

REVISED CODE of WASHINGTON

Containing all laws of a general and permanent nature enacted through the 2000 Legislative Session.

This 2000 RCW is current through October 7, 2000, containing changes made by the Washington State legislature in the 2000 regular, 1st and 2nd special sessions.

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Title 1 RCW GENERAL PROVISIONS

Chapters

- 1.04** **The code.**
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Chapter 1.04 RCW THE CODE

Sections

- 1.04.010 Revised Code of Washington enacted.
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Notes:

Code reviser: Chapter 1.08 RCW.

Legislature to amend or repeal laws by reference to code numbers: RCW 1.08.050.

Statute law committee: Chapter 1.08 RCW.

RCW 1.04.010 Revised Code of Washington enacted.

The ninety-one titles with chapters and sections designated as the "Revised Code of Washington" and attested by the secretary of the senate and the chief clerk of the house of representatives of the legislature of the state of Washington, are hereby enacted and designated as the "Revised Code of Washington." Said code is intended to embrace in a revised, consolidated, and codified form and arrangement all the laws of the state of a general and permanent nature.

[1951 c 5 § 2; 1950 ex.s. c 16 § 1.]

Notes:

Creation of new code titles authorized, effect: RCW 1.08.015.

RCW 1.04.013 1950 Supplement enacted.

The titles, chapters, and sections designated as the "1950 Supplement to the Revised Code of Washington" attested by the secretary of the senate and the chief clerk of the house of representatives of the legislature of the state of Washington, and filed with the secretary of state, are hereby enacted and consolidated into and with the Revised Code of Washington. Said 1950 supplement is intended to embrace (1) in a revised and codified form, all those laws of the state of Washington of a general and permanent nature enacted since January 1, 1949, (2) revision and recodification of certain of the titles, chapters, and sections of the revised code, and (3) application of a new system of numbering to all of the sections and certain of the chapters of the revised code, subject to RCW 1.04.014.

[1951 c 5 § 1.]

RCW 1.04.014 Numbering system adopted--Application.

The system of numbering employed in the 1950 supplement is hereby adopted as the general system to be followed in designating sections of the revised code. Specific numbers, in accordance with such system, are authorized to be assigned to sections of the revised code as follows:

Those chapters and sections of the revised code expressly numbered or renumbered in the 1950 supplement are authorized to be numbered or renumbered to the new number respectively shown in the 1950 supplement. All other sections of the revised code now existing are authorized to be renumbered by tens according to the plan generally used in the 1950 supplement, using the number of the title, the new number, if any, of the chapter in which the section occurs, and adding the digit "0" to the terminal end of the number marking the position of the section within the chapter. The secretary of state shall, before publication of any laws enacted at this session of the legislature which are by their terms expressly amendatory of any section or sections contained in the revised code or the 1950 supplement, renumber each section and correlate the numbers of sections so renumbered, in accordance with this provision, so that each such section when published bears or is referred to by its proper new number. The secretary of state, in publishing

the session laws of this thirty-second session of the legislature shall use therein the applicable new numbers of the respective sections so renumbered.

[1951 c 5 § 3.]

RCW 1.04.015 Numbering new sections, chapters--Corrections.

New chapters or sections added to the Revised Code of Washington (as supplemented or modified by the 1950 supplement), as the result of laws enacted at this or subsequent sessions of the legislature, shall be numbered in harmony with said general numbering system, and shall bear such respective numbers in accordance therewith as may be assigned by such official or agency as may be expressly authorized by law so to do.

This section shall not prohibit or prevent the correction by any such official or agency, of the number of any section of the revised code found clearly to be incorrectly numbered or incorrectly correlated with other sections as to number.

[1951 c 5 § 4.]

RCW 1.04.016 Expansion of numbering system--Decimal factor.

It is the intent that under said numbering system the section factor of the section number shall be treated as a decimal figure, and where new sections must hereafter in codifying be inserted between sections then already consecutively numbered, the proper number for such new section shall be created by the insertion of an additional digit at the terminal end of the number of the section immediately preceding the location at which such new section is to be inserted.

[1951 c 5 § 5.]

RCW 1.04.020 Code as evidence of the law--Rule of construction--Effect of amendment.

The contents of the Revised Code of Washington, after striking therefrom sections repealed or superseded by laws of the state of Washington enacted since January 1, 1949, as the revised code is supplemented or modified in the 1950 supplement, shall establish the laws of this state of a general and permanent nature in effect on January 1, 1951; except, that nothing herein shall be construed as changing the meaning of any such laws and, as a rule of construction, in case of any omissions or any inconsistency between any of the provisions of the revised code as so supplemented or modified and the laws existing immediately preceding this enactment, the previously existing laws shall control. Any section of the Revised Code of Washington (as supplemented or modified by the 1950 supplement) expressly amended by the legislature, including the entire context set out, shall, as so amended, constitute the law and the ultimate declaration of legislative intent.

[1951 c 5 § 6.]

RCW 1.04.021 Rule of construction--Prima facie law.

The contents of said code shall establish prima facie the laws of this state of a general and permanent nature in effect on January 1, 1949, but nothing herein shall be construed as changing the meaning of any such laws. In case of any omissions, or any inconsistency between any of the provisions of said code and the laws existing immediately preceding this enactment, the previously existing laws shall control.

[1950 ex.s. c 16 § 2.]

RCW 1.04.030 New laws to be added to code.

All laws of a general and permanent nature enacted after January 1, 1949, shall, from time to time, be incorporated into and become a part of said code.

[1950 ex.s. c 16 § 3.]

RCW 1.04.040 Code may be cited as "RCW."

The code may be cited by the abbreviation "RCW."

[1950 ex.s. c 16 § 4.]

**Chapter 1.08 RCW
STATUTE LAW COMMITTEE
(CODE REVISER)**

Sections

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1.08.112	Report on rule-making activity.
1.08.120	Substitution of words designating department or secretary of transportation.

Notes:

Administrative procedures, reviser's powers and duties: Chapter 34.05 RCW.

Statute law committee to publish session laws: Chapter 44.20 RCW.

Voter registration, copy of state-wide computer tape provided to statute law committee: RCW 29.04.160.

RCW 1.08.001 Statute law committee created--Membership.

There is created a permanent statute law committee consisting of twelve lawyer members as follows: A lawyer member of the legislature, ex officio, designated by the speaker of the house of representatives with the concurrence of the president of the senate; the chairman of the senate judiciary committee, ex officio, or a member thereof who belongs to the same political party as the chairman, and one other member thereof who belongs to the other major political party, to be appointed by the chairman; the chairman of the house judiciary committee, ex officio, or a member thereof who belongs to the same political party as the chairman, and one other member thereof who belongs to the other major political party, to be appointed by the chairman; five lawyers admitted to practice in this state, designated by the board of governors of the Washington State Bar Association; a judge of the supreme court or a lawyer who has been admitted to practice in this state, recommended by the chief justice of the supreme court; and a lawyer member at large appointed by the governor. All such designations or appointments, shall except as provided in RCW 1.08.003, be made as above provided prior to April 1, 1959.

[1967 ex.s. c 124 § 1; 1959 c 95 § 1; 1955 c 235 § 1; 1953 c 257 § 1; 1951 c 157 § 1.]

Notes:

Severability--1955 c 235: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1955 c 235 § 10.]

RCW 1.08.003 Terms of members--Filling vacancies.

The terms of the members designated by the State Bar Association, shall be for six years.

The term of the member recommended by the chief justice shall be at the pleasure of the supreme court. The term of the governor's appointee shall be four years. The term of the senate and house judiciary committee members shall be two years, from April 1st following the adjournment of the regular session of the legislature in each odd-numbered year starting in 1955 and to and including the thirty-first day of March in the succeeding odd-numbered year.

The term of any ex officio member, other than senate and house judiciary committee members shall expire upon expiration of tenure of the position by virtue of which he is a member of the committee. Vacancies shall be filled by designation, appointment, or ex officio in the same manner as for the member so vacating, and if a vacancy results other than from expiration of a term, the vacancy shall be filled for the unexpired term.

Of the members to be designated by the Washington State Bar Association, the term of one member shall expire March 31, 1959, the terms of two members shall expire March 31, 1961, the terms of two members shall expire March 31, 1963, and the term of one member shall expire March 31, 1965: PROVIDED, That this 1959 amendment shall not affect the present terms of present members.

[1959 c 95 § 2; 1955 c 235 § 2; 1953 c 257 § 2; 1951 c 157 § 2.]

RCW 1.08.005 Compensation and expenses of members.

For attendance at meetings of the committee or in attending to such other business of the committee as may be authorized thereby, each legislative member of the committee shall receive the per diem and travel allowances provided for such members by RCW 44.04.120, and each other member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

[1984 c 287 § 6; 1969 c 21 § 1; 1951 c 157 § 3.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 1.08.007 Committee meetings--Quorum--Secretary.

The committee shall meet at the call of the senate judiciary chairman as soon as feasible after April 1, 1953. The committee shall from time to time elect a chairman from among its members, and adopt rules to govern its procedures. Four members of the committee shall constitute a quorum for the transaction of any business but no proceeding of the committee shall be valid unless carried by the vote of a majority of the members present. The reviser or a member of his staff shall act as secretary of the committee.

[1953 c 257 § 3; 1951 c 157 § 4.]

RCW 1.08.011 Employment of code reviser and staff--Supervision.

The committee shall, as soon as practicable after April 1, 1951, employ on behalf of the state, and from time to time fix the compensation of a competent code reviser, with power to

terminate any such employment at any time, subject to contract rights. The committee shall also employ on behalf of the state and fix the compensation of such additional legal and clerical assistance to the code reviser as may reasonably be required under this chapter. The committee shall have general supervision and control over the functions and performance of the reviser.

[1951 c 157 § 5.]

RCW 1.08.013 Code reviser defined.

Code reviser shall mean any lawyer or law publisher employing competent lawyers, each deemed by the committee to be qualified to compile the statutory law of the state of Washington as enacted by the legislature into a code or compilation of laws by title, chapter and section, without substantive change or alteration of purpose or intent.

[1951 c 157 § 6.]

RCW 1.08.015 Codification and revision of laws--Scope of revision.

Subject to such general policies as may be promulgated by the committee and to the general supervision of the committee, the reviser shall:

(1) Codify for consolidation into the Revised Code of Washington all laws of a general and permanent nature heretofore or hereafter enacted by the legislature, and assign permanent numbers as provided by law to all new titles, chapters, and sections so added to the revised code.

(2) Edit and revise such laws for such consolidation, to the extent deemed necessary or desirable by the reviser and without changing the meaning of any such law, in the following respects only:

(a) Make capitalization uniform with that followed generally in the revised code.

(b) Make chapter or section division and subdivision designations uniform with that followed in the revised code.

(c) Substitute for the term "this act," where necessary, the term "section," "part," "code," "chapter," or "title," or reference to specific section or chapter numbers, as the case may require.

(d) Substitute for reference to a section of an "act," the proper code section number reference.

(e) Substitute for "as provided in the preceding section" and other phrases of similar import, the proper code section number references.

(f) Substitute the proper calendar date for "effective date of this act," "date of passage of this act," and other phrases of similar import.

(g) Strike out figures where merely a repetition of written words, and substitute, where deemed advisable for uniformity, written words for figures.

(h) Rearrange any misplaced statutory material, incorporate any omitted statutory material as well as correct manifest errors in spelling, and manifest clerical or typographical errors, or errors by way of additions or omissions.

(i) Correct manifest errors in references, by chapter or section number, to other laws.

(j) Correct manifest errors or omissions in numbering or renumbering sections of the revised code.

(k) Divide long sections into two or more sections, and rearrange the order of sections to conform to such logical arrangement of subject matter as may most generally be followed in the revised code when to do so will not change the meaning or effect of such sections.

(l) Change the wording of section captions, if any, and provide captions to new chapters and sections.

(m) Strike provisions manifestly obsolete.

(3) Create new code titles, chapters, and sections of the Revised Code of Washington, or otherwise revise the title, chapter and sectional organization of the code, all as may be required from time to time, to effectuate the orderly and logical arrangement of the statutes. Such new titles, chapters, and sections, and organizational revisions, shall have the same force and effect as the ninety-one titles originally enacted and designated as the "Revised Code of Washington" pursuant to the code adoption acts codified in chapter 1.04 RCW.

[1961 c 246 § 1; 1953 c 257 § 4; 1951 c 157 § 7.]

RCW 1.08.016 Code correction--Committee orders.

The committee may at any time by order correct any section or portion of the code in any of the respects enumerated in RCW 1.08.015. Orders shall be numbered consecutively and signed by the committee chairman and each order shall be followed by an explanatory note reciting the reason therefor.

Unless otherwise prescribed in the orders, each shall become effective ninety days after

(1) signing of the order; and

(2) filing a summary thereof with the board of governors of the State Bar Association;
and

(3) the filing thereof with the secretary of state.

[1953 c 257 § 5.]

RCW 1.08.017 May omit certain sections of acts.

The reviser may omit from the code all titles to acts, enacting and repealing clauses, preambles, declarations of emergency, and validity and construction sections unless, in a particular instance, it may be necessary to retain such to preserve the full intent of the law. The omission of validity or construction sections is not intended to, nor shall it change, or be considered as changing, the effect to be given thereto in construing legislation of which such validity and construction sections were a part. Any section so omitted, other than repealing, emergency, or validity provisions, shall be referred to or set forth as an annotation to the applicable sections of the act as codified.

[1955 c 235 § 3; 1951 c 157 § 8.]

RCW 1.08.020 Code index.

The reviser, as soon as practicable, shall compile and thereafter maintain a comprehensive index and from time to time prepare for publication supplements thereto.

[1953 c 257 § 7.]

RCW 1.08.021 Historical records.

The reviser shall prepare and maintain full historical records showing the enactment, amendment, revision, supersession, and repeal of the various sections of the revised code.

[1951 c 157 § 9.]

RCW 1.08.023 Annotations.

The reviser may prepare and maintain complete annotations of court decisions construing the statutes of this state.

[1951 c 157 § 10.]

RCW 1.08.024 Inclusion in code of rules of court.

The committee may provide for inclusion in the published sets of the code the rules of court promulgated by the supreme court.

[1953 c 257 § 8.]

RCW 1.08.025 Improvement of statutes.

The committee, or the reviser with the approval of the committee, shall from time to time make written recommendations to the legislature concerning deficiencies, conflicts, or obsolete provisions in, and need for reorganization or revision of, the statutes, and shall prepare for submission to the legislature, legislation for the correction or removal of such deficiencies, conflicts or obsolete provisions, or to otherwise improve the form or substance of any portion of the statute law of this state as the public interest or the administration of the subject may require.

Such or similar projects may also be undertaken at the request of the legislature and legislative interim bodies and if such undertaking will not impede the other functions of the committee.

All such proposed legislation shall be annotated so as to show the purposes, reasons, and history thereof.

[1997 c 41 § 1; 1983 c 52 § 2; 1959 c 95 § 3; 1951 c 157 § 11.]

RCW 1.08.026 Examination of code--Hearings--Recommendations to legislature.

The committee also shall examine the revised code and from time to time submit to the legislature proposals for enactment of the several titles, chapters and sections thereof, to the end that, as expeditiously as possible, the revised code, and each part thereof, shall constitute conclusive, rather than prima facie evidence of the law. Each such proposal shall be accompanied by explanatory matter. The committee may hold hearings concerning any such proposal or concerning recommendations formulated or to be formulated in accordance with RCW 1.08.025. Proposals or recommendations approved by the committee shall be submitted to the chairman of the house or senate judiciary committee at the commencement of the next succeeding session of the legislature.

[1959 c 95 § 4; 1953 c 257 § 9.]

RCW 1.08.027 Bill drafting service.

The reviser shall be in charge of and shall at all times maintain an expert bill drafting service for the use and benefit of the legislature, its committees and its members. Prior to any session thereof, the legislature shall provide quarters convenient to both houses and shall augment the reviser's staff with such additional legal and clerical assistance as may be needed to carry out the bill drafting functions of the legislature and pay the cost of such additional staff. Such services shall be confidential and nonpartisan and no member of the bill drafting staff shall advocate for or against any legislative measure.

[1953 c 257 § 6; 1951 c 157 § 12.]

Notes:

Initiative measures, review by code reviser: RCW 29.79.015.

RCW 1.08.028 Opinions as to validity or constitutionality.

Neither the reviser nor any member of his staff shall be required to furnish any written opinion as to the validity or constitutionality of any proposed legislation, which he may be requested to draft or prepare, nor shall any member of the committee be required to pass upon the constitutionality of any matter submitted to it for consideration.

[1955 c 235 § 4.]

RCW 1.08.031 Information service to legislators.

The reviser shall, to the extent reasonably feasible through available facilities and public sources of information, provide objective and factual information in writing to and upon request of any member of the legislature relative to any matter which is or may be the subject of or involved in, legislation.

[1951 c 157 § 13.]

RCW 1.08.033 Reviser's office location.

The department of public institutions shall provide suitable office and storage space and facilities for the reviser and his staff at Olympia, at a location convenient to the legislature and to the state law library.

[1955 c 235 § 5; 1951 c 157 § 15.]

Notes:

Reviser's note: Powers and duties of department of public institutions relating to housing of state agencies were repealed by 1955 c 195 § 3 and the director of general administration was vested with these powers and duties in 1955 c 285 § 9.

RCW 1.08.037 Publication of code--Specifications--Certificate of compliance.

The committee shall from time to time formulate specifications relative to the format, size and style of type, paper stock, number of volumes, method and quality of binding, contents, indexing, and general scope and character of footnotes, and annotations, if any, for any publication for general use of the revised code and supplements thereto. No such publication or the contents thereof, other than such temporary edition as may expressly be authorized by the legislature, shall be received as evidence of the laws of this state unless it complies with such specifications of the committee as are current at the time of publication, including compliance with the section numbering adopted by the reviser under supervision of the statute law committee. If a publication complies with such specifications, the committee shall furnish a certificate of such compliance, executed on behalf of the committee by its chairman, to the publisher, and the certificate shall be reproduced at the beginning of each such volume or supplement.

Upon request of any publisher in good faith interested in publishing said code, the committee shall furnish a copy of its current specifications and shall not during the process of any bona fide publication of said code or supplements modify any such specifications, if such modification would result in added expense or material inconvenience to the publisher, without written concurrence therein by such publisher.

[1955 c 235 § 6; 1953 c 257 § 14; 1951 c 157 § 14.]

RCW 1.08.038 Publication, sale, and distribution of code and supplements--Reprints.

The statute law committee shall publish, sell and distribute, and arrange for the publication, sale and distribution of the Revised Code of Washington and of supplements thereto and of such other materials as in their discretion may be incorporated in or appended to the code. They may republish, reprint or authorize the republishing or reprinting of the code or any portion thereof.

[1955 c 235 § 7; 1953 c 257 § 11.]

RCW 1.08.039 Publication, sale, and distribution of code and supplements--Contracts or other arrangements.

The committee may enter into contracts or otherwise arrange for the publication and/or distribution, provided for in RCW 1.08.038, with or without calling for bids, by the public printer or by private printer, upon specifications formulated under the authority of RCW 1.08.037, and upon such basis as the committee deems to be most expeditious and economical. Any such contract may be upon such terms as the committee deems to be most advantageous to the state and to potential purchasers of such publications. The committee shall fix terms and prices for such publications.

[1955 c 235 § 8; 1953 c 257 § 12.]

RCW 1.08.0392 Publication, sale, and distribution of code and supplements--Statute law committee publications account created--Purpose--Disbursements.

For the purposes of financing the production and sale of such of its publications as in the judgment of the statute law committee may be advantageously financed by the use of revolving fund moneys, there is hereby created, and the committee is authorized to maintain, a revolving fund to be known as statute law committee publications account. None of the provisions of RCW 43.01.050 shall be applicable to said fund nor to any moneys received or collected by the committee for publications financed by said fund.

All moneys shall be paid from said account by check or voucher in such form and in such manner as shall be prescribed by the committee.

[1961 c 246 § 2.]

RCW 1.08.040 Certification--Official code--Prima facie evidence.

The Revised Code of Washington containing the certificate of the temporary code committee and any supplement or addition thereto or reprint edition thereof, which contains the certificate of the statute law committee referred to in RCW 1.08.037, shall be deemed official, and shall be prima facie evidence of the laws contained therein.

[1955 c 5 § 2; 1953 c 257 § 15; 1951 c 157 § 16; 1941 c 149 § 3; Rem. Supp. 1941 § 152-38.]

RCW 1.08.050 Amendment, repeal to include code numbers--Assignment of code numbers.

The legislature in amending or repealing laws shall include in such act references to the code numbers of the law affected. The reviser shall assign code numbers to such permanent and general laws as are hereafter enacted at any legislative session.

[1959 c 95 § 5; 1955 c 5 § 3; 1951 c 157 § 17. Prior: (i) 1941 c 149 § 4; Rem. Supp. 1941 § 152-39. (ii) 1947 c 282 § 1; Rem. Supp. 1947 § 152-40.]

RCW 1.08.060 Loans and exchanges of codes and supplements.

The committee may loan sets of the code and materials supplemental thereto

(1) for the use of senate committees, a quantity as required by advice from the secretary of the senate, not to exceed twenty-five sets;

(2) for use of the house committees, a quantity as required by advice from the chief clerk of the house, not to exceed thirty-five sets;

(3) to the state law library for library use;

(4) for use of the reviser's office, as required;

(5) for use of recognized news reporting services maintaining permanent offices at the capitol, three sets.

The committee may exchange copies of RCW for codes or compilations of other states.

[1982 1st ex.s. c 32 § 6; 1953 c 257 § 10.]

RCW 1.08.070 Legislators to receive codes and supplements.

Each member of the legislature, who has not received a set of the Revised Code of Washington under the provisions of section 9, chapter 155, Laws of 1951, or section 16, chapter 257, Laws of 1953, or this section, shall be entitled to receive one set of the code without charge. All persons receiving codes under the provisions of this section or the sections above referred to shall be entitled to receive supplements to the code free of charge, during their term of office as a member or officer of the legislature: PROVIDED, That legislative appropriation has been made for the purpose of supplying such codes and supplements.

[1955 c 235 § 9.]

RCW 1.08.110 Publication of Washington state register--Rule-making authority.

The statute law committee, in addition to the other responsibilities enumerated in this chapter, shall cause to be published the Washington State Register as created in RCW 34.08.020. The statute law committee and/or the code reviser may adopt such rules as are necessary for the effective operation of such service.

[1977 ex.s. c 240 § 2.]

Notes:

Effective date--Severability--1977 ex.s. c 240: See RCW 34.08.905 and 34.08.910.

RCW 1.08.112 Report on rule-making activity.

(1) The code reviser shall compile and publish on a quarterly basis a report on state agency rule-making activity. The report shall summarize the following information by agency and by type of activity for new, amended, and repealed rules adopted by state agencies pursuant to chapter 34.05 RCW:

- (a) The number adopted, proposed for adoption, and withdrawn;
- (b) The number adopted as emergency rules;
- (c) The number adopted in order to comply with federal statute, with federal rules or standards, and with recently enacted state statutes;
- (d) The number adopted at the request of a nongovernmental entity;
- (e) The number adopted on an agency's own initiative;
- (f) The number adopted in order to clarify, streamline, or reform agency procedures;
- (g) The number of petitions for review of rules received by agencies;
- (h) The number of rules appealed to superior court; and
- (i) The number adopted using negotiated rule making, pilot rule making, or other alternative rule-making mechanisms.

(2) For purposes of the report required by this section, each Washington State Register filing section shall be considered as a separate rule. The code reviser may adopt rules necessary to implement this section. To the maximum extent practicable, the code reviser shall use information supplied on forms provided by state agencies pursuant to chapter 34.05 RCW to prepare the report required by this section.

[1995 c 403 § 704.]

Notes:

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 1.08.120 Substitution of words designating department or secretary of transportation.

For purposes of harmonizing and clarifying the provisions of the statute sections published in the revised code of Washington, the code reviser may substitute words designating the department of transportation or the secretary of transportation, as appropriate, whenever necessary to effect the changes in meaning provided for in RCW 47.68.015 and 47.04.015 or any other act of the 1977 legislature.

[1977 ex.s. c 151 § 24.]

Notes:

Federal requirements--Severability--1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

**Chapter 1.12 RCW
RULES OF CONSTRUCTION**

Sections

- 1.12.010 Code to be liberally construed.
- 1.12.020 Statutes continued, when.
- 1.12.025 Construction of multiple amendments to statutes--Publication--Decodification of repealed sections.
- 1.12.026 Construction of statutes--Retrospective application.
- 1.12.028 Construction of statutes--Internal references as including amendments thereto.

1.12.040	Computation of time.
1.12.050	Number and gender.
1.12.060	Certified mail--Use.
1.12.070	Reports, claims, tax returns, remittances, etc.--Filing.

RCW 1.12.010 Code to be liberally construed.

The provisions of this code shall be liberally construed, and shall not be limited by any rule of strict construction.

[1891 c 23 § 1, part; Code 1881 §§ 758, 1686; 1877 p 153 § 763; 1854 p 221 § 504; RRS § 144.]

Notes:

Reviser's note: (1) This section is a part of 1891 c 23 § 1. The introductory phrase of that section provides: "The following provisions relative to the construction of statutes shall be rules of construction and shall constitute a part of the code of procedure of this state:"

(2) This section was originally section 504 of the 1854 statute entitled "An act to regulate the practice and proceedings in civil actions." Section 504 of the 1854 statute reads as follows: "The provisions of this act shall be liberally construed and shall not be limited by any rule of strict construction." Identical language appears in Code of 1881 § 1686 relating to probate, and again in Code of 1881 § 758, being part of "An act to regulate the practice and proceedings in civil actions" except that in the latter instance the 1881 codifier changed the words "this act" to read "this code."

RCW 1.12.020 Statutes continued, when.

The provisions of a statute, so far as they are substantially the same as those of a statute existing at the time of their enactment, must be construed as continuations thereof.

[1891 c 23 § 1, part; Code 1881 §§ 761, 1292, 1681; RRS § 145.]

Notes:

Reviser's note: This section is a part of 1891 c 23 § 1. The introductory phrase of that section provides: "The following provisions relative to the construction of statutes shall be rules of construction and shall constitute a part of the code of procedure of this state:"

Laws in force continued: State Constitution Art. 27 § 2.

RCW 1.12.025 Construction of multiple amendments to statutes--Publication--Decodification of repealed sections.

(1) If at any session of the legislature there are enacted two or more acts amending the same section of the session laws or of the official code, each amendment without reference to the others, each act shall be given effect to the extent that the amendments do not conflict in purpose, otherwise the act last filed in the office of the secretary of state in point of time, shall control: PROVIDED, That if one or more special sessions of the same legislature shall follow any regular session, this rule of construction shall apply to the laws enacted at either, both, any, or all of such sessions.

(2) If a section of the session laws or of the official code is amended without reference to

another amendment of the same section, the code reviser, in consultation with the statute law committee, may publish the section in the official code with all amendments incorporated therein. The publication of the section under this subsection shall occur only if the statute law committee determines that the amendments do not conflict in purpose or effect. Sections so published constitute prima facie evidence of the law but shall not be construed as changing the meaning of any such law.

The code reviser, in consultation with the statute law committee, may decodify a section of the official code which was repealed without reference to an amendment to the section. The decodification of the section shall occur only if the statute law committee determines that the decodification does not conflict with the purpose of the amendment. Any decision of the code reviser, in consultation with the statute law committee, to incorporate amendments in the same section or to decodify a section which was both repealed and amended in the same session shall be clearly noted in the revised code of Washington.

If any conflict arises in the interpretation of a section published or decodified under this subsection, the session law sections shall control.

[1983 c 244 § 1; 1980 c 87 § 2; 1974 ex.s. c 87 § 1; 1969 ex.s. c 240 § 1; 1955 c 162 § 1.]

RCW 1.12.026 Construction of statutes--Retrospective application.

The provisions of RCW 1.12.025 as now or hereafter amended shall apply retrospectively as well as prospectively.

[1969 ex.s. c 240 § 2.]

RCW 1.12.028 Construction of statutes--Internal references as including amendments thereto.

If a statute refers to another statute of this state, the reference includes any amendments to the referenced statute unless a contrary intent is clearly expressed.

[1982 c 16 § 1.]

RCW 1.12.040 Computation of time.

The time within which an act is to be done, as herein provided, shall be computed by excluding the first day, and including the last, unless the last day is a holiday, Saturday, or Sunday, and then it is also excluded.

[1997 c 125 § 1; 1887 c 20 § 1; Code 1881 § 743; 1854 p 219 § 486; RRS § 150.]

Notes:

Rules of court: *CR 6(a), RAP 18.6. Cf. RAP 18.22.*

Reviser's note: This section has been enacted at various times as part of "An act to regulate the practice and proceedings in civil actions." However, *Allen v. Morris*, 87 Wash. 268, 274, 151 Pac. 827 (1915); *State ex rel. Evans v. Superior Court*, 168 Wash. 176, 179, 11 P. (2d) 229 (1932); *State v. Levesque*, 5 Wn. (2d) 631, 635, 106 P.

(2d) 309 (1940); and State ex rel. Early v. Batchelor, 15 Wn. (2d) 149, 130 P. (2d) 72 (1942), treat this section as being of general application.

RCW 1.12.050 Number and gender.

Words importing the singular number may also be applied to the plural of persons and things; words importing the plural may be applied to the singular; and words importing the masculine gender may be extended to females also.

[1891 c 23 § 1, part; Code 1881 §§ 756, 965, 1920; 1877 p 153 § 761; 1857 p 45 § 1; 1854 p 99 § 135 and p 221 § 502; RRS § 148.]

Notes:

Reviser's note: This section is a part of 1891 c 23 § 1. The introductory phrase of that section provides: "The following provisions relative to the construction of statutes shall be rules of construction and shall constitute a part of the code of procedure of this state:".

Probate, number and gender: RCW 11.02.005.

Statutes in gender-neutral terms: RCW 44.04.210.

Wrongful death, number and gender: RCW 4.20.005.

RCW 1.12.060 Certified mail--Use.

Whenever the use of "registered" mail is authorized by this code, "certified" mail, with return receipt requested, may be used.

[1961 c 204 § 1.]

RCW 1.12.070 Reports, claims, tax returns, remittances, etc.--Filing.

Except as otherwise specifically provided by law hereafter:

(1) Any report, claim, tax return, statement or other document required to be filed with, or any payment made to the state or to any political subdivision thereof, which is (a) transmitted through the United States mail, shall be deemed filed and received by the state or political subdivision on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it; or (b) mailed but not received by the state or political subdivision, or where received and the cancellation mark is illegible, erroneous, or omitted, shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing; and in cases of such nonreceipt of a report, tax return, statement, remittance, or other document required by law to be filed, the sender files with the state or political subdivision a duplicate within ten days after written notification is given to the sender by the state or political subdivision of its nonreceipt of such report, tax return, statement, remittance, or other document.

(2) If any report, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States post office of such registration, certification or certificate shall be considered

competent evidence that the report, claim, tax return, statement, remittance or other document was delivered to the addressee, and the date of registration, certification or certificate shall be deemed the postmarked date.

(3) If the date for filing any report, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday or legal holiday, the filing shall be considered timely if performed on the next business day.

[1967 c 222 § 1.]

Chapter 1.16 RCW GENERAL DEFINITIONS

Sections

1.16.020	"Fiscal biennium."
1.16.030	"Fiscal year"--School districts and other taxing districts.
1.16.040	"Folio."
1.16.050	"Legal holidays and legislatively recognized days."
1.16.060	"Month" or "months."
1.16.065	"Officer."
1.16.080	"Person"--Construction of "association," "unincorporated association," and "person, firm, or corporation" to include a limited liability company.

RCW 1.16.020 "Fiscal biennium."

The fiscal biennium of the state shall commence on the first day of July in each odd-numbered year and end on the thirtieth day of June of the next succeeding odd-numbered year. The fiscal biennium of those cities and towns which utilize a biennial budget shall commence on the first day of January in each odd-numbered year and end on the thirty-first day of December of the next succeeding even-numbered year.

[1985 c 175 § 2; 1953 c 184 § 2; 1923 c 86 § 1; RRS § 10927.]

Notes:

Biennial reports: RCW 43.01.035.

Municipal biennial budgets: Chapters 35.34 and 35A.34 RCW.

RCW 1.16.030 "Fiscal year"--School districts and other taxing districts.

August 31st shall end the fiscal year of school districts and December 31st of all other taxing districts.

[1975-'76 2nd ex.s. c 118 § 21; 1909 c 76 § 13; RRS § 9963.]

Notes:

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 1.16.040 "Folio."

The term "folio" when used as a measure for computing fees or compensation, shall be construed to mean one hundred words, counting every two figures necessarily used as a word. Any portion of a folio, when in the whole draft or paper there should not be a complete folio, and when there shall be an excess over the last folio exceeding a quarter, it shall be computed as a folio. The filing of a paper shall be construed to include the certificate of the same.

[Code 1881 § 2093; 1869 p 373 § 15; RRS § 500.]

RCW 1.16.050 "Legal holidays and legislatively recognized days."

The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday of February to be known as Presidents' Day and to be celebrated as the anniversary of the births of Abraham Lincoln and George Washington; the last Monday of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, to be known as Thanksgiving Day; the day immediately following Thanksgiving Day; and the twenty-fifth day of December, commonly called Christmas Day.

Employees of the state and its political subdivisions, except employees of school districts and except those nonclassified employees of institutions of higher education who hold appointments or are employed under contracts to perform services for periods of less than twelve consecutive months, shall be entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee of the state or its political subdivisions may select the day on which the employee desires to take the additional holiday provided for herein after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority, or in the case of local government by ordinance or resolution of the legislative authority.

If any of the above specified state legal holidays are also federal legal holidays but observed on different dates, only the state legal holidays shall be recognized as a paid legal holiday for employees of the state and its political subdivisions except that for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday, but in no case both, may be recognized as a paid legal holiday for employees.

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday.

Whenever any legal holiday falls upon a Saturday, the preceding Friday shall be the legal holiday.

Nothing in this section shall be construed to have the effect of adding or deleting the

number of paid holidays provided for in an agreement between employees and employers of political subdivisions of the state or as established by ordinance or resolution of the local government legislative authority.

The legislature declares that the twelfth day of October shall be recognized as Columbus Day but shall not be considered a legal holiday for any purposes.

The legislature declares that the ninth day of April shall be recognized as former prisoner of war recognition day but shall not be considered a legal holiday for any purposes.

The legislature declares that the twenty-sixth day of January shall be recognized as Washington army and air national guard day but shall not be considered a legal holiday for any purposes.

The legislature declares that the seventh day of August shall be recognized as purple heart recipient recognition day but shall not be considered a legal holiday for any purposes.

The legislature declares that the second Sunday in October be recognized as Washington state children's day but shall not be considered a legal holiday for any purposes.

The legislature declares that the sixteenth day of April shall be recognized as Mother Joseph day and the fourth day of September as Marcus Whitman day, but neither shall be considered legal holidays for any purpose.

The legislature declares that the seventh day of December be recognized as Pearl Harbor remembrance day but shall not be considered a legal holiday for any purpose.

[2000 c 60 § 1; 1999 c 26 § 1; 1993 c 129 § 2; 1991 sp.s. c 20 § 1; 1991 c 57 § 2; 1989 c 128 § 1; 1985 c 189 § 1; 1979 c 77 § 1; 1977 ex.s. c 111 § 1; 1975-'76 2nd ex.s. c 24 § 1; 1975 1st ex.s. c 194 § 1; 1973 2nd ex.s. c 1 § 1; 1969 c 11 § 1; 1955 c 20 § 1; 1927 c 51 § 1; RRS § 61. Prior: 1895 c 3 § 1; 1891 c 41 § 1; 1888 p 107 § 1.]

Notes:

Finding--1993 c 129: "The legislature finds that Washington's children are one of our most valuable assets, representing hope for the future. Children today are at risk for many things, including drug and alcohol abuse, child abuse, suicide, peer pressure, and the economic and educational challenges of a changing world. It is increasingly important for families, schools, health professionals, caregivers, and workers at state agencies charged with the protection and help of children to listen to them, to support and encourage them, and to help them build their dreams for the future.

To increase recognition of children's issues, a national children's day is celebrated in October, with ceremonies and activities devoted to children. Washington state focuses special attention on its children by establishing a Washington state children's day." [1993 c 129 § 1.]

Finding--Declaration--1991 c 57: "The legislature finds that the Washington army and air national guard comprise almost nine thousand dedicated men and women who serve the state and nation on a voluntary basis. The legislature also finds that the state of Washington benefits from that dedication by immediate access to well-prepared resources in time of natural disasters and public emergency. The national guard has consistently and frequently responded to state and local emergencies with people and equipment to provide enforcement assistance, medical services, and overall support to emergency management services.

The legislature further declares that an annual day of commemoration should be observed in honor of the achievements, sacrifices, and dedication of the men and women of the Washington army and air national guard." [1991 c 57 § 1.]

Court business on legal holidays: RCW 2.28.100, 2.28.110.

School holidays: RCW 28A.150.050.

RCW 1.16.060 "Month" or "months."

The word "month" or "months," whenever the same occurs in the statutes of this state now in force, or in statutes hereinafter enacted, or in any contract made in this state, shall be taken and construed to mean "calendar months."

[1891 c 23 § 1, part; Code 1881 § 759; 1877 p 333 § 1; RRS § 149.]

Notes:

Reviser's note: This section is a part of 1891 c 23 § 1. The introductory phrase of that section provides: "The following provisions relative to the construction of statutes shall be rules of construction and shall constitute a part of the code of procedure of this state:".

RCW 1.16.065 "Officer."

Whenever any term indicating an officer is used it shall be construed, when required, to mean any person authorized by law to discharge the duties of such officer.

[Code 1881 § 755; 1854 p 221 § 501; RRS § 147.]

Notes:

Reviser's note: This section was formerly a part of RCW 42.04.010. It first appeared in "An Act to regulate the practice and proceedings in civil actions" (1854 p 221 § 501), as part of chapter LIV, "Construction". It also appeared as Code of 1881 § 755 in chapter LXVII, "Of Construction", as part of the code of civil procedure. *Criminal code, officer defined: RCW 9A.04.110.*

RCW 1.16.080 "Person"--Construction of "association," "unincorporated association," and "person, firm, or corporation" to include a limited liability company.

(1) The term "person" may be construed to include the United States, this state, or any state or territory, or any public or private corporation or limited liability company, as well as an individual.

(2) Unless the context clearly indicates otherwise, the terms "association," "unincorporated association," and "person, firm, or corporation" or substantially identical terms shall, without limiting the application of any term to any other type of legal entity, be construed to include a limited liability company.

[1996 c 231 § 1; 1891 c 23 § 1, part; Code 1881 § 964; 1857 p 46 § 1; 1854 p 99 § 134; RRS § 146.]

Notes:

Reviser's note: This section is a part of 1891 c 23 § 1. The introductory phrase of that section provides: "The following provisions relative to the construction of statutes shall be rules of construction and shall constitute a part of the code of procedure of this state:".

Criminal proceedings, person defined: RCW 9A.04.110.

Declaratory judgments, person defined: RCW 7.24.130.

Eminent domain by cities, person defined: RCW 8.12.020.

Notice to alien property custodian, person defined: RCW 4.28.340.

Wrongful death, person defined: RCW 4.20.005.

