

☒ **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

The necessary appropriation and anticipated revenue resulting from this legislation is already part of the 2009 Adopted Budget.

Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: N/A

Spending/Cash Flow: N/A

• **What is the financial cost of not implementing the legislation?**

The counseling classes described in this legislation are mandatory based on Ordinance 117074. If this legislation is not implemented, the cost of the counseling classes would need to be covered by other City funds, thereby diverting those funds away from other critical programs.

• **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**

The alternative to this legislation would be to fund the mandatory classes with an alternative eligible fund source, such as General Fund, instead of with collected fees.

• **Is the legislation subject to public hearing requirements:** No.

• **Other Issues** *(including long-term implications of the legislation):* None.



STATE OF WASHINGTON – KING COUNTY

--SS.

236702
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 122939

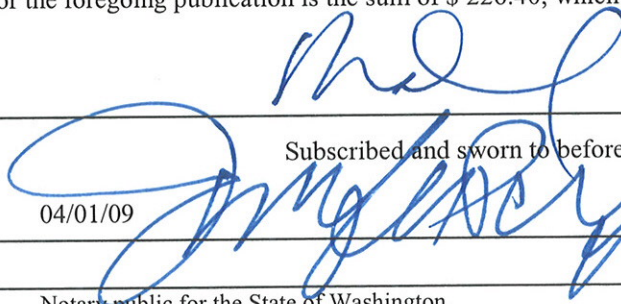
was published on

04/01/09

The amount of the fee charged for the foregoing publication is the sum of \$ 226.40, which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on
04/01/09
Notary public for the State of Washington,
residing in Seattle

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

SMC 12A.10.110 Convicted persons -- Mandatory counsel((ing)) 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)) counsel((ing)) 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 counsel((ing)) shall be conducted and successfully completed as soon as possible after disposition((sentencing or entering of a diversion program)), and shall be so ordered by the sentencing judge or ((diversion program)) judge approving the non-conviction disposition.

C. All persons ordered to complete such((STD/HIV)) counsel((ing)) as a result of a conviction or non-conviction disposition of ((diversion of a prostitution or)) patronizing a prostitute charge shall also be responsible for the cost of the counsel((ing)). 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. Funds((Costs)) 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 to)) funding ((of)) the ((STD/HIV)) counseling 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 23rd day of March, 2009, and signed by me in open session in authentication of its passage this 23rd day of March, 2009.

RICHARD CONLIN,

President of the City Council.

Approved by me this 26th day of March, 2009.

GREGORY J. NICKELS,

Mayor.

Filed by me this 27th day of March, 2009.

(Seal) JUDITH E. PIPPIN,

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, April 1, 2009.

4/1(236702)

State of Washington, King County

City of Seattle

ORDINANCE 122939

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