**Chapter 1.20 RCW
GENERAL PROVISIONS**

Sections

1.20.010	State flag.
1.20.015	Display of national and state flags.
1.20.020	State tree.
1.20.025	State grass.
1.20.030	State flower.
1.20.035	State fruit.
1.20.040	State bird.
1.20.042	State fossil.
1.20.045	State fish.
1.20.047	State insect.
1.20.050	Standard time--Daylight saving time.
1.20.051	Daylight saving time.
1.20.060	Arbor day.
1.20.070	State song.
1.20.071	State song--Proceeds from sale.
1.20.073	State folk song.
1.20.075	State dance.
1.20.080	State seal.
1.20.090	State gem.
1.20.100	Diverse cultures and languages encouraged--State policy.
1.20.110	State tartan.
1.20.120	State arboretum.

Notes:

Design of state seal: State Constitution Art. 18 § 1.

State boundaries: State Constitution Art. 24 § 1 (Amendment 33).

RCW 1.20.010 State flag.

The official flag of the state of Washington shall be of dark green silk or bunting and shall bear in its center a reproduction of the seal of the state of Washington embroidered, printed, painted or stamped thereon. The edges of the flag may, or may not, be fringed. If a fringe is used the same shall be of gold or yellow color of the same shade as the seal. The dimensions of the flag may vary.

The secretary of state is authorized to provide the state flag to units of the armed forces, without charge therefor, as in his discretion he deems entitled thereto. The secretary of state is further authorized to sell the state flag to any citizen at a price to be determined by the secretary of state.

[1967 ex.s. c 65 § 2; 1925 ex.s. c 85 § 1; 1923 c 174 § 1; RRS § 10964-1, RRS vol. 11, p. 399.]

Notes:

Reviser's note: Same RRS number was also used for a section dealing with a different subject on page 110 of RRS vol. 11, pocket part.

RCW 1.20.015 Display of national and state flags.

The flag of the United States and the flag of the state shall be prominently installed, displayed and maintained in schools, court rooms and state buildings.

[1955 c 88 § 1.]

Notes:

Crimes relating to flags: Chapter 9.86 RCW.

Flag exercises in schools: RCW 28A.230.140.

RCW 1.20.020 State tree.

That certain evergreen tree known and described as the western hemlock (*Tsuga heterophylla*) is hereby designated as the official tree of the state of Washington.

[1947 c 191 § 1; Rem. Supp. 1947 § 10964-120.]

RCW 1.20.025 State grass.

Agropyron spicatum, the species of natural grass commonly called "bluebunch wheatgrass," is hereby designated as the official grass of the state of Washington.

[1989 c 354 § 62.]

Notes:

Severability--1989 c 354: See note following RCW 15.36.012.

RCW 1.20.030 State flower.

The native species, *Rhododendron macrophyllum*, is hereby designated as the official flower of the state of Washington.

[1959 c 29 § 1; 1949 c 18 § 1; Rem. Supp. 1949 § 10964-200.]

RCW 1.20.035 State fruit.

The official fruit of the state of Washington is the apple.

[1989 c 354 § 63.]

Notes:

Severability--1989 c 354: See note following RCW 15.36.012.

RCW 1.20.040 State bird.

The willow goldfinch is hereby designated as the official bird of the state of Washington.

[1951 c 249 § 1.]

RCW 1.20.042 State fossil.

The Columbian mammoth of North America, *Mammuthus columbi*, is hereby designated as the official fossil of the state of Washington.

[1998 c 129 § 2.]

Notes:

Legislative recognition--1998 c 129: "The legislature recognizes that the large, hairy prehistoric elephants of the extinct genus *Mammuthus* roamed the North American continent, including the Pacific Northwest, during the Pleistocene epoch (ice ages)." [1998 c 129 § 1.]

RCW 1.20.045 State fish.

The species of trout commonly called "steelhead trout" (*Salmo gairdnerii*) is hereby designated as the official fish of the state of Washington.

[1969 c 36 § 1.]

RCW 1.20.047 State insect.

The common green darner dragonfly, *Anax junius drury*, is hereby designated as the official insect of the state of Washington.

[1997 c 6 § 2.]

Notes:

Finding--1997 c 6: "The legislature finds that the common green darner dragonfly, *Anax junius drury*, can be found throughout Washington and is easily recognizable by its bright green head and thorax. The legislature further recognizes that the common green darner dragonfly, also known as the "mosquito hawk," is a beneficial contributor to our ecosystem." [1997 c 6 § 1.]

RCW 1.20.050 Standard time--Daylight saving time.

No county, city or other political subdivision of this state shall adopt any provision for the observance of daylight saving time, or any time other than standard, except pursuant to a gubernatorial proclamation declaring an emergency during a period of national war and authorizing such adoption, or unless other than standard time is established on a national basis: PROVIDED, That this section shall not apply to orders made by federal authorities in a local area entirely under federal control.

[1953 c 2 § 1 (Initiative Measure No. 181, approved November 4, 1952).]

RCW 1.20.051 Daylight saving time.

At two o'clock antemeridian Pacific Standard Time of the *last Sunday in April each year the time of the state of Washington shall be advanced one hour, and at two o'clock antemeridian Pacific Standard Time of the last Sunday in October in each year the time of the state of Washington shall, by the retarding of one hour, be returned to Pacific Standard Time.

[1963 c 14 § 1; 1961 c 3 § 1 (Initiative Measure No. 210, approved November 8, 1960).]

Notes:

***Reviser's note:** Federal law sets the day to advance time at the first Sunday in April (100 Stat. 764; 15 U.S.C. Sec. 260a).

RCW 1.20.060 Arbor day.

The second Wednesday in April of each year is designated as Arbor day.

[1957 c 220 § 1.]

RCW 1.20.070 State song.

The song, music and lyrics, "Washington My Home", composed by Helen Davis, is hereby designated as the official song of the state of Washington.

[1959 c 281 § 1.]

RCW 1.20.071 State song--Proceeds from sale.

All proceeds from the sale of the official song of the state as designated in RCW 1.20.070 shall be placed in the general fund.

[1973 1st ex.s. c 59 § 1; 1959 c 281 § 2.]

Notes:

Effective date--1973 1st ex.s. c 59: See note following RCW 43.79.420.

RCW 1.20.073 State folk song.

The legislature recognizes that winter recreational activities are part of the folk tradition of the state of Washington. Winter recreational activities serve to turn the darkness of a northwest winter into the dawn of renewed vitality. As the winter snows dissolve into the torrents of spring, the Columbia river is nourished. The Columbia river is the pride of the northwest and the unifying geographic element of the state. In order to celebrate the river which ties the winter recreation playground of snowcapped mountains and the Yakima, Snake, and the Klickitat rivers to the ocean so blue, the legislature declares that the official state folk song is "Roll On Columbia, Roll On," composed by Woody Guthrie.

[1987 c 526 § 4.]

RCW 1.20.075 State dance.

The square dance is designated as the official dance of the state of Washington.

[1979 ex.s. c 10 § 1.]

RCW 1.20.080 State seal.

The seal of the state of Washington shall be, a seal encircled with the words: "The Seal of the State of Washington," with the vignette of General George Washington as the central figure, and beneath the vignette the figures "1889" and shall be composed as appears in the illustration below:



[1967 ex.s. c 65 § 1.]

RCW 1.20.090 State gem.

Petrified wood is hereby designated as the official gem of the state of Washington.

[1975 c 8 § 1.]

RCW 1.20.100 Diverse cultures and languages encouraged--State policy.

The legislature finds that:

(1) Diverse ethnic and linguistic communities have contributed to the social and economic prosperity of Washington state;

(2) It is the welcomed responsibility and opportunity of this state to respect and facilitate the efforts of all cultural, ethnic, and linguistic segments of the population to become full participants in Washington communities;

(3) This state's economic well-being depends heavily on foreign trade and international exchange and more than one out of six jobs is directly linked to foreign trade and international exchange;

(4) If Washington is to prosper in foreign trade and international exchange, it must have citizens that are multilingual and multicultural;

(5) While recognizing the value of a multilingual background, the state also encourages all citizens to become proficient in English to facilitate full participation of all groups into society and to promote cross-communication between multilingual groups; and

(6) The multilingual nature of communication that currently exists in this state should be promoted to build trust and understanding among all of its citizens.

Therefore, it shall be the policy of the state of Washington to welcome and encourage the presence of diverse cultures and the use of diverse languages in business, government, and private affairs in this state.

[1989 c 236 § 1.]

Notes:

Construction--1989 c 236: "Nothing in section 1 of this act creates any right or cause of action or adds to any existing right or cause of action nor may it be relied upon to compel the establishment of any program or special entitlement." [1989 c 236 § 2.]

RCW 1.20.110 State tartan.

The Washington state tartan is hereby designated. The tartan shall have a pattern of colors, called a sett, that is made up of a green background with stripes of blue, white, yellow, red, and black. The secretary of state shall register the tartan with the Scottish Tartan Society, Comrie, Perthshire, Scotland.

[1991 c 62 § 1.]

RCW 1.20.120 State arboretum.

The Washington park arboretum is hereby designated as an official arboretum of the state of Washington.

[1995 c 82 § 2.]

Notes:

Findings--1995 c 82: "The legislature finds that the arboreta in this state act as living museums devoted to the display and conservation of woody plant species from around the world that can grow in the Pacific Northwest. Arboreta enhance public appreciation for the aesthetic diversity of temperate woody plants; conserve both natural and cultivated woody plant taxa to preserve their diversity for future appreciation; educate the public and students concerning urban landscape use and the natural biology of temperate woody plants; and cooperate with similar institutions in this region and around the world in achieving these common goals. The legislature further finds that arboreta are of increasing importance as world biodiversity declines.

The Washington park arboretum is a two hundred acre living museum that is managed cooperatively by the city of Seattle and the University of Washington. It is devoted to the display and conservation of collections of plants

from around the world which can grow in the Pacific Northwest. These plants are used for education, research, conservation, and a sense of public pleasure. The Washington park arboretum, the oldest center for botanical and gardening learning in the Pacific Northwest, is recognized as one of the two foremost collections of woody plants in the United States of America and enjoys an excellent international reputation. The legislature finds that it is fitting and appropriate to recognize the importance of the overall mission of the Washington park arboretum." [1995 c 82 § 1.]

Chapter 1.40 RCW STATE MEDAL OF MERIT

Sections

1.40.010	State medal of merit established.
1.40.020	Nominating committee created--Composition--Meeting--Rules.
1.40.030	Delegation of authority to make award.
1.40.040	Posthumous award.
1.40.050	Certain persons prohibited from receiving award.
1.40.060	Appearance of medal--Inscription.

RCW 1.40.010 State medal of merit established.

There is established a decoration of the state medal of merit with accompanying ribbons and appurtenances for award by the governor, in the name of the state, to any person who has been distinguished by exceptionally meritorious conduct in performing outstanding services to the people and state of Washington, upon the nomination of the governor's state medal of merit committee.

[1986 c 92 § 1.]

RCW 1.40.020 Nominating committee created--Composition--Meeting--Rules.

There is created the state medal of merit committee for nominating candidates for the award of the state medal of merit. The committee membership consists of the governor, president of the senate, speaker of the house of representatives, and the chief justice of the supreme court, or their designees. The secretary of state shall serve as a nonvoting ex officio member, and shall serve as secretary to the committee. The committee shall meet annually to consider candidates for nomination. The committee shall adopt rules establishing the qualifications for the state medal of merit, the protocol governing the decoration, and the appurtenances necessary to the implementation of this chapter.

[1986 c 92 § 2.]

RCW 1.40.030 Delegation of authority to make award.

The governor may delegate the awarding of the state medal of merit to the president of

the senate, speaker of the house of representatives, or the chief justice of the supreme court.

[1986 c 92 § 3.]

RCW 1.40.040 Posthumous award.

The state medal of merit may be awarded posthumously to be presented to such representative of the deceased as may be deemed appropriate by the governor or the designees specified in RCW 1.40.030.

[1986 c 92 § 4.]

RCW 1.40.050 Certain persons prohibited from receiving award.

The state medal of merit shall not be awarded to any elected official while in office or to any candidate for an elected office.

[1986 c 92 § 5.]

RCW 1.40.060 Appearance of medal--Inscription.

The decoration of the state medal of merit shall be of bronze and shall consist of the seal of the state of Washington, surrounded by a raised laurel wreath and suspended from a ring attached by a dark green ribbon. The reverse of the decoration within the raised laurel wreath shall be inscribed with the words: "For exceptionally meritorious conduct in performing outstanding services to the people and state of Washington."

[1986 c 92 § 6.]

Chapter 1.50 RCW
WASHINGTON GIFT OF LIFE AWARD
(Formerly: Washington gift of life medal)

Sections

1.50.005	Findings--Intent.
1.50.010	Definitions.
1.50.030	Washington gift of life award--Presentation.
1.50.040	Appearance of award--Inscription.

RCW 1.50.005 Findings--Intent.

The legislature finds that persons who donate organs help save the lives and promote the well-being of others in a manner that demonstrates the noblest side of human nature. Many families and friends of both the donors and the donees may want to remember the special act of

donation in a way that honors the memory of the donor and encourages donation by others in the future.

To recognize the special kindness of those who donate their organs, the legislature establishes the Washington gift of life award.

[1999 c 264 § 1; 1998 c 59 § 1.]

RCW 1.50.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Organ donor" means an individual who makes an anatomical gift as specified in RCW 68.50.530(1).

(2) "Organ procurement organization" means any accredited or certified organ or eye bank.

(3) "Person" means a person specified in RCW 68.50.550.

[1998 c 59 § 2.]

RCW 1.50.030 Washington gift of life award--Presentation.

The governor's office shall present the Washington gift of life award to six eligible families or persons per year under the following:

(1) The organ procurement organization may nominate the six individuals or persons eligible under this section to represent all those who have donated organs and may submit documentation supporting the eligibility of the individual or person to the governor's office. If more than one organ procurement organization is involved, they shall coordinate in harmony to designate by consensus the organ procurement organization among them to have primary administrative responsibility under this chapter.

(2) The governor's office shall present the awards on an annual basis in coordination with the organ procurement organization. Only one award may be presented to the family of an organ donor.

[1999 c 264 § 2; 1998 c 59 § 4.]

RCW 1.50.040 Appearance of award--Inscription.

The Washington gift of life award shall consist of the seal of the state of Washington and be inscribed with the words: "For the greatest act of kindness in donating organs to enhance the lives of others."

[1999 c 264 § 3; 1998 c 59 § 5.]

**Chapter 1.60 RCW
MEDAL OF VALOR**

Sections

1.60.010	Medal of valor.
1.60.020	Medal of valor committee.
1.60.030	Award presentation.
1.60.040	Posthumous award.
1.60.050	Hazardous professions excluded.
1.60.060	Appearance of medal and certificate.

RCW 1.60.010 Medal of valor.

There is established a decoration of the state medal of valor with accompanying certificate, ribbons, and appurtenances for award by the governor, in the name of the state, to any person who has saved, or attempted to save, the life of another at the risk of serious injury or death to himself or herself, upon the selection of the governor's state medal of valor committee.

[2000 c 224 § 1.]

RCW 1.60.020 Medal of valor committee.

There is created the state medal of valor committee for selecting honorees for the award of the state medal of valor. The committee membership consists of the governor, president of the senate, speaker of the house of representatives, and the chief justice of the supreme court, or their designees. The secretary of state shall serve as a nonvoting ex officio member, and shall serve as secretary to the committee. The committee shall meet annually to consider candidates for this award. Any individual may nominate any resident of this state for any act of valor covered by this section. The committee shall adopt rules establishing the qualifications for the state medal of valor, the protocol governing the decoration, the certificate, and appurtenances necessary to the implementation of this chapter.

[2000 c 224 § 2.]

RCW 1.60.030 Award presentation.

(1) The award will be presented by the governor of the state of Washington to the recipient only during a joint session of both houses of the legislature.

(2) If the governor is unable to present the award due to the disability or illness of the governor, the governor may delegate the presenting of the award to the president of the senate, the speaker of the house of representatives, or the chief justice of the supreme court.

[2000 c 224 § 3.]

RCW 1.60.040 Posthumous award.

The state medal of valor may be awarded posthumously to be presented to such representative of the deceased as may be deemed appropriate by the committee.

[2000 c 224 § 4.]

RCW 1.60.050 Hazardous professions excluded.

The state medal of valor will not be awarded to any individual who is acting as a result of service given by any branch of law enforcement, fire fighting, rescue, or other hazardous profession where the individual is employed by a government entity within the state of Washington.

[2000 c 224 § 5.]

RCW 1.60.060 Appearance of medal and certificate.

(1) The decoration of the state medal of valor shall be of .999 pure silver and shall consist of the seal of the state of Washington, surrounded by a raised laurel wreath and suspended from a silver bar device inscribed "For Valor" which is suspended from a ring attached by a dark green ribbon, bordered by silver. The reverse of the decoration within the raised laurel wreath shall be inscribed with the recipient's name and the words: "For exceptionally valorous service, given in the act of saving the life of another."

(2) The certificate accompanying the medal will prominently display: (a) The title, "Washington State Medal of Valor"; (b) the recipient's name; and (c) the phrase, "For exceptionally valorous service, given in the act of saving the life of another." A seven-line citation will also be included on the certificate.

[2000 c 224 § 6.]

**Title 2 RCW
COURTS OF RECORD**

Chapters

- 2.04 Supreme court.**
- 2.06 Court of appeals.**
- 2.08 Superior courts.**
- 2.10 Judicial retirement system.**
- 2.12 Retirement of judges--Retirement system.**
- 2.14 Retirement of judges--Supplemental retirement.**
- 2.16 Association of superior court judges.**
- 2.20 Magistrates.**

- 2.24 Court commissioners and referees.**
- 2.28 Powers of courts and general provisions.**
- 2.32 Court clerks, reporters, and bailiffs.**
- 2.36 Juries.**
- 2.40 Witnesses.**
- 2.42 Interpreters in legal proceedings.**
- 2.43 Interpreters for non-English-speaking persons.**
- 2.44 Attorneys at law.**
- 2.48 State bar act.**
- 2.50 Legal aid.**
- 2.56 Administrator for the courts.**
- 2.60 Federal court local law certificate procedure act.**
- 2.64 Commission on judicial conduct.**
- 2.68 Judicial information system.**
- 2.70 Office of public defense.**

Notes:

Family court: Chapter 26.12 RCW.

Judiciary and judicial power: State Constitution Art. 4.

Professional service corporations, application to attorneys: Chapter 18.100 RCW.

Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.

Records, receipts and exhibits of superior court, destruction, reproduction: RCW 36.23.065, 36.23.067, 36.23.070.

Chapter 2.04 RCW SUPREME COURT

Sections

- 2.04.010 Jurisdiction.
- 2.04.020 Court of record--General powers.
- 2.04.030 Supreme court and court of appeals--When open.
- 2.04.031 Court facilities.
- 2.04.040 Effect of adjournments.
- 2.04.050 Style of process.
- 2.04.070 Number of judges.
- 2.04.071 Election--Term of office.
- 2.04.080 Oath of office.
- 2.04.092 Salary of justices.
- 2.04.100 Vacancy, how filled.
- 2.04.110 Justices, judges to wear gowns.
- 2.04.150 Apportionment of business--En banc hearings.
- 2.04.180 Rules of practice and forms of process in supreme court.
- 2.04.190 Rules of pleading, practice, and procedure generally.
- 2.04.200 Effect of rules upon statutes.

2.04.210	Supplementary superior court rules.
2.04.215	Adoption of rules for settlement conferences in civil cases.
2.04.220	Effect of supreme court judgments.
2.04.230	Report to governor.
2.04.240	Judge pro tempore--Declaration of policy--Appointment--Oath of office.
2.04.250	Judge pro tempore--Remuneration.

Notes:

Commissioner of the supreme court: Rules of court: SAR 15.

Judiciary and judicial power: State Constitution Art. 4.

Publication of opinions: Chapter 2.32 RCW.

RCW 2.04.010 Jurisdiction.

The supreme court shall have original jurisdiction in habeas corpus and quo warranto and mandamus as to all state officers, and appellate jurisdiction in all actions and proceedings excepting that its appellate jurisdiction shall not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy or the value of the property does not exceed the sum of two hundred dollars, unless the action involves the legality of a tax, impost, assessment, toll, municipal fine, or the validity of a statute. The supreme court shall also have power to issue writs of mandamus, review, prohibition, habeas corpus, certiorari, and all other writs necessary and proper to the complete exercise of its appellate and revisory jurisdiction. Each of the judges shall have power to issue writs of habeas corpus to any part of the state, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or before the supreme court, or before any superior court of the state, or any judge thereof.

[1890 p 322 § 6; RRS § 1.]

Notes:

Rules of court: Cf. RAP 4.2, 4.3, 18.22; Titles 2 and 16 RAP.

Jurisdiction of supreme court: State Constitution Art. 4 § 4.

RCW 2.04.020 Court of record--General powers.

The supreme court shall be a court of record, and shall be vested with all power and authority necessary to carry into complete execution all its judgments, decrees and determinations in all matters within its jurisdiction, according to the rules and principles of the common law, and the Constitution and laws of this state.

[1890 p 323 § 10; RRS § 2.]

Notes:

Courts of record: State Constitution Art. 4 § 11.

Judicial power, where vested: State Constitution Art. 4 § 1.

RCW 2.04.030 Supreme court and court of appeals--When open.

The supreme court and the court of appeals shall always be open for the transaction of business except on Saturdays, Sundays, and legal holidays designated by the legislature.

[1971 ex.s. c 107 § 1; 1909 p 36 § 7; RRS § 4. Prior: 1890 p 322 § 4, part.]

Notes:

Rules of court: SAR-Rule 4.

Legal holidays: RCW 1.16.050.

RCW 2.04.031 Court facilities.

If proper rooms in which to hold the court, and for the accommodation of the officers thereof, are not provided by the state, together with attendants, furniture, fuel, lights, record books and stationery, suitable and sufficient for the transaction of business, the court, or any three justices thereof, may direct the clerk of the supreme court to provide the same; and the expense thereof, certified by any three justices to be correct, shall be paid out of the state treasury out of any funds therein not otherwise appropriated. Such moneys shall be subject to the order of the clerk of the supreme court, and be by him disbursed on proper vouchers, and accounted for by him in annual settlements with the governor.

[1973 c 106 § 1; 1955 c 38 § 1; 1890 p 322 § 4; RRS § 3.]

RCW 2.04.040 Effect of adjournments.

Adjournments from day to day, or from time to time, are to be construed as recesses in the sessions, and shall not prevent the court from sitting at any time.

[1890 p 323 § 7; RRS § 5.]

Notes:

Rules of court: SAR-Rule 5.

RCW 2.04.050 Style of process.

Its process shall run in the name of the "State of Washington," bear test in the name of the chief justice, be signed by the clerk of the court, dated when issued, sealed with the seal of the court, and made returnable according to law, or such rule or orders as may be prescribed by the court.

[1890 p 323 § 11; RRS § 6.]

Notes:

Rules of court: SAR-Rule 2.

RCW 2.04.070 Number of judges.

The supreme court, from and after February 26, 1909, shall consist of nine judges.

[1909 c 24 § 1; RRS § 11036. FORMER PARTS OF SECTION: 1911 c 119 § 1; 1909 c 24 § 2; RRS § 11039; now codified in RCW 2.04.071. Prior: (i) 1905 c 5 § 1; 1890 p 321 § 1; RRS § 11035. (ii) 1893 c 5 § 1; RRS 11037. (iii) 1905 c 5 § 3; RRS § 11038.]

RCW 2.04.071 Election--Term of office.

At the next general election, and at each biennial general election thereafter, there shall be elected three justices of the supreme court, to hold for the full term of six years, and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election.

[1971 c 81 § 1; 1911 c 119 § 1; 1909 c 24 § 2; RRS § 11039. Formerly RCW 2.04.070, part.]

Notes:

Election and terms, supreme court judges: State Constitution Art. 4 § 3.

Eligibility of judges: State Constitution Art. 4 § 17.

Forfeiture of office for absence: State Constitution Art. 4 § 8.

Impeachment: State Constitution Art. 5.

Judge may not practice law: State Constitution Art. 4 § 19.

Judges ineligible to other office: State Constitution Art. 4 § 15.

RCW 2.04.080 Oath of office.

The several justices of the supreme court, before entering upon the duties of their office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully and impartially discharge the duties of the office of judge of the supreme court of the State of Washington to the best of my ability." Which oath or affirmation may be administered by any person authorized to administer oaths, a certificate whereof shall be affixed thereto by the person administering the oath. And the oath or affirmation so certified shall be filed in the office of the secretary of state.

[1971 c 81 § 2; 1890 p 324 § 14; RRS § 11043.]

Notes:

Oath of judges: State Constitution Art. 4 § 28.

RCW 2.04.092 Salary of justices.

The annual salary of justices of the supreme court shall be established by the Washington citizens' commission on salaries for elected officials. No salary warrant may be issued to a justice of the supreme court until the justice files with the state treasurer an affidavit that no matter referred to the justice for opinion or decision has been uncompleted or undecided for more than six months.

[1986 c 155 § 4; 1984 c 258 § 401.]

Notes:

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Salaries of judicial officers: State Constitution Art. 4 §§ 13, 14; Art. 28 § 1; Art. 30 § 1.

Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

RCW 2.04.100 Vacancy, how filled.

If a vacancy occurs in the office of a justice of the supreme court, the governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general election, and the justice so elected shall hold the office for the remainder of the unexpired term.

[1971 c 81 § 3; 1955 c 38 § 2. Prior: 1937 c 15 § 1; 1893 c 5 § 2; 1890 p 321 § 3; RRS § 11044.]

RCW 2.04.110 Justices, judges to wear gowns.

Each of the justices of the supreme court, judges of the court of appeals, and the judges of the superior courts shall in open court during the presentation of causes, before them, appear in and wear gowns, made of black silk, of the usual style of judicial gowns.

[1971 c 81 § 4; 1909 c 206 § 1; RRS § 11054. Formerly RCW 2.04.110, 2.08.130.]

RCW 2.04.150 Apportionment of business--En banc hearings.

The chief justice shall from time to time apportion the business to the departments, and may, in his discretion, before a decision is pronounced, order any cause pending before the court to be heard and determined by the court en banc. When a cause has been allotted to one of the departments and a decision pronounced therein, the chief justice, together with any two associate judges, may order such cause to be heard and decided by the court en banc. Any four judges may, either before or after decision by a department, order a cause to be heard en banc.

[1909 c 24 § 4, part; RRS § 9.]

Notes:

Rules of court: SAR 4.

RCW 2.04.180 Rules of practice and forms of process in supreme court.

The supreme court may from time to time institute such rules of practice and prescribe such forms of process to be used in such court and in the court en banc and each of its departments, and for the keeping of the dockets, records and proceedings, and for the regulation of such court, including the court en banc and in departments, as may be deemed most conducive

to the due administration of justice.

[1909 c 24 § 8; 1890 p 323 § 12; RRS § 13.]

Notes:

Rules of court: Cf. Title 1 RAP and RAP 18.10.

RCW 2.04.190 Rules of pleading, practice, and procedure generally.

The supreme court shall have the power to prescribe, from time to time, the forms of writs and all other process, the mode and manner of framing and filing proceedings and pleadings; of giving notice and serving writs and process of all kinds; of taking and obtaining evidence; of drawing up, entering and enrolling orders and judgments; and generally to regulate and prescribe by rule the forms for and the kind and character of the entire pleading, practice and procedure to be used in all suits, actions, appeals and proceedings of whatever nature by the supreme court, superior courts, and district courts of the state. In prescribing such rules the supreme court shall have regard to the simplification of the system of pleading, practice and procedure in said courts to promote the speedy determination of litigation on the merits.

[1987 c 202 § 101; 1925 ex.s. c 118 § 1; RRS § 13-1.]

Notes:

Rules of court: Cf. Title 1 RAP.

Intent--1987 c 202: "The legislature intends to:

(1) Make the statutes of the state consistent with rules adopted by the supreme court governing district courts; and

(2) Delete or modify archaic, outdated, and superseded language and nomenclature in statutes related to the district courts." [1987 c 202 § 1.]

Court of appeals--Rules of administration and procedure: RCW 2.06.030.

RCW 2.04.200 Effect of rules upon statutes.

When and as the rules of courts herein authorized shall be promulgated all laws in conflict therewith shall be and become of no further force or effect.

[1925 ex.s. c 118 § 2; RRS § 13-2.]

Notes:

Rules of court: Cf. CR 81(b), RAP 1.1(g).

RCW 2.04.210 Supplementary superior court rules.

RCW 2.04.190 through 2.04.210 shall not be construed to deprive the superior courts of power to establish rules for their government supplementary to and not in conflict with the rules prescribed by the supreme court.

[1925 ex.s. c 118 § 3; RRS § 13-3.]

Notes:

Rules of court: Cf. CR 83(a); Cf. RAP 1.1.

Rules for government of superior courts: RCW 2.08.230, 2.16.040.

RCW 2.04.215 Adoption of rules for settlement conferences in civil cases.

By January 1, 1982, the supreme court shall adopt rules for settlement conferences in civil cases in such superior courts and the court of appeals which are amenable to the settlement conference process.

[1981 c 331 § 5.]

Notes:

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

Adoption of rules for discovery in civil cases in courts of limited jurisdiction: RCW 3.02.050.

RCW 2.04.220 Effect of supreme court judgments.

The judgments and decrees of the supreme court shall be final and conclusive upon all the parties properly before the court.

[1890 p 323 § 8; RRS § 14.]

Notes:

Rules of court: SAR-Rule 3.

RCW 2.04.230 Report to governor.

The judges of the supreme court shall, on or before the first day of January in each year, report in writing to the governor such defects and omissions in the laws as they may believe to exist.

[1890 p 324 § 16; RRS § 11042.]

Notes:

Annual report to governor: State Constitution Art. 4 § 25.

Court of appeals--Reporting defects or omissions in the laws: RCW 2.06.110.

RCW 2.04.240 Judge pro tempore--Declaration of policy--Appointment--Oath of office.

(1) DECLARATION OF POLICY. Whenever necessary for the prompt and orderly administration of justice, as authorized and empowered by Article IV, section 2(a), Amendment 38, of the state Constitution, a majority of the supreme court may appoint any regularly elected and qualified judge of the court of appeals or the superior court or any retired judge of a court of record in this state to serve as judge pro tempore of the supreme court.

(2) If the term of a justice of the supreme court expires with cases or other judicial business pending, the chief justice of the supreme court may appoint the justice to serve as judge pro tempore of the supreme court, whenever necessary for the prompt and orderly administration of justice. No justice may be appointed under this subsection more than one time and no appointment may exceed sixty days.

(3) Before entering upon his or her duties as judge pro tempore of the supreme court, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution.

[1997 c 88 § 1; 1982 c 72 § 1; 1963 c 40 § 1.]

Notes:

Rules of court: SAR 21.

RCW 2.04.250 Judge pro tempore--Remuneration.

(1) A judge of the court of appeals or of the superior court serving as a judge pro tempore of the supreme court as provided in RCW 2.04.240 shall receive, in addition to his or her regular salary, reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060.

(2) A retired judge of a court of record in this state serving as a judge pro tempore of the supreme court as provided in RCW 2.04.240 shall receive, in addition to any retirement pay he or she may be receiving, the following compensation and expenses:

(a) Reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060.

(b) During the period of his or her service as a judge pro tempore, an amount equal to the salary of a regularly elected judge of the court in which he or she last served for such period diminished by the amount of retirement pay accrued to him or her for such period.

(3) Whenever a superior court judge is appointed to serve as judge pro tempore of the supreme court and a visiting judge is assigned to replace him or her, subsistence, lodging, and travel expenses incurred by such visiting judge as a result of such assignment shall be paid in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060, upon application of such judge from the appropriation of the supreme court.

(4) A justice appointed as judge pro tempore of the supreme court under RCW 2.04.240(2) shall continue to receive compensation in accordance with the rates applicable to the justice immediately before the expiration of the term.

(5) The provisions of RCW 2.04.240(1) and 2.04.250 (1) through (3) shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension system by any judge or his or her dependents.

[1997 c 88 § 2; 1982 c 72 § 2; 1981 c 186 § 1; 1963 c 40 § 2.]

Chapter 2.06 RCW COURT OF APPEALS

Sections

2.06.010	Court of appeals established--Definitions.
2.06.020	Divisions--Locations--Judges enumerated--Districts.
2.06.022	Effective date for Snohomish county judicial position--Initial term.
2.06.024	Effective date for Pierce county judicial position--Initial term.
2.06.030	General powers and authority--Transfers of cases--Appellate jurisdiction, exceptions--Appeals.
2.06.040	Panels--Decisions, publication as opinions, when--Sessions--Rules.
2.06.045	When open for transaction of business.
2.06.050	Qualifications of judges.
2.06.062	Salary of judges.
2.06.070	Original appointments--Election of judges--Terms of office.
2.06.075	Appointments to positions created by 1977 ex.s. c 49 § 1--Election--Terms of office.
2.06.076	Appointments to positions created by 1993 c 420 § 1--Election--Appointment--Terms of office.
2.06.080	Vacancy, how filled.
2.06.085	Oath of judges.
2.06.090	Practice of law, seeking nonjudicial elective office prohibited.
2.06.100	Retirement.
2.06.110	Reporting defects or omissions in the laws.
2.06.150	Judge pro tempore--Appointment--Oath of office.
2.06.160	Judge pro tempore--Remuneration.

Notes:

Commission on supreme court reports: RCW 2.32.160.

*Commissioners of the court of appeals: **Rules of court:** CAR 16.*

Court of appeals reports: RCW 2.32.160, 40.04.030, 40.04.100, and 40.04.110.

RCW 2.06.010 Court of appeals established--Definitions.

There is hereby established a court of appeals as a court of record. For the purpose of RCW 2.06.010 through 2.06.100 the following terms shall have the following meanings:

- (1) "Rules" means rules of the supreme court.
- (2) "Chief justice" means chief justice of the supreme court.
- (3) "Court" means court of appeals.
- (4) "Judge" means judge of the court of appeals.
- (5) "Division" means a division of the court of appeals.
- (6) "District" means a geographic subdivision of a division from which judges of the court of appeals are elected.
- (7) "General election" means the biennial election at which members of the house of representatives are elected.

[1969 ex.s. c 221 § 1.]

RCW 2.06.020 Divisions--Locations--Judges enumerated--Districts.

The court shall have three divisions, one of which shall be headquartered in Seattle, one of which shall be headquartered in Spokane, and one of which shall be headquartered in Tacoma:

(1) The first division shall have twelve judges from three districts, as follows:

(a) District 1 shall consist of King county and shall have eight judges;

(b) District 2 shall consist of Snohomish county and shall have two judges; and

(c) District 3 shall consist of Island, San Juan, Skagit and Whatcom counties and shall have two judges.

(2) The second division shall have seven judges from the following districts:

(a) District 1 shall consist of Pierce county and shall have three judges;

(b) District 2 shall consist of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and Thurston counties and shall have two judges;

(c) District 3 shall consist of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum counties and shall have two judges.

(3) The third division shall have five judges from the following districts:

(a) District 1 shall consist of Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens counties and shall have two judges;

(b) District 2 shall consist of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla, and Whitman counties and shall have one judge;

(c) District 3 shall consist of Chelan, Douglas, Kittitas, Klickitat and Yakima counties and shall have two judges.

[1999 c 75 § 1; 1993 c 420 § 1; 1989 c 328 § 10; 1977 ex.s. c 49 § 1; 1969 ex.s. c 221 § 2.]

Notes:

Rules of court: *Cf. RAP 4.1(b).*

Effective date--1993 c 420: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 420 § 3.]

Intent--1989 c 328: See note following RCW 2.08.061.

Appointments to positions created by the amendment to this section by 1977 ex.s. c 49 § 1: RCW 2.06.075.

RCW 2.06.022 Effective date for Snohomish county judicial position--Initial term.

The new judicial position for the first division, district 2, Snohomish county created pursuant to the 1989 amendment to RCW 2.06.020 shall become effective January 1, 1990, and shall be filled by gubernatorial appointment.

The person appointed by the governor shall hold office until the general election to be held in November 1990. At the general election, the judge appointed shall be entitled to run for a term of six years or until the second Monday in January 1997, and until a successor is elected and qualified. Thereafter, the judge shall be elected for a term of six years and until a successor is elected and qualified, commencing with the second Monday in January succeeding the election.

[1989 c 328 § 11.]

Notes:

Intent--1989 c 328: See note following RCW 2.08.061.

RCW 2.06.024 Effective date for Pierce county judicial position--Initial term.

The new judicial position for the second division, district 1, Pierce county, created pursuant to the 1999 amendment to RCW 2.06.020 shall become effective July 1, 2000, and shall be filled by gubernatorial appointment.

The person appointed by the governor shall hold office until the general election to be held in November 2000. At the general election, the judge appointed shall be entitled to run for a term of six years or until the second Monday in January 2007, and until a successor is elected and qualified. Thereafter, the judge shall be elected for a term of six years and until a successor is elected and qualified, commencing with the second Monday in January succeeding the election.

[1999 c 75 § 2.]

RCW 2.06.030 General powers and authority--Transfers of cases--Appellate jurisdiction, exceptions--Appeals.

The administration and procedures of the court shall be as provided by rules of the supreme court. The court shall be vested with all power and authority, not inconsistent with said rules, necessary to carry into complete execution all of its judgments, decrees and determinations in all matters within its jurisdiction, according to the rules and principles of the common law and the Constitution and laws of this state.

For the prompt and orderly administration of justice, the supreme court may (1) transfer to the appropriate division of the court for decision a case or appeal pending before the supreme court; or (2) transfer to the supreme court for decision a case or appeal pending in a division of the court.

Subject to the provisions of this section, the court shall have exclusive appellate jurisdiction in all cases except:

- (a) cases of quo warranto, prohibition, injunction or mandamus directed to state officials;
 - (b) criminal cases where the death penalty has been decreed;
 - (c) cases where the validity of all or any portion of a statute, ordinance, tax, impost, assessment or toll is drawn into question on the grounds of repugnancy to the Constitution of the United States or of the state of Washington, or to a statute or treaty of the United States, and the superior court has held against its validity;
 - (d) cases involving fundamental and urgent issues of broad public import requiring prompt and ultimate determination; and
 - (e) cases involving substantive issues on which there is a direct conflict among prevailing decisions of panels of the court or between decisions of the supreme court;
- all of which shall be appealed directly to the supreme court: PROVIDED, That whenever a

majority of the court before which an appeal is pending, but before a hearing thereon, is in doubt as to whether such appeal is within the categories set forth in subsection (d) or (e) of this section, the cause shall be certified to the supreme court for such determination.

The appellate jurisdiction of the court of appeals does not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy, or the value of the property does not exceed the sum of two hundred dollars.

The court shall have appellate jurisdiction over review of final decisions of administrative agencies certified by the superior court pursuant to RCW 34.05.518.

Appeals from the court to the supreme court shall be only at the discretion of the supreme court upon the filing of a petition for review. No case, appeal or petition for a writ filed in the supreme court or the court shall be dismissed for the reason that it was not filed in the proper court, but it shall be transferred to the proper court.

[1980 c 76 § 3; 1979 c 102 § 1; 1969 ex.s. c 221 § 3.]

Notes:

Rules of court: *Cf. Titles 1 and 4 RAP, RAP 18.22.*

Severability--1979 c 102: See note following RCW 3.66.020.

RCW 2.06.040 Panels--Decisions, publication as opinions, when--Sessions--Rules.

The court shall sit in panels of three judges and decisions shall be rendered by not less than a majority of the panel. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published. Panels in the first division shall be comprised of such judges as the chief judge thereof shall from time to time direct. Judges of the respective divisions may sit in other divisions and causes may be transferred between divisions, as directed by written order of the chief justice. The court may hold sessions in cities as may be designated by rule.

No judge of the court shall be entitled to per diem or mileage for services performed at either his legal residence or the headquarters of the division of the court of which he is a member.

The court may establish rules supplementary to and not in conflict with rules of the supreme court.

[1987 c 43 § 1; 1984 c 258 § 91; 1971 c 41 § 1; 1969 ex.s. c 221 § 4.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 2.06.045 When open for transaction of business.

See RCW 2.04.030.

RCW 2.06.050 Qualifications of judges.

A judge of the court shall be:

(1) Admitted to the practice of law in the courts of this state not less than five years prior to taking office.

(2) A resident for not less than one year at the time of appointment or initial election in the district for which his position was created.

[1969 ex.s. c 221 § 5.]

RCW 2.06.062 Salary of judges.

The annual salary of the judges of the court of appeals shall be established by the Washington citizens' commission on salaries for elected officials. No salary warrant may be issued to any judge until the judge files with the state treasurer an affidavit that no matter referred to the judge for opinion or decision has been uncompleted for more than six months.

[1986 c 155 § 5; 1984 c 258 § 402.]

Notes:

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

RCW 2.06.070 Original appointments--Election of judges--Terms of office.

Upon the taking effect of RCW 2.06.010 through 2.06.100, the governor shall appoint the judges of the court of appeals for each district in the numbers provided in RCW 2.06.020, who shall hold office until the second Monday in January of the year following the first state general election following the effective date of this act. In making the original appointments the governor shall take into consideration such factors as: Personal character; intellect; ability; diversity of background of experience in the practice of the law; diversity of political philosophy; diversity of educational experience; and diversity of affiliation with social and economic groups, for the purpose of establishing a balanced appellate court with the highest quality of personnel. At the first state general election after the effective date of this act there shall be elected from each district the number of judges provided for in RCW 2.06.020. Upon taking office the judges of each division elected shall come together at the direction of the chief justice and be divided by lot into three equal groups; those of the first group shall hold office until the second Monday in January of 1973, those of the second group shall hold office until the second Monday in January of 1975, and those of the third group shall hold office until the second Monday in January of 1977, and until their successors are elected and qualified. Thereafter, judges shall be elected for the full term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election: PROVIDED, HOWEVER, That if the governor shall make appointments to the appellate court from membership of the superior court,

the governor shall, in making appointments filling vacancies created in the superior courts by such action, take into consideration such factors as: Personal character; intellect; ability; diversity of background of experience in the practice of the law; diversity of political philosophy; diversity of educational experience; and diversity of affiliation with social and economic groups, for the purpose of maintaining a balanced superior court with the highest quality of personnel.

[1969 ex.s. c 221 § 7.]

Notes:

Effective date--1969 ex.s. c 221: The effective date of this act [1969 ex.s. c 221] is May 8, 1969, see preface to 1969 session laws.

RCW 2.06.075 Appointments to positions created by 1977 ex.s. c 49 §

1--Election--Terms of office.

The new judicial positions created pursuant to section 1, chapter 49, Laws of 1977 ex. sess. shall become effective January 1, 1978 and shall be filled by gubernatorial appointment as follows:

- (1) Two shall be appointed to the first division, District 1, King county;
- (2) One shall be appointed to the second division, District 1, Pierce county; and
- (3) One shall be appointed to the third division, District 1, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens counties.

The persons appointed by the governor shall hold office until the general election to be held in November 1978. Upon taking office the two newly appointed judges in Division 1 shall determine by lot the length of term they will be entitled to run for in the general election of 1977. One term will be for one year or until the second Monday in January 1980, and the other for three years or until the second Monday in January 1982, and until their successors are elected and qualified. Thereafter judges shall be elected for a term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election. At the general election to be held in November 1978, the judges appointed in Division 2 and Division 3 shall be entitled to run for a term of six years or until the second Monday in January 1985, and until their successors are elected and qualified. Thereafter judges shall be elected for a term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election.

[1977 ex.s. c 49 § 3.]

RCW 2.06.076 Appointments to positions created by 1993 c 420 §

1--Election--Appointment--Terms of office.

(1) Any judicial position created by *section 1, chapter 420, Laws of 1993 shall be effective only if that position is specifically funded and is referenced by division and district in an omnibus appropriations act.

(2)(a) The full term of office for the judicial positions authorized pursuant to chapter 420, Laws of 1993 shall be six years.

(b) The authorized judicial positions shall be filled at the general election in the November immediately preceding the beginning of the full term except as provided in (d) and (e) of this subsection.

(c) The six-year terms shall be staggered as follows: In the first division, the initial full terms of six years for the two positions in district 1 shall begin the second Monday in January following the general election held in November 2000. If the effective date for the judicial positions are later than the deadline to include it in the November 2000 election, the initial full term shall begin the second Monday in January following the general election held in November 2006.

(d) Upon becoming effective pursuant to subsection (1) of this section, the governor shall appoint judges to the additional judicial positions authorized in section 1, chapter 420, Laws of 1993. The appointed judges shall hold office until the second Monday in January following the general election following the effective date of the position. The appointed judges and other judicial candidates are entitled to run for the judicial position at the general election following appointment.

(e) The initial election for these positions shall be held in November following the effective date of the position. If the initial election of a newly authorized position is not held on a date which corresponds to the beginning of a full term as specified in (c) of this subsection, the election shall be for a partial term.

[1998 c 26 § 1; 1993 c 420 § 2.]

Notes:

***Reviser's note:** Section 1, chapter 420, Laws of 1993 was not referenced in a 1993 omnibus appropriations act.

Effective date--1993 c 420: See note following RCW 2.06.020.

RCW 2.06.080 Vacancy, how filled.

If a vacancy occurs in the office of a judge of the court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election and the judge so elected shall hold the office for the remainder of the unexpired term.

[1969 ex.s. c 221 § 8.]

RCW 2.06.085 Oath of judges.

The several judges of the court of appeals, before entering upon the duties of their office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully and impartially discharge the duties of the office of judge of the court of appeals of the State of Washington to the best of my ability." Which oath or affirmation may be administered by any person authorized to administer oaths, a certificate whereof shall be affixed thereto by the person administering the oath. And the oath or

affirmation so certified shall be filed in the office of the secretary of state.

[1971 c 81 § 182.]

RCW 2.06.090 Practice of law, seeking nonjudicial elective office prohibited.

No judge, while in office, shall engage in the practice of law. No judge shall run for elective office other than a judicial office during the term for which he was elected.

[1969 ex.s. c 221 § 9.]

RCW 2.06.100 Retirement.

Judges shall retire at the age, and under the conditions and with the same retirement benefits as specified by law for the retirement of justices of the supreme court.

[1969 ex.s. c 221 § 10.]

RCW 2.06.110 Reporting defects or omissions in the laws.

Court of appeals judges shall, on or before the first day of November in each year, report in writing to the justices of the supreme court, such defects and omissions in the laws as their experience may suggest.

[1971 ex.s. c 107 § 6.]

RCW 2.06.150 Judge pro tempore--Appointment--Oath of office.

(1) Whenever necessary for the prompt and orderly administration of justice, the chief justice of the supreme court of the state of Washington may appoint any regularly elected and qualified judge of the superior court or any retired judge of a court of record in this state to serve as judge pro tempore of the court of appeals: PROVIDED, HOWEVER, That no judge pro tempore appointed to serve on the court of appeals may serve more than ninety days in any one year.

(2) If the term of a judge of the court of appeals expires with cases or other judicial business pending, the chief justice of the supreme court of the state of Washington, upon the recommendation of the chief presiding judge of the court of appeals, may appoint the judge to serve as judge pro tempore of the court of appeals, whenever necessary for the prompt and orderly administration of justice. No judge may be appointed under this subsection more than one time and no appointment may exceed sixty days.

(3) Before entering upon his or her duties as judge pro tempore of the court of appeals, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution.

[1997 c 88 § 3; 1977 ex.s. c 49 § 2; 1973 c 114 § 1.]

Notes:

Judge pro tempore appointments: RCW 2.56.170.

RCW 2.06.160 Judge pro tempore--Remuneration.

(1) A judge of a court of record serving as a judge pro tempore of the court of appeals, as provided in RCW 2.06.150, shall receive, in addition to his or her regular salary, reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060.

(2) A retired judge of a court of record in this state serving as a judge pro tempore of the court of appeals, as provided in RCW 2.06.150, shall receive, in addition to any retirement pay he or she may be receiving, the following compensation and expenses:

(a) Reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060; and

(b) During the period of his or her service as judge pro tempore, he or she shall receive as compensation sixty percent of one-two hundred and fiftieth of the annual salary of a court of appeals judge for each day of service: PROVIDED, HOWEVER, That the total amount of combined compensation received as salary and retirement by any judge in any calendar year shall not exceed the yearly salary of a full time judge.

(3) Whenever a judge of a court of record is appointed to serve as judge pro tempore of the court of appeals and a visiting judge is assigned to replace him or her, subsistence, lodging, and travel expenses incurred by such visiting judge as a result of such assignment shall be paid in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060, upon application of such judge from the appropriation of the court of appeals.

(4) A judge appointed as judge pro tempore of the court of appeals under RCW 2.06.150(2) shall continue to receive compensation in accordance with the rates applicable to the judge immediately before the expiration of the term.

(5) The provisions of RCW 2.06.150(1) and 2.06.160 (1) through (3) shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension system by any judge or his or her dependents.

[1997 c 88 § 4; 1981 c 186 § 2; 1973 c 114 § 2.]

**Chapter 2.08 RCW
SUPERIOR COURTS**

Sections	
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2.08.020	Appellate jurisdiction.
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- 2.08.060 Judges--Election.
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- 2.08.210 Extent of court's process--Venue.
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Notes:

Basic juvenile court act: Chapter 13.04 RCW.

Court commissioners: State Constitution Art. 4 § 23.

Court filing fees: RCW 36.18.020.

Family court: Chapter 26.12 RCW.

Judiciary and judicial power: State Constitution Art. 4.

RCW 2.08.010 Original jurisdiction.

The superior court shall have original jurisdiction in all cases in equity, and in all cases at law which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll or municipal fine, and in all other cases in which the demand or the value of the property in controversy amounts to three hundred dollars, and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer; of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce and for annulment of marriage, and for such special cases and

proceedings as are not otherwise provided for; and shall also have original jurisdiction in all cases and of all proceedings in which jurisdiction shall not have been by law vested exclusively in some other court, and shall have the power of naturalization and to issue papers therefor. Said courts and their judges shall have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition and writs of habeas corpus on petition by or on behalf of any person in actual custody in their respective counties. Injunctions and writs of prohibition and of habeas corpus may be issued on legal holidays and nonjudicial days.

[1955 c 38 § 3; 1890 p 342 § 5; RRS § 15.]

Notes:

Jurisdiction of superior courts: State Constitution Art. 4 § 6 (Amendment 28).

RCW 2.08.020 Appellate jurisdiction.

The superior courts shall have such appellate jurisdiction in cases arising in courts of limited jurisdiction in their respective counties as may be prescribed by law.

[1987 c 202 § 102; 1890 p 343 § 6; RRS § 17.]

Notes:

Rules of court: See Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ).

Intent--1987 c 202: See note following RCW 2.04.190.

Appeals from

district courts: Criminal, chapter 10.10 RCW; civil, chapter 12.36 RCW.

municipal courts: Chapter 35.20 RCW.

Jurisdiction of superior courts: State Constitution Art. 4 § 6 (Amendment 28).

RCW 2.08.030 Courts of record--Sessions.

The superior courts are courts of record, and shall be always open, except on nonjudicial days. They shall hold their sessions at the county seats of the several counties, respectively, and at such other places within the county as are designated by the judge or judges thereof with the approval of the chief justice of the supreme court of this state and of the governing body of the county. They shall hold regular and special sessions in the several counties of this state at such times as may be prescribed by the judge or judges thereof.

[1971 ex.s. c 60 § 1; 1890 p 343 § 7; RRS § 18.]

Notes:

Rules of court: Cf. CR 77(d), (f).

Courts of record: State Constitution Art. 4 § 11.

Open when: State Constitution Art. 4 § 6 (Amendment 28).

RCW 2.08.040 Effect of adjournments.

Adjournments from day to day, or from time to time, are to be construed as recesses in

the sessions, and shall not prevent the court from sitting at any time.

[1890 p 343 § 8; RRS § 26.]

Notes:

Rules of court: Cf. CR 77(g).

RCW 2.08.050 Seal of courts.

The seals of the superior courts of the several counties of the state shall be, until otherwise provided by law, the vignette of General George Washington, with the words "Seal of the Superior Court of County, State of Washington," surrounding the vignette.

[1890 p 345 § 17; RRS § 38.]

RCW 2.08.060 Judges--Election.

There shall be in each of the counties a superior court. Judges of the superior court shall be elected at the general election in November, 1952, and every four years thereafter.

[1951 c 125 § 2; 1949 c 237 §§ 1-5, part; 1945 c 20 § 1, part; 1933 ex.s. c 63 §§ 1-3, part; 1927 c 135 § 1, part; Rem. Supp. 1949 §§ 11045-1f-1i, part; Rem. Supp. 1945 §§ 11045-1d & 1e, part; RRS §§ 11045-1, 1a, 1b, 1c, part. Prior: 1925 ex.s. c 66 §§ 1-3, part; 1925 ex.s. c 132 §§ 1-4, part; 1917 c 97 §§ 1-5, part; 1913 c 17 §§ 1-4, part; 1911 c 40 §§ 1-3, part; 1911 c 62 §§ 1-3, part; 1911 c 76 §§ 1-3, part; 1911 c 129 §§ 1-3, part; 1911 c 131 §§ 1-2, part; 1909 c 10 §§ 1-3, part; 1909 c 12 §§ 1-3, part; 1909 c 52 §§ 1-3, part; 1909 c 94 §§ 1-3, part; 1907 c 79 §§ 1-3, part; 1907 c 106 § 1, part; 1907 c 178 §§ 1-2, part; 1905 c 9 §§ 1-3, part; 1905 c 36 §§ 1-4, part; 1903 c 50 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1-3, part; 1890 p 341 § 1, part.]

Notes:

Election, terms, etc., superior judges: State Constitution Art. 4 § 5.

Eligibility of judges: State Constitution Art. 4 § 17.

Impeachment: State Constitution Art. 5.

Judges ineligible to other office: State Constitution Art. 4 § 15.

Judges may not practice law: State Constitution Art. 4 § 19.

Removal from office: State Constitution Art. 4 § 9.

RCW 2.08.061 Judges--King, Spokane, and Pierce counties.

There shall be in the county of King no more than fifty-eight judges of the superior court; in the county of Spokane thirteen judges of the superior court; and in the county of Pierce twenty-four judges of the superior court.

[1997 c 347 § 3; 1996 c 208 § 3; 1992 c 189 § 1; 1989 c 328 § 2; 1987 c 323 § 1; 1985 c 357 § 1; 1980 c 183 § 1; 1979 ex.s. c 202 § 1; 1977 ex.s. c 311 § 1; 1973 1st ex.s. c 27 § 1; 1971 ex.s. c 83 § 5; 1969 ex.s. c 213 § 1; 1967 ex.s. c 84 § 1; 1963 c 48 § 1; 1961 c 67 § 1; 1955 c 176 § 1; 1951 c 125 § 3. Prior: 1949 c 237 §§ 1, 3; 1933 ex.s. c 63 § 1; 1927 c 135 § 1, part; 1925 ex.s. c 66 § 1; 1911 c 76 § 1; 1909 c 52 § 1; 1909 c 12 § 1; 1909 c 10 § 1; 1907 c 106 § 1; 1907 c 79 § 1, part; 1905 c 9 § 1; 1895 c 89 § 1, part; 1891 c 68 § 2; 1890 p 341 § 1, part; Rem. Supp. 1949 §§ 11045-1f, 11045-1h; RRS §§ 11045-1, 11045-1a, part.]

Notes:

Starting dates of additional judicial positions in Spokane county--Effective, starting dates of additional judicial positions in Pierce county--1997 c 347: "(1) The additional judicial positions created by section 3 of this act for the county of Spokane take effect upon July 27, 1997, but the actual starting dates for these positions may be established by the Spokane county commissioners upon the request of the superior court.

(2) The additional positions created by section 3 of this act for the county of Pierce, take effect as follows: One additional judicial position is effective January 1, 1998; two positions are effective January 1, 1999; and two positions are effective January 1, 2000. The actual starting dates for these positions may be established by the Pierce county council upon request of the superior court and by recommendation of the Pierce county executive." [1997 c 347 § 4.]

Additional judicial position in Spokane county subject to approval and agreement--1996 c 208: "The additional judicial position created by section 3 of this act shall be effective only if Spokane county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by statute." [1996 c 208 § 4.]

Effective dates--1992 c 189: "(1) Sections 1, 3, and 5 of this act shall take effect July 1, 1992.

(2) The remainder of this act shall take effect July 1, 1993." [1992 c 189 § 7.]

Additional judicial positions subject to approval and agreement--1992 c 189: "The additional judicial positions created by sections 1, 2, 3, 4, and 5 of this act shall be effective only if each county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute." [1992 c 189 § 8.]

Intent--1989 c 328: "The legislature recognizes the dramatic increase in cases filed in superior court over the last six years in King, Pierce, and Snohomish counties. This increase has created a need for more superior court judges in those counties.

The increased caseload at the superior court level has also caused a similar increase in the case and petition filings in the court of appeals. Currently, the additional caseload is being handled by pro tempore judges and excessive caseloads for permanent judges. The addition of a permanent full-time judge will allow the court to more efficiently process the growing caseload.

By the creation of these additional positions, it is the intent of the legislature to promote the careful judicial review of cases by an elected judiciary." [1989 c 328 § 1.]

Additional judicial positions subject to approval and agreement--1989 c 328: "The additional judicial positions created by sections 2 and 3 of this act in Pierce and Snohomish counties shall be effective only if the county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities." [1989 c 328 § 5.]

Effective dates for additional judicial positions--1989 c 328 §§ 2 and 3: "(1) Three additional judicial positions created by section 2 of this 1989 act shall be effective January 1, 1990.

(2) One additional judicial position created by section 3 of this act shall be effective July 1, 1990; the second position shall be effective not later than June 30, 1991." [1989 c 328 § 7.]

Effective dates--Additional judicial positions in King, Chelan, and Douglas counties subject to approval and agreement--1989 c 328; 1987 c 323: "Sections 1 and 2 of this act shall take effect January 1, 1988. The additional judicial positions created by sections 1 and 2 of this act in King county and Chelan and Douglas counties shall be effective only if each county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities. The legislative authorities of Chelan and

Douglas counties may in their discretion phase in any additional judicial positions over a period of time not to extend beyond January 1, 1990. The legislative authority of King county may in its discretion phase in any additional judicial positions over a period of time not to extend beyond January 1, 1991." [1989 c 328 § 6; 1987 c 323 § 5.]

Effective dates--Additional judicial positions in Pierce, Clark, and Snohomish counties subject to approval and agreement--1985 c 357: "(1) Sections 1 and 2 of this act shall take effect January 1, 1987. The additional judicial positions created by sections 1 and 2 of this act in Pierce and Clark counties shall be effective only if, prior to January 1, 1987, each county through its duly constituted legislative authority documents its approval of the additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities.

(2) Section 3 of this act shall take effect January 1, 1986. The additional judicial position created by section 3 of this act in Snohomish county shall be effective only if, prior to January 1, 1986, the county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities." [1985 c 357 § 4.]

Effective date--1977 ex.s. c 311: "This 1977 amendatory act shall take effect November 1, 1977." [1977 ex.s. c 311 § 6.]

RCW 2.08.062 Judges--Chelan, Douglas, Clark, Grays Harbor, Kitsap, Kittitas, and Lewis counties.

There shall be in the county of Chelan four judges of the superior court; in the county of Douglas one judge of the superior court; in the county of Clark eight judges of the superior court; in the county of Grays Harbor three judges of the superior court; in the county of Kitsap seven judges of the superior court; in the county of Kittitas one judge of the superior court; in the county of Lewis three judges of the superior court.

[1998 c 270 § 1; 1996 c 208 § 1; 1995 c 117 § 1; 1992 c 189 § 2; 1990 c 186 § 1; 1987 c 323 § 2; 1985 c 357 § 2; 1979 ex.s. c 202 § 2; 1977 ex.s. c 311 § 2; 1975-'76 2nd ex.s. c 79 § 1; 1971 ex.s. c 83 § 4; 1967 ex.s. c 84 § 2; 1963 c 48 § 2; 1951 c 125 § 4. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1911 c 131 § 1; 1907 c 79 § 1, part; 1907 c 178 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 § 3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

Notes:

Effective date--1998 c 270: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 1998]." [1998 c 270 § 5.]

Additional judicial positions in Clark, Lewis, and Yakima counties--Start dates--Establishment by county commissioners upon superior court request--1998 c 270: "(1) The additional judicial position created by section 1 of this act for the county of Clark takes effect on April 1, 1998, but the actual starting date for this position may be established by the Clark county commissioners upon the request of the superior court.

(2) The additional judicial position created by section 1 of this act for the county of Lewis takes effect on April 1, 1998, but the actual starting date for this position may be established by the Lewis county commissioners upon the request of the superior court.

(3) The additional judicial positions created by section 2 of this act for the county of Yakima take effect on April 1, 1998, but the actual starting dates for these positions may be established by the Yakima county commissioners upon the request of the superior court." [1998 c 270 § 4.]

Additional judicial positions in Chelan and Douglas counties subject to approval and agreement--1996 c 208: "(1) The three judicial positions serving Chelan and Douglas counties jointly are allocated

to Chelan county, effective upon appointment of a judge to the Douglas county superior court. The additional judicial positions created by section 1, chapter 208, Laws of 1996, are allocated one to Chelan county and one to Douglas county and each position becomes effective only if each county, through its duly constituted legislative authority, documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by state law or the state Constitution.

(2) The judicial positions created by section 1, chapter 208, Laws of 1996, shall be effective January 1, 1997." [1998 c 270 § 3; 1996 c 208 § 2.]

Effect--Additional judicial position in Clark county subject to approval and agreement--1995 c 117: "The additional judicial position created by section 1 of this act is effective only if Clark county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by state law or the state Constitution." [1995 c 117 § 2.]

Effective dates--Additional judicial positions subject to approval and agreement--1992 c 189: See notes following RCW 2.08.061.

Effective dates--Additional judicial positions in Kitsap and Thurston counties subject to approval and agreement--1990 c 186: "(1)(a) One additional judicial position created by section 1 of this act and the additional judicial position created by section 2 of this act shall be effective July 1, 1990.

(b) The second additional judicial position created by section 1 of this act shall be effective not later than, and at the discretion of the legislative authority may be phased in at any time before, January 1, 1994.

(2) The additional judicial positions created by sections 1 and 2 of this act in Kitsap and Thurston counties shall be effective only if the county through its duly constituted legislative authority documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities." [1990 c 186 § 4.]

Effective dates--Additional judicial positions in King, Chelan, and Douglas counties subject to approval and agreement--1987 c 323: See note following RCW 2.08.061.

Effective dates--Additional judicial positions in Pierce, Clark, and Snohomish counties subject to approval and agreement--1985 c 357: See note following RCW 2.08.061.

Adjustment in judicial services: See note following RCW 2.08.065.

Effective date--1977 ex.s. c 311: See note following RCW 2.08.061.

RCW 2.08.063 Judges--Lincoln, Skagit, Walla Walla, Whitman, Yakima, Adams, and Whatcom counties.

There shall be in the county of Lincoln one judge of the superior court; in the county of Skagit, three judges of the superior court; in the county of Walla Walla, two judges of the superior court; in the county of Whitman, one judge of the superior court; in the county of Yakima eight judges of the superior court; in the county of Adams, one judge of the superior court; in the county of Whatcom, three judges of the superior court.

[1998 c 270 § 2; 1992 c 189 § 3; 1988 c 66 § 1; 1975 1st ex.s. c 49 § 1; 1973 1st ex.s. c 27 § 2; 1971 ex.s. c 83 § 1; 1963 c 48 § 3; 1955 c 19 § 1; 1951 c 125 § 5. Prior: 1949 c 237 §§ 2, 4; 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1917 c 97 § 5, part; 1911 c 62 § 1; 1911 c 129 § 2, part; 1907 c 79 § 1, part; 1895 c 89 § 1, part; 1891 c 68 § 3, part; 1890 p 341 § 1, part; Rem. Supp. 1949 §§ 11045-1j, 11045-1i; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

Notes:

Effective date--Additional judicial positions in Clark, Lewis, and Yakima counties--Start dates--Establishment by county commissioners upon superior court request--1998 c 270: See notes following

RCW 2.08.062.

Effective dates--Additional judicial positions subject to approval and agreement--1992 c 189: See notes following RCW 2.08.061.

Effect--Additional judicial position in Yakima county subject to approval and agreement--1988 c 66: "The additional judicial position created by section 1 of this act in Yakima county shall be effective only if the county through its legislative authority documents its approval by January 1, 1990, of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities." [1988 c 66 § 2.]

RCW 2.08.064 Judges--Benton, Franklin, Clallam, Jefferson, Snohomish, Asotin, Columbia, Garfield, Cowlitz, Klickitat, and Skamania counties.

There shall be in the counties of Benton and Franklin jointly, five judges of the superior court; in the county of Clallam, two judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, fifteen judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, four judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

[1997 c 347 § 1; 1993 sp.s. c 14 § 1; 1992 c 189 § 4; 1989 c 328 § 3; 1985 c 357 § 3; 1982 c 139 § 2; 1981 c 65 § 1; 1979 ex.s. c 202 § 3; 1977 ex.s. c 311 § 3; 1974 ex.s. c 192 § 1; 1971 ex.s. c 83 § 3; 1969 ex.s. c 213 § 2; 1967 ex.s. c 84 § 3; 1963 c 35 § 1; 1961 c 67 § 2; 1955 c 19 § 2; 1951 c 125 § 6. Prior: 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1925 ex.s. c 132 § 1; 1917 c 97 §§ 1-3; 1911 c 40 § 1; 1911 c 129 §§ 1, 2, part; 1907 c 79 § 1, part; 1905 c 36 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1, 3, part; 1890 p 341 § 1, part; Rem. Supp. 1945 § 11045-1d, part; RRS § 11045-1, part.]

Notes:

Starting dates of additional judicial positions in Snohomish county--1997 c 347: "The additional judicial positions created for the county of Snohomish under section 1 of this act are effective January 1, 1998, but the actual starting dates for these positions may be established by the Snohomish county council upon request of the superior court and by the recommendation of the Snohomish county executive." [1997 c 347 § 2.]

Additional judicial position in Cowlitz county subject to approval and agreement--1993 sp.s. c 14: "The additional judicial position created by section 1 of this act shall be effective only if Cowlitz county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by statute." [1993 sp.s. c 14 § 2.]

Effective dates--Additional judicial positions subject to approval and agreement--1992 c 189: See notes following RCW 2.08.061.

Intent--Additional judicial positions subject to approval and agreement--Effective dates for additional judicial positions--1989 c 328: See notes following RCW 2.08.061.

Effective dates--Additional judicial positions in Pierce, Clark, and Snohomish counties subject to approval and agreement--1989 c 328; 1985 c 357: See note following RCW 2.08.061.

Additional judicial positions in Clallam and Jefferson counties subject to approval and agreement--1982 c 139: "The additional judicial positions created by section 2 of this 1982 act in Clallam and Jefferson counties shall be effective only if, prior to April 1, 1982, each county through its duly constituted legislative authority documents its approval of the additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute." [1982 c 139 § 3.]

Additional judicial positions in Ferry, Stevens, and Pend Oreille district subject to approval and agreement--1982 c 139; 1981 c 65: "The additional judicial position created by this 1981 act in the joint Ferry, Stevens, and Pend Oreille judicial district shall be effective only if each county in the judicial district through its duly constituted legislative authority documents its approval of the additional position and its agreement that it and the other counties comprising the judicial district will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute. As among the counties, the amount of the judge's salary to be paid by each county shall be in accordance with RCW 2.08.110 unless otherwise agreed upon by the counties involved." [1982 c 139 § 1; 1981 c 65 § 3.]

Effective date--1977 ex.s. c 311: See note following RCW 2.08.061.

RCW 2.08.065 Judges--Grant, Ferry, Okanogan, Mason, Thurston, Pacific, Wahkiakum, Pend Oreille, Stevens, San Juan, and Island counties.

There shall be in the county of Grant, three judges of the superior court; in the county of Okanogan, two judges of the superior court; in the county of Mason, two judges of the superior court; in the county of Thurston, eight judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Ferry, Pend Oreille, and Stevens jointly, two judges of the superior court; and in the counties of San Juan and Island jointly, two judges of the superior court.

[1999 c 245 § 1; 1996 c 208 § 5; 1992 c 189 § 5; 1990 c 186 § 2; 1986 c 76 § 1; 1981 c 65 § 2; 1979 ex.s. c 202 § 4; 1977 ex.s. c 311 § 4; 1973 1st ex.s. c 27 § 3; 1971 ex.s. c 83 § 2; 1969 ex.s. c 213 § 3; 1955 c 159 § 1; 1951 c 125 § 7. Prior: 1927 c 135 § 1, part; 1917 c 97 §§ 4, 5, part; 1913 c 17 § 1; 1911 c 131 § 2; 1907 c 79 § 1, part; 1907 c 178 § 1, part; 1903 c 50 § 1, part; 1895 c 89 § 1, part; 1891 c 68 §§ 1, 3, part; 1890 p 341 § 1, part; RRS § 11045-1, part.]

Notes:

Additional judicial positions subject to approval and agreement--1999 c 245: "(1) The additional judicial position for Grant county created by section 1 of this act is effective only if Grant county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by state law or the state Constitution.

(2) The additional judicial position for Okanogan county created by section 1 of this act is effective only if Okanogan county through its duly constituted legislative authority documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the existing and additional judicial positions as provided by state law or the state Constitution." [1999 c 245 § 2.]

Additional judicial positions in Thurston county subject to approval and agreement--1996 c 208: "The additional judicial positions created by section 5 of this act are effective only if Thurston county through its duly constituted legislative authority documents its approval of the additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial positions as provided by state law or the state Constitution." [1996 c 208 § 6.]

Effective dates of additional judicial positions in Thurston county--1996 c 208: "One judicial position created by section 5 of this act shall be effective July 1, 1996; the second position shall be effective July 1, 2000." [1996 c 208 § 7.]

Effective dates--Additional judicial positions subject to approval and agreement--1992 c 189: See notes following RCW 2.08.061.

Effective dates--Additional judicial positions in Kitsap and Thurston counties subject to approval and agreement--1990 c 186: See note following RCW 2.08.062.

Effective date--Appointment of additional judicial position--1986 c 76: "(1) Pursuant to RCW

2.08.069, the governor shall appoint a person to fill the judicial position created by section 1 of this act in Mason county. The five judges of the superior court serving in the Thurston/Mason judicial district on January 1, 1987, shall be assigned to the new Thurston county judicial district.

(2) This act shall take effect January 1, 1987. The additional judicial position created by section 1 of this act in Mason county shall be effective only if, before January 1, 1987, Thurston and Mason counties, through their duly constituted legislative authorities, document their approval of the additional position and their agreement that they will pay out of county funds, without reimbursement from the state, the expenses resulting from section 1 of this act." [1986 c 76 § 2.]

Additional judicial positions subject to approval and agreement: See note following RCW 2.08.064.

Adjustment in judicial services provided for Douglas, Grant, and Chelan counties: "The superior court judge serving in position two, as designated by the county auditors of Grant and Douglas counties for the 1976 general election, in the counties of Grant and Douglas prior to the effective date of this 1979 act, shall thereafter serve jointly in the counties of Douglas and Chelan, along with the judge previously serving only in Chelan county. The additional superior court judge position created by this 1979 act shall be for Grant county alone, which shall retain the judge in position one previously serving jointly in the counties of Grant and Douglas." [1979 ex.s. c 202 § 5.]

Effective date--1977 ex.s. c 311: See note following RCW 2.08.061.

RCW 2.08.069 Judges--Filling vacancies resulting from creation of additional judgeships.

Unless otherwise provided, upon the taking effect of any act providing for additional judges of the superior court and thereby creating a vacancy, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

[1955 c 38 § 4; 1951 c 125 § 8.]

Notes:

Vacancy, how filled: RCW 2.08.120.

RCW 2.08.070 Terms of office.

The judges of the superior court elected under the provisions of RCW 2.08.060 through 2.08.065 shall hold their offices for the term of four years from and after the second Monday in January next succeeding their election, and until their successors are elected and qualified.

[1927 c 135 § 2; RRS § 11045-2.]

Notes:

Election, terms, etc., superior judges: State Constitution Art. 4 § 5.

Forfeiture of office for absence: State Constitution Art. 4 § 8.

Removal of judges: State Constitution Art. 4 § 9.

RCW 2.08.080 Oath of office.

Every judge of a superior court shall, before entering upon the duties of his office, take and subscribe an oath that he will support the Constitution of the United States and the

Constitution of the state of Washington, and will faithfully and impartially discharge the duties of judge to the best of his ability, which oath shall be filed in the office of the secretary of state. Such oath or affirmation to be in form substantially the same as prescribed for justices of the supreme court.

[1971 c 81 § 5; 1890 p 344 § 15; RRS § 11051.]

Notes:

Oath of judges: State Constitution Art. 4 § 28.

RCW 2.08.092 Salary of judges.

The annual salary of the judges of the superior court shall be established by the Washington citizens' commission on salaries for elected officials.

[1986 c 155 § 6; 1984 c 258 § 403.]

Notes:

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Salaries of judicial officers: State Constitution Art. 4 § 13, 14; Art. 28 § 1; Art. 30 § 1.

Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

RCW 2.08.100 Payment of county's portion.

The county auditor of each county shall pay superior court judges in the same means and manner provided for all other elected officials.

[1997 c 204 § 1; 1939 c 189 § 1; 1893 c 30 § 1; 1890 p 329 § 2; RRS § 10967.]

Notes:

Distribution of work of courts--Duty of judges to comply with chief justice's direction--Salary withheld: RCW 2.56.040.

RCW 2.08.110 Apportionment between counties in joint judicial district.

Where there is only one judge of the superior court for two or more counties, the auditors thereof, acting together, shall apportion among or between such counties, according to the assessed valuation of their taxable property, the amount of such judge's salary that each county shall pay.

[1890 p 329 § 3; RRS § 10968.]

RCW 2.08.115 Judge serving district comprising more than one county--Reimbursement for travel expenses.

Whenever a judge of the superior court shall serve a district comprising more than one

county, such judge shall be reimbursed for travel expenses in connection with business of the court in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for travel from his residence to the other county or counties in his district and return.

[1975-'76 2nd ex.s. c 34 § 1.]

Notes:

Severability--1975-'76 2nd ex.s. c 34: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1976 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 34 § 182.]

Effective date--1975-'76 2nd ex.s. c 34: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1976." [1975-'76 2nd ex.s. c 34 § 183.]

RCW 2.08.120 Vacancy, how filled.

If a vacancy occurs in the office of judge of the superior court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall be at the next succeeding general election, and the judge so elected shall hold office for the remainder of the unexpired term.

[1955 c 38 § 5. Prior: 1890 p 342 § 4; 1937 c 15 § 2; RRS § 11049.]

Notes:

Superior court--Election of judges, terms of, etc.: State Constitution Art. 4 § 5.

Vacancies resulting from additional judgeships: RCW 2.08.069.

RCW 2.08.140 Visiting judge at direction of governor.

Whenever a judge of the superior court of any county in this state, or a majority of such judges in any county in which there is more than one judge of said court, shall request the governor of the state to direct a judge of the superior court of any other county to hold a session of the superior court of any such county as is first herein above mentioned, the governor shall thereupon request and direct a judge of the superior court of some other county, making such selection as the governor shall deem to be most consistent with the state of judicial business in other counties, to hold a session of the superior court in the county the judge shall have requested the governor as aforesaid. Such request and direction by the governor shall be made in writing, and shall specify the county in which he directs the superior judge to whom the same is addressed to hold such session of the superior court, and the period during which he is to hold such session. Thereupon it shall be the duty of the superior judge so requested, and he is hereby empowered to hold a session of the superior court of the county specified by the governor, at the seat of judicial business thereof, during the period specified by the governor, and in such quarters as the county commissioners of said county may provide for the holding of such session.

[1893 c 43 § 1; RRS § 27. Prior: 1890 p 343 § 10.]

Notes:

Duty to hold court in other county or district: RCW 2.56.040.

RCW 2.08.150 Visiting judge at request of judge or judges.

Whenever a like request shall be addressed by the judge, or by a majority of the judges (if there be more than one) of the superior court of any county to the superior judge of any other county, he is hereby empowered, if he deem it consistent with the state of judicial business in the county or counties whereof he is a superior judge (and in such case it shall be his duty to comply with such request), to hold a session of the superior court of the county the judge or judges whereof shall have made such request, at the seat of judicial business of such county, in such quarters as shall be provided for such session by the board of county commissioners, and during such period as shall have been specified in the request, or such shorter period as he may deem necessary by the state of judicial business in the county or counties whereof he is a superior judge.

[1893 c 43 § 2; RRS § 28. Prior: 1890 p 343 § 10.]

RCW 2.08.160 Sessions where more than one judge sits--Effect of decrees, orders, etc.

In any county where there shall be more than one superior judge, or in which a superior judge of another county may be holding a session of the superior court, as provided in RCW 2.08.140 through 2.08.170, there may be as many sessions of the superior court at the same time as there are judges thereof, or assigned to duty therein by the governor, or responding to a request made as provided in RCW 2.08.150. In such cases the business of the court shall be so distributed and assigned by law, or in the absence of legislation therefor, by such rules and orders of the court as shall best promote and secure the convenient and expeditious transaction thereof. Judgments, decrees, orders and proceedings of any session of the superior court held by one or more of the judges of said court, or by any judge of the superior court of another county pursuant to the provisions of RCW 2.08.140 through 2.08.170, shall be equally effectual as if all the judges of such court presided at such session.

[1893 c 43 § 3; RRS § 29. Prior: 1890 p 341 § 2.]

RCW 2.08.170 Expenses of visiting judge.

Any judge of the superior court of any county in this state who shall hold a session of the superior court of any other county, in pursuance of the provisions of RCW 2.08.140 through 2.08.170 shall be entitled to receive from the county in which he shall hold such sessions reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended. The county clerk of such county shall, upon the presentation to him by such judge of a statement of such expenses, verified by his affidavit, issue to such judge a certificate that he is entitled to the amount thereof; and upon presentation of such certificate to the auditor of such county he shall draw a warrant on the current expense fund of such county for the amount in favor of such

judge.

[1981 c 186 § 3; 1893 c 43 § 4; RRS § 30. Prior: 1890 p 329 § 4.]

Notes:

Holding court in another county or district--Reimbursement for expenses: RCW 2.56.070.

RCW 2.08.180 Judge pro tempore--Appointment--Oath--Compensation.

A case in the superior court of any county may be tried by a judge pro tempore, who must be a member of the bar, agreed upon in writing by the parties litigant, or their attorneys of record, approved by the court, and sworn to try the case; and his action in the trial of such cause shall have the same effect as if he were a judge of such court. However, if a previously elected judge of the superior court retires leaving a pending case in which the judge has made discretionary rulings, the judge is entitled to hear the pending case as a judge pro tempore without any written agreement.

A judge pro tempore shall, before entering upon his duties in any cause, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be,) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge pro tempore in the cause wherein is plaintiff and defendant, according to the best of my ability."

A judge pro tempore who is a practicing attorney and who is not a retired justice of the supreme court or judge of a superior court of the state of Washington, or who is not an active judge of an inferior court of the state of Washington, shall receive a compensation of one-two hundred and fiftieth of the annual salary of a superior court judge for each day engaged in said trial, to be paid in the same manner as the salary of the superior judge. A judge who is an active judge of an inferior court of the state of Washington shall receive no compensation as judge pro tempore. A justice or judge who has retired from the supreme court, court of appeals, or superior court of the state of Washington shall receive compensation as judge pro tempore in the amount of sixty percent of the amount payable to a judge pro tempore under this section.

[1987 c 73 § 1; 1971 c 81 § 6; 1967 c 149 § 1; 1890 p 343 § 11; RRS § 40.]

Notes:

Contingent effective date--1987 c 73: "This act shall take effect January 1, 1988, if the proposed amendment to Article IV, section 7 of the state Constitution, allowing retiring judges to hear pending cases, is validly submitted to and is approved and ratified by the voters at a general election held in November, 1987. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety." [1987 c 73 § 2.] Amendment 80 of the state Constitution, amending Article IV, section 7, was approved by the voters November 3, 1987.

Judges pro tempore: State Constitution Art. 4 § 7.

appointments: RCW 2.56.170.

RCW 2.08.185 Attorney serving as guardian ad litem--Disqualification as judge pro

tempore or commissioner pro tempore--Circumstances.

An attorney may not serve as a superior court judge pro tempore or a superior court commissioner pro tempore in a judicial district while appointed to or serving on a case in that judicial district as a guardian ad litem for compensation under Title 11, 13, or 26 RCW, if that judicial district is contained within division one or two of the court of appeals and has a population of more than one hundred thousand.

[1996 c 249 § 12.]

Notes:

Intent--1996 c 249: See note following RCW 2.56.030.

RCW 2.08.190 Powers of judge in counties of his district.

Any judge of the superior court of the state of Washington shall have power, in any county within his district: (1) To sign all necessary orders and papers in probate matters pending in any other county in his district; (2) to issue restraining orders, and to sign the necessary orders of continuance in actions or proceedings pending in any other county in his district; (3) to decide and rule upon all motions, demurrers, issues of fact or other matters that may have been submitted to him in any other county. All such rulings and decisions shall be in writing and shall be filed immediately with the clerk of the proper county: PROVIDED, That nothing herein contained shall authorize the judge to hear any matter outside of the county wherein the cause or proceeding is pending, except by consent of the parties.

[1901 c 57 § 1; RRS § 41.]

RCW 2.08.200 Decisions and rulings in matters heard outside judge's district.

Any judge of the superior court of the state of Washington who shall have heard any cause, either upon motion, demurrer, issue of fact, or other matter in any county out of his district, may decide, rule upon, and determine the same in any county in this state, which decision, ruling and determination shall be in writing and shall be filed immediately with the clerk of the county where such cause is pending.

[1901 c 57 § 2; RRS § 42.]

Notes:

Rules of court: Statute modified or superseded by CR 7(c).

RCW 2.08.210 Extent of court's process--Venue.

The process of the superior courts shall extend to all parts of the state: PROVIDED, That all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon, real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions is situated.

[1890 p 343 § 9; RRS § 32.]

Notes:

Rules of court: Cf. CR 4(f).

Extent of process: State Constitution Art. 4 § 6 (Amendment 28).

Venue: Chapter 4.12 RCW.

RCW 2.08.220 Process, to whom directed.

Unless otherwise provided by statute, all process issuing out of the court shall be directed to the sheriff of the county in which it is to be served, and be by him executed according to law.

[1891 c 45 § 5; RRS § 35.]

RCW 2.08.230 Uniform rules to be established.

The judges of the superior courts shall, from time to time, establish uniform rules for the government of the superior courts.

[1890 p 344 § 13; RRS § 36.]

Notes:

Rule-making power, supreme court: RCW 2.04.180 through 2.04.210.

Superior court rules: State Constitution Art. 4 § 24.

Supplementary superior court rules: RCW 2.04.210.

Uniform court rules: RCW 2.16.040.

RCW 2.08.240 Limit of time for decision.

Every case submitted to a judge of a superior court for his decision shall be decided by him within ninety days from the submission thereof: PROVIDED, That if within said period of ninety days a rehearing shall have been ordered, then the period within which he is to decide shall commence at the time the cause is submitted upon such rehearing, and upon wilful failure of any such judge so to do, he shall be deemed to have forfeited his office.

[1890 p 344 § 12; RRS § 39.]

Notes:

Decisions, when to be made: State Constitution Art. 4 § 20.

Payment of county's portion: RCW 2.08.100.

RCW 2.08.250 Report to judges of supreme court.

Superior judges shall, on or before the first day of November in each year, report in writing to the judges of the supreme court, such defects and omissions in the laws as their experience may suggest.

[1890 p 344 § 14; RRS § 11050.]

Notes:

Annual report to supreme court: State Constitution Art. 4 § 25.

**Chapter 2.10 RCW
JUDICIAL RETIREMENT SYSTEM**

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RCW 2.10.010 Short title.

This chapter shall be known and cited as the Washington Judicial Retirement System Act.

[1971 ex.s. c 267 § 1.]

RCW 2.10.020 Purpose.

The purpose of this chapter is to effect a system of retirement from active service.

[1971 ex.s. c 267 § 2.]

RCW 2.10.030 Definitions.

(1) "Retirement system" means the "Washington judicial retirement system" provided herein.

(2) "Judge" means a person elected or appointed to serve as judge of a court of record as provided in chapters 2.04, 2.06, and 2.08 RCW. "Judge" does not include a person serving as a judge pro tempore except for a judge pro tempore appointed under RCW 2.04.240(2) or 2.06.150(2).

(3) "Retirement board" means the "Washington judicial retirement board" established herein.

(4) "Surviving spouse" means the surviving widow or widower of a judge. "Surviving spouse" does not include the divorced spouse of a judge.

(5) "Retirement fund" means the "Washington judicial retirement fund" established herein.

(6) "Beneficiary" means any person in receipt of a retirement allowance, disability allowance or any other benefit described herein.

(7) "Monthly salary" means the monthly salary of the position held by the judge.

(8) "Service" means all periods of time served as a judge, as herein defined. Any calendar month at the beginning or end of a term in which ten or more days are served shall be counted as a full month of service: PROVIDED, That no more than one month's service may be granted for any one calendar month. Only months of service will be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Years of service shall be determined by dividing the total months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(9) "Final average salary" means (a) for a judge in service in the same court for a minimum of twelve consecutive months preceding the date of retirement, the salary attached to the position held by the judge immediately prior to retirement; (b) for any other judge, the average monthly salary paid over the highest twenty-four month period in the last ten years of service.

(10) "Retirement allowance" for the purpose of applying cost of living increases or decreases includes retirement allowances, disability allowances and survivorship benefit.

(11) "Index" means for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal one hundred) -- compiled by the bureau of labor statistics, United States department of labor.

(12) "Accumulated contributions" means the total amount deducted from the judge's monthly salary pursuant to RCW 2.10.090, together with the regular interest thereon from July 1, 1988, as determined by the director of the department of retirement systems.

[1997 c 88 § 5; 1988 c 109 § 1; 1971 ex.s. c 267 § 3.]

Notes:

Effective date--1988 c 109: "This act shall take effect July 1, 1988." [1988 c 109 § 27.]

RCW 2.10.040 System created--Coverage--Exclusions.

The Washington judicial retirement system is hereby created for judges appointed or elected under the provisions of chapters 2.04, 2.06, and 2.08 RCW. All judges first appointed or elected to the courts covered by these chapters on or after August 9, 1971, and prior to July 1, 1988, shall be members of this system: PROVIDED, That following February 23, 1984, and until July 1, 1988, any newly elected or appointed judge holding credit toward retirement benefits under chapter 41.40 RCW shall be allowed thirty days from the effective date of election or appointment to such judgeship to make an irrevocable choice filed in writing with the department of retirement systems to continue coverage under that chapter and to be permanently excluded from coverage under this chapter for the current or any future term as a judge. All judges first appointed or elected to the courts covered by these chapters on or after July 1, 1988, shall not be members of this system, but may become members of the public employees' retirement system under chapter 41.40 RCW on the same basis as other elected officials as provided in RCW 41.40.023(3).

Any member of the retirement system who is serving as a judge as of July 1, 1988, has the option on or before December 31, 1989, of becoming a member of the retirement system created in chapter 41.40 RCW, subject to the conditions imposed by RCW 41.40.095. The option may be exercised by making an irrevocable choice filed in writing with the department of retirement systems to be permanently excluded from this system for all service as a judge. In the case of a former member of the retirement system who is not serving as a judge on July 1, 1988, the written election must be filed within one year after reentering service as a judge.

[1988 c 109 § 2; 1984 c 37 § 1; 1971 ex.s. c 267 § 4.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

Transfers to system, prior service credit: RCW 2.10.220.

RCW 2.10.052 Retirement board abolished--Transfer of powers, duties, and functions.

The Washington judicial retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems.

[1982 c 163 § 1.]

Notes:

Severability--1982 c 163: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 163 § 24.]

Effective date--1982 c 163: "This act shall take effect June 30, 1982." [1982 c 163 § 25.]

RCW 2.10.070 Retirement board--Duties.

The retirement board shall perform the following duties:

- (1) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;
- (2) As of July 1 of every even-numbered year have an actuarial evaluation made as to the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;
- (3) Adopt for the retirement system the mortality tables and such other tables as shall be deemed necessary;
- (4) Keep a record of its proceedings, which shall be open to inspection by the public;
- (5) Serve without compensation but shall be reimbursed for expense incident to service as individual members thereof;
- (6) From time to time adopt such rules and regulations not inconsistent with this chapter for the administration of this chapter and for the transaction of the business of the board.

No member of the board shall be liable for the negligence, default or failure of any employee or of any member of the board to perform the duties of his office and no member of the board shall be considered or held to be an insurer of the funds or assets of the retirement system, but shall be liable only for his own personal default or individual failure to perform his duties as such member and to exercise reasonable diligence in providing for safeguarding of the funds and assets of the system.

[1971 ex.s. c 267 § 7.]

RCW 2.10.080 Funds and securities.

(1) The state treasurer shall be the custodian of all funds and securities of the retirement system. Disbursements from this fund shall be made by the state treasurer upon receipt of duly authorized vouchers.

(2) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by such treasurer. All investment income earned by such portion of the retirement system's funds as may be deposited by the state treasurer in pursuance of authority herewith given shall be collected by him or her and placed to the credit of the retirement fund, less the allocation to the state investment board expense account pursuant to RCW 43.33A.160 and to the state treasurer's service fund pursuant to RCW 43.08.190.

(3) The state investment board established by RCW 43.33A.020 has full power to invest or reinvest the funds of this system in those classes of investments authorized by RCW 43.84.150.

(4) For the purpose of providing amounts to be used to defray the cost of administration, the judicial retirement board shall ascertain at the beginning of each biennium and request from

the legislature an appropriation sufficient to cover estimated expenses for the said biennium.

[1991 sp.s. c 13 § 114; 1981 c 3 § 22; 1973 1st ex.s. c 103 § 1; 1971 ex.s. c 267 § 8.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Intent of amendment--1981 c 3: "The amendment of RCW 2.10.080, 2.12.070, 41.26.060, 41.26.070, and 41.40.080 by this 1980 act is intended solely to provide for the investment of state funds and is not intended to alter the administration of the affected retirement systems by the department of retirement systems under chapter 41.50 RCW." [1981 c 3 § 44.]

Effective dates--Severability--1981 c 3: See notes following RCW 43.33A.010.

Severability--1973 1st ex.s. c 103: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 103 § 20.]

RCW 2.10.090 Funding.

The total liability, as determined by the actuary, of this system shall be funded as follows:

(1) Every judge shall have deducted from his monthly salary an amount equal to seven and one-half percent of said salary.

(2) The state as employer shall contribute an equal amount on a quarterly basis.

(3) The state shall in addition guarantee the solvency of said fund and the legislature shall make biennial appropriations from the general fund of amounts sufficient to guarantee the making of retirement payments as herein provided for if the money in the judicial retirement fund shall become insufficient for that purpose, but such biennial appropriation may be conditioned that sums appropriated may not be expended unless the money in the judicial retirement fund shall become insufficient to meet the retirement payments.

[1971 ex.s. c 267 § 9.]

Notes:

Members' retirement contributions--Pick up by employer: RCW 41.04.445.

RCW 2.10.100 Retirement for service or age.

Retirement of a member for service shall be made by the retirement board as follows:

(1) Any judge who, on August 9, 1971 or within one year thereafter, shall have completed as a judge the years of actual service required under chapter 2.12 RCW and who shall elect to become a member of this system, shall in all respects be deemed qualified to retire under this retirement system upon the member's written request.

(2) Any member who has completed fifteen or more years of service may be retired upon the member's written request but shall not be eligible to receive a retirement allowance until the member attains the age of sixty years.

(3) Any member who attains the age of seventy-five years shall be retired at the end of the calendar year in which the member attains such age.

(4) Any judge who involuntarily leaves service or who is appointed to a position as a

federal judge or federal magistrate at any time after having served an aggregate of twelve years shall be eligible to a partial retirement allowance computed according to RCW 2.10.110 and shall receive this allowance upon the attainment of the age of sixty years and fifteen years after the beginning of the member's judicial service.

[1995 c 305 § 1; 1988 c 109 § 3; 1971 ex.s. c 267 § 10.]

Notes:

Retroactive application--1995 c 305: "Section 1 of this act shall apply retroactively to October 1, 1994."
[1995 c 305 § 2.]

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.10.110 Service retirement allowance.

A member upon retirement for service shall receive a monthly retirement allowance computed according to his completed years of service, as follows: Ten years, but less than fifteen years, three percent of his final average salary for each year of service; fifteen years and over, three and one-half percent of his final average salary for each year of service: PROVIDED, That in no case shall any retired member receive more than seventy-five percent of his final salary except as increased as a result of the cost of living increases as provided by this chapter.

[1971 ex.s. c 267 § 11.]

RCW 2.10.120 Retirement for disability--Procedure.

(1) Any judge who has served as a judge for a period of ten or more years, and who shall believe he has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his office, may file with the retirement board an application in writing, asking for retirement. Upon receipt of such application the retirement board shall appoint one or more physicians of skill and repute, duly licensed to practice their professions in the state of Washington, who shall, within fifteen days thereafter, for such compensation as may be fixed by the board, to be paid out of the fund herein created, examine said judge and report in writing to the board their findings in the matter. If the physicians appointed by the board find the judge to be so disabled and the retirement board concurs in this finding the judge shall be retired.

(2) The retirement for disability of a judge, who has served as a judge for a period of ten or more years, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section.

[1982 c 18 § 1; 1971 ex.s. c 267 § 12.]

Notes:

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the state Constitution.

RCW 2.10.130 Retirement for disability allowance.

Upon a judge being retired for disability as provided in RCW 2.10.120, he shall receive from the fund an amount equal to one-half of his final average salary.

[1971 ex.s. c 267 § 13.]

RCW 2.10.140 Survivor's benefits.

(1) A surviving spouse of any judge holding such office, or if he dies after having retired and who, at the time of his death, has served ten or more years in the aggregate, shall receive a monthly allowance equal to fifty percent of the retirement allowance the retired judge was receiving, or fifty percent of the retirement allowance the active judge would have received had he been retired on the date of his death, but in no event less than twenty-five percent of the final average salary that the deceased judge was receiving: PROVIDED, That said surviving spouse had been married to the judge for a minimum of two years at time of death.

(2) A judge holding office on July 1, 1988, may make an irrevocable choice to relinquish the survivor benefits provided by this section in exchange for the survivor benefits provided by RCW 2.10.144 and 2.10.146 by indicating the choice in a written declaration submitted to the department of retirement systems by December 31, 1988.

(3) The surviving spouse of any judge who died in office after January 1, 1986, but before July 1, 1988, may elect to receive the survivor benefit provided in RCW 2.10.144(1).

[1988 c 109 § 7; 1984 c 37 § 2; 1971 ex.s. c 267 § 14.]

Notes:

Application--1988 c 109 § 7(1): "The amendment to RCW 2.10.140(1) in section 7(1), chapter 109, Laws of 1988 shall apply on a retroactive basis to the surviving spouse of any judge who retired before July 1, 1988, if the surviving spouse had not remarried before July 1, 1988." [1989 c 139 § 1.]

Effective date--1988 c 109: See note following RCW 2.10.030

Application--1984 c 37 § 2: "Section 2 of this 1984 act applies in respect to each surviving spouse who first applies for benefits under RCW 2.10.140 after January 1, 1984." [1984 c 37 § 3.]

RCW 2.10.144 Payment of accumulated contributions or retirement allowance upon death--Election.

(1) If a judge dies before the date of retirement, the amount of the accumulated contributions standing to the judge's credit at the time of death shall be paid to the member's estate, or such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems. If there is no such designated person or persons still living at the time of the judge's death, or if the judge fails to file a new beneficiary designation subsequent to marriage, remarriage, dissolution of marriage, divorce, or reestablishment of membership following termination by withdrawal or retirement, the judge's credited accumulated contributions shall be paid to the surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the judge's legal representatives.

(2) Upon the death in service of any judge who is qualified but has not applied for a

service retirement allowance or has completed ten years of service at the time of death, the designated beneficiary, or the surviving spouse as provided in subsection (1) of this section, may elect to waive the payment provided by subsection (1) of this section. Upon such an election, a joint and one hundred percent survivor option under RCW 2.10.146 shall automatically be given effect as if selected for the benefit of the surviving spouse or dependent who is the designated beneficiary, except that if the judge is not then qualified for a service retirement allowance, the option II benefit shall be based upon the actuarial equivalent of the sum necessary to pay the accrued regular retirement allowance commencing when the deceased judge would have first qualified for a service retirement allowance. However, subsection (1) of this section, unless elected, shall not apply to any judge who has applied for a service retirement and thereafter dies between the date of separation from service and the judge's effective retirement date, where the judge has selected a survivorship option under RCW 2.10.146(1)(b). In those cases, the beneficiary named in the judge's final application for service retirement may elect to receive either a cash refund or monthly payments according to the option selected by the judge.

[1995 c 144 § 20; 1990 c 249 § 13; 1988 c 109 § 8.]

Notes:

Findings--1990 c 249: See note following RCW 2.10.146.

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.10.146 Election of option for payment of retirement or disability allowance--Retirement allowance adjustment.

(1) Upon making application for a service retirement allowance under RCW 2.10.100 or a disability allowance under RCW 2.10.120, a judge who is eligible therefor shall make an election as to the manner in which such service retirement shall be paid from among the following designated options, calculated so as to be actuarially equivalent to each other:

(a) Standard allowance. A member selecting this option shall receive a retirement allowance, which shall be computed as provided in RCW 2.10.110. The retirement allowance shall be payable throughout the judge's life. However, if the judge dies before the total of the retirement allowance paid to the judge equals the amount of the judge's accumulated contributions at the time of retirement, then the balance shall be paid to the member's estate, or such person or persons, trust, or organization as the judge has nominated by written designation duly executed and filed with the department of retirement systems or, if there is no such designated person or persons still living at the time of the judge's death, then to the surviving spouse or, if there is neither such designated person or persons still living at the time of death nor a surviving spouse, then to the judge's legal representative.

(b) The department shall adopt rules that allow a judge to select a retirement option that pays the judge a reduced retirement allowance and upon death, such portion of the judge's reduced retirement allowance as the department by rule designates shall be continued throughout the life of and paid to a designated person. Such person shall be nominated by the judge by written designation duly executed and filed with the department at the time of retirement. The options adopted by the department shall include, but are not limited to, a joint and one hundred

percent survivor option and a joint and fifty percent survivor option.

(2)(a) A judge, if married, must provide the written consent of his or her spouse to the option selected under this section, except as provided in (b) of this subsection. If a judge is married and both the judge and the judge's spouse do not give written consent to an option under this section, the department will pay the judge a joint and fifty percent survivor benefit and record the judge's spouse as the beneficiary. Such benefit shall be calculated to be actuarially equivalent to the benefit options available under subsection (1) of this section unless spousal consent is not required as provided in (b) of this subsection.

(b) If a copy of a dissolution order designating a survivor beneficiary under RCW 41.50.790 has been filed with the department at least thirty days prior to a member's retirement:

(i) The department shall honor the designation as if made by the member under subsection (1) of this section; and

(ii) The spousal consent provisions of (a) of this subsection do not apply.

(3)(a) Any member who retired before January 1, 1996, and who elected to receive a reduced retirement allowance under subsection (1)(b) or (2) of this section is entitled to receive a retirement allowance adjusted in accordance with (b) of this subsection, if they meet the following conditions:

(i) The retiree's designated beneficiary predeceases or has predeceased the retiree; and

(ii) The retiree provides to the department proper proof of the designated beneficiary's death.

(b) The retirement allowance payable to the retiree, as of July 1, 1998, or the date of the designated beneficiary's death, whichever comes last, shall be increased by the percentage derived in (c) of this subsection.

(c) The percentage increase shall be derived by the following:

(i) One hundred percent multiplied by the result of (c)(ii) of this subsection converted to a percent;

(ii) Subtract one from the reciprocal of the appropriate joint and survivor option factor;

(iii) The joint and survivor option factor shall be from the table in effect as of July 1, 1998.

(d) The adjustment under (b) of this subsection shall accrue from the beginning of the month following the date of the designated beneficiary's death or from July 1, 1998, whichever comes last.

[1998 c 340 § 4; 1996 c 175 § 2; 1995 c 144 § 21; 1990 c 249 § 2; 1988 c 109 § 9.]

Notes:

Effective date--1998 c 340: See note following RCW 41.31.010.

Findings--1990 c 249: "The legislature finds that:

(1) It would be advantageous for some retirees to have survivorship options available other than the options currently listed in statute. Allowing the department of retirement systems to adopt several different survivor options will assist retirees in their financial planning; and

(2) Disabled members of the retirement systems listed in RCW 41.50.030, except for members of the law enforcement officers' and fire fighters' retirement system plan 1, must forfeit any right to leave a benefit to their

survivors if they wish to go on disability retirement. This results in some disabled workers holding onto their jobs in order to provide for their dependents. The provisions of this act allow members to go on disability retirement while still providing for their survivors." [1990 c 249 § 1.]

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.10.155 Suspension of retirement allowance upon employment--Exceptions--Reinstatement--Pro tempore service.

(1) No judge shall be eligible to receive the judge's monthly service or disability retirement allowance if the retired judge is employed:

(a) For more than eight hundred ten hours in a calendar year as a pro tempore judge; or

(b) In an eligible position as defined in RCW 41.40.010 or 41.32.010, or as a law enforcement officer or fire fighter as defined in RCW 41.26.030.

(2) Subsection (1) of this section notwithstanding, a previously elected judge of the superior court who retired before June 7, 1990, leaving a pending case in which the judge had made discretionary rulings may hear the pending case as a judge pro tempore without having his or her retirement allowance suspended.

(3) If a retired judge's benefits have been suspended under this section, his or her benefits shall be reinstated when the retiree terminates the employment that caused his or her benefits to be suspended. Upon reinstatement, the retired judge's benefits shall be actuarially recomputed pursuant to the rules adopted by the department.

(4) The department shall adopt rules implementing this section.

[1990 c 274 § 14; 1988 c 109 § 10.]

Notes:

Findings--Construction--1990 c 274: See notes following RCW 41.32.010.

Application--Reservation--1990 c 274 §§ 11, 12, 14, and 15: See note following RCW 41.40.690.

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.10.165 Refund of certain contributions.

If a judge who was a member of this system left the system before July 1, 1988, and neither the judge nor the judge's surviving spouse: (1) Was eligible at that time to receive a benefit under this chapter; or (2) has received an amount under a sundry claims appropriation from the state legislature intended as a refund of the judge's contributions paid under RCW 2.10.090(1); then the judge or the judge's surviving spouse may apply to the department for and receive a refund of such contributions.

[1991 c 159 § 1.]

RCW 2.10.170 Cost of living adjustment.

Effective July 1, 1972, and of each succeeding year, every retirement allowance which has been in effect for one year or more shall be adjusted to that dollar amount which bears the ratio to its original dollar amount which the retirement board finds to exist between the index for the previous calendar year and the index for the calendar year prior to the date the retirement

allowance became payable: PROVIDED, That the amount of increase or decrease in any one year shall not exceed three percent of the then payable retirement allowance: AND PROVIDED FURTHER, That this cost of living adjustment shall not reduce any pension below that amount which was payable at time of retirement.

[1971 ex.s. c 267 § 17.]

RCW 2.10.180 Benefits exempt from taxation and judicial process--Exceptions--Deductions for group insurance premiums.

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of a person to a retirement allowance, disability allowance, or death benefit, the retirement, disability or death allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, are hereby exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, or any other process of law whatsoever.

(2) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(3) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

(4) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

[1991 c 365 § 18; 1989 c 360 § 22; 1987 c 326 § 17; 1982 1st ex.s. c 52 § 1; 1979 ex.s. c 205 § 1; 1971 ex.s. c 267 § 18.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

Effective date--1987 c 326: See RCW 41.50.901.

Effective dates--1982 1st ex.s. c 52: "(1) Sections 9 and 34 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) The remainder of this act shall take effect July 1, 1982." [1982 1st ex.s. c 52 § 37.]

RCW 2.10.190 Hearing prior to judicial review--Required--Notice.

Any person aggrieved by any final decision of the retirement board must, before petitioning for judicial review, file with the director of the retirement system by mail or

personally within sixty days from the day such decision was communicated to such person, a notice for a hearing before the retirement board. The notice of hearing shall set forth in full detail the grounds upon which such person considers such decision unjust or unlawful and shall include every issue to be considered by the retirement board, and it must contain a detailed statement of facts upon which such person relies in support thereof. Such persons shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those records of the retirement system.

[1971 ex.s. c 267 § 19.]

RCW 2.10.200 Hearing prior to judicial review--Conduct.

A hearing shall be held by the department of retirement systems, or an authorized representative, in the county of the residence of the claimant at a time and place designated by the director. Such hearings shall be de novo and shall conform to the provisions of chapter 34.05 RCW. The retirement system may appear in all such proceedings and introduce testimony in support of the decision. Judicial review of any final decision by the director is governed by the provisions of chapter 34.05 RCW.

[1989 c 175 § 37; 1971 ex.s. c 267 § 20.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 2.10.210 Hearing prior to judicial review--No bond required.

No bond of any kind shall be required of a claimant appealing to the superior court, the court of appeals, or the supreme court from a finding of the retirement board affecting such claimant's right to retirement or disability benefits.

[1971 ex.s. c 267 § 21.]

RCW 2.10.220 Transfer to system--Prior service credit.

(1) Any member of the Washington public employees' retirement system who is eligible to participate in the judicial retirement system may, by written request filed with the retirement boards of the two systems respectively, transfer such membership to the judicial retirement system. Upon the receipt of such request, the board of the Washington public employees' retirement system shall transfer to the board of the Washington judicial retirement system (a) all employee's contributions and interest thereon belonging to such member in the employees' savings fund and all employer's contributions credited or attributed to such member in the benefit account fund and (b) a record of service credited to such member. One-half of such service shall be computed and not more than nine years shall be credited to such member as though such service was performed as a member of the judicial retirement system. Upon such transfer being made the state treasurer shall deposit such moneys in the judicial retirement fund. In the event that any such member should terminate judicial service prior to his entitlement to retirement

benefits under any of the provisions of this chapter, he shall upon request therefor be repaid from the judicial retirement fund an amount equal to the amount of his employee's contributions to the Washington public employees' retirement system and interest plus interest thereon from the date of the transfer of such moneys.

(2) Any member of the judicial retirement system who was formerly a member of the Washington public employees' retirement system with membership service credit of not less than six years but who has terminated his membership therein under the provisions of chapter 41.40 RCW, may reinstate his membership in the Washington public employees' retirement system, for the sole purpose of qualifying for a transfer of membership in the judicial retirement system in accordance with subsection (1) above by making full restoration of all withdrawn funds to the employees' savings fund prior to July 1, 1980. Upon reinstatement in accordance with this subsection, the provisions of subsection (1) and the provisions of RCW 41.40.023(3) shall then be applicable to the reinstated member in the same manner and to the same extent as they are to the present members of the Washington public employees' retirement system who are eligible to participate in the judicial retirement system.

(3) Any member of the judicial retirement system who has served as a judge for one or more years and who has rendered service for the state of Washington, or any political subdivision thereof, prior to October 1, 1947, or the time of the admission of the employer into the Washington public employees' retirement system, may--upon his payment into the judicial retirement fund of a sum equal to five percent of his compensation earned for such prior public service--request and shall be entitled to have one-half of such service computed and not more than six years immediately credited to such member as though such service had been performed as a member of the judicial retirement system, provided that any such prior service so credited shall not be claimed for any pension system other than a judicial retirement system.

[1980 c 7 § 1; 1971 ex.s. c 267 § 22.]

Notes:

Transfers to system by those covered under chapter 2.12 RCW: RCW 2.10.040.

RCW 2.10.230 Cessation of benefits upon appointment or election to court.

Any person receiving retirement benefits from this system who is appointed or elected to a court under chapter 2.04, 2.06, or 2.08 RCW shall upon the first day of entering such office become a member of this system and his or her retirement benefits shall cease. Pro tempore service as a judge of a court of record shall not constitute appointment as that term is used in this section. Upon leaving such office, a person shall have his or her benefits recomputed or restored, as determined in this chapter: PROVIDED, That no such person shall receive a benefit less than that which was being paid at the time his or her benefit ceased.

[1988 c 109 § 4.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

Chapter 2.12 RCW
RETIREMENT OF JUDGES--RETIREMENT SYSTEM

Sections

- 2.12.010 Retirement for service or age.
- 2.12.012 Partial pension for less than eighteen years service--When authorized, amount.
- 2.12.015 Additional pension for more than eighteen years service--Amount.
- 2.12.020 Retirement for disability.
- 2.12.030 Amount and time of payment--Surviving spouse's benefit.
- 2.12.035 Retirement pay of certain justices or judges retiring prior to December 1, 1968--Widow's benefits.
- 2.12.037 Adjustment of pension of retired judges or widows.
- 2.12.040 Service after retirement.
- 2.12.045 Minimum monthly benefit--Post-retirement adjustment--Computation.
- 2.12.046 Monthly benefit--Post-retirement adjustment--Computation.
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- 2.12.100 Transfer of membership from Washington public employees' retirement system to judges' retirement system--Authorized--Procedure.
- 2.12.900 Construction--Gender.

Notes:

Judicial retirement system--1971 act: Chapter 2.10 RCW.

Retirement of judges: State Constitution Art. 4 § 3(a) (Amendment 25).

RCW 2.12.010 Retirement for service or age.

Any judge of the supreme court, court of appeals, or superior court of the state of Washington who heretofore and/or hereafter shall have served as a judge of any such courts for eighteen years in the aggregate or who shall have served ten years in the aggregate and shall have attained the age of seventy years or more may, during or at the expiration of his term of office, in accordance with the provisions of this chapter, be retired and receive the retirement pay herein provided for. In computing such term of service, there shall be counted the time spent by such judge in active service in the armed forces of the United States of America, under leave of absence from his judicial duties as provided for under chapter 201, Laws of 1941: PROVIDED, HOWEVER, That in computing such credit for such service in the armed forces of the United States of America no allowance shall be made for service beyond the date of the expiration of the term for which such judge was elected. Any judge desiring to retire under the provisions of this section shall file with the director of retirement systems, a notice in duplicate in writing, verified by his affidavit, fixing a date when he desires his retirement to commence, one copy of which the director shall forthwith file with the administrator for the courts. The notice shall state his name,

the court or courts of which he has served as judge, the period of service thereon and the dates of such service.

[1982 1st ex.s. c 52 § 2; 1973 c 106 § 4; 1971 c 30 § 1; 1943 c 221 § 1; 1937 c 229 § 1; Rem. Supp. 1943 § 11054-1.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction--1971 c 30: "The provisions of this 1971 amendatory act shall be construed in accordance with RCW 2.06.100 which provides for the retirement of judges of the court of appeals." [1971 c 30 § 7.]

Severability--1937 c 229: "If any section or provision of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional." [1937 c 229 § 10; RRS § 11054-10.] This applies to RCW 2.12.010, 2.12.020, 2.12.030, and 2.12.040 through 2.12.070.

RCW 2.12.012 Partial pension for less than eighteen years service--When authorized, amount.

Any judge of the supreme court, court of appeals, or superior court of this state who shall leave judicial service at any time after having served as a judge of any of such courts for an aggregate of twelve years shall be eligible to a partial retirement pension in a percentage of the pension provided in this chapter as determined by the proportion his years of judicial service bears to eighteen and shall receive the same upon attainment of age seventy, or eighteen years after the commencement of such judicial service, whichever shall occur first.

[1971 c 30 § 2; 1961 c 286 § 1.]

Notes:

Construction--1971 c 30: See note following RCW 2.12.010.

RCW 2.12.015 Additional pension for more than eighteen years service--Amount.

In the event any judge of the supreme court, court of appeals, or superior court of the state serves more than eighteen years in the aggregate as computed under RCW 2.12.010, he shall receive in addition to any other pension benefits to which he may be entitled under this chapter, an additional pension benefit based upon one-eighteenth of his salary for each year of full service after eighteen years, provided his total pension shall not exceed seventy-five percent of the monthly salary he was receiving as a judge at the time of his retirement.

[1971 c 30 § 3; 1961 c 286 § 2.]

Notes:

Construction--1971 c 30: See note following RCW 2.12.010.

RCW 2.12.020 Retirement for disability.

(1) Any judge of the supreme court, court of appeals, or superior court of the state of

Washington, who heretofore and/or hereafter shall have served as a judge of any such courts for a period of ten years in the aggregate, and who shall believe he has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his office, may file with the director of retirement systems an application in duplicate in writing, asking for retirement, which application shall be signed and verified by the affidavit of the applicant or by someone in his behalf and which shall set forth his name, the office then held, the court or courts of which he has served as judge, the period of service thereon, the dates of such service and the reasons why he believes himself to be, or why they believe him to be incapacitated. Upon filing of such application the director shall forthwith transmit a copy thereof to the governor who shall appoint three physicians of skill and repute, duly licensed to practice their professions in the state of Washington, who shall, within fifteen days thereafter, for such compensation as may be fixed by the governor, to be paid out of the fund hereinafter created, examine said judge and report, in writing, to the governor their findings in the matter. If a majority of such physicians shall report that in their opinion said judge has become permanently incapacitated for the full and efficient performance of the duties of his office, and if the governor shall approve such report, he shall file the report, with his approval endorsed thereon, in the office of the director and a duplicate copy thereof with the administrator for the courts, and from the date of such filing the applicant shall be deemed to have retired from office and be entitled to the benefits of this chapter to the same extent as if he had retired under the provisions of RCW 2.12.010.

(2) The retirement for disability of a judge, who has served as a judge of the supreme court, court of appeals, or superior court of the state of Washington for a period of ten years in the aggregate, by the supreme court under Article IV, section 31 of the Constitution of the state of Washington (House Joint Resolution No. 37, approved by the voters November 4, 1980), with the concurrence of the retirement board, shall be considered a retirement under subsection (1) of this section.

[1982 1st ex.s. c 52 § 3; 1982 c 18 § 2; 1973 c 106 § 5; 1971 c 30 § 4; 1937 c 229 § 2; RRS § 11054-2.]

Notes:

Reviser's note: House Joint Resolution No. 37, approved by the voters November 4, 1980, became Amendment 71 to the state Constitution.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction--1971 c 30: See note following RCW 2.12.010.

RCW 2.12.030 Amount and time of payment--Surviving spouse's benefit.

Supreme court, court of appeals, or superior court judges of the state who retire from office under the provisions of this chapter other than as provided in RCW 2.12.012 shall be entitled to receive monthly during the period of their natural life, out of the fund hereinafter created, an amount equal to one-half of the monthly salary they were receiving as a judge at the time of their retirement, or at the end of the term immediately prior to their retirement if their retirement is made after expiration of their term. The surviving spouse of any judge who shall have heretofore retired or may hereafter retire, or of a judge who was heretofore or may hereafter

be eligible for retirement at the time of death, if the surviving spouse had been married to the judge for three years, if the surviving spouse had been married to the judge prior to retirement, shall be paid an amount equal to one-half of the retirement pay of the judge, as long as such surviving spouse remains unmarried. The retirement pay shall be paid monthly by the state treasurer on or before the tenth day of each month. The provisions of this section shall apply to the surviving spouse of any judge who dies while holding such office or dies after having retired under the provisions of this chapter and who at the time of death had served ten or more years in the aggregate as a judge of the supreme court, court of appeals, or superior court or any of such courts, or had served an aggregate of twelve years in the supreme court, court of appeals, or superior court if such pension rights are based upon RCW 2.12.012.

[1973 1st ex.s. c 154 § 1; 1971 c 30 § 5; 1961 c 286 § 3; 1957 c 243 § 1; 1951 c 79 § 1; 1945 c 19 § 1; 1937 c 229 § 3; RRS § 11054-3.]

Notes:

Severability--1973 1st ex.s. c 154: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 1st ex.s. c 154 § 130.]

Construction--1971 c 30: See note following RCW 2.12.010.

RCW 2.12.035 Retirement pay of certain justices or judges retiring prior to December 1, 1968--Widow's benefits.

The retirement pay or pension of any justice of the supreme or judge of any superior court of the state who was in office on August 6, 1965, and who retired prior to December 1, 1968, or who would have been eligible to retire at the time of death prior to December 1, 1968, shall be based, effective December 1, 1968, upon the annual salary which was being prescribed by the statute in effect for the office of justice of the supreme court or for the office of judge of the superior court, respectively, at the time of his retirement or at the end of the term immediately prior to his retirement if his retirement was made after expiration of his term or at the time of his death if he died prior to retirement. The widow's benefit for the widow of any such justice or judge as provided for in RCW 2.12.030 shall be based, effective December 1, 1968, upon such retirement pay.

[1971 c 81 § 7; 1969 ex.s. c 202 § 1.]

RCW 2.12.037 Adjustment of pension of retired judges or widows.

(1) "Index" for the purposes of this section, shall mean, for any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal one hundred) compiled by the Bureau of Labor Statistics, United States Department of Labor;

(2) Effective July 1, 1970, every pension computed and payable under the provisions of RCW 2.12.030 to any retired judge or to his widow which does not exceed four hundred fifty

dollars per month shall be adjusted to that dollar amount which bears the ratio of its original dollar amount which is found to exist between the index for 1969 and the index for the calendar year prior to the effective retirement date of the person to whom, or on behalf of whom, such retirement allowance is being paid.

[1970 ex.s. c 96 § 1.]

RCW 2.12.040 Service after retirement.

If any retired judge shall accept an appointment or an election to a judicial office, he shall be entitled to receive the full salary pertaining thereto, and his retirement pay under this chapter shall be suspended during such term of office and his salary then received shall be subject to contribution to the judges' retirement fund as provided in this chapter.

[1955 c 38 § 6; 1943 c 37 § 1; 1937 c 229 § 4; Rem. Supp. 1943 § 11054-4.]

RCW 2.12.045 Minimum monthly benefit--Post-retirement adjustment--Computation.

(1) Notwithstanding any provision of law to the contrary, effective July 1, 1979, no person receiving a monthly benefit pursuant to this chapter shall receive a monthly benefit of less than ten dollars per month for each year of service creditable to the person whose service is the basis of the retirement allowance. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by ten dollars. Where the monthly benefit was adjusted at the time benefit payments to the beneficiary commenced, the minimum benefit provided in this section shall be adjusted in a manner consistent with that adjustment.

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the monthly benefit of each person who either is receiving benefits pursuant to RCW 2.12.020 or 2.12.030 as of December 31, 1978, or commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 2.12.037 as of July 1, 1979, or July 1, 1980, for the affected persons. Such adjustment shall be calculated as follows:

(a) Monthly benefits to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those persons to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each person to whom this subsection applies shall receive an increase which is the

product of the factor determined in (b) of this subsection multiplied by the years of creditable service.

[1979 ex.s. c 96 § 4.]

RCW 2.12.046 Monthly benefit--Post-retirement adjustment--Computation.

Notwithstanding any provision of law to the contrary, effective July 1, 1983, the monthly benefit of each person who either is receiving benefits pursuant to RCW 2.12.020 or 2.12.030 as of December 31, 1982, or commenced receiving a monthly benefit under this chapter as of a date no later than July 1, 1978, shall be permanently increased by a post-retirement adjustment of \$.74 per month for each year of creditable service the judge established with the retirement system. Any fraction of a year of service shall be counted in the computation of the post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 2.12.037 as of July 1, 1983, or July 1, 1984, for the affected persons.

[1983 1st ex.s. c 56 § 1.]

Notes:

Effective date--1983 1st ex.s. c 56: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983." [1983 1st ex.s. c 56 § 7.]

RCW 2.12.048 Refund of certain contributions.

If a judge who was a member of this system left the system before July 1, 1988, and neither the judge nor the judge's surviving spouse: (1) Was eligible at that time to receive a benefit under this chapter; or (2) has received an amount under a sundry claims appropriation from the state legislature intended as a refund of the judge's contributions paid under RCW 2.12.060; then the judge or the judge's surviving spouse may apply to the department for and receive a refund of such contributions.

[1991 c 159 § 2.]

RCW 2.12.050 Judges' retirement fund--Created--Contents--Custodian--Records.

There is hereby created a fund in the state treasury to be known as "The Judges' Retirement Fund" which shall consist of the moneys appropriated from the general fund in the state treasury, as hereinafter provided; the deductions from salaries of judges, as hereinafter provided, all gifts, donations, bequests and devises made for the benefit of said fund, and the rents, issues and profits thereof, or proceeds of sales of assets thereof. The state treasurer shall be treasurer, ex officio, of this fund. The treasurer shall be custodian of the moneys in said judges' retirement fund. The department of retirement systems shall receive all moneys payable into said fund and make disbursements therefrom as provided in this chapter. The department shall keep written permanent records showing all receipts and disbursements of said fund.

[1982 1st ex.s. c 52 § 4; 1977 c 75 § 1; 1977 c 18 § 1; 1967 c 28 § 1; 1959 c 192 § 1; 1937 c 229 § 5; RRS §

11054-5.]

Notes:

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 2.12.060 Fund--Constitution--Salary deductions--Aid.

For the purpose of providing moneys in said judges' retirement fund, concurrent monthly deductions from judges' salaries and portions thereof payable from the state treasury and withdrawals from the general fund of the state treasury shall be made as follows: Six and one-half percent shall be deducted from the monthly salary of each justice of the supreme court, six and one-half percent shall be deducted from the monthly salary of each judge of the court of appeals, and six and one-half percent of the total salaries of each judge of the superior court shall be deducted from that portion of the salary of such justices or judges payable from the state treasury; and a sum equal to six and one-half percent of the combined salaries of the justices of the supreme court, the judges of the court of appeals, and the judges of the superior court shall be withdrawn from the general fund of the state treasury. In consideration of the contributions made by the judges and justices to the judges' retirement fund, the state hereby undertakes to guarantee the solvency of said fund and the legislature shall make biennial appropriations from the general fund of amounts sufficient to guarantee the making of retirement payments as herein provided for if the money in the judges' retirement fund shall become insufficient for that purpose, but such biennial appropriation may be conditioned that sums appropriated may not be expended unless the money in the judges' retirement fund shall become insufficient to meet the retirement payments. The deductions and withdrawals herein directed shall be made on or before the tenth day of each month and shall be based on the salaries of the next preceding calendar month. The administrator for the courts shall issue warrants payable to the treasurer to accomplish the deductions and withdrawals herein directed, and shall issue the monthly salary warrants of the judges and justices for the amount of salary payable from the state treasury after such deductions have been made. The treasurer shall cash the warrants made payable to him hereunder and place the proceeds thereof in the judges' retirement fund for disbursement as authorized in this chapter.

[1973 c 106 § 6; 1973 c 37 § 1. Prior: 1971 c 81 § 8; 1971 c 30 § 6; 1957 c 243 § 2; 1951 c 79 § 2; 1945 c 19 § 2; 1937 c 229 § 6; Rem. Supp. 1945 § 11054-6.]

Notes:

Construction--1971 c 30: See note following RCW 2.12.010.

Members' retirement contributions--Pick up by employer: RCW 41.04.445.

RCW 2.12.090 Benefits exempt from taxation and judicial process--Exceptions--Deductions for group insurance premiums.

(1) Except as provided in subsections (2), (3), and (4) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions of this chapter and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the

operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) a notice of payroll deduction issued under chapter 26.23 RCW, (c) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of public employees of the state of Washington.

(4) Deductions made in the past from retirement benefits are hereby expressly recognized, ratified, and affirmed. Future deductions may only be made in accordance with this section.

[1991 c 365 § 19; 1989 c 360 § 23; 1987 c 326 § 18; 1982 1st ex.s. c 52 § 32.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

Effective date--1987 c 326: See RCW 41.50.901.

Effective dates--1982 1st ex.s. c 52: See note following RCW 2.10.180.

RCW 2.12.100 Transfer of membership from Washington public employees' retirement system to judges' retirement system--Authorized--Procedure.

Any member of the Washington public employees' retirement system who is eligible to participate in the judges' retirement system, may by written request filed with the director and custodian of the two systems respectively, transfer such membership to the judges' retirement system. Upon the receipt of such request, the director of the Washington public employees' retirement system shall transfer to the state treasurer (1) all employees' contributions and interest thereon belonging to such member in the employees' savings fund and all employers' contributions credited or attributed to such member in the benefit account fund and (2) a record of service credited to such member. One-half of such service but not in excess of twelve years shall be computed and credited to such member as though such service was performed as a member of the judges' retirement system. Upon such transfer being made the state treasurer shall deposit such moneys in the judges' retirement fund. In the event that any such member should terminate judicial service prior to his entitlement to retirement benefits under any of the provisions of chapter 2.12 RCW, he shall upon request therefor be repaid from the judges' retirement fund an amount equal to the amount of his employees' contributions to the Washington public employees' retirement system and interest plus interest thereon from the date of the transfer of such moneys: PROVIDED, HOWEVER, That this section shall not apply to any person who is retired as a judge as of February 20, 1970.

[1970 ex.s. c 96 § 2.]

RCW 2.12.900 Construction--Gender.

Whenever words importing the masculine gender are used in the provisions of this chapter they may be extended to females also as provided in RCW 1.12.050 and whenever words importing the feminine gender are used in the provisions of this chapter they may be extended to males.

[1971 c 30 § 8.]

**Chapter 2.14 RCW
RETIREMENT OF JUDGES--SUPPLEMENTAL RETIREMENT**

Sections

2.14.010	Purpose.
2.14.020	Definitions.
2.14.030	Judicial retirement account plan established.
2.14.040	Administration of plan.
2.14.050	Administrator--Discharge of duties.
2.14.060	Judicial retirement principal account--Creation--Transfer of deficiencies--Contributions--Use.
2.14.070	Judicial retirement administrative account--Creation--Use--Excess balance--Deficiencies.
2.14.080	Duties of administrator--Investments and earnings.
2.14.090	Funding of plan--Contributions.
2.14.100	Contributions--Distribution upon member's separation--Exemptions from state and local tax--Exempt from execution.
2.14.110	Payment of contributions upon member's death.

RCW 2.14.010 Purpose.

(1) The purpose of this chapter is to provide a supplemental retirement benefit to judges who are elected or appointed under chapter 2.04, 2.06, or 2.08 RCW and who are members of the public employees' retirement system for their service as a judge.

(2) This chapter may be known and cited as the judicial retirement account act.

[1988 c 109 § 12.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.020 Definitions.

The definitions in this section apply throughout this chapter.

(1) "Plan" means the judicial retirement account plan.

(2) "Principal account" means the judicial retirement principal account.

(3) "Member" means a judge participating in the judicial retirement account plan.

(4) "Administrative account" means the judicial retirement administrative account.

(5) "Accumulated contributions" means the total amount contributed to a member's account under RCW 2.14.090 (1) and (2), together with any interest and earnings that have been credited to the member's account.

[1988 c 109 § 13.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.030 Judicial retirement account plan established.

The judicial retirement account plan is established for judges appointed or elected under chapter 2.04, 2.06, or 2.08 RCW and who are members of the public employees' retirement system for their service as a judge.

[1988 c 109 § 14.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.040 Administration of plan.

The administrator for the courts, under the direction of the board for judicial administration, shall administer the plan. The administrator shall:

(1) Deposit or invest contributions to the plan consistent with RCW 2.14.080;

(2) Credit investment earnings or interest to individual judicial retirement accounts consistent with RCW 2.14.070;

(3) Keep or cause to be kept full and adequate accounts and records of the assets, obligations, transactions, and affairs of any judicial retirement accounts created under this chapter; and

(4) Adopt rules necessary to carry out this chapter.

[1998 c 245 § 1; 1988 c 109 § 15.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.050 Administrator--Discharge of duties.

The administrator for the courts shall be deemed to stand in a fiduciary relationship to the members participating in the plan and shall discharge his or her duties in good faith and with that diligence, care, and skill which ordinary prudent persons would exercise under similar circumstances in like positions.

[1988 c 109 § 16.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.060 Judicial retirement principal account--Creation--Transfer of deficiencies--Contributions--Use.

The judicial retirement principal account is created in the state treasury. Any deficiency in the judicial retirement administrative account caused by an excess of administrative expenses disbursed from that account over earnings of investments of balances credited to that account shall be transferred to that account from the principal account.

The contributions under *section 19 of this act shall be paid into the principal account and shall be sufficient to cover costs of administration and staffing in addition to such other amounts as determined by the administrator for the courts. The principal account shall be used to carry out the purposes of this chapter.

[1988 c 109 § 17.]

Notes:

***Reviser's note:** The reference to section 19 of this act appears to be incorrect. Section 20 of the act, codified as RCW 2.14.090, was apparently intended.

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.070 Judicial retirement administrative account--Creation--Use--Excess balance--Deficiencies.

The judicial retirement administrative account is created in the state treasury. All expenses of the administrator for the courts under this chapter, including staffing and administrative expenses, shall be paid out of the administrative account. Any excess balance of this account over administrative expenses disbursed from this account shall be transferred to the principal account. Any deficiency in the administrative account caused by an excess of administrative expenses disbursed from this account over the excess balance of this account shall be transferred to this account from the principal account.

[1991 sp.s. c 13 § 70; 1988 c 109 § 18.]

Notes:

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.080 Duties of administrator--Investments and earnings.

(1) The administrator for the courts shall:

(a) Deposit or invest the contributions under RCW 2.14.090 in a credit union, savings and loan association, bank, or mutual savings bank;

(b) Purchase life insurance, shares of an investment company, or fixed and/or variable annuity contracts from any insurance company or investment company licensed to contract business in this state; or

(c) Invest in any of the class of investments described in RCW 43.84.150.

(2) The state investment board or the department of retirement systems, at the request of the administrator for the courts, may invest moneys in the principal account. Moneys invested by

the investment board shall be invested in accordance with RCW 43.84.150. Moneys invested by the department of retirement systems shall be invested in accordance with applicable law. Except as provided in RCW 43.33A.160 or as necessary to pay a pro rata share of expenses incurred by the department of retirement systems, one hundred percent of all earnings from these investments, exclusive of investment income pursuant to RCW 43.84.080, shall accrue directly to the principal account.

[1996 c 39 § 20; 1991 sp.s. c 13 § 103; 1989 c 139 § 3; 1988 c 109 § 19.]

Notes:

Effective dates--1996 c 39: See note following RCW 41.32.010.

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.090 Funding of plan--Contributions.

The plan shall be funded as provided in this section.

(1) Two and one-half percent shall be deducted from each member's salary.

(2) The state, as employer, shall contribute an equal amount on a monthly basis.

(3) The contributions shall be collected by the administrator for the courts and deposited in the member's account within the principal account.

[1988 c 109 § 20.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.100 Contributions--Distribution upon member's separation--Exemptions from state and local tax--Exempt from execution.

(1) A member who separates from judicial service for any reason is entitled to receive a lump sum distribution of the member's accumulated contributions. The administrator for the courts may adopt rules establishing other payment options, in addition to lump sum distributions, if the other payment options conform to the requirements of the federal internal revenue code.

(2) The right of a person to receive a payment under this chapter and the moneys in the accounts created under this chapter are exempt from any state, county, municipal, or other local tax and are not subject to execution, garnishment, or any other process of law whatsoever.

[1988 c 109 § 21.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

RCW 2.14.110 Payment of contributions upon member's death.

If a member dies, the amount of the accumulated contributions standing to the member's credit at the time of the member's death shall be paid to the member's estate, or such person or persons, trust, or organization as the member has nominated by written designation duly executed and filed with the office of the administrator for the courts. If there is no such designated person

or persons still living at the time of the member's death, the member's accumulated contributions shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation or, if there is no such surviving spouse, then to the member's legal representatives.

[1996 c 42 § 1; 1988 c 109 § 22.]

Notes:

Effective date--1988 c 109: See note following RCW 2.10.030.

Chapter 2.16 RCW
ASSOCIATION OF SUPERIOR COURT JUDGES

Sections

2.16.010	Association created.
2.16.020	Officers.
2.16.040	Uniform court rules.
2.16.050	Annual meeting.
2.16.070	Effect of chapter on existing laws.

Notes:

Administrator for the courts: Chapter 2.56 RCW.

RCW 2.16.010 Association created.

All the judges of the superior courts of the state of Washington are hereby associated under the name of the association of the superior court judges of the state of Washington.

[1933 ex.s. c 58 § 1; RRS § 11051-1.]

RCW 2.16.020 Officers.

The judges shall elect from their number a president, who shall be called president judge, and a secretary, who shall hold their offices from the date of one annual meeting of the association to the next.

[1955 c 38 § 7; 1933 ex.s. c 58 § 2; RRS § 11051-2.]

RCW 2.16.040 Uniform court rules.

At its annual meetings, pursuant to section 24, Article IV of the state Constitution, the association shall have power to establish uniform rules for the government of the superior courts, which rules may be amended from time to time.

[1955 c 38 § 9; 1933 ex.s. c 58 § 4; RRS § 11051-4.]

Notes:

Rules of court: Cf. CR 83.

Rule-making power, supreme court: RCW 2.04.180 through 2.04.210.

Superior court rules: State Constitution Art. 4 § 24.

Uniform rules to be established: RCW 2.08.230.

RCW 2.16.050 Annual meeting.

The association shall meet annually at a time established by the association's governing board. At the meeting officers shall be chosen for the ensuing year, and other business transacted as may properly come before the association.

[1996 c 82 § 1; 1955 c 38 § 10; 1933 ex.s. c 58 § 5; RRS § 11051-5.]

RCW 2.16.070 Effect of chapter on existing laws.

Except for the provisions of *RCW 2.16.060, this chapter shall not be held to repeal any other existing law relating to the visitation of judges.

[1933 ex.s. c 58 § 7; RRS § 11051-7.]

Notes:

*Reviser's note: RCW 2.16.060 was repealed by 1973 c 106 § 40.

**Chapter 2.20 RCW
MAGISTRATES**

Sections

2.20.010 Magistrate defined.

2.20.020 Who are magistrates.

Notes:

Municipal judges as magistrates: RCW 35.20.020, 35.20.250.

Preliminary hearings: Chapter 10.16 RCW.

RCW 2.20.010 Magistrate defined.

A magistrate is an officer having power to issue a warrant for the arrest of a person charged with the commission of a crime.

[1891 c 53 § 1; RRS § 50.]

RCW 2.20.020 Who are magistrates.

The following persons are magistrates:

(1) The justices of the supreme court.

- (2) The judges of the court of appeals.
- (3) The superior judges, and district judges.
- (4) All municipal officers authorized to exercise the powers and perform the duties of district judges.

[1987 c 202 § 103; 1971 c 81 § 9; 1891 c 53 § 2; RRS § 51.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Chapter 2.24 RCW COURT COMMISSIONERS AND REFEREES

Sections

2.24.010	Appointment of court commissioners--Qualifications--Term of office.
2.24.020	Oath.
2.24.030	Salary.
2.24.040	Powers--Fees.
2.24.050	Revision by court.
2.24.060	Referees--Definition--Powers.

Notes:

Attorney serving as guardian ad litem--Disqualification as court commissioner pro tempore--Circumstances: RCW 2.08.185.

Court commissioners: State Constitution Art. 4 § 23; RCW 71.05.135 and 71.05.137.

Juvenile court, court commissioner powers: RCW 13.04.021.

RCW 2.24.010 Appointment of court commissioners--Qualifications--Term of office.

There may be appointed in each county or judicial district, by the judges of the superior court having jurisdiction therein, one or more court commissioners for said county or judicial district. Each such commissioner shall be a citizen of the United States and shall hold the office during the pleasure of the judges making the appointment.

[1990 c 191 § 1; 1979 ex.s. c 54 § 1; 1967 ex.s. c 87 § 1; 1961 c 42 § 1; 1909 c 124 § 1; RRS § 83. Prior: 1895 c 83 § 1.]

RCW 2.24.020 Oath.

Court commissioners appointed hereunder shall, before entering upon the duties of such office, take and subscribe an oath to support the Constitution of the United States, the Constitution of the state of Washington, and to perform the duties of such office fairly and impartially and to the best of his ability.

[1909 c 124 § 5; RRS § 88.]

RCW 2.24.030 Salary.

Each court commissioner appointed hereunder shall be allowed a salary, in addition to the fees herein provided for, in such sum as the board of county commissioners may designate, said salary to be paid at the time and in the manner as the salary of other county officials.

[1909 c 124 § 4; RRS § 87. Prior: 1895 c 83 § 3.]

RCW 2.24.040 Powers--Fees.

Such court commissioner shall have power, authority, and jurisdiction, concurrent with the superior court and the judge thereof, in the following particulars:

(1) To hear and determine all matters in probate, to make and issue all proper orders therein, and to issue citations in all cases where same are authorized by the probate statutes of this state.

(2) To grant and enter defaults and enter judgment thereon.

(3) To issue temporary restraining orders and temporary injunctions, and to fix and approve bonds thereon.

(4) To act as referee in all matters and actions referred to him or her by the superior court as such, with all the powers now conferred upon referees by law.

(5) To hear and determine all proceedings supplemental to execution, with all the powers conferred upon the judge of the superior court in such matters.

(6) To hear and determine all petitions for the adoption of children and for the dissolution of incorporations.

(7) To hear and determine all applications for the commitment of any person to the hospital for the insane, with all the powers of the superior court in such matters: PROVIDED, That in cases where a jury is demanded, same shall be referred to the superior court for trial.

(8) To hear and determine all complaints for the commitments of minors with all powers conferred upon the superior court in such matters.

(9) To hear and determine ex parte and uncontested civil matters of any nature.

(10) To grant adjournments, administer oaths, preserve order, compel attendance of witnesses, and to punish for contempts in the refusal to obey or the neglect of the court commissioner's lawful orders made in any matter before the court commissioner as fully as the judge of the superior court.

(11) To take acknowledgments and proofs of deeds, mortgages and all other instruments requiring acknowledgment under the laws of this state, and to take affidavits and depositions in all cases.

(12) To provide an official seal, upon which shall be engraved the words "Court Commissioner," and the name of the county for which he or she may be appointed, and to authenticate his official acts therewith in all cases where same is necessary.

(13) To charge and collect, for his or her own use, the same fees for the official

performance of official acts mentioned in subsections (4) and (11) of this section as are provided by law for referees and notaries public.

(14) To hear and determine small claims appeals as provided in chapter 12.36 RCW.

(15) In adult criminal cases, to preside over arraignments, preliminary appearances, initial extradition hearings, and noncompliance proceedings pursuant to RCW 9.94A.200; accept pleas if authorized by local court rules; appoint counsel; make determinations of probable cause; set, amend, and review conditions of pretrial release; set bail; set trial and hearing dates; authorize continuances; and accept waivers of the right to speedy trial.

[2000 c 73 § 1; 1997 c 352 § 14; 1991 c 33 § 6; 1979 ex.s. c 54 § 2; 1963 c 188 § 1; 1909 c 124 § 2; RRS § 85. Prior: 1895 c 83 § 2.]

Notes:

Effective date--1991 c 33: See note following RCW 3.66.020.

Powers of commissioner under juvenile court act: RCW 13.04.030.

RCW 2.24.050 Revision by court.

All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner. Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, the orders and judgments shall be and become the orders and judgments of the superior court, and appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

[1988 c 202 § 1; 1971 c 81 § 10; 1909 c 124 § 3; RRS § 86.]

Notes:

Severability--1988 c 202: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 202 § 97.]

RCW 2.24.060 Referees--Definition--Powers.

A referee is a person appointed by the court or judicial officer with power--

(1) To try an issue of law or of fact in a civil action or proceeding and report thereon.

(2) To ascertain any other fact in a civil action or proceeding when necessary for the information of the court, and report the fact or to take and report the evidence in an action.

(3) To execute an order, judgment or decree or to exercise any other power or perform any other duty expressly authorized by law.

[1891 c 25 § 1; RRS § 82.]

Notes:

Referee asking or receiving unlawful compensation: RCW 9A.68.020, 9A.68.030.

Supplemental proceedings: Chapter 6.32 RCW.

Trial before referee: Chapter 4.48 RCW.

Chapter 2.28 RCW
POWERS OF COURTS AND GENERAL PROVISIONS

Sections

2.28.010	Powers of courts in conduct of judicial proceedings.
2.28.020	Contempt--Punishment.
2.28.030	Judicial officer defined--When disqualified.
2.28.040	May act as attorney, when.
2.28.050	Judge distinguished from court.
2.28.060	Judicial officers--Powers.
2.28.070	Contempt--Judicial officer may punish.
2.28.080	Powers of judges of supreme and superior courts.
2.28.090	Powers of inferior judicial officers.
2.28.100	Legal holidays--No court--Exceptions.
2.28.110	Legal holiday--Sitting deemed adjourned.
2.28.120	Proceedings may be adjourned from time to time.
2.28.130	Proceeding not to fail for want of judge or session of court.
2.28.139	County to furnish court house.
2.28.140	Court rooms.
2.28.141	County commissioners to provide temporary quarters.
2.28.150	Implied powers--Proceeding when mode not prescribed.
2.28.160	Judge pro tempore--Compensation--Reimbursement for subsistence, lodging and travel expenses--Affidavit to court.
2.28.170	Drug courts.

Notes:

Justice without unnecessary delay: State Constitution Art. 1 § 10.

RCW 2.28.010 Powers of courts in conduct of judicial proceedings.

Every court of justice has power--(1) To preserve and enforce order in its immediate presence. (2) To enforce order in the proceedings before it, or before a person or body empowered to conduct a judicial investigation under its authority. (3) To provide for the orderly conduct of proceedings before it or its officers. (4) To compel obedience to its judgments, decrees, orders and process, and to the orders of a judge out of court, in an action, suit or proceeding pending therein. (5) To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto. (6) To compel the attendance of persons to testify in an action, suit or proceeding therein, in the cases and manner provided by law. (7) To administer oaths in

an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

[1955 c 38 § 12; 1909 c 124 § 2; RRS § 85.]

Notes:

Compelling attendance of witnesses: Chapter 5.56 RCW.

Oaths, who may administer: RCW 5.28.010.

RCW 2.28.020 Contempt--Punishment.

For the effectual exercise of the powers specified in RCW 2.28.010, the court may punish for contempt in the cases and the manner provided by law.

[1891 c 54 § 2; RRS § 53.]

Notes:

Rules of court: CR 45(f).

Contempts: Chapter 7.21 RCW.

Criminal contempts: Chapter 7.21 RCW, RCW 9.92.040.

Power of judicial officer to punish for contempt: RCW 2.28.060, 2.28.070.

Witnesses, failure to attend as contempt: RCW 5.56.061 through 5.56.080.

RCW 2.28.030 Judicial officer defined--When disqualified.

A judicial officer is a person authorized to act as a judge in a court of justice. Such officer shall not act as such in a court of which he is a member in any of the following cases:

(1) In an action, suit or proceeding to which he is a party, or in which he is directly interested.

(2) When he was not present and sitting as a member of the court at the hearing of a matter submitted for its decision.

(3) When he is related to either party by consanguinity or affinity within the third degree. The degree shall be ascertained and computed by ascending from the judge to the common ancestor and descending to the party, counting a degree for each person in both lines, including the judge and party and excluding the common ancestor.

(4) When he has been attorney in the action, suit or proceeding in question for either party; but this section does not apply to an application to change the place of trial, or the regulation of the order of business in court.

In the cases specified in subdivisions (3) and (4), the disqualification may be waived by the parties, and except in the supreme court and the court of appeals shall be deemed to be waived unless an application for a change of the place of trial be made as provided by law.

[1971 c 81 § 11; 1895 c 39 § 1; 1891 c 54 § 3; RRS § 54.]

RCW 2.28.040 May act as attorney, when.

A part-time district judge, if permitted by court rule, may act as an attorney in any court other than the one of which he or she is judge, except in an action, suit or proceeding removed therefrom to another court for review.

[1987 c 202 § 104; 1891 c 54 § 4; RRS § 55. Cf. Code 1881 § 3293.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.
Judge may not practice law: State Constitution Art. 4 § 19.

RCW 2.28.050 Judge distinguished from court.

A judge may exercise out of court all the powers expressly conferred upon a judge as contradistinguished from a court and not otherwise.

[1891 c 54 § 5; RRS § 56.]

RCW 2.28.060 Judicial officers--Powers.

Every judicial officer has power--(1) To preserve and enforce order in his immediate presence and in the proceedings before him, when he is engaged in the performance of a duty imposed upon him by law. (2) To compel obedience to his lawful orders as provided by law. (3) To compel the attendance of persons to testify in a proceeding pending before him, in the cases and manner provided by law. (4) To administer oaths to persons in a proceeding pending before him, and in all other cases where it may be necessary in the exercise of his powers and the performance of his duties.

[1955 c 38 § 13; 1891 c 54 § 6; RRS § 57.]

Notes:

Compelling attendance of witnesses: Chapter 5.56 RCW.
Oaths, who may administer: RCW 5.28.010.

RCW 2.28.070 Contempt--Judicial officer may punish.

For the effectual exercise of the powers specified in RCW 2.28.060, a judicial officer may punish for contempt in the cases and manner provided by law.

[1891 c 54 § 7; RRS § 58.]

Notes:

Rules of court: CR 45(f).
Contempts: Chapter 7.21 RCW.
Criminal contempts: Chapter 7.21 RCW, RCW 9.92.040.
Power of court to punish for contempt: RCW 2.28.020.
Witnesses, failure to attend as contempt: RCW 5.56.061 through 5.56.080.

RCW 2.28.080 Powers of judges of supreme and superior courts.

The judges of the supreme and superior courts have power in any part of the state to take and certify--

(1) The proof and acknowledgment of a conveyance of real property or any other written instrument authorized or required to be proved or acknowledged.

(2) The acknowledgment of satisfaction of a judgment in any court.

(3) An affidavit or deposition to be used in any court of justice or other tribunal of this state.

(4) To exercise any other power and perform any other duty conferred or imposed upon them by statute.

[1891 c 54 § 8; RRS § 59.]

Notes:

Who may take acknowledgments: RCW 64.08.010.

RCW 2.28.090 Powers of inferior judicial officers.

Every other judicial officer may, within the county, city, district or precinct in which he is chosen--

(1) Exercise the powers mentioned in RCW 2.28.080 (1), (2) and (3).

(2) Exercise any other power and perform any other duty conferred or imposed upon him by other statute.

[1891 c 54 § 9; RRS § 60.]

RCW 2.28.100 Legal holidays--No court--Exceptions.

No court shall be open, nor shall any judicial business be transacted, on a legal holiday, except:

(1) To give, upon their request, instructions to a jury when deliberating on their verdict;

(2) To receive the verdict of a jury;

(3) For the exercise of the powers of a magistrate in a criminal action, or in a proceeding of a criminal nature;

(4) For hearing applications for and issuing writs of habeas corpus, injunction, prohibition and attachment;

(5) For the issuance of any process or subpoena not requiring immediate judicial or court action, and the service thereof.

The governor, in declaring any legal holiday, in his discretion, may provide in his proclamation that such holiday shall not be applicable to the courts of or within the state.

[1986 c 219 § 1; 1933 c 54 § 1; 1927 c 51 § 2; RRS § 64. Prior: 1891 c 41 § 2; Code 1881 § 1267.]

Notes:

*Courts to be open except on nonjudicial days: State Constitution Art. 4 § 6 (Amendment 28).
Legal holidays: RCW 1.16.050.*

RCW 2.28.110 Legal holiday--Sitting deemed adjourned.

If any legal holiday happens to be a day appointed for the sitting of a court or to which it is adjourned, such sitting shall be deemed appointed for or adjourned to the next day which is not a legal holiday.

[1927 c 51 § 3; RRS § 65. Prior: 1891 c 41 § 3.]

RCW 2.28.120 Proceedings may be adjourned from time to time.

A court or judicial officer has power to adjourn any proceeding before it or him from time to time, as may be necessary, unless otherwise expressly provided by law.

[1891 c 54 § 10; RRS § 66.]

RCW 2.28.130 Proceeding not to fail for want of judge or session of court.

No proceeding in a court of justice in any action, suit, or proceeding pending therein, is affected by a vacancy in the office of any or all of the judges, or by the failure of a session of the court.

[1891 c 49 § 2; RRS § 67.]

Notes:

Rules of court: Section superseded by CR 6(c). See comment by court after CR 6(c).

RCW 2.28.139 County to furnish court house.

The county in which the court is held shall furnish the court house, a jail or suitable place for confining prisoners, books for record, stationery, lights, wood, attendance, and other incidental expenses of the court house and court which are not paid by the United States.

[Code 1881 § 2111; 1869 p 421 § 10; 1863 p 425 § 11; RRS § 4034.]

RCW 2.28.140 Court rooms.

If the proper authority neglects to provide any superior court with rooms, furniture, fuel, lights and stationery suitable and sufficient for the transaction of its business and for the jury attending upon it, if there be one, the court may order the sheriff to do so, at the place within the county designated by law for holding such court; and the expense incurred by the sheriff in carrying such order into effect, when ascertained and ordered to be paid by the court, is a charge upon the county.

[1955 c 38 § 14; 1891 c 54 § 11; RRS § 68.]

RCW 2.28.141 County commissioners to provide temporary quarters.

Until proper buildings are erected at a place fixed upon for the seat of justice in any county, it shall be the duty of the county commissioners to provide some suitable place for holding the courts of such county.

[Code 1881 § 2688; 1854 p 423 § 23; RRS § 4035.]

RCW 2.28.150 Implied powers--Proceeding when mode not prescribed.

When jurisdiction is, by the Constitution of this state, or by statute, conferred on a court or judicial officer all the means to carry it into effect are also given; and in the exercise of the jurisdiction, if the course of proceeding is not specifically pointed out by statute, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of the laws.

[1955 c 38 § 15; 1891 c 54 § 12; RRS § 69.]

RCW 2.28.160 Judge pro tempore--Compensation--Reimbursement for subsistence, lodging and travel expenses--Affidavit to court.

Whenever a judge serves as a judge pro tempore the payments for subsistence, lodging, and compensation pursuant to RCW 2.04.250 and 2.06.160 as now or hereafter amended shall be paid only for time actually spent away from the usual residence and abode of such pro tempore judge and only for time actually devoted to sitting on cases heard by such pro tempore judge and for time actually spent in research and preparation of a written opinion prepared and delivered by such pro tempore judge; which time spent shall be evidenced by an affidavit of such judge to be submitted by him to the court from which he is entitled to receive subsistence, lodging, and compensation for his services pursuant to RCW 2.04.250 and 2.06.160 as now or hereafter amended.

[1975-'76 2nd ex.s. c 34 § 2.]

Notes:

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 2.28.170 Drug courts.

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3) Any jurisdiction that seeks a state appropriation to fund a drug court program must

first:

(a) Exhaust all federal funding received from the office of national drug control policy that is available to support the operations of its drug court and associated services; and

(b) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services.

[1999 c 197 § 9.]

Notes:

Legislative recognition--1999 c 197: "The legislature recognizes the utility of drug court programs in reducing recidivism and assisting the courts by diverting potential offenders from the normal course of criminal trial proceedings." [1999 c 197 § 7.]

Severability--1999 c 197: See note following RCW 9.94A.030.

Chapter 2.32 RCW COURT CLERKS, REPORTERS, AND BAILIFFS

Sections

2.32.011	Election, compensation--Clerks of superior court.
2.32.021	Oath and bond of clerk of superior court.
2.32.031	Office--Clerks of superior court.
2.32.050	Powers and duties of court clerks.
2.32.060	Powers and duties of clerk of superior court.
2.32.070	Fees--Supreme court clerk, clerks of court of appeals.
2.32.071	Fees--Superior court clerks.
2.32.090	Clerk not to practice law.
2.32.110	Reporter's duties.
2.32.120	Publication of reports.
2.32.130	Correction by judges.
2.32.140	Opinions available to reporter.
2.32.160	Commission on supreme court reports.
2.32.170	Commission--Powers.
2.32.180	Superior court reporters--Qualifications--Appointment--Terms--Oath and bonds.
2.32.200	Duties of official reporter.
2.32.210	Salaries--Expenses.
2.32.220	Application to lesser judicial districts.
2.32.230	One reporter for two lesser districts.
2.32.240	Transcript of testimony--Fee--Forma pauperis.
2.32.250	Transcript accorded verity.
2.32.260	Notes of outgoing reporter may be transcribed--Effect.
2.32.270	Reporter pro tempore.
2.32.280	Reporter as amanuensis in counties with populations of one hundred twenty-five thousand or more.
2.32.290	Court files accessible to reporter.
2.32.300	Office space.
2.32.310	Other reporting service not precluded.
2.32.330	Criers and bailiffs.

- 2.32.360 Compensation of superior court bailiffs.
2.32.370 Payment of compensation.

RCW 2.32.011 Election, compensation--Clerks of superior court.

See chapters 36.16 and 36.17 RCW.

RCW 2.32.021 Oath and bond of clerk of superior court.

See RCW 36.16.040 through 36.16.060.

RCW 2.32.031 Office--Clerks of superior court.

See RCW 36.23.080.

RCW 2.32.050 Powers and duties of court clerks.

The clerk of the supreme court, each clerk of the court of appeals, and each clerk of a superior court, has power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court, each clerk of the court of appeals, and of each county clerk for each of the courts for which he is clerk--

- (1) To keep the seal of the court and affix it in all cases where he is required by law.
- (2) To record the proceedings of the court.
- (3) To keep the records, files and other books and papers appertaining to the court.
- (4) To file all papers delivered to him for that purpose in any action or proceeding in the court as directed by court rule or statute.
- (5) To attend the court of which he is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court.
- (6) To keep the journal of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments and decrees.
- (7) To authenticate by certificate or transcript, as may be required, the records, files or proceedings of the court, or any other paper appertaining thereto and filed with him.
- (8) To exercise the powers and perform the duties conferred and imposed upon him elsewhere by statute.
- (9) In the performance of his duties to conform to the direction of the court.
- (10) To publish notice of the procedures for inspection of the public records of the court.

[1981 c 277 § 1; 1971 c 81 § 12; 1891 c 57 § 3; RRS § 77. Prior: Code 1881 §§ 2180, 2182, 2184.]

Notes:

Rules of court: SAR 16.

RCW 2.32.060 Powers and duties of clerk of superior court.

See chapter 36.23 RCW.

Notes:

County clerk is clerk of superior court: State Constitution Art. 4 § 26.

County clerk's trust fund and safekeeping thereof: Chapter 36.48 RCW.

RCW 2.32.070 Fees--Supreme court clerk, clerks of court of appeals.

The clerk of the supreme court and the clerks of the court of appeals shall collect the following fees for their official services:

Upon filing his or her first paper or record and making an appearance, the appellant or petitioner shall pay to the clerk of said court a docket fee of two hundred fifty dollars.

For copies of opinions, twenty cents per folio: PROVIDED, That counsel of record and criminal defendants shall be supplied a copy without charge.

For certificates showing admission of an attorney to practice law five dollars, except that there shall be no fee for an original certificate to be issued at the time of his or her admission.

For filing a petition for review of a court of appeals decision terminating review, two hundred dollars.

The foregoing fees shall be all the fees connected with the appeal or special proceeding.

No fees shall be required to be advanced by the state or any municipal corporation, or any public officer prosecuting or defending on behalf of such state or municipal corporation.

[1992 c 140 § 1; 1987 c 382 § 1; 1981 c 331 § 2; 1971 ex.s. c 107 § 2; 1951 c 51 § 1; 1907 c 56 § 1, part; 1903 c 151 § 1, part; RRS § 497, part. Prior: 1893 c 130 § 1, part; Code 1881 § 2086, part; 1866 pp 94-99, part; 1863 pp 391-399, part; 1861 pp 34-42, part; 1854 pp 368-376, part.]

Notes:

Effective date--1992 c 140: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1992." [1992 c 140 § 2.]

Court Congestion Reduction Act of 1981--Purpose--1981 c 331: "Recognizing the value of providing the people of the state of Washington with justice delivered in an expeditious fashion, recognizing the need to assure the people of the state of Washington that the quality of our judicial system will not be placed in jeopardy, and recognizing the need to avoid congestion of the courts at all levels of our judicial system, the legislature hereby enacts this Court Congestion Reduction Act of 1981." [1981 c 331 § 1.]

Severability--1981 c 331: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 331 § 16.]

"Folio" defined: RCW 1.16.040.

RCW 2.32.071 Fees--Superior court clerks.

See RCW 36.18.020.

Notes:

County law library fees: RCW 27.24.070, 27.24.090.

RCW 2.32.090 Clerk not to practice law.

Each clerk of a court is prohibited during his continuance in office from acting, or having a partner who acts, as an attorney of the court of which he is clerk.

[1891 c 57 § 5; RRS § 81. Prior: Code 1881 § 2183; 1854 p 367 § 10.]

Notes:

Rules of court: SAR 16(3).

RCW 2.32.110 Reporter's duties.

He shall prepare such decisions for publication by giving the title of each case, a syllabus of the points decided, a brief statement of the facts bearing on the points decided, the names of the counsel, and a reference to such authorities as are cited from standard reports and textbooks that have a special bearing on the case, and he shall prepare a full and comprehensive index to each volume, and prefix a table of cases reported.

[1890 p 320 § 2; RRS § 11059.]

Notes:

Rules of court: SAR 17.

RCW 2.32.120 Publication of reports.

The reports must be published under the supervision of the court, and to that end each of the judges must be furnished by the reporter with proof sheets of each volume thirty days before its final publication.

[1890 p 320 § 3; RRS § 11060.]

Notes:

Rules of court: SAR 17.

Publication of supreme court

opinions: State Constitution Art. 4 § 21.

reports by public printer: RCW 43.78.070.

RCW 2.32.130 Correction by judges.

Within thirty days after such proof sheets are furnished, the judges must return the same to the reporter, with corrections or alterations, and he must make the corrections or alterations accordingly.

[1890 p 320 § 4; RRS § 11061.]

Notes:

Rules of court: SAR 17.

RCW 2.32.140 Opinions available to reporter.

The reporter may take the original opinions and papers in each case from the clerk's office and retain them in his possession not exceeding sixty days.

[1890 p 320 § 5; RRS § 11062.]

RCW 2.32.160 Commission on supreme court reports.

There is hereby created a commission advisory to the supreme court regarding the publication of the decisions of the supreme court and court of appeals of this state in both the form of advance sheets for temporary use and in permanent form, to be known as the commission on supreme court reports, and to include the reporter of decisions, the state law librarian, and such other members, including a judge of the court of appeals and a member in good standing of the Washington state bar association, as determined by the chief justice of the supreme court, who shall be chairman of the commission. Members of the commission shall serve as such without additional or any compensation: PROVIDED, That members shall be compensated in accordance with RCW 43.03.240.

[1995 c 257 § 1; 1984 c 287 § 7; 1971 c 42 § 1; 1943 c 185 § 1; Rem. Supp. 1943 § 11071-1. Prior: 1917 c 87 § 1; 1905 c 167 §§ 1-4; 1895 c 55 § 1; 1891 c 37 § 1; 1890 p 327 § 1.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 2.32.170 Commission--Powers.

The commission shall make recommendations to the supreme court on matters pertaining to the publication of such decisions, in both temporary and permanent forms. The commission shall by July 1, 1997, develop a policy that ensures that if any material prepared pursuant to RCW 2.32.110 is licensed for resale, the material is made available for licensing to all commercial resellers on an equal and nonexclusive basis.

[1995 c 257 § 2; 1943 c 185 § 2; Rem. Supp. 1943 § 11071-2. Prior: 1921 c 162 § 1; 1919 c 117 §§ 1-3; 1905 c 167 § 5.]

RCW 2.32.180 Superior court reporters--Qualifications--Appointment--Terms--Oath and bonds.

It shall be and is the duty of each and every superior court judge in counties or judicial districts in the state of Washington having a population of over thirty-five thousand inhabitants to appoint, or said judge may, in any county or judicial district having a population of over twenty-five thousand and less than thirty-five thousand, appoint a stenographic reporter to be

attached to the judge's court who shall have had at least three years' experience as a skilled, practical reporter, or who upon examination shall be able to report and transcribe accurately one hundred and seventy-five words per minute of the judge's charge or two hundred words per minute of testimony each for five consecutive minutes; said test of proficiency, in event of inability to meet qualifications as to length of time of experience, to be given by an examining committee composed of one judge of the superior court and two official reporters of the superior court of the state of Washington, appointed by the president judge of the superior court judges association of the state of Washington: PROVIDED, That a stenographic reporter shall not be required to be appointed for the seven additional judges of the superior court authorized for appointment by section 1, chapter 323, Laws of 1987, the additional superior court judge authorized by section 1, chapter 66, Laws of 1988, the additional superior court judges authorized by sections 2 and 3, chapter 328, Laws of 1989, the additional superior court judges authorized by sections 1 and 2, chapter 186, Laws of 1990, or the additional superior court judges authorized by sections 1 through 5, chapter 189, Laws of 1992. Appointment of a stenographic reporter is not required for any additional superior court judge authorized after July 1, 1992. The initial judicial appointee shall serve for a period of six years; the two initial reporter appointees shall serve for a period of four years and two years, respectively, from September 1, 1957; thereafter on expiration of the first terms of service, each newly appointed member of said examining committee to serve for a period of six years. In the event of death or inability of a member to serve, the president judge shall appoint a reporter or judge, as the case may be, to serve for the balance of the unexpired term of the member whose inability to serve caused such vacancy. The examining committee shall grant certificates to qualified applicants. Administrative and procedural rules and regulations shall be promulgated by said examining committee, subject to approval by the said president judge.

The stenographic reporter upon appointment shall thereupon become an officer of the court and shall be designated and known as the official reporter for the court or judicial district for which he or she is appointed: PROVIDED, That in no event shall there be appointed more official reporters in any one county or judicial district than there are superior court judges in such county or judicial district; the appointments in each county with a population of one million or more shall be made by the majority vote of the judges in said county acting en banc; the appointments in each county with a population of from one hundred twenty-five thousand to less than one million may be made by each individual judge therein or by the judges in said county acting en banc. Each official reporter so appointed shall hold office during the term of office of the judge or judges appointing him or her, but may be removed for incompetency, misconduct or neglect of duty, and before entering upon the discharge of his or her duties shall take an oath to perform faithfully the duties of his or her office, and file a bond in the sum of two thousand dollars for the faithful discharge of his or her duties. Such reporter in each court is hereby declared to be a necessary part of the judicial system of the state of Washington.

[1992 c 189 § 6; 1991 c 363 § 2; 1990 c 186 § 3; 1989 c 328 § 4; 1988 c 66 § 3; 1987 c 323 § 4; 1957 c 244 § 1; 1945 c 154 § 1; 1943 c 69 § 1; 1921 c 42 § 1; 1913 c 126 § 1; Rem. Supp. 1945 § 42-1. Formerly RCW 2.32.180, 2.32.190.]

Notes:

Effective dates--1992 c 189: See note following RCW 2.08.061.

Purpose--1991 c 363: "The purposes of this act are to eliminate the use of formal county classes and substitute the use of the most current county population figures to distinguish counties. In addition, certain old statutes that reference county class, but no longer are followed, are repealed or amended to conform with current practices." [1991 c 363 § 1.]

Captions not law--1991 c 363: "Section headings as used in this act do not constitute any part of the law." [1991 c 363 § 168.]

RCW 2.32.200 Duties of official reporter.

It shall be the duty of each official reporter appointed under RCW 2.32.180 through 2.32.310 to attend every term of the superior court in the county or judicial district for which he is appointed, at such times as the judge presiding may direct; and upon the trial of any cause in any court, if either party to the suit or action, or his attorney, request the services of the official reporter, the presiding judge shall grant such request, or upon his own motion such presiding judge may order a full report of the testimony, exceptions taken, and all other oral proceedings; in which case the official reporter shall cause accurate shorthand notes of the oral testimony, exceptions taken, and other oral proceedings had, to be taken, except when the judge and attorneys dispense with his services with respect to any portion of the proceedings therein, which notes shall be filed in the office of the clerk of the superior court where such trial is had.

[1983 c 3 § 1; 1913 c 126 § 2; RRS § 42-2.]

RCW 2.32.210 Salaries--Expenses.

Each official reporter shall be paid such compensation as shall be fixed, after recommendation by the judges of the judicial district involved, by the legislative authority of the county comprising said judicial district, or by the legislative authorities acting jointly where the judicial district is comprised of more than one county: PROVIDED, That in judicial districts having a total population of forty thousand or more, the salary of an official court reporter shall not be less than sixteen thousand five hundred dollars per annum: PROVIDED FURTHER, That in judicial districts having a total population of twenty-five thousand and under forty thousand, such salary shall not be less than eleven thousand one hundred dollars per annum.

Said compensation shall be paid out of the current expense fund of the county or counties where court is held.

In judicial districts comprising more than one county the council or commissioners thereof shall, on the first day of January of each year, or as soon thereafter as may be convenient, apportion the amount of the salary to be paid to the reporter by each county according and in proportion to the number of criminal and civil actions entered and commenced in superior court of the constituent counties in the preceding year. In addition to the salary above provided, in judicial districts comprising more than one county, the reporter shall receive his actual and necessary expenses of transportation and living expenses when he goes on official business to a

county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto, said expense to be paid by the county to which he travels. If one trip includes two or more counties, the expense may be apportioned between the counties visited in proportion to the amount of time spent in each county on the trip. If an official reporter uses his own automobile for the purpose of such transportation, he shall be paid therefor at the same rate per mile as county officials are paid for use of their private automobiles. The sworn statement of the official reporter, when certified to as correct by the judge presiding, shall be a sufficient voucher upon which the county auditor shall draw his warrant upon the treasurer of the county in favor of the official reporter.

The salaries of official court reporters shall be paid upon sworn statements, when certified as correct by the judge presiding, as state and county officers are paid.

[1975 1st ex.s. c 128 § 1; 1972 ex.s. c 18 § 1; 1969 c 95 § 1; 1967 c 20 § 1; 1965 ex.s. c 114 § 1; 1961 c 121 § 1; 1957 c 244 § 2; 1953 c 265 § 1; 1951 c 210 § 1. Prior: 1945 c 24 § 1; 1943 c 69 § 2; 1913 c 126 § 3; Rem. Supp. 1945 § 42-3.]

RCW 2.32.220 Application to lesser judicial districts.

If the judge of the superior court in any judicial district having a total population of less than twenty-five thousand finds that the work in such district requires the services of an official court reporter he may appoint a person qualified under RCW 2.32.180.

[1957 c 244 § 3; 1951 c 210 § 2; 1945 c 24 § 2; Rem. Supp. 1945 § 42-3a.]

RCW 2.32.230 One reporter for two lesser districts.

An official court reporter may be appointed to serve two or more judicial districts, each of which has a total population under twenty-five thousand, if the judges thereof so agree, and the salary of such official reporter shall be determined by the total population of all the judicial districts so served in accordance with the schedule of salaries in RCW 2.32.210, and shall be apportioned between the several counties of the districts as therein provided. Such reporter, if appointed, must be qualified to serve, under RCW 2.32.180.

[1951 c 210 § 3; 1945 c 24 § 3; Rem. Supp. 1945 § 42-3b.]

RCW 2.32.240 Transcript of testimony--Fee--Forma pauperis.

(1) When a record has been taken in any cause as provided in RCW 2.32.180 through 2.32.310, if the court, or either party to the suit or action, or his attorney, request a transcript, the official reporter and clerk of the court shall make, or cause to be made, with reasonable diligence, full and accurate transcript of the testimony and other proceedings, which shall, when certified to as hereinafter provided, be filed with the clerk of the court where such trial is had for the use of the court or parties to the action. The fees of the reporter and clerk of the court for making such transcript shall be fixed in accordance with costs as allowed in cost bills in civil cases by the

supreme court of the state of Washington, and when such transcript is ordered by any party to any suit or action, said fee shall be paid forthwith by the party ordering the same, and in all cases where a transcript is made as provided for under the provisions of RCW 2.32.180 through 2.32.310 the cost thereof shall be taxable as costs in the case, and shall be so taxed as other costs in the case are taxed: PROVIDED, That when, from and after December 20, 1973, a party has been judicially determined to have a constitutional right to a transcript and to be unable by reason of poverty to pay for such transcript, the court may order said transcript to be made by the official reporter, which transcript fee therefor shall be paid by the state upon submission of appropriate vouchers to the clerk of the supreme court.

[1983 c 3 § 2; 1975 1st ex.s. c 261 § 1; 1972 ex.s. c 111 § 1; 1970 ex.s. c 31 § 1; 1965 c 133 § 3; 1957 c 244 § 4; 1943 c 69 § 4; 1913 c 126 § 5; Rem. Supp. 1943 § 42-5.]

Notes:

Severability--1965 c 133: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1965 c 133 § 4.]

Indigent party--State to pay costs and fees incident to review by supreme court or court of appeals: RCW 4.88.330.

RCW 2.32.250 Transcript accorded verity.

The report of the official reporter, when transcribed and certified as being a correct transcript of the stenographic notes of the testimony, or other oral proceedings had in the matter, shall be prima facie a correct statement of such testimony or other oral proceedings had, and the same may thereafter, in any civil cause, be read in evidence as competent testimony, when satisfactory proof is offered to the judge presiding that the witness originally giving such testimony is then dead or without the jurisdiction of the court, subject, however, to all objections the same as though such witness were present and giving such testimony in person.

[1913 c 126 § 6; RRS § 42-6.]

RCW 2.32.260 Notes of outgoing reporter may be transcribed--Effect.

When the official reporter who has taken notes in any cause, shall thereafter cease to be such official reporter, any transcript thereafter made by him therefrom, or made by any competent person under the direction of the court, and duly certified to by the person making the same, under oath, as a full, true and correct transcript of said notes, the same shall have full force and effect the same as though certified by an official reporter of said court.

[1913 c 126 § 7; RRS § 42-7.]

RCW 2.32.270 Reporter pro tempore.

In the event of the absence or inability of the official reporter to act, the presiding judge may appoint a competent stenographer to act pro tempore, who shall perform the same duties as

the official reporter, and whose report when certified to, shall have the same legal effect as the certified report of the official reporter. The reporter pro tempore shall possess the qualifications and take the oath prescribed for the official reporter, and shall file a like bond, and shall receive the same compensation.

[1913 c 126 § 8; RRS § 42-8.]

RCW 2.32.280 Reporter as amanuensis in counties with populations of one hundred twenty-five thousand or more.

In all counties or judicial districts, except in any county with a population of one hundred twenty-five thousand or more, such official reporter shall act as amanuensis to the court for which he or she is appointed.

[1991 c 363 § 3; 1957 c 244 § 5; 1943 c 69 § 5; 1913 c 126 § 9; Rem. Supp. 1943 § 42-9.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 2.32.290 Court files accessible to reporter.

Official reporters or reporters pro tempore may, without order of court, upon giving a proper receipt therefor, procure at all reasonable hours from the office of the clerk of the court, any files or exhibits necessary for use in the preparation of statements of fact or transcribing portions of testimony or proceedings in any cause reported by them.

[1913 c 126 § 10; RRS § 42-10.]

RCW 2.32.300 Office space.

Suitable office space shall be furnished the official reporter.

[1943 c 69 § 6; 1913 c 126 § 11; Rem. Supp. 1943 § 42-11.]

RCW 2.32.310 Other reporting service not precluded.

Nothing in this act or any other act or parts of acts or court rule shall be construed to preclude such official reporter from performing other and additional reporting service at any time when such service can be performed without conflict with or prejudice to the duties of the official reporter.

[1943 c 69 § 8; Rem. Supp. 1943 § 42-14.]

RCW 2.32.330 Criers and bailiffs.

Every court of record shall have the power to appoint a crier and as many bailiffs as may be necessary for the orderly and expeditious dispatch of the business.

[1891 c 54 § 13; RRS § 11052.]

RCW 2.32.360 Compensation of superior court bailiffs.

Bailiffs of the several superior courts in this state, appointed by the respective judges thereof, shall be paid for their services such salary or per diem as shall be fixed and allowed by the board of county commissioners of the county in which they serve.

[1949 c 139 § 1; 1945 c 149 § 1; 1943 c 94 § 1; 1939 c 134 § 1; 1917 c 94 § 1; 1891 c 10 § 1; Rem. Supp. 1949 § 10973. Cf. 1921 c 25 § 1; 1919 c 141 § 1.]

RCW 2.32.370 Payment of compensation.

From time to time, the superior judge of the county shall certify the amount due any such bailiff, and order the payment thereof; and thereupon the county auditor shall issue to such bailiff a warrant on the county treasurer, payable out of the general fund [current expense fund], for the amount so certified.

[1891 c 10 § 2; RRS § 10975.]

**Chapter 2.36 RCW
JURIES**

Sections

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Juries

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RCW 2.36.010 Definitions.

Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) A jury is a body of persons temporarily selected from the qualified inhabitants of a particular district, and invested with power--

(a) To present or indict a person for a public offense.

(b) To try a question of fact.

(2) "Court" when used without further qualification means any superior court or court of limited jurisdiction in the state of Washington.

(3) "Judge" means every judicial officer authorized to hold or preside over a court. For purposes of this chapter "judge" does not include court commissioners or referees.

(4) "Juror" means any person summoned for service on a petit jury, grand jury, or jury of inquest as defined in this chapter.

(5) "Grand jury" means those twelve persons impaneled by a superior court to hear, examine, and investigate evidence concerning criminal activity and corruption.

(6) "Petit jury" means a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction, drawn by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.

(7) "Jury of inquest" means a body of persons six or fewer in number, but not fewer than four persons, summoned before the coroner or other ministerial officer, to inquire of particular facts.

(8) "Jury source list" means the list of all registered voters for any county, merged with a list of licensed drivers and identocard holders who reside in the county. The list shall specify each person's name and residence address and conform to the methodology and standards set pursuant to the provisions of RCW 2.36.054 or by supreme court rule. The list shall be filed with the superior court by the county auditor.

(9) "Master jury list" means the list of prospective jurors from which jurors summoned to serve will be randomly selected. The master jury list shall be either randomly selected from the

jury source list or may be an exact duplicate of the jury source list.

(10) "Jury term" means a period of time of one or more days, not exceeding one month, during which summoned jurors must be available to report for juror service.

(11) "Juror service" means the period of time a juror is required to be present at the court facility. This period of time may not extend beyond the end of the jury term, and may not exceed two weeks, except to complete a trial to which the juror was assigned during the two-week period.

(12) "Jury panel" means those persons randomly selected for jury service for a particular jury term.

[1993 c 408 § 4; 1992 c 93 § 1; 1988 c 188 § 2; 1891 c 48 § 1; RRS § 89.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

Legislative findings--1988 c 188: "The legislature recognizes the vital and unique role of the jury system in enhancing our system of justice. The purpose of this chapter is the promotion of efficient jury administration and the opportunity for widespread citizen participation in the jury system. To accomplish this purpose the legislature intends that all courts and juries of inquest in the state of Washington select, summon, and compensate jurors uniformly." [1988 c 188 § 1.]

Severability--1988 c 188: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 188 § 23.]

Effective date--1988 c 188: "Except for section 19, this act shall take effect January 1, 1989. Section 19 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 22, 1988]." [1988 c 188 § 24.]

RCW 2.36.020 Kinds of juries.

There shall be three kinds of juries--

- (1) A grand jury.
- (2) A petit jury.
- (3) A jury of inquest.

[1891 c 48 § 2; RRS § 90.]

RCW 2.36.050 Juries in courts of limited jurisdiction.

In courts of limited jurisdiction, juries shall be selected and impaneled in the same manner as in the superior courts, except that a court of limited jurisdiction shall use the master jury list developed by the superior court to select a jury panel. Jurors for the jury panel may be selected at random from the population of the area served by the court.

[1988 c 188 § 3; 1980 c 162 § 6; 1972 ex.s. c 57 § 1; 1891 c 48 § 4; RRS § 92.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

Severability--1980 c 162: See note following RCW 3.02.010.

Courts of limited jurisdiction: Chapter 3.02 RCW.

RCW 2.36.052 Courts of limited jurisdiction--Performance of jury management activities by superior court authorized.

Pursuant to an agreement between the judge or judges of each superior court and the judge or judges of each court of limited jurisdiction, jury management activities may be performed by the superior court for any county or judicial district as provided by statute.

[1988 c 188 § 20.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.054 Jury source list--Master jury list--Creation.

Unless otherwise specified by rule of the supreme court, the jury source list and master jury list for each county shall be created as provided by this section.

(1) The superior court of each county, after consultation with the county clerk and county auditor of that jurisdiction, shall annually notify the department of information services not later than March 1 of each year of its election to use either a jury source list that is merged by the county or a jury source list that is merged by the department of information services. The department of information services shall annually furnish at no charge to the superior court of each county a separate list of the registered voters residing in that county as supplied annually by the secretary of state and a separate list of driver's license and identicard holders residing in that county as supplied annually by the department of licensing, or a merged list of all such persons residing in that county, in accordance with the annual notification required by this subsection. The lists provided by the department of information services shall be in an electronic format mutually agreed upon by the superior court requesting it and the department of information services. The annual merger of the list of registered voters residing in each county with the list of licensed drivers and identicard holders residing in each county to form a jury source list for each county shall be in accordance with the standards and methodology established in this chapter or by superseding court rule whether the merger is accomplished by the department of information services or by a county.

(2) Persons on the lists of registered voters and driver's license and identicard holders shall be identified by a minimum of last name, first name, middle initial where available, date of birth, gender, and county of residence. Identifying information shall be used when merging the lists to ensure to the extent reasonably possible that persons are only listed once on the merged list. Conflicts in addresses are to be resolved by using the most recent record by date of last vote in a general election, date of driver's license or identicard address change or date of voter registration.

(3) The department of information services shall provide counties that elect to receive a jury source list merged by department of information services with a list of names which are possible duplicates that cannot be resolved based on the identifying information required under

subsection (2) of this section. If a possible duplication cannot subsequently be resolved satisfactorily through reasonable efforts by the county receiving the merged list, the possible duplicate name shall be stricken from the jury source list until the next annual jury source list is prepared.

[1993 c 408 § 3.]

Notes:

Severability--1993 c 408: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 408 § 14.]

Effective dates--1993 c 408: "(1) Sections 1, 2, 3, 6, 8, and 13 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993.

(2) Sections 10 and 12 of this act shall take effect March 1, 1994.

(3) The remainder of this act shall take effect September 1, 1994." [1993 c 408 § 15.]

RCW 2.36.055 Jury source list--Master jury list--Compilation.

The superior court at least annually shall cause a jury source list to be compiled from a list of all registered voters and a list of licensed drivers and identicard holders residing in the county.

The superior court upon receipt of the jury source list shall compile a master jury list. The master jury list shall be certified by the superior court and filed with the county clerk. All previous jury source lists and master jury lists shall be superseded. In the event that, for any reason, a county's jury source list is not timely created and available for use at least annually, the most recent previously compiled jury source list for that county shall be used by the courts of that county on an emergency basis only for the shortest period of time until a current jury source list is created and available for use.

Upon receipt of amendments to the list of registered voters and licensed drivers and identicard holders residing in the county the superior court may update the jury source list and master jury list as maintained by the county clerk accordingly.

[1993 c 408 § 5; 1988 c 188 § 4.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.057 Expanded jury source list--Court rules.

The supreme court is requested to adopt court rules to be effective by September 1, 1994, regarding methodology and standards for merging the list of registered voters in Washington state with the list of licensed drivers and identicard holders in Washington state for purposes of creating an expanded jury source list. The rules should specify the standard electronic format or formats in which the lists will be provided to requesting superior courts by the department of information services. In the interim, and until such court rules become effective, the methodology and standards provided in RCW 2.36.054 shall apply. An expanded jury source list shall be

available to the courts for use by September 1, 1994.

[1993 c 408 § 1.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

RCW 2.36.0571 Jury source list--Master jury list--Adoption of rules for implementation of methodology and standards by agencies.

Not later than January 1, 1994, the secretary of state, the department of licensing, and the department of information services shall adopt administrative rules as necessary to provide for the implementation of the methodology and standards established pursuant to RCW 2.36.057 and 2.36.054 or by supreme court rule.

[1993 c 408 § 2.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

RCW 2.36.063 Compilation of jury source list, master jury list, and selection of jurors by electronic data processing.

The judge or judges of the superior court of any county may employ a properly programmed electronic data processing system or device to compile the jury source list, and to compile the master jury list and to randomly select jurors from the master jury list.

[1993 c 408 § 6; 1988 c 188 § 5; 1973 2nd ex.s. c 13 § 1.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.065 Judges to ensure random selection--Description of process.

It shall be the duty of the judges of the superior court to ensure continued random selection of the master jury list and jury panels, which shall be done without regard to whether a person's name originally appeared on the list of registered voters, or on the list of licensed drivers and identicard holders, or both. The judges shall review the process from time to time and shall cause to be kept on file with the county clerk a description of the jury selection process. Any person who desires may inspect this description in said office.

Nothing in this chapter shall be construed as requiring uniform equipment or method throughout the state, so long as fair and random selection of the master jury list and jury panels is achieved.

[1993 c 408 § 7; 1988 c 188 § 6.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.070 Qualification of juror.

A person shall be competent to serve as a juror in the state of Washington unless that person:

- (1) Is less than eighteen years of age;
- (2) Is not a citizen of the United States;
- (3) Is not a resident of the county in which he or she has been summoned to serve;
- (4) Is not able to communicate in the English language; or
- (5) Has been convicted of a felony and has not had his or her civil rights restored.

[1988 c 188 § 7; 1975 1st ex.s. c 203 § 1; 1971 ex.s. c 292 § 3; 1911 c 57 § 1; RRS § 94. Prior: 1909 c 73 § 1.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.

RCW 2.36.072 Determination of juror qualification--Written declaration.

Each court shall establish a means to preliminarily determine by a written declaration signed under penalty of perjury by the person summoned, the qualifications set forth in RCW 2.36.070 of each person summoned for jury duty prior to their appearance at the court to which they are summoned to serve. Upon receipt by the summoning court of a written declaration stating that a declarant does not meet the qualifications set forth in RCW 2.36.070, that declarant shall be excused from appearing in response to the summons. If a person summoned to appear for jury duty fails to sign and return a declaration of his or her qualifications to serve as a juror prior to appearing in response to a summons and is later determined to be unqualified for one of the reasons set forth in RCW 2.36.070, that person shall not be entitled to any compensation as provided in RCW 2.36.150. Information provided to the court for preliminary determination of statutory qualification for jury duty may only be used for the term such person is summoned and may not be used for any other purpose, except that the court, or designee, may report a change of address or nondelivery of summons of persons summoned for jury duty to the county auditor.

[1993 c 408 § 9.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

RCW 2.36.080 Selection of jurors--State policy--Exclusion for race, color, religion, sex, national origin, or economic status prohibited.

(1) It is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with chapter 135, Laws of 1979 ex. sess. to

be considered for jury service in this state and have an obligation to serve as jurors when summoned for that purpose.

(2) It is the policy of this state to maximize the availability of residents of the state for jury service. It also is the policy of this state to minimize the burden on the prospective jurors, their families, and employers resulting from jury service. The jury term and jury service should be set at as brief an interval as is practical given the size of the jury source list for the judicial district. The optimal jury term is two weeks or less. Optimal juror service is one day or one trial, whichever is longer.

(3) A citizen shall not be excluded from jury service in this state on account of race, color, religion, sex, national origin, or economic status.

(4) This section does not affect the right to peremptory challenges under RCW 4.44.130.

[1992 c 93 § 2; 1979 ex.s. c 135 § 2; 1967 c 39 § 1; 1911 c 57 § 2; RRS § 95. Prior: 1909 c 73 § 2.]

Notes:

Severability--1979 ex.s. c 135: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 135 § 12.]

RCW 2.36.093 Selection of jurors--Length and number of terms--Time of service.

(1) At such time as the judge or judges of any court of any county shall deem that the public business requires a jury term to be held, the judge or judges shall direct that a jury panel be selected and summoned to serve for the ensuing jury term or terms.

(2) The court shall establish the length and number of jury terms in a consecutive twelve-month period, and shall establish the time of juror service consistent with the provisions of RCW 2.36.010.

[1992 c 93 § 3; 1988 c 188 § 8; 1973 2nd ex.s. c 13 § 2.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.095 Summons to persons selected.

(1) Persons selected to serve on a petit jury, grand jury, or jury of inquest shall be summoned by mail or personal service. The county clerk shall issue summons and thereby notify persons selected for jury duty. The clerk may issue summons for any jury term, in any consecutive twelve-month period, at any time thirty days or more before the beginning of the jury term for which the summons are issued. However, when applicable, the provisions of RCW 2.36.130 apply.

(2) In courts of limited jurisdiction summons shall be issued by the court. Upon the agreement of the courts, the county clerk may summon jurors for any and all courts in the county or judicial district.

(3) The county clerk shall notify the county auditor of each summons for jury duty that is returned by the postal service as undeliverable.

[1993 c 408 § 8; 1992 c 93 § 4; 1990 c 140 § 1; 1988 c 188 § 9.]

Notes:

Severability--Effective dates--1993 c 408: See notes following RCW 2.36.054.

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.100 Excuse from service--Reasons--Assignment to another term--Summons for additional service--Certification of prior service.

(1) Except for a person who is not qualified for jury service under RCW 2.36.070, no person may be excused from jury service by the court except upon a showing of undue hardship, extreme inconvenience, public necessity, or any reason deemed sufficient by the court for a period of time the court deems necessary.

(2) At the discretion of the court's designee, after a request by a prospective juror to be excused, a prospective juror excused from juror service for a particular time may be assigned to another jury term within the twelve-month period. If the assignment to another jury term is made at the time a juror is excused from the jury term for which he or she was summoned, a second summons under RCW 2.36.095 need not be issued.

(3) When the jury source list has been fully summoned within a consecutive twelve-month period and additional jurors are needed, jurors who have already served during the consecutive twelve-month period may be summoned again for service. A juror who has previously served may only be excused if he or she served at least two weeks of juror service within the preceding twelve months. An excuse for prior service shall be granted only upon the written request of the prospective juror, which request shall certify the terms of prior service. Prior jury service may include service in superior court, in a court of limited jurisdiction, in the United States District Court, or on a jury of inquest.

[1992 c 93 § 5; 1988 c 188 § 10; 1983 c 181 § 1; 1979 ex.s. c 135 § 3; 1911 c 57 § 7; RRS § 100. Prior: 1909 c 73 § 7.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

Severability--1979 ex.s. c 135: See note following RCW 2.36.080.

RCW 2.36.110 Judge must excuse unfit person.

It shall be the duty of a judge to excuse from further jury service any juror, who in the opinion of the judge, has manifested unfitness as a juror by reason of bias, prejudice, indifference, inattention or any physical or mental defect or by reason of conduct or practices incompatible with proper and efficient jury service.

[1988 c 188 § 11; 1925 ex.s. c 191 § 3; RRS § 97-1.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.130 Additional names.

If for any reason the jurors drawn for service upon a jury for any term shall not be sufficient to dispose of the pending jury business, or where no jury is in regular attendance and the business of the court may require the attendance of a jury before a regular term, the judge or judges of any court may direct the random selection and summoning from the master jury list such additional names as they may consider necessary.

[1988 c 188 § 12; 1911 c 57 § 6; RRS § 99.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.150 Compensation of jurors--Reimbursement of counties for jury and witness fees in certain cases.

Jurors shall receive for each day's attendance, besides mileage at the rate determined under RCW 43.03.060, the following compensation:

- (1) Grand jurors may receive up to twenty-five dollars but in no case less than ten dollars;
- (2) Petit jurors may receive up to twenty-five dollars but in no case less than ten dollars;
- (3) Coroner's jurors may receive up to twenty-five dollars but in no case less than ten dollars;
- (4) District court jurors may receive up to twenty-five dollars but in no case less than ten dollars;

PROVIDED, That a person excused from jury service at his or her own request shall be allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances: PROVIDED FURTHER, That the state shall fully reimburse the county in which trial is held for all jury fees and witness fees related to criminal cases which result from incidents occurring within an adult or juvenile correctional institution: PROVIDED FURTHER, That the compensation paid jurors shall be determined by the county legislative authority and shall be uniformly applied within the county.

[1987 c 202 § 105; 1979 ex.s. c 135 § 7; 1975 1st ex.s. c 76 § 1; 1959 c 73 § 1; 1951 c 51 § 2; 1943 c 188 § 1; 1933 c 52 § 1; 1927 c 171 § 1; 1907 c 56 § 1, part; Rem. Supp. 1943 § 4229. Prior: 1903 c 151 § 1, part; 1893 p 421 § 1, part; Code 1881 § 2086, part.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Severability--1979 ex.s. c 135: See note following RCW 2.36.080.

Travel expense in lieu of mileage in certain cases: RCW 2.40.030.

RCW 2.36.165 Leave of absence from employment to be provided--Denial of promotional opportunities prohibited--Penalty--Civil action.

(1) An employer shall provide an employee with a sufficient leave of absence from employment to serve as a juror when that employee is summoned pursuant to chapter 2.36 RCW.

(2) An employer shall not deprive an employee of employment or threaten, coerce, or harass an employee, or deny an employee promotional opportunities because the employee receives a summons, responds to the summons, serves as a juror, or attends court for prospective jury service.

(3) An employer who intentionally violates subsection (1) or (2) of this section shall be guilty of a misdemeanor.

(4) If an employer commits an act in violation of subsection (2) of this section the employee may bring a civil action for damages as a result of the violation and for an order requiring the reinstatement of the employee. If the employee prevails, the employee shall be allowed a reasonable attorney's fee as determined by the court.

(5) For purposes of this section employer means any person, association, partnership, or private or public corporation who employs or exercises control over wages, hours, or working conditions of one or more employees.

[1988 c 188 § 13.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

RCW 2.36.170 Failure of juror to appear--Penalty.

A person summoned for jury service who intentionally fails to appear as directed shall be guilty of a misdemeanor.

[1988 c 188 § 14.]

Notes:

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

**Chapter 2.40 RCW
WITNESSES**

Sections

- 2.40.010 Witness fees and mileage.
- 2.40.020 Witness fee and mileage in civil cases demandable in advance.
- 2.40.030 Travel expense in lieu of mileage in certain cases.
- 2.40.040 Attorney of record not entitled to witness fee in case.

Notes:

*Discovery and depositions: Title 5 RCW; see also **Rules of Court: CR 26 through 37.***

District courts, witnesses: Chapter 12.16 RCW.

Utilities and transportation commission proceedings, witness fees: RCW 80.04.040, 81.04.040.

Witness fees and mileage in criminal cases: RCW 10.01.130, 10.01.140, 10.52.040.

Witnesses: Chapters 5.56 and 5.60 RCW.

RCW 2.40.010 Witness fees and mileage.

Witnesses shall receive for each day's attendance in all courts of record of this state the same compensation per day and per mile as jurors in superior court. Witnesses in any other court shall receive for each day's attendance the same compensation per day and per mile as jurors in district court.

[1987 c 202 § 106; 1977 ex.s. c 54 § 1; 1951 c 51 § 3; 1907 c 56 § 1, part; RRS § 497, part. Prior: 1903 c 151 § 1, part; 1893 p 421 § 1, part; Code 1881 § 2086, part.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 2.40.020 Witness fee and mileage in civil cases demandable in advance.

Witnesses in civil cases shall be entitled to receive, upon demand, their fees for one day's attendance, together with mileage going to the place where they are required to attend, if such demand is made to the officer or person serving the subpoena at the time of service.

[Code 1881 § 2100; 1869 p 374 § 22; RRS § 507.]

RCW 2.40.030 Travel expense in lieu of mileage in certain cases.

Whenever a juror, witness or officer is required to attend a court, or travel on official business out of the limits of his own county, and entitled to mileage, in lieu thereof he may at his option receive his actual and necessary traveling expenses by the usually traveled route in going to and returning from the place where the court is held, or where the business is discharged. At the close of each term of the district court, the clerk shall ascertain the amount due each juror for his mileage and per diem; and he shall also certify the amount of fees that may be due to the sheriff of any other county than that in which the court is held, who may have attended the term, having a prisoner in custody charged with or convicted of a crime, or for the purpose of conveying such prisoner to or from the county, which, when approved by the court or judge, shall be a charge upon the county to which the prisoner belongs; and he shall also certify the amount which may be due witnesses attending from another county in a criminal case for their fees, which, when approved by the court or judge, shall be a charge upon the county to which the case belongs.

[Code 1881 § 2109; 1869 p 419 § 7; 1863 p 424 §§ 6, 8; RRS §§ 509, 4230.]

Notes:

Compensation of jurors: RCW 2.36.150.

County officers--Expenses: RCW 42.24.090.

Salaried officers not to receive witness fees: RCW 42.16.020.

State officers--Subsistence and mileage: RCW 43.03.050, 43.03.060.

Witness fees as costs in civil actions: RCW 4.84.090.

RCW 2.40.040 Attorney of record not entitled to witness fee in case.

No attorney in any case shall be allowed any fees as a witness in such case.

[Code 1881 § 2095; 1869 p 374 § 17; RRS § 502.]

**Chapter 2.42 RCW
INTERPRETERS IN LEGAL PROCEEDINGS**

Sections

2.42.010	Legislative declaration--Intent.
2.42.050	Oath.
2.42.110	Definitions.
2.42.120	Appointment, pay.
2.42.130	Source of interpreters, qualifications.
2.42.140	Intermediary interpreter, when.
2.42.150	Waiver of right to interpreter.
2.42.160	Privileged communication.
2.42.170	Fee.
2.42.180	Visual recording of testimony.

Notes:

Rules of court: *ER 604.*

RCW 2.42.010 Legislative declaration--Intent.

It is hereby declared to be the policy of this state to secure the constitutional rights of deaf persons and of other persons who, because of impairment of hearing or speech, are unable to readily understand or communicate the spoken English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the appointment of such interpreters.

[1989 c 358 § 12; 1983 c 222 § 1; 1973 c 22 § 1.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.42.050 Oath.

Every qualified interpreter appointed under this chapter in a judicial or administrative proceeding shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or other agency conducting the proceedings, to the best of the interpreter's skill and

judgment.

[1989 c 358 § 14; 1985 c 389 § 20; 1973 c 22 § 5.]

Notes:

Rules of court: *ER 604.*

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.42.110 Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Impaired person" means a person who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, speech impaired, or hard of hearing.

(2) "Qualified interpreter" means a visual language interpreter who is certified by the state or is certified by the registry of interpreters for the deaf to hold the comprehensive skills certificate or both certificates of interpretation and transliteration, or an interpreter who can readily translate statements of speech impaired persons into spoken language.

(3) "Intermediary interpreter" means a hearing impaired interpreter who holds a reverse skills certificate by the state or is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of RCW 2.42.130, and who is able to assist in providing an accurate interpretation between spoken and sign language or between variants of sign language by acting as an intermediary between a hearing impaired person and a qualified hearing interpreter.

(4) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision.

[1991 c 171 § 1; 1985 c 389 § 11.]

RCW 2.42.120 Appointment, pay.

(1) If a hearing impaired person is a party or witness at any stage of a judicial or quasi-judicial proceeding in the state or in a political subdivision, including but not limited to civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing impaired person may be subject to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(2) If the parent, guardian, or custodian of a juvenile brought before a court is hearing impaired, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings.

(3) If a hearing impaired person participates in a program or activity ordered by a court as

part of the sentence or order of disposition, required as part of a diversion agreement or deferred prosecution program, or required as a condition of probation or parole, the appointing authority shall appoint and pay for a qualified interpreter to interpret exchange of information during the program or activity.

(4) If a law enforcement agency conducts a criminal investigation involving the interviewing of a hearing impaired person, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. Whenever a law enforcement agency conducts a criminal investigation involving the interviewing of a minor child whose parent, guardian, or custodian is hearing impaired, whether as a victim, witness, or suspect, the appointing authority shall appoint and pay for a qualified interpreter throughout the investigation. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(5) If a hearing impaired person is arrested for an alleged violation of a criminal law the arresting officer or the officer's supervisor shall, at the earliest possible time, procure and arrange payment for a qualified interpreter for any notification of rights, warning, interrogation, or taking of a statement. No employee of the law enforcement agency who has responsibilities other than interpreting may be appointed as the qualified interpreter.

(6) Where it is the policy and practice of a court of this state or of a political subdivision to appoint and pay counsel for persons who are indigent, the appointing authority shall appoint and pay for a qualified interpreter for hearing impaired persons to facilitate communication with counsel in all phases of the preparation and presentation of the case.

[1985 c 389 § 12.]

RCW 2.42.130 Source of interpreters, qualifications.

(1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified interpreter and/or an intermediary interpreter through the department of social and health services, office of deaf services, or through any community center for hearing impaired persons which operates an interpreter referral service. The office of deaf services and these community centers shall maintain an up-to-date list or lists of interpreters that are certified by the state and/or by the registry of interpreters for the deaf.

(2) The appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the hearing impaired person, that the interpreter is able in that particular proceeding, program, or activity to interpret accurately all communication to and from the hearing impaired person. If at any time during the proceeding, program, or activity, in the opinion of the hearing impaired person or a qualified observer, the interpreter does not provide accurate, impartial, and effective communication with the hearing impaired person the appointing authority shall appoint another qualified interpreter. No otherwise qualified interpreter who is a relative of any participant in the proceeding may be appointed.

[1991 c 171 § 2; 1985 c 389 § 13.]

RCW 2.42.140 Intermediary interpreter, when.

If the communication mode or language of the hearing impaired person is not readily interpretable, the interpreter or hearing impaired person shall notify the appointing authority who shall appoint and pay an intermediary interpreter to assist the qualified interpreter.

[1985 c 389 § 14.]

RCW 2.42.150 Waiver of right to interpreter.

(1) The right to a qualified interpreter may not be waived except when:

- (a) A hearing impaired person requests a waiver through the use of a qualified interpreter;
- (b) The counsel, if any, of the hearing impaired person consents; and

(c) The appointing authority determines that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter shall not preclude the hearing impaired person from claiming his or her right to a qualified interpreter at a later time during the proceeding, program, or activity.

[1985 c 389 § 15.]

RCW 2.42.160 Privileged communication.

(1) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law.

(2) A qualified and/or intermediary interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

[1991 c 171 § 3; 1985 c 389 § 16.]

RCW 2.42.170 Fee.

A qualified and/or intermediary interpreter appointed under this chapter is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses. The fee for services for interpreters for hearing impaired persons shall be in accordance with standards established by the department of social and health services, office of deaf services.

[1991 c 171 § 4; 1985 c 389 § 17.]

RCW 2.42.180 Visual recording of testimony.

At the request of any party to the proceeding or on the appointing authority's initiative,

the appointing authority may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

In any judicial proceeding involving a capital offense, the appointing authority shall order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use in verification of the official transcript of the proceeding.

[1985 c 389 § 18.]

Chapter 2.43 RCW

INTERPRETERS FOR NON-ENGLISH-SPEAKING PERSONS

Sections

2.43.010	Legislative intent.
2.43.020	Definitions.
2.43.030	Appointment of interpreter.
2.43.040	Fees and expenses--Cost of providing interpreter.
2.43.050	Oath.
2.43.060	Waiver of right to interpreter.
2.43.070	Testing, certification of interpreters.
2.43.080	Code of ethics.

RCW 2.43.010 Legislative intent.

It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. Nothing in chapter 358, Laws of 1989 abridges the parties' rights or obligations under other statutes or court rules or other law.

[1989 c 358 § 1. Formerly RCW 2.42.200.]

Notes:

Severability--1989 c 358: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 358 § 10.]

RCW 2.43.020 Definitions.

As used in this chapter:

(1) "Non-English-speaking person" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include hearing-impaired persons who are covered under chapter 2.42 RCW.

(2) "Qualified interpreter" means a person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.

(3) "Legal proceeding" means a proceeding in any court in this state, grand jury hearing, or hearing before an inquiry judge, or before [an] administrative board, commission, agency, or licensing body of the state or any political subdivision thereof.

(4) "Certified interpreter" means an interpreter who is certified by the office of the administrator for the courts.

(5) "Appointing authority" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

[1989 c 358 § 2. Formerly RCW 2.42.210.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.43.030 Appointment of interpreter.

(1) Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.

(a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.

(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the office of the administrator for the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of chapter 358, Laws of 1989, "good cause" includes but is not limited to a determination that:

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of certified interpreters maintained by the office of the administrator for the courts does not include an interpreter certified in the language spoken by the non-English-speaking person.

(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.

(2) If good cause is found for using an interpreter who is not certified or if a qualified

interpreter is appointed, the appointing authority shall make a preliminary determination, on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:

(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and

(b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.

[1990 c 183 § 1; 1989 c 358 § 3. Formerly RCW 2.42.220.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.43.040 Fees and expenses--Cost of providing interpreter.

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

[1989 c 358 § 4. Formerly RCW 2.42.230.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.43.050 Oath.

Before beginning to interpret, every interpreter appointed under this chapter shall take an oath affirming that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the

proceedings, in the English language, to the best of the interpreter's skill and judgment.

[1989 c 358 § 5. Formerly RCW 2.42.240.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.43.060 Waiver of right to interpreter.

(1) The right to a qualified interpreter may not be waived except when:

(a) A non-English-speaking person requests a waiver; and

(b) The appointing authority determines on the record that the waiver has been made knowingly, voluntarily, and intelligently.

(2) Waiver of a qualified interpreter may be set aside and an interpreter appointed, in the discretion of the appointing authority, at any time during the proceedings.

[1989 c 358 § 6. Formerly RCW 2.42.250.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.43.070 Testing, certification of interpreters.

(1) Subject to the availability of funds, the office of the administrator for the courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The office of the administrator for the courts shall work cooperatively with community colleges and other private or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs to ensure the availability of certified interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The office of the administrator for the courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The office of the administrator for the courts shall conduct periodic examinations to ensure the availability of certified interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The office of the administrator for the courts shall compile, maintain, and disseminate a current list of interpreters certified by the office of the administrator for the courts.

(6) The office of the administrator for the courts may charge reasonable fees for testing, training, and certification.

[1989 c 358 § 7. Formerly RCW 2.42.260.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

RCW 2.43.080 Code of ethics.

All language interpreters serving in a legal proceeding, whether or not certified or qualified, shall abide by a code of ethics established by supreme court rule.

[1989 c 358 § 8. Formerly RCW 2.42.270.]

Notes:

Severability--1989 c 358: See note following RCW 2.43.010.

**Chapter 2.44 RCW
ATTORNEYS AT LAW**

Sections

2.44.010	Authority of attorney.
2.44.020	Appearance without authority--Procedure.
2.44.030	Production of authority to act.
2.44.040	Change of attorneys.
2.44.050	Notice of change and substitution.
2.44.060	Death or removal of attorney--Proceedings.

Notes:

Rules of court: See *Code of professional responsibility*.

Attorney as witness: **Rules of court:** CR 43(g); *Code of Professional Responsibility--DR 5-102*.

Attorney fee in appeals from board of industrial insurance appeals: RCW 51.52.130.

Legal aid: Chapter 2.50 RCW.

Lien for attorneys' fees: Chapter 60.40 RCW.

Prosecuting attorneys, duties in general: Chapter 36.27 RCW.

Salaried attorney of trust company or national bank not allowed fee for probating estate: RCW 11.36.010.

RCW 2.44.010 Authority of attorney.

An attorney and counselor has authority:

(1) To bind his client in any of the proceedings in an action or special proceeding by his agreement duly made, or entered upon the minutes of the court; but the court shall disregard all agreements and stipulations in relation to the conduct of, or any of the proceedings in, an action or special proceeding unless such agreement or stipulation be made in open court, or in presence of the clerk, and entered in the minutes by him, or signed by the party against whom the same is alleged, or his attorney;

(2) To receive money claimed by his client in an action or special proceeding, during the pendency thereof, or after judgment upon the payment thereof, and not otherwise, to discharge the same or acknowledge satisfaction of the judgment;

(3) This section shall not prevent a party [from] employing a new attorney or from issuing an execution upon a judgment, or from taking other proceedings prescribed by statute for its

enforcement.

[Code 1881 § 3280; 1863 p 404 § 6; RRS § 130.]

RCW 2.44.020 Appearance without authority--Procedure.

If it be alleged by a party for whom an attorney appears, that he does so without authority, the court may, at any stage of the proceedings, relieve the party for whom the attorney has assumed to appear from the consequences of his act; it may also summarily, upon motion, compel the attorney to repair the injury to either party consequent upon his assumption of authority.

[Code 1881 § 3281; 1863 p 405 § 7; RRS § 131.]

RCW 2.44.030 Production of authority to act.

The court, or a judge, may, on motion of either party, and on showing reasonable grounds therefor, require the attorney for the adverse party, or for any one of several adverse parties, to produce or prove the authority under which he appears, and until he does so, may stay all proceedings by him on behalf of the party for whom he assumes to appear.

[Code 1881 § 3282; 1863 p 405 § 8; RRS § 132.]

RCW 2.44.040 Change of attorneys.

The attorney in an action or special proceeding, may be changed at any time before judgment or final determination as follows:

- (1) Upon his own consent, filed with the clerk or entered upon the minutes; or
- (2) Upon the order of the court, or a judge thereof, on the application of the client, or for other sufficient cause; but no such change can be made until the charges of such attorney have been paid by the party asking such change to be made.

[Code 1881 § 3283; 1863 p 405 § 9; RRS § 133.]

RCW 2.44.050 Notice of change and substitution.

When an attorney is changed, as provided in RCW 2.44.040, written notice of the change, and of the substitution of a new attorney, or of the appearance of the party in person, must be given to the adverse party; until then, he shall be bound to recognize the former attorney.

[Code 1881 § 3284; 1863 p 405 § 10; RRS § 134.]

RCW 2.44.060 Death or removal of attorney--Proceedings.

When an attorney dies, or is removed, or suspended, or ceases to act as such, a party to an action for whom he was acting as attorney, must, at least twenty days before any further

proceedings against him, be required by the adverse party, by written notice, to appoint another attorney, or to appear in person.

[Code 1881 § 3285; 1863 p 405 § 11; RRS § 135.]

Chapter 2.48 RCW STATE BAR ACT

Sections

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2.48.210	Oath on admission.
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2.48.230	Code of ethics.

Notes:

Rules of court: See *Rules of Professional Responsibility, Rules for Lawyer Discipline, also Admission to Practice Rules.*

School district hearings, hearing officers as members of state bar association: RCW 28A.405.310.

Statute law committee, membership on: RCW 1.08.001.

RCW 2.48.010 Objects and powers.

There is hereby created as an agency of the state, for the purpose and with the powers

hereinafter set forth, an association to be known as the Washington State Bar Association, hereinafter designated as the state bar, which association shall have a common seal and may sue and be sued, and which may, for the purpose of carrying into effect and promoting the objects of said association, enter into contracts and acquire, hold, encumber and dispose of such real and personal property as is necessary thereto.

[1933 c 94 § 2; RRS § 138-2.]

Notes:

Severability--1933 c 94: "If any section, subsection, sentence, clause or phrase of this act or any rule adopted thereunder, is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this act nor of any other rule adopted hereunder. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional." [1933 c 94 § 17.]

Short title--1933 c 94: "This act may be known and cited as the State Bar Act." [1933 c 94 § 1.]

RCW 2.48.020 First members.

The first members of the Washington State Bar Association shall be all persons now [on June 7, 1933] entitled to practice law in this state.

[1933 c 94 § 3; RRS § 138-3. FORMER PART OF SECTION: 1933 c 94 § 4; RRS § 138-4 now codified as RCW 2.48.021.]

RCW 2.48.021 New members.

After the organization of the state bar, as herein provided, all persons who are admitted to practice in accordance with the provisions of RCW 2.48.010 through 2.48.180, except judges of courts of record, shall become by that fact active members of the state bar.

[1933 c 94 § 4; RRS § 138-4. Formerly RCW 2.48.020, part.]

RCW 2.48.030 Board of governors.

There is hereby constituted a board of governors of the state bar which shall consist of not more than fifteen members, to include: The president of the state bar elected as provided by the bylaws of the association, one member from each congressional district now or hereafter existing in the state elected by secret ballot by mail by the active members residing therein, and such additional members elected as provided by the bylaws of the association. The members of the board of governors shall hold office for three years and until their successors are elected and qualified. Any vacancies in the board of governors shall be filled by the continuing members of the board until the next election, held in accordance with the bylaws of the association.

The board shall not be deemed to be unlawfully constituted and a member of the board shall not be deemed ineligible to serve the remainder of the member's unexpired term on the board solely by reason of the establishment of new or revised boundaries for congressional districts.

[1982 1st ex.s. c 30 § 1; 1972 ex.s. c 66 § 1; 1933 c 94 § 5; RRS § 138-5.]

RCW 2.48.035 Board of governors--Membership--Effect of creation of new congressional districts or boundaries.

The terms of office of members of the board of governors of the state bar who are elected from the various congressional districts shall not be affected by the creation of either new boundaries for congressional districts or additional districts. In such an event, each board member so elected may continue to serve in office for the balance of the term for which he or she was elected or appointed: PROVIDED, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW 2.48.030, as now or hereafter amended, by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this section following the creation of either new boundaries for congressional districts or additional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected.

[1982 1st ex.s. c 30 § 2.]

RCW 2.48.040 State bar governed by board of governors.

The state bar shall be governed by the board of governors which shall be charged with the executive functions of the state bar and the enforcement of the provisions of RCW 2.48.010 through 2.48.180 and all rules adopted in pursuance thereof. The members of the board of governors shall receive no salary by virtue of their office.

[1933 c 94 § 6; RRS § 138-6.]

RCW 2.48.050 Powers of governors.

The said board of governors shall have power, in its discretion, from time to time to adopt rules

- (1) concerning membership and the classification thereof into active, inactive and honorary members; and
- (2) concerning the enrollment and privileges of membership; and
- (3) defining the other officers of the state bar, the time, place and method of their selection, and their respective powers, duties, terms of office and compensation; and
- (4) concerning annual and special meetings; and
- (5) concerning the collection, the deposit and the disbursement of the membership and

admission fees, penalties, and all other funds; and

(6) providing for the organization and government of district and/or other local subdivisions of the state bar; and

(7) providing for all other matters, whether similar to the foregoing or not, affecting in any way whatsoever, the organization and functioning of the state bar. Any such rule may be modified, or rescinded, or a new rule adopted, by a vote of the active members under rules to be prescribed by the board of governors.

[1933 c 94 § 7; RRS § 138-7.]

RCW 2.48.060 Admission and disbarment.

The said board of governors shall likewise have power, in its discretion, from time to time to adopt rules, subject to the approval of the supreme court, fixing the qualifications, requirements and procedure for admission to the practice of law; and, with such approval, to establish from time to time and enforce rules of professional conduct for all members of the state bar; and, with such approval, to appoint boards or committees to examine applicants for admission; and, to investigate, prosecute and hear all causes involving discipline, disbarment, suspension or reinstatement, and make recommendations thereon to the supreme court; and, with such approval, to prescribe rules establishing the procedure for the investigation and hearing of such matters, and establishing county or district agencies to assist therein to the extent provided by such rules: PROVIDED, HOWEVER, That no person who shall have participated in the investigation or prosecution of any such cause shall sit as a member of any board or committee hearing the same.

[1933 c 94 § 8; RRS § 138-8.]

Notes:

Rules of court: See *Rules for Lawyer Discipline, also Admission to Practice Rules.*

RCW 2.48.070 Admission of veterans.

Any person who shall have graduated from any accredited law school and after such graduation shall have served in the armed forces of the United States of America between December 7, 1941, and the termination of the present World War, may be admitted to the practice of law in the state of Washington and to membership in the Washington State Bar Association, upon motion made before the supreme court of the state of Washington, provided the following is made to appear:

(1) That the applicant is a person of good moral character over the age of twenty-one years;

(2) That the applicant, at the time of entering the armed forces of the United States, was a legal resident of the state of Washington;

(3) That the applicant's service in the armed forces of the United States is or was satisfactory and honorable.

[1945 c 181 § 1; Rem. Supp. 1945 § 138-7A.]

Notes:

*Qualifications for admission to practice as prescribed by **Rules of court**: Admission to Practice Rules.*

RCW 2.48.080 Admission of veterans--Establishment of requirements if in service.

If an applicant under RCW 2.48.070 through 2.48.110 is, at the time he applies for admission to practice law in the state of Washington, still in the armed forces of the United States, he may establish the requirements of the proviso in RCW 2.48.070 by a letter or certificate from his commanding officer and by the certificates of at least two active members of the Washington State Bar Association.

[1945 c 181 § 2; Rem. Supp. 1945 § 138-7B.]

RCW 2.48.090 Admission of veterans--Establishment of requirements if discharged.

If an applicant under RCW 2.48.070 through 2.48.110 is, at the time he applies for admission to practice law in the state of Washington, no longer in the armed forces of the United States, he may establish the requirements of the proviso in RCW 2.48.070 as follows:

(1) If he shall have been an enlisted person, by producing an honorable discharge, and by the certificates of at least two active members of the Washington State Bar Association.

(2) If he shall have been an officer, by an affidavit showing that he has been relieved from active duty under circumstances other than dishonorable, and by the certificates of at least two active members of the Washington State Bar Association.

[1945 c 181 § 3; Rem. Supp. 1945 § 138-7C.]

RCW 2.48.100 Admission of veterans--Effect of disability discharge.

A physical disability discharge shall be considered an honorable discharge unless it be coupled with a dishonorable discharge.

[1945 c 181 § 4; Rem. Supp. 1945 § 138-7D.]

RCW 2.48.110 Admission of veterans--Fees of veterans.

An applicant applying for admission to practice law under the provisions of RCW 2.48.070 through 2.48.090, shall pay the same fees as are required of residents of the state of Washington seeking admission to practice law by examination.

[1945 c 181 § 5; Rem. Supp. 1945 § 138-7E.]

RCW 2.48.130 Membership fee--Active.

The annual membership fees for active members shall be payable on or before February

1st of each year. The board of governors may establish the amount of such annual membership fee to be effective each year: PROVIDED, That written notice of any proposed increase in membership fee shall be sent to active members not less than sixty days prior to the effective date of such increase: PROVIDED FURTHER, That the board of governors may establish the fee at a reduced rate for those who have been active members for less than five years in this state or elsewhere.

[1957 c 138 § 1; 1953 c 256 § 1; 1933 c 94 § 9; RRS § 138-9.]

RCW 2.48.140 Membership fee--Inactive.

The annual membership fee for inactive members shall be the sum of two dollars, payable on or before the first day of February of each year.

[1955 c 34 § 1; 1933 c 94 § 10; RRS § 138-10.]

RCW 2.48.150 Admission fees.

Applicants for admission to the bar upon accredited certificates or upon examination, not having been admitted to the bar in another state or territory, shall pay a fee of twenty-five dollars and all other applicants a fee of fifty dollars. Said admission fees shall be used to pay the expenses incurred in connection with examining and admitting applicants to the bar, including salaries of examiners, and any balance remaining at the close of each biennium shall be paid to the state treasurer and be by him credited to the general fund.

[1933 c 94 § 11; RRS § 138-11.]

Notes:

Rules of court: Admission--APR 3(d).

RCW 2.48.160 Suspension for nonpayment of fees.

Any member failing to pay any fees after the same become due, and after two months' written notice of his delinquency, must be suspended from membership in the state bar, but may be reinstated upon payment of accrued fees and such penalties as may be imposed by the board of governors, not exceeding double the amount of the delinquent fee.

[1933 c 94 § 12; RRS § 138-12.]

RCW 2.48.165 Disbarment or license suspension--Nonpayment or default on educational loan or scholarship.

The Washington state supreme court may provide by court rule that nonpayment or default on a federally or state-guaranteed educational loan shall result in disbarment or license suspension of the license of any person who has been certified by a lending agency and reported to the court for nonpayment or default on a federally or state-guaranteed educational loan or

service-conditional scholarship. The supreme court may reinstate the person when provided with a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency.

[1996 c 293 § 1.]

Notes:

Severability--1996 c 293: See note following RCW 18.04.420.

RCW 2.48.166 Admission to or suspension from practice--Noncompliance with support order--Rules.

The Washington state supreme court may provide by rule that no person who has been certified by the department of social and health services as a person who is in noncompliance with a support order or a *residential or visitation order as provided in RCW 74.20A.320 may be admitted to the practice of law in this state, and that any member of the Washington state bar association who has been certified by the department of social and health services as a person who is in noncompliance with a support order or a residential or visitation order as provided in RCW 74.20A.320 shall be immediately suspended from membership. The court's rules may provide for review of an application for admission or reinstatement of membership after the department of social and health services has issued a release stating that the person is in compliance with the order.

[1997 c 58 § 810.]

Notes:

Reviser's note: 1997 c 58 § 887 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Intent--1997 c 58: "The legislature intends that the license suspension program established in chapter 74.20A RCW be implemented fairly to ensure that child support obligations are met and that parents comply with residential and visitation orders. However, being mindful of the separations of powers and responsibilities among the branches of government, the legislature strongly encourages the state supreme court to adopt rules providing for suspension and denial of licenses related to the practice of law to those individuals who are in noncompliance with a support order or a residential or visitation order." [1997 c 58 § 809.]

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

RCW 2.48.170 Only active members may practice law.

No person shall practice law in this state subsequent to the first meeting of the state bar unless he shall be an active member thereof as hereinbefore defined: PROVIDED, That a member of the bar in good standing in any other state or jurisdiction shall be entitled to appear in the courts of this state under such rules as the board of governors may prescribe.

[1933 c 94 § 13; RRS § 138-13.]

Notes:

Rules of court: Admission--APR 5.

RCW 2.48.180 Definitions--Unlawful practice a crime--Cause for discipline--Unprofessional conduct--Defense--Injunction--Remedies--Costs--Attorneys' fees--Time limit for action.

(1) As used in this section:

(a) "Legal provider" means an active member in good standing of the state bar, and any other person authorized by the Washington state supreme court to engage in full or limited practice of law;

(b) "Nonlawyer" means a person to whom the Washington supreme court has granted a limited authorization to practice law but who practices law outside that authorization, and a person who is not an active member in good standing of the state bar, including persons who are disbarred or suspended from membership;

(c) "Ownership interest" means the right to control the affairs of a business, or the right to share in the profits of a business, and includes a loan to the business when the interest on the loan is based upon the income of the business or the loan carries more than a commercially reasonable rate of interest.

(2) The following constitutes unlawful practice of law:

(a) A nonlawyer practices law, or holds himself or herself out as entitled to practice law;

(b) A legal provider holds an investment or ownership interest in a business primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business;

(c) A nonlawyer knowingly holds an investment or ownership interest in a business primarily engaged in the practice of law;

(d) A legal provider works for a business that is primarily engaged in the practice of law, knowing that a nonlawyer holds an investment or ownership interest in the business; or

(e) A nonlawyer shares legal fees with a legal provider.

(3) Unlawful practice of law is a crime. A single violation of this section is a gross misdemeanor. Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony.

(4) Nothing contained in this section affects the power of the courts to grant injunctive or other equitable relief or to punish as for contempt.

(5) Whenever a legal provider or a person licensed by the state in a business or profession is convicted, enjoined, or found liable for damages or a civil penalty or other equitable relief under this section, the plaintiff's attorney shall provide written notification of the judgment to the appropriate regulatory or disciplinary body or agency.

(6) A violation of this section is cause for discipline and constitutes unprofessional conduct that could result in any regulatory penalty provided by law, including refusal, revocation, or suspension of a business or professional license, or right or admission to practice. Conduct

that constitutes a violation of this section is unprofessional conduct in violation of RCW 18.130.180.

(7) In a proceeding under this section it is a defense if proven by the defendant by a preponderance of the evidence that, at the time of the offense, the conduct alleged was authorized by the rules of professional conduct or the admission to practice rules, or Washington business and professions licensing statutes or rules.

(8) Independent of authority granted to the attorney general, the prosecuting attorney may petition the superior court for an injunction against a person who has violated this chapter. Remedies in an injunctive action brought by a prosecuting attorney are limited to an order enjoining, restraining, or preventing the doing of any act or practice that constitutes a violation of this chapter and imposing a civil penalty of up to five thousand dollars for each violation. The prevailing party in the action may, in the discretion of the court, recover its reasonable investigative costs and the costs of the action including a reasonable attorney's fee. The degree of proof required in an action brought under this subsection is a preponderance of the evidence. An action under this subsection must be brought within three years after the violation of this chapter occurred.

[1995 c 285 § 26; 1989 c 117 § 13; 1933 c 94 § 14; RRS § 138-14.]

Notes:

Rules of court: *RLD 1.1(h).*

Effective date--1995 c 285: See RCW 48.30A.900.

Severability--Effective date--1989 c 117: See RCW 19.154.901 and 19.154.902.

Practicing law with disbarred attorney: RCW 2.48.220(9).

RCW 2.48.190 Qualifications on admission to practice.

No person shall be permitted to practice as an attorney or counselor at law or to do work of a legal nature for compensation, or to represent himself or herself as an attorney or counselor at law or qualified to do work of a legal nature, unless he or she is a citizen of the United States and a bona fide resident of this state and has been admitted to practice law in this state: PROVIDED, That any person may appear and conduct his or her own case in any action or proceeding brought by or against him or her, or may appear in his or her own behalf in the small claims department of the district court: AND PROVIDED FURTHER, That an attorney of another state may appear as counselor in a court of this state without admission, upon satisfying the court that his or her state grants the same right to attorneys of this state.

[1987 c 202 § 107; 1921 c 126 § 4; RRS § 139-4. Prior: 1919 c 100 § 1; 1917 c 115 § 1.]

Notes:

Rules of court: *Admission--APR 5.*

Reviser's note: Last proviso, see later enactment, RCW 2.48.170.

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 2.48.200 Restrictions on practice by certain officers.

No person shall practice law who holds a commission as judge in any court of record, or as sheriff or coroner; nor shall the clerk of the supreme court, the court of appeals, or of the superior court or any deputy thereof practice in the court of which he or she is clerk or deputy clerk: PROVIDED, It shall be unlawful for a deputy prosecuting attorney, or for the employee, partner, or agent of a prosecuting attorney, or for an attorney occupying offices with a prosecuting attorney, to appear for an adverse interest in any proceeding in which a prosecuting attorney is appearing, or to appear in any suit, action or proceeding in which a prosecuting attorney is prohibited by law from appearing, but nothing herein shall prohibit a prosecuting attorney or a deputy prosecuting attorney from appearing in any action or proceeding for an interest divergent from that represented in the same action or proceeding by another attorney or special attorney in or for the same office, so long as such appearances are pursuant to the duties of prosecuting attorneys as set out in RCW 36.27.020 and such appearances are consistent with the code of professional responsibility or other code of ethics adopted by the Washington state supreme court, but nothing herein shall preclude a judge or justice of a court of this state from finishing any business undertaken in a court of the United States prior to him or her becoming a judge or justice.

[1992 c 225 § 1; 1975 1st ex.s. c 19 § 3; 1971 c 81 § 13; 1921 c 126 § 5; RRS § 139-5.]

Notes:

Rules of court: Judicial ethics--CJC.

Administrator for the courts, assistant not to practice law: RCW 2.56.020.

Attorney general, deputies, assistants--Private practice of law prohibited: RCW 43.10.115, 43.10.120, 43.10.125; but see RCW 43.10.130.

Clerk not to practice law: RCW 2.32.090.

Coroner not to practice law: RCW 36.24.170.

Judges may not practice law: State Constitution Art. 4 § 19 and RCW 2.06.090, 35.20.170; but see RCW 2.28.040.

Prosecuting and deputy prosecuting attorneys--Private practice prohibited in certain counties: RCW 36.27.060.

Registrar, deputy registrar of titles not to practice law: RCW 65.12.050.

Sheriff not to practice law: RCW 36.28.110.

RCW 2.48.210 Oath on admission.

Every person before being admitted to practice law in this state shall take and subscribe the following oath:

I do solemnly swear:

I am a citizen of the United States and owe my allegiance thereto;

I will support the Constitution of the United States and the Constitution of the state of Washington;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land, unless it be in defense of a person charged with a public offense; I will employ for the

purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with his business except from him or with his knowledge and approval;

I will abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any man's cause for lucre or malice. So help me God.

[1921 c 126 § 12; RRS § 139-12. Prior: 1917 c 115 § 14.]

Notes:

Rules of court: *Admission--APR 5(c) and (d).*

RCW 2.48.220 Grounds of disbarment or suspension.

An attorney or counselor may be disbarred or suspended for any of the following causes arising after his admission to practice:

(1) His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence.

(2) Wilful disobedience or violation of an order of the court requiring him to do or forbear an act connected with, or in the course of, his profession, which he ought in good faith to do or forbear.

(3) Violation of his oath as an attorney, or of his duties as an attorney and counselor.

(4) Corruptly or wilfully, and without authority, appearing as attorney for a party to an action or proceeding.

(5) Lending his name to be used as attorney and counselor by another person who is not an attorney and counselor.

(6) For the commission of any act involving moral turpitude, dishonesty or corruption, whether the same be committed in the course of his relations as an attorney or counselor at law, or otherwise, and whether the same constitute a felony or misdemeanor or not; and if the act constitute a felony or misdemeanor, conviction thereof in a criminal proceeding shall not be a condition precedent to disbarment or suspension from practice therefor.

(7) Misrepresentation or concealment of a material fact made in his application for admission or in support thereof.

(8) Disbarment by a foreign court of competent jurisdiction.

(9) Practicing law with or in cooperation with a disbarred or suspended attorney, or maintaining an office for the practice of law in a room or office occupied or used in whole or in part by a disbarred or suspended attorney, or permitting a disbarred or suspended attorney to use his name for the practice of law, or practicing law for or on behalf of a disbarred or suspended

attorney, or practicing law under any arrangement or understanding for division of fees or compensation of any kind with a disbarred or suspended attorney or with any person not a licensed attorney.

(10) Gross incompetency in the practice of the profession.

(11) Violation of the ethics of the profession.

[1921 c 126 § 14; 1909 c 139 § 7; RRS § 139-14.]

Notes:

Rules of court: *RLD 1.1.*

RCW 2.48.230 Code of ethics.

The code of ethics of the American Bar Association shall be the standard of ethics for the members of the bar of this state.

[1921 c 126 § 15; RRS § 139-15. Prior: 1917 c 115 § 20.]

Notes:

Rules of court: *See Code of Professional Responsibility, also Code of Judicial Conduct.*

Reviser's note: RCW 2.48.190, 2.48.200, 2.48.210, 2.48.220, and 2.48.230 are the only sections of the earlier act relating to the admission, regulation, disbarment, etc., of attorneys which are thought not to be embraced within the general repeal contained in the state bar act of 1933.

**Chapter 2.50 RCW
LEGAL AID**

Sections

2.50.010	Legal aid defined.
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RCW 2.50.010 Legal aid defined.

Legal aid is the rendition, without compensation, of professional services by an active member of the Washington State Bar Association to or for any indigent person unable to pay a reasonable attorney's fee determined in accordance with the established code of legal ethics.

[1939 c 93 § 1; RRS § 10007-201. Formerly RCW 74.36.010.]

RCW 2.50.020 Public interest.

The promotion of organized legal aid is hereby declared to be in the public interest.

[1939 c 93 § 2; RRS § 10007-202. Formerly RCW 74.36.020.]

RCW 2.50.040 Declaration of necessity by board of county commissioners.

The board of county commissioners (hereinafter called the county board) is empowered to find by resolution the existence of a necessity in such county for organized legal aid. Such resolution shall specify the amount of county funds thereby to be allocated for and expended in the operation of a legal aid bureau during the period of the fiscal year or the remainder thereof. Within ten days after the passage of such a resolution, the commissioners shall cause a certified copy to be transmitted to the board of governors of the Washington State Bar Association (hereinafter called the bar board).

[1939 c 93 § 4; RRS § 10007-204. Formerly RCW 74.36.040.]

RCW 2.50.050 Legal aid bureau defined.

A legal aid bureau (hereinafter called the bureau), is an agency for the rendition of organized legal aid to indigent persons resident in the county, consisting of one director, who shall be an attorney resident in the county, and who shall be in good standing and active membership in the Washington State Bar Association, together with such professional and other personnel, such office facilities, and other equipment, as may be determined by the bar board and be financed by the county board.

[1939 c 93 § 5; RRS § 10007-205. Formerly RCW 74.36.050.]

RCW 2.50.060 Board of governors--Authority.

Upon receipt of a certified copy of such resolution the bar board is empowered and, within sixty days thereafter, is obligated to create and continue a legal aid bureau as soon and as long as the necessary funds so allocated are made available by the county board, all expenditures for the bureau to be limited to county funds so supplied, except only as hereinafter authorized. The bar board is vested with the ultimate power to control by its rules and regulations such bureau, the immediate supervision of which in actual operation shall be by the bar board itself or by a committee of its selection.

[1939 c 93 § 6; RRS § 10007-206. Formerly RCW 74.36.060.]

RCW 2.50.070 Legal aid county committee created.

The legal aid county committee (hereinafter called the committee), if created and continued by resolution of the bar board, shall consist of three members chosen by the bar board as follows: a member of the bar board, who shall be chairman, a judge of the superior court of the county, and an active member of the Washington State Bar Association, resident in the county.

[1939 c 93 § 7; RRS § 10007-207. Formerly RCW 74.36.070.]

RCW 2.50.080 Supervision.

Among the powers to supervise the actual operation of any such bureau, which shall be exercised either by the bar board itself or in its discretion by the committee, are the following:

(1) To appoint and remove at will the director and to fix the amount of his salary not in excess of two hundred dollars per month;

(2) To engage and discharge all other employees of the bureau and to fix their salaries or remuneration;

(3) To assist the director in supplying the free services of attorneys for the bureau;

(4) To cooperate with the dean of any law school now or hereafter established within this state respecting the participation of law students in the rendition of services by the bureau under the guidance of the director--however, by this provision, no law student shall be deemed authorized to represent as an attorney in a court of record any legal aid client;

(5) To require of the director periodically written statements of account and written reports upon any and all subjects within the operation of the bureau;

(6) To prescribe rules and regulations, always subject to the bar board, for determination of the indigent persons who are entitled to legal aid, for determination of the kinds of legal problems and cases subject to legal aid, and for determination of all operative legal aid policies not inconsistent with this chapter;

(7) To advise the county board, for its budget upon its written request, as to the estimated amount of county funds reasonably required to effectively operate the bureau for the ensuing fiscal year;

(8) To receive county funds allocated by the county board for the bureau, and to render an account thereof at the times and in the manner reasonably required by the county board;

(9) To disburse such county funds, after receipt thereof, solely for the purposes contemplated by this chapter.

[1939 c 93 § 8; RRS § 10007-208. Formerly RCW 74.36.080.]

RCW 2.50.090 Registration fees and private funds.

For the purpose of promoting organized legal aid, the bar board is empowered to receive and disburse, at its discretion, a nominal registration fee (not in excess of fifty cents), which it may require of legal aid applicants, and also donations in any sum of private funds.

[1939 c 93 § 9; RRS § 10007-209. Formerly RCW 74.36.090.]

RCW 2.50.100 Limitation of legal aid.

No legal aid shall be rendered by or through any bureau as to any matter which, in the opinion of the director or the committee is not a proper subject of legal aid. No legal aid shall be given concerning matters relating to claims or litigation commonly handled on a contingent fee basis, nor to the defense of criminal charges in court.

[1939 c 93 § 10; RRS § 10007-210. Formerly RCW 74.36.100.]

RCW 2.50.110 Attorneys' fees.

No attorney's fee shall be charged to or received from any legal aid client as to any legal aid matter handled by or through the bureau. All attorneys' fees and court costs collected from any third party by the bureau in the name of any legal aid client shall become a part of the bureau's operation funds.

[1939 c 93 § 11; RRS § 10007-211. Formerly RCW 74.36.110.]

RCW 2.50.120 County funds.

The county board in its discretion shall allocate funds for the purposes of the bureau from county funds available for public assistance and relief received from the levy of three mills as provided in section 17, chapter 180, Laws of 1937.

[1939 c 93 § 12; RRS § 10007-212. Formerly RCW 74.36.120.]

Notes:

Reviser's note: 1937 c 180 § 17 was repealed by 1939 c 216 § 35.

RCW 2.50.125 Cities authorized to appropriate funds.

A city of any class or any code city may appropriate funds in any amount for the purposes of this chapter.

[1974 ex.s. c 5 § 1.]

RCW 2.50.130 Revocation of declaration of necessity.

The county board is empowered to find by resolution the nonexistence of a necessity in such county for organized legal aid. Within ten days after the passage of such a resolution the county board shall cause a certified copy to be transmitted to the bar board. Upon receipt of a certified copy of such resolution the bar board is empowered and, within sixty days thereafter, is

obligated to discontinue the legal aid bureau--unless it is subsequently maintained in the discretion of the bar board and financed by funds other than county funds. Nothing in this chapter shall prevent a county board from adopting successive resolutions declaring the existence or nonexistence of a necessity for organized legal aid, but no bureau actually created as a result of such a resolution shall be discontinued by a resolution of revocation within sixty days thereafter.

[1939 c 93 § 13; RRS § 10007-213. Formerly RCW 74.36.130.]

RCW 2.50.140 Washington State Bar Association not restricted.

No county funds shall be expended for legal aid except in accordance with this chapter, but nothing in this chapter shall limit the powers of the Washington State Bar Association, or its board of governors, to promote or render legal aid independent of county financial support.

[1939 c 93 § 14; RRS § 10007-214. Formerly RCW 74.36.140.]

RCW 2.50.150 Certain other acts not applicable.

The provisions of section 6 of chapter 180 of the Laws of 1937 shall not be applicable to a bureau or a committee as authorized by this chapter, or to the bar board or the Washington State Bar Association.

[1939 c 93 § 15; RRS § 10007-215. Formerly RCW 74.36.150.]

Notes:

Reviser's note: 1937 c 180 § 6 was repealed by 1939 c 216 § 35.

RCW 2.50.160 Chapter not exclusive--Counties authorized to provide legal aid.

The provisions of this chapter are not exclusive. Nothing in this chapter shall be construed as placing a limitation on the establishment of alternative methods or systems for providing legal aid. Counties are hereby authorized to expend county funds for the establishment of such methods or systems of providing legal aid as shall be deemed in the public interest by the county legislative body.

[1972 ex.s. c 109 § 1.]

**Chapter 2.56 RCW
ADMINISTRATOR FOR THE COURTS**

Sections

2.56.010	Office created--Appointment, term, age qualification, salary.
2.56.020	Appointment, compensation of assistants--Administrator, assistants not to practice law.
2.56.030	Powers and duties.
2.56.031	Juvenile offender information--Plan.
2.56.040	Distribution of work of courts--Duty of judges to comply with chief justice's direction--Salary withheld.

2.56.050	Judges, clerks, other officers, to comply with requests of administrator.
2.56.060	Annual conference of judges--Judge's expenses.
2.56.070	Holding court in another county--Reimbursement for expenses.
2.56.080	Chapter applies to supreme and superior courts, court of appeals, and courts of limited jurisdiction.
2.56.090	Disbursement of appropriated funds.
2.56.100	Penalty assessment in addition to penalty resulting from hearing under RCW 46.63.090 or 46.63.100--Paid into judiciary education account--Account created, purposes.
2.56.110	Driving while under the influence of intoxicating liquor or any drug--Enhanced enforcement of related laws--Assignment of visiting district judges--Powers, expenses.
2.56.120	Judicial impact notes--Establishment of procedure--Legislator may request--Copies to be filed.
2.56.130	Juvenile laws and court processes and procedures--Informational materials.
2.56.140	Disposition of school attendance violation petitions--Report.
2.56.150	Review of mandatory use of court-appointed special advocates as guardians ad litem, certification of guardians ad litem.
2.56.160	Processing of warrants pilot program.
2.56.170	Judge pro tempore appointments.

RCW 2.56.010 Office created--Appointment, term, age qualification, salary.

There shall be a state office to be known as the office of administrator for the courts who shall be appointed by the supreme court of this state from a list of five persons submitted by the governor of the state of Washington, and shall hold office at the pleasure of the appointing power. He shall not be over the age of sixty years at the time of his appointment. He shall receive a salary to be fixed by the supreme court.

[1984 c 20 § 1; 1979 ex.s. c 255 § 7; 1974 ex.s. c 156 § 1; 1969 c 93 § 1; 1957 c 259 § 1.]

Notes:

Effective date--1979 ex.s. c 255: See note following RCW 43.03.010.

RCW 2.56.020 Appointment, compensation of assistants--Administrator, assistants not to practice law.

The administrator for the courts, with the approval of the chief justice of the supreme court of this state, shall appoint and fix the compensation of such assistants as are necessary to enable him to perform the power and duties vested in him. During his term of office or employment, neither the administrator nor any assistant shall engage directly or indirectly in the practice of law in this state.

[1957 c 259 § 2.]

RCW 2.56.030 Powers and duties.

The administrator for the courts shall, under the supervision and direction of the chief justice:

- (1) Examine the administrative methods and systems employed in the offices of the

judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district judge positions under a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. The results of the weighted caseload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that weighted caseload analysis become the basis for creating additional district court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a

comprehensive state-wide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 1997, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts state-wide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required.

[1997 c 41 § 2; 1996 c 249 § 2; 1994 c 240 § 1; 1993 c 415 § 3; 1992 c 205 § 115; 1989 c 95 § 2. Prior: 1988 c 234 § 2; 1988 c 109 § 23; 1987 c 363 § 6; 1981 c 132 § 1; 1957 c 259 § 3.]

Notes:

Intent--1996 c 249: "It is the intent of this act to make improvements to the guardian and guardian ad litem systems currently in place for the protection of minors and incapacitated persons." [1996 c 249 § 1.]

Intent--1993 c 415: See note following RCW 2.56.031.

Part headings not law--Severability--1992 c 205: See notes following RCW 13.40.010.

Construction--Severability--1989 c 95: See notes following RCW 9A.36.080.

Legislative findings--1988 c 234: "The legislature recognizes the need for appropriate training of juvenile court judges, attorneys, court personnel, and service providers in the dependency system and at-risk youth systems." [1988 c 234 § 1.]

Effective date--1988 c 109: See note following RCW 2.10.030.

Ethnic and cultural diversity--Development of curriculum for understanding--Training: RCW 43.101.280.

RCW 2.56.031 Juvenile offender information--Plan.

The administrator for the courts shall develop a plan to improve the collection and reporting of information on juvenile offenders by all juvenile courts in the state. The information related to juvenile offenders shall include, but is not limited to, social, demographic, education, and economic data on juvenile offenders and where possible, their families. Development and implementation of the plan shall be accomplished in consultation with the human rights commission, the governor's juvenile justice advisory committee, superior court judges, juvenile

justice administrators, and interested juvenile justice practitioners and researchers. The plan shall include a schedule and budget for implementation and shall be provided to the office of financial management by September 15, 1993.

[1993 c 415 § 2.]

Notes:

Intent--1993 c 415: "Pursuant to the work of the juvenile justice task force created by the 1991 legislature to undertake a study of Washington state's juvenile justice system, the department of social and health services and the commission on African-American affairs commissioned an independent study of racial disproportionality in the state's juvenile justice system. The study team, which documented evidence of disparity in the treatment of juvenile offenders of color throughout the system, provided recommendations to the legislature on December 15, 1992. The study recommends cultural diversity training for juvenile court and law enforcement personnel, expanded data collection on juvenile offenders throughout the system, development of uniform prosecutorial standards for juvenile offenders, changes to the consolidated juvenile services program and funding formula, dissemination of information to families and communities regarding juvenile court procedures, and examination of juvenile disposition standards for racial and/or ethnic bias.

It is the intent of the legislature to implement the recommendations of this study in an effort to discourage differential treatment of youth of color and their families who come in contact with the juvenile courts in this state, and to promote racial and ethnic sensitivity and awareness throughout the juvenile court system." [1993 c 415 § 1.]

RCW 2.56.040 Distribution of work of courts--Duty of judges to comply with chief justice's direction--Salary withheld.

The chief justice shall consider all recommendations of the administrator for the assignment of judges, and, in his discretion, direct any judge whose calendar, in the judgment of the chief justice, will permit, to hold court in any county or district where need therefor exists, to the end that the courts of this state shall function with maximum efficiency, and that the work of other courts shall be equitably distributed. It shall be the duty of every judge to obey such direction of the chief justice unless excused by him for sufficient cause. No salary warrant shall be issued pursuant to RCW 2.08.100 until the judge who is to receive the same shall have made an affidavit, in the manner provided by law, that he has fully complied with the provisions of RCW 2.56.040 and 2.56.050. Said affidavit may be made a part of the affidavit required by RCW 2.08.100.

[1957 c 259 § 4.]

Notes:

Visiting judge: RCW 2.08.140 through 2.08.170, 2.08.200.

RCW 2.56.050 Judges, clerks, other officers, to comply with requests of administrator.

The judges and clerks of the courts and all other officers, state and local, shall comply with all requests made by the administrator, after approval by the chief justice, for information and statistical data bearing on the state of the dockets of such courts and such other information

as may reflect the business transacted by them and the expenditure of public moneys for the maintenance and operation of the judicial system.

[1957 c 259 § 5.]

RCW 2.56.060 Annual conference of judges--Judge's expenses.

The supreme court of this state may provide by rule or special order for the holding in this state of an annual conference of the judges of the courts of record of this state, judges of the courts of limited jurisdiction, and invited members of the bar, for the consideration of matters relating to judicial business, the improvement of the judicial system and the administration of justice. Each judge attending such annual judicial conference shall be entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, to be paid from state appropriations made for the purposes of this chapter.

[1981 c 331 § 15; 1975-'76 2nd ex.s. c 34 § 6; 1957 c 259 § 6.]

Notes:

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 2.56.070 Holding court in another county--Reimbursement for expenses.

For attendance while holding court in another county or district pursuant to the direction of the chief justice, a judge shall be entitled to receive from the county to which he is sent reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended.

[1981 c 186 § 4; 1957 c 259 § 7.]

RCW 2.56.080 Chapter applies to supreme and superior courts, court of appeals, and courts of limited jurisdiction.

This chapter shall apply to the following courts: The supreme court, the court of appeals, the superior courts; and, when and to the extent so ordered by the supreme court, to the courts of limited jurisdiction of this state, including district courts.

[1987 c 202 § 108; 1971 c 81 § 14; 1957 c 259 § 8.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 2.56.090 Disbursement of appropriated funds.

Any moneys appropriated for the purposes of this chapter shall be disbursed, upon order of the chief justice, on warrants drawn by the state auditor on the general fund.

[1957 c 259 § 9.]

RCW 2.56.100 Penalty assessment in addition to penalty resulting from hearing under RCW 46.63.090 or 46.63.100--Paid into judiciary education account--Account created, purposes.

Notes:

Reviser's note: RCW 2.56.100 was amended by 1985 c 57 § 1 without reference to its repeal by 1984 c 258 § 339, both effective July 1, 1985. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 2.56.110 Driving while under the influence of intoxicating liquor or any drug--Enhanced enforcement of related laws--Assignment of visiting district judges--Powers, expenses.

The administrator for the courts may assign one or more district judges from other judicial districts to serve as visiting district judges in a judicial district which the administrator determines is experiencing an increase in case filings as the result of enhanced enforcement of laws related to driving, or being in physical control of, a motor vehicle while under the influence of intoxicating liquor or any drug. The prosecuting, city, or town attorney of the county, city, or town in which a judicial district lies, or the presiding judge of the judicial district, may request the administrator for the courts to designate the district as an enhanced enforcement district and to make assignments under this section. An assignment shall be for a specified period of time not to exceed thirty days. A visiting district judge has the same powers as a district judge of the district to which he or she is assigned. A visiting district judge shall be reimbursed for expenses under RCW 2.56.070.

[1991 c 290 § 1; 1987 c 202 § 109; 1983 c 165 § 31.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Legislative finding, intent--Effective dates--Severability--1983 c 165: See notes following RCW 46.20.308.

Venue, criminal actions: RCW 3.66.070.

RCW 2.56.120 Judicial impact notes--Establishment of procedure--Legislator may request--Copies to be filed.

(1) The office of the administrator for the courts, in cooperation with appropriate legislative committees and legislative staff, shall establish a procedure for the provision of judicial impact notes on the effect legislative bills will have on the workload and administration of the courts of this state. The administrator for the courts and the office of financial management shall coordinate the development of judicial impact notes with the preparation of fiscal notes under chapters 43.88A and 43.132 RCW.

(2) The administrator for the courts shall provide a judicial impact note on any legislative proposal at the request of any legislator. The note shall be provided to the requesting legislator and copies filed with the appropriate legislative committees in accordance with subsection (3) of this section when the proposed legislation is introduced in either house.

(3) When a judicial impact note is prepared and approved by the administrator for the courts, copies of the note shall be filed with:

(a) The chairperson of the committee to which the bill was referred upon introduction in the house of origin;

(b) The senate committee on ways and means;

(c) The house of representatives committee on ways and means;

(d) The senate judiciary committee;

(e) The house of representatives judiciary committee; and

(f) The office of financial management.

(4) This section shall not prevent either house of the legislature from acting on any bill before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any judicial impact note as provided in this section or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature.

[1986 c 158 § 1; 1984 c 258 § 604.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 2.56.130 Juvenile laws and court processes and procedures--Informational materials.

The administrator for the courts shall, in cooperation with juvenile courts, develop informational materials describing juvenile laws and juvenile court processes and procedures related to such laws, and make such information available to the public. Similar information shall also be made available for the non-English speaking youth and their families.

[1993 c 415 § 5.]

Notes:

Intent--1993 c 415: See note following RCW 2.56.031.

RCW 2.56.140 Disposition of school attendance violation petitions--Report.

The administrator for the courts shall prepare a report for each school year to be submitted to the legislature no later than December 15th of each year that summarizes the disposition of petitions filed with the juvenile court under RCW 28A.225.030, including the number of contempt orders issued to enforce a court's order under RCW 28A.225.030.

[1996 c 134 § 8.]

RCW 2.56.150 Review of mandatory use of court-appointed special advocates as guardians ad litem, certification of guardians ad litem.

(1) The administrator for the courts shall review the advisability and feasibility of the state-wide mandatory use of court-appointed special advocates as described in RCW 26.12.175 to act as guardians ad litem in appropriate cases under Titles 13 and 26 RCW. The review must explore the feasibility of obtaining various sources of private and public funding to implement state-wide mandatory use of court-appointed special advocates, such as grants and donations, instead of or in combination with raising court fees or assessments.

(2) The administrator shall also conduct a study on the feasibility and desirability of requiring all persons who act as guardians ad litem under Titles 11, 13, and 26 RCW to be certified as qualified guardians ad litem prior to their eligibility for appointment.

(3) In conducting the review and study the administrator shall consult with: (a) The presidents or directors of all public benefit nonprofit corporations that are eligible to receive state funds under RCW 43.330.135; (b) the attorney general, or a designee; (c) the secretary of the department of social and health services, or a designee; (d) the superior court judges association; (e) the Washington state bar association; (f) public defenders who represent children under Title 13 or 26 RCW; (g) private attorneys who represent parents under Title 13 or 26 RCW; (h) professionals who evaluate families for the purposes of determining the custody or placement decisions of children; (i) the office of financial management; (j) persons who act as volunteer or compensated guardians ad litem; and (k) parents who have dealt with guardians ad litem in court cases. For the purposes of studying the feasibility of a certification requirement for guardians ad litem acting under Title 11 RCW the administrator shall consult with the advisory group formed under RCW 11.88.090.

(4) The office of the administrator for the courts shall also conduct a review of problems and concerns about the role of guardians ad litem in actions under Titles 11, 13, and 26 RCW and recommend alternatives to strengthen judicial oversight of guardians ad litem and ensure fairness and impartiality of the process. The office of the administrator for the courts must accept and obtain comments from parties designated in subsection (3) of this section.

[1996 c 249 § 3.]

Notes:

Presentation of review and study--Time limit--1996 c 249: "The review and study required under section 3 of this act shall be presented to the governor and to the legislature no later than December 1, 1996." [1996 c 249 § 4.]

Intent--1996 c 249: See note following RCW 2.56.030.

RCW 2.56.160 Processing of warrants pilot program.

The administrator for the courts shall establish a pilot program for the efficient state-wide processing of warrants issued by courts of limited jurisdiction. The pilot program shall contain procedures and criteria for courts of limited jurisdiction to enter into agreements with other

courts of limited jurisdiction throughout the state to process each other's warrants when the defendant is within the processing court's jurisdiction. The administrator for the courts shall establish a formula for allocating between the court processing the warrant and the court that issued the warrant any moneys collected and costs associated with the processing of warrants.

[2000 c 111 § 1.]

Notes:

Report to legislature--2000 c 111: "The program established by the office of the administrator for the courts pursuant to RCW 2.56.160 shall by June 1, 2003, report to the legislature on the effectiveness and costs of the pilot program. Copies of the report shall be distributed to the house of representatives judiciary committee and the senate judiciary committee." [2000 c 111 § 8.]

RCW 2.56.170 Judge pro tempore appointments.

A judge pro tempore may be authorized under RCW 2.06.150 or 2.08.180 whenever a judge of the court of appeals or the superior court serves on a judicial commission, board, or committee established by the legislature or the chief justice of the supreme court. The judge pro tempore shall be compensated as specified in RCW 2.06.160 or 2.08.180.

[2000 c 165 § 1.]

**Chapter 2.60 RCW
FEDERAL COURT LOCAL LAW CERTIFICATE PROCEDURE ACT**

Sections

2.60.010	Definitions.
2.60.020	Federal court certification of local law question.
2.60.030	Practice and procedure.
2.60.900	Short title.

RCW 2.60.010 Definitions.

As used in this chapter:

(1) The term "certificate procedure" shall mean the procedure authorized herein by which a federal court in disposing of a cause pending before it submits a question of local law to the supreme court for answer;

(2) The term "federal court" means any court of the United States of America including the supreme court of the United States, courts of appeal, district courts and any other court created by act of congress;

(3) The term "supreme court" shall mean supreme court of Washington;

(4) The term "record" shall mean: (a) A stipulation of facts approved by the federal court showing the nature of the case and the circumstances out of which the question of law arises or such part of the pleadings, proceedings and testimony in the cause pending before the federal

court as in its opinion is necessary to enable the supreme court to answer the question submitted; (b) a statement of the question of local law certified for answer. The record shall contain a certificate under the official seal of the court, signed by the chief judge of a multi-judge federal court or judge of the district court utilizing certificate procedure stating that the record contains all matters in the pending cause deemed material for consideration of the local law question certified for answer;

(5) The term "supplemental record" shall mean the original or copies of any other portion of the proceedings, pleadings and testimony before the federal court deemed desirable by the supreme court in the determination of the local law question certified for answer. The supplemental record shall contain a certificate under the official seal of the court signed by the chief judge of such multi-judge federal court or judge of the district court, certifying that the supplemental record contains all additional matters requested;

(6) The term "opinion" shall mean the written opinion of the supreme court of Washington and shall include the certificate of the clerk of such court under seal of court stating that the opinion is in answer to the local law question submitted.

[1965 c 99 § 1.]

RCW 2.60.020 Federal court certification of local law question.

When in the opinion of any federal court before whom a proceeding is pending, it is necessary to ascertain the local law of this state in order to dispose of such proceeding and the local law has not been clearly determined, such federal court may certify to the supreme court for answer the question of local law involved and the supreme court shall render its opinion in answer thereto.

[1965 c 99 § 2.]

RCW 2.60.030 Practice and procedure.

Certificate procedure shall be governed by the following provisions:

(1) Certificate procedure may be invoked by a federal court upon its own motion or upon the motion of any interested party in the litigation involved if the federal court grants such motion.

(2) Certificate procedure shall include and be based upon the record and may include a supplemental record.

(3) Certificate procedure costs shall be equally divided between plaintiff and defendant, subject to reallocation as between or among the parties by the federal court involved.

(4) The appellant or moving party in the federal court shall file and serve upon its adversary its brief on the question certified within thirty days after the filing of the record in the supreme court. The appellee or responding party in the federal court shall file and serve upon its adversary its brief within twenty days after receipt of appellant's or moving party's brief and a reply brief shall be filed within ten days. Time for filing record, supplemental record or briefs

may be extended for cause.

(5) Oral argument as in other causes on the merits may be had upon request of the supreme court or upon application of any interested party in the certificate procedure.

(6) The supreme court shall forward to the federal court utilizing certificate procedure its opinion answering the local law question submitted.

(7) The supreme court may adopt rules of practice and procedure to implement or otherwise facilitate utilization of certificate procedure.

[1965 c 99 § 3.]

RCW 2.60.900 Short title.

This act may be cited as the "federal court local law certificate procedure act."

[1965 c 99 § 4.]

**Chapter 2.64 RCW
COMMISSION ON JUDICIAL CONDUCT**

Sections

2.64.010	Definitions--Application.
2.64.020	Membership--Terms.
2.64.030	Disqualification--Vacancies--Limitations on terms--Alternates--Removal.
2.64.040	Compensation and travel expenses.
2.64.050	Employment of personnel--Expenditures authorized.
2.64.055	Disciplinary actions authorized.
2.64.057	Investigation of conduct occurring prior to, on, or after December 4, 1980.
2.64.060	Administration of oaths--Powers as to witnesses, papers, books, etc.--Subpoenas.
2.64.070	Refusal to obey subpoena--Powers of superior court.
2.64.080	Privilege from suit.
2.64.092	Administrative procedure act not applicable.
2.64.094	Suspension of judge or justice.
2.64.096	Disclosure of material tending to negate determination.
2.64.100	Proposed operating budgets--Reports to legislature.
2.64.111	Exemption from public disclosure--Records subject to public disclosure, when.
2.64.113	Confidentiality--Violations.
2.64.115	Application of open public meetings act--Exemptions.
2.64.120	Independent part of judicial branch.
2.64.910	Severability--1981 c 268.

Notes:

Rules of court: See *Discipline Rules for Judges (DRJ)*.

RCW 2.64.010 Definitions--Application.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Admonishment" means a written disposition of an advisory nature that cautions a judge or justice not to engage in certain proscribed behavior. An admonishment may include a requirement that the judge or justice follow a specified corrective course of action.

(2) "Censure" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that conduct of the judge or justice violates a rule of judicial conduct, detrimentally affects the integrity of the judiciary, undermines public confidence in the administration of justice, and may or may not require a recommendation to the supreme court that the judge or justice be suspended or removed. A censure shall include a requirement that the judge or justice follow a specified corrective course of action.

(3) "Commission" means the commission on judicial conduct provided for in Article IV, section 31 of the state Constitution, which is authorized to recommend to the supreme court, after notice and hearing, the suspension or removal of a judge or justice for violating a rule of judicial conduct, or the retirement of a judge or justice for disability.

(4) "Judge or justice" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Titles 3 or 35 RCW, judges pro tempore, court commissioners, and magistrates.

(5) "Removal" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of all duties of his or her office.

(6) "Reprimand" means a written action of the commission that requires a judge or justice to appear personally before the commission, and that finds that the conduct of the judge or justice is a minor violation of the code of judicial conduct and does not require censure or a formal recommendation to the supreme court that the judge or justice be suspended or removed. A reprimand shall include a requirement that the judge or justice follow a specified corrective course of action.

(7) "Retirement" means a written recommendation by the commission and a finding by the supreme court that a judge or justice has a disability which is permanent, or likely to become permanent, and that seriously interferes with the performance of judicial duties.

(8) "Suspension" means a written recommendation by the commission and a finding by the supreme court that the conduct of a judge or justice is a violation of a rule of judicial conduct and seriously impairs the integrity of the judiciary and substantially undermines the public confidence in the administration of justice to such a degree that the judge or justice should be relieved of the duties of his or her office by the court for a specified period of time, as determined by the court.

This chapter shall apply to any judge or justice, regardless of whether the judge or justice serves full time or part time, and regardless of whether the judge or justice is admitted to practice law in this state.

[1989 c 367 § 1; 1987 c 186 § 1; 1981 c 268 § 2.]

Notes:

Contingent effective date--1989 c 367: "This act shall take effect upon the effective date of an amendment to Article IV, section 31 of the state Constitution making changes to the commission on judicial conduct. If such amendment is not validly submitted to and approved and ratified by the voters at a general election held in November 1989, this act shall be null and void in its entirety." [1989 c 367 § 12.] Substitute Senate Joint Resolution No. 8202 was approved and ratified by the voters at the November 7, 1989, general election.

RCW 2.64.020 Membership--Terms.

The commission shall consist of eleven members. One member shall be a judge selected by and from the court of appeals judges; one member shall be a judge selected by and from the superior court judges; one member shall be a judge selected by and from the district court judges; two members shall be selected by the state bar association and be admitted to the practice of law in this state; and six members shall be nonlawyers appointed by the governor. The term of each member of the commission shall be four years.

[1989 c 367 § 2; 1987 c 186 § 2; 1981 c 268 § 3.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

Terms of additional members--1987 c 186 § 2: "Notwithstanding RCW 2.64.020, the initial term of one of the members added to the commission on judicial conduct by section 2, chapter 186, Laws of 1987 shall end on June 16, 1990, and the term of the other member shall end on June 16, 1991, as determined by lot." [1987 c 186 § 3.]

RCW 2.64.030 Disqualification--Vacancies--Limitations on terms--Alternates--Removal.

Commission membership shall terminate if a member ceases to hold the position that qualified him or her for appointment. Vacancies caused by disqualification or resignation shall be filled by the appointing authority for the remainder of the term. No person may serve more than two consecutive four-year terms. A person may be reappointed after a lapse of one year. A member, rather than his or her successor, shall continue to participate in any hearing in progress at the end of his or her term, or when the member ceases to hold the position that qualified him or her for appointment. The appointing authority shall appoint an alternate to serve during a member's temporary disability, disqualification, or inability to serve. No member may otherwise be removed from the commission before the end of his or her term except upon good cause found by the appointing authority.

[1981 c 268 § 4.]

RCW 2.64.040 Compensation and travel expenses.

Commission members and alternate members shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for travel expenses under RCW 43.03.050 and

43.03.060.

[1984 c 287 § 8; 1981 c 268 § 5.]

Notes:

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

RCW 2.64.050 Employment of personnel--Expenditures authorized.

The commission may employ personnel, including attorneys, and make any other expenditures necessary for the effective performance of its duties and the exercise of its powers. The commission may hire attorneys or others by personal service contract to conduct initial proceedings regarding a complaint against a judge or justice. Commission employees shall be exempt from the civil service law, chapter 41.06 RCW.

[1989 c 367 § 3; 1981 c 268 § 6.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.055 Disciplinary actions authorized.

The commission is authorized to impose the following disciplinary actions, in increasing order of severity: (a) Admonishment; (b) reprimand; or (c) censure. If the conduct of the judge or justice warrants more severe disciplinary action, the commission may recommend to the supreme court the suspension or removal of the judge or justice.

[1989 c 367 § 4.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.057 Investigation of conduct occurring prior to, on, or after December 4, 1980.

The commission is authorized to investigate and consider for probative value any conduct that may have occurred prior to, on, or after December 4, 1980, by a person who was, or is now, a judge or justice when such conduct relates to a complaint filed with the commission against the same judge or justice.

[1989 c 367 § 5.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.060 Administration of oaths--Powers as to witnesses, papers, books, etc.--Subpoenas.

Each member of the commission, and any special master appointed by the commission,

may administer oaths. The commission may summon and examine witnesses and compel the production and examination of papers, books, accounts, documents, records, certificates, and other evidence for the determination of any issue before or the discharge of any duty of the commission. The commission shall also issue subpoenas at the request and on behalf of any judge or justice under inquiry. All subpoenas shall be signed by a member of the commission or a special master appointed by the commission. Subpoenas shall be served and witnesses reimbursed in the manner provided in civil cases in superior court.

[1981 c 268 § 7.]

RCW 2.64.070 Refusal to obey subpoena--Powers of superior court.

If a person refuses to obey a subpoena issued by the commission or refuses to answer any proper question during a hearing or proceeding, the superior court of any county in which the hearing or proceeding is conducted or in which the person resides or is found shall have jurisdiction, upon application by the commission, to order the person to appear before the commission, to produce evidence if so ordered, or to give testimony concerning the matter under investigation. Failure to obey the order of the court may be punished as contempt.

[1981 c 268 § 8.]

RCW 2.64.080 Privilege from suit.

Members and employees of the commission, including any lawyers or special masters temporarily employed by the commission, are absolutely privileged from suit in any action, civil or criminal, based upon any disciplinary proceedings or upon other official acts as members or employees of the commission. Statements made to the commission or its investigators or other employees are absolutely privileged in actions for defamation. This absolute privilege does not apply to statements made in any other forum.

[1981 c 268 § 9.]

RCW 2.64.092 Administrative procedure act not applicable.

The adjudicative proceedings, judicial review, and civil enforcement provisions of chapter 34.05 RCW, the administrative procedure act, do not apply to any investigations, initial proceedings, public hearings, or executive sessions involving the discipline or retirement of a judge or justice.

[1989 c 367 § 7.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.094 Suspension of judge or justice.

If the commission adopts a recommendation that a judge or justice be removed, the judge or justice shall be suspended, with salary, from his or her judicial position upon filing of the recommendation with the supreme court and until a final determination is made by the supreme court.

[1987 c 186 § 6.]

RCW 2.64.096 Disclosure of material tending to negate determination.

Whenever the commission determines that there is probable cause to believe that a judge or justice has violated a rule of judicial conduct or that the judge or justice suffers from a disability which is permanent or likely to become permanent and which seriously interferes with the performance of judicial duties, the commission shall disclose to the judge or justice any material or information within the commission's knowledge which tends to negate the determination of the commission, except as otherwise provided by a protective order.

[1989 c 367 § 10.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.100 Proposed operating budgets--Reports to legislature.

The commission shall prepare and present to the legislature proposed operating budgets for the commission in accordance with the provisions of chapter 43.88 RCW. The commission shall report to the legislature in the manner required by law, with due regard for the confidentiality of proceedings before the commission.

[1981 c 268 § 11.]

RCW 2.64.111 Exemption from public disclosure--Records subject to public disclosure, when.

All pleadings, papers, evidence records, and files of the commission, including complaints and the identity of complainants, compiled or obtained during the course of an investigation or initial proceeding involving the discipline or retirement of a judge or justice, are exempt from the public disclosure requirements of chapter 42.17 RCW during such investigation or initial proceeding. As of the date of a public hearing, all those records of the initial proceeding that were the basis of a finding of probable cause are subject to the public disclosure requirements of chapter 42.17 RCW.

[1989 c 367 § 6.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.113 Confidentiality--Violations.

The commission shall provide by rule for confidentiality of its investigations and initial proceedings in accordance with Article IV, section 31 of the state Constitution.

Any person violating a rule on confidentiality is subject to a proceeding for contempt in superior court.

[1989 c 367 § 9.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.115 Application of open public meetings act--Exemptions.

The commission is subject to the open public meetings act, chapter 42.30 RCW. However, investigations, initial proceedings, public hearings, and executive sessions involving the discipline or retirement of a judge or justice are governed by this chapter and Article IV, section 31 of the state Constitution and are exempt from the provisions of chapter 42.30 RCW.

[1989 c 367 § 8.]

Notes:

Contingent effective date--1989 c 367: See note following RCW 2.64.010.

RCW 2.64.120 Independent part of judicial branch.

The commission shall for all purposes be considered an independent part of the judicial branch of government.

[1981 c 268 § 13.]

RCW 2.64.910 Severability--1981 c 268.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1981 c 268 § 17.]

**Chapter 2.68 RCW
JUDICIAL INFORMATION SYSTEM**

Sections	
2.68.010	Judicial information system committee--Fees.
2.68.020	Judicial information system account.
2.68.030	Schedule of user fees.

- 2.68.040 Judicial information system account--Increase in fines, penalties, assessments.
2.68.050 Electronic access to judicial information.

RCW 2.68.010 Judicial information system committee--Fees.

The judicial information system committee, as established by court rule, shall determine all matters pertaining to the delivery of services available from the judicial information system. The committee may establish a fee schedule for the provision of information services and may enter into contracts with any person, public or private, including the state, its departments, subdivisions, institutions, and agencies. However, no fee may be charged to county or city governmental agencies within the state of Washington using the judicial information system for the business of the courts.

[1989 c 364 § 1.]

RCW 2.68.020 Judicial information system account.

There is created an account in the custody of the state treasurer to be known as the judicial information system account. The office of the administrator for the courts shall maintain and administer the account, in which shall be deposited all moneys received from in-state noncourt users and any out-of-state users of the judicial information system and moneys as specified in RCW 2.68.040 for the purposes of providing judicial information system access to noncourt users and providing an adequate level of automated services to the judiciary. The legislature shall appropriate the funds in the account for the purposes of the judicial information system. The account shall be used for the acquisition of equipment, software, supplies, services, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies, and equipment, including the payment of principal and interest on items paid in installments.

[1994 c 8 § 1; 1989 c 364 § 2.]

RCW 2.68.030 Schedule of user fees.

The judicial information system committee shall develop a schedule of user fees for in-state noncourt users and all out-of-state users of the judicial information computer system and charges for judicial information system products and licenses for the purpose of distributing and apportioning the full cost of operation and continued development of the system among the users. The schedule shall generate sufficient revenue to cover the costs relating to (1) the payment of salaries, wages, other costs including, but not limited to the acquisition, operation, and administration of acquired information services, supplies, and equipment; and (2) the development of judicial information system products and services. As used in this section, the term "supplies" shall not be interpreted to delegate or abrogate the state purchasing and material control director's responsibilities and authority to purchase supplies as provided in chapter 43.19

RCW.

[1989 c 364 § 3.]

RCW 2.68.040 Judicial information system account--Increase in fines, penalties, assessments.

(1) To support the judicial information system account provided for in RCW 2.68.020, the supreme court may provide by rule for an increase in fines, penalties, and assessments, and the increased amount shall be forwarded to the state treasurer for deposit in the account:

(a) Pursuant to the authority of RCW 46.63.110(2), the sum of ten dollars to any penalty collected by a court pursuant to supreme court infraction rules for courts of limited jurisdiction;

(b) Pursuant to RCW 3.62.060, a mandatory appearance cost in the initial sum of ten dollars to be assessed on all defendants; and

(c) Pursuant to RCW 46.63.110(5), a ten-dollar assessment for each account for which a person requests a time payment schedule.

(2) Notwithstanding a provision of law or rule to the contrary, the assessments provided for in this section may not be waived or suspended and shall be immediately due and payable upon forfeiture, conviction, deferral of prosecution, or request for time payment, as each shall occur.

(3) The supreme court is requested to adjust these assessments for inflation.

[1994 c 8 § 2.]

RCW 2.68.050 Electronic access to judicial information.

The supreme court, the court of appeals and all superior and district courts, through the judicial information system committee, shall:

(1) Continue to plan for and implement processes for making judicial information available electronically;

(2) Promote and facilitate electronic access to the public of judicial information and services;

(3) Establish technical standards for such services;

(4) Consider electronic public access needs when planning new information systems or major upgrades of information systems;

(5) Develop processes to determine which judicial information the public most wants and needs;

(6) Increase capabilities to receive information electronically from the public and transmit forms, applications and other communications and transactions electronically;

(7) Use technologies that allow continuous access twenty-four hours a day, seven days per week, involve little or no cost to access, and are capable of being used by persons without extensive technology ability; and

(8) Consider and incorporate wherever possible ease of access to electronic technologies

by persons with disabilities.

[1996 c 171 § 3.]

Notes:

Captions not law--Effective dates--1996 c 171: See notes following RCW 43.105.250.

Chapter 2.70 RCW
OFFICE OF PUBLIC DEFENSE

Sections

2.70.005	Intent.
2.70.010	Director--Appointment--Qualifications--Salary.
2.70.020	Director--Duties--Limitations.
2.70.030	Advisory committee--Membership--Duties--Travel and other expenses.
2.70.040	Employees--Civil service exemption.
2.70.050	Transfer to office of appellate indigent defense powers, duties, functions, information, property, appropriations, employees, rules, and pending business--Apportionment--Effect on collective bargaining.

Notes:

Reviser's note--Sunset Act application: The office of public defense is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.389. RCW 2.70.005 through 2.70.050 are scheduled for future repeal under RCW 43.131.390.

RCW 2.70.005 Intent.

In order to implement the constitutional guarantee of counsel and to ensure the effective and efficient delivery of the indigent appellate services funded by the state of Washington, an office of public defense is established as an independent agency of the judicial branch.

[1996 c 221 § 1.]

Notes:

Sunset Act application: See note following chapter digest.

RCW 2.70.010 Director--Appointment--Qualifications--Salary.

The supreme court shall appoint the director of the office of public defense from a list of three names submitted by the advisory committee created under RCW 2.70.030. Qualifications shall include admission to the practice of law in this state for at least five years, experience in the representation of persons accused of a crime, and proven managerial or supervisory experience. The director shall serve at the pleasure of the supreme court and receive a salary to be fixed by the advisory committee.

[1996 c 221 § 2.]

Notes:

Sunset Act application: See note following chapter digest.

RCW 2.70.020 Director--Duties--Limitations.

The director, under the supervision and direction of the advisory committee, shall:

- (1) Administer all criminal appellate indigent defense services;
- (2) Submit a biennial budget for all costs related to state appellate indigent defense;
- (3) Establish administrative procedures, standards, and guidelines for the program including a cost-efficient system that provides for recovery of costs;
- (4) Recommend criteria and standards for determining and verifying indigency. In recommending criteria for determining indigency, the director shall compile and review the indigency standards used by other state agencies and shall periodically submit the compilation and report to the legislature on the appropriateness and consistency of such standards;
- (5) Collect information regarding indigency cases funded by the state and report annually to the legislature and the supreme court;
- (6) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how attorney services should be provided.

The office of public defense shall not provide direct representation of clients.

[1996 c 221 § 3.]

Notes:

Sunset Act application: See note following chapter digest.

RCW 2.70.030 Advisory committee--Membership--Duties--Travel and other expenses.

- (1) There is created an advisory committee consisting of the following members:
 - (a) Three persons appointed by the chief justice of the supreme court, including the chair of the appellate indigent defense commission identified in subsection (3) of this section;
 - (b) Two nonattorneys appointed by the governor;
 - (c) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;
 - (d) One person appointed by the court of appeals executive committee;
 - (e) One person appointed by the Washington state bar association.
- (2) During the term of his or her appointment, no appointee may: (a) Provide indigent defense services except on a pro bono basis; (b) serve as an appellate judge or an appellate court employee; or (c) serve as a prosecutor or prosecutor employee.
- (3) The initial advisory committee shall be comprised of the current members of the appellate indigent defense commission, as established by Supreme Court Order No. 25700-B, dated March 9, 1995, plus two additional legislator members appointed under subsection (1)(c) of this section. Members shall serve until the termination of their current terms, and may be reappointed. The two additional legislator members, who are not on the appellate indigent defense commission, shall each serve three-year terms. Members of the advisory committee shall receive no compensation for their services as members of the commission, but may be

reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

[1996 c 221 § 4.]

Notes:

Sunset Act application: See note following chapter digest.

RCW 2.70.040 Employees--Civil service exemption.

All employees of the office of public defense shall be exempt from state civil service under chapter 41.06 RCW.

[1996 c 221 § 5.]

Notes:

Sunset Act application: See note following chapter digest.

RCW 2.70.050 Transfer to office of appellate indigent defense powers, duties, functions, information, property, appropriations, employees, rules, and pending business--Apportionment--Effect on collective bargaining.

(1) All powers, duties, and functions of the supreme court and the office of the administrator for the courts pertaining to appellate indigent defense are transferred to the office of public defense.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the supreme court or the office of the administrator for the courts pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the office of public defense. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the supreme court or the office of the administrator for the courts in carrying out the powers, functions, and duties transferred shall be made available to the office of public defense. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the office of public defense.

(b) Any appropriations made to the supreme court or the office of the administrator for the courts for carrying out the powers, functions, and duties transferred shall, on June 6, 1996, be transferred and credited to the office of public defense.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the supreme court or the office of the administrator for the courts engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the office of public defense. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of public defense to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may

be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the supreme court or the office of the administrator for the courts pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the office of public defense. All existing contracts and obligations shall remain in full force and shall be performed by the office of public defense.

(5) The transfer of the powers, duties, functions, and personnel of the supreme court or the office of the administrator for the courts shall not affect the validity of any act performed before June 6, 1996.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

[1996 c 221 § 6.]

Notes:

Sunset Act application: See note following chapter digest.

**Title 3 RCW
DISTRICT COURTS--COURTS OF LIMITED JURISDICTION**

Chapters

- 3.02 Courts of limited jurisdiction.**
- 3.20 Venue.**
- 3.30 District courts.**
- 3.34 District judges.**
- 3.38 District court districts.**
- 3.42 District court commissioners.**
- 3.46 Municipal departments.**
- 3.50 Municipal courts--Alternate provision.**
- 3.54 Clerks and deputy clerks.**
- 3.58 Salaries and expenses.**
- 3.62 Income of court.**
- 3.66 Jurisdiction and venue.**
- 3.70 Magistrates' association.**
- 3.74 Miscellaneous.**

Notes:

Rules of court: *Rules for Courts of Limited Jurisdiction--See Rules of Court, Part V.*

District courts--Civil procedure: Title 12 RCW.

Justice or constable levying demand or promising reward: RCW 9.12.020.

Municipal courts, cities over four hundred thousand: Chapter 35.20 RCW.

Persons convicted in district court may be placed under supervision of county probation officer: RCW 9.92.060, 9.95.210.

Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.

Small claims department: Chapter 12.40 RCW.

Chapter 3.02 RCW COURTS OF LIMITED JURISDICTION

Sections

3.02.010	Court of limited jurisdiction defined.
3.02.020	Review of proceedings.
3.02.030	Record of proceedings.
3.02.040	Electronic recording equipment.
3.02.045	Use of collection agencies and attorneys to collect unpaid amounts--Interest to agency authorized--Credit or debit card use--Assessment of amounts paid for collection as court costs.
3.02.050	Discovery rules in civil cases.
3.02.060	Judge pro tempore appointments.

RCW 3.02.010 Court of limited jurisdiction defined.

For purposes of this chapter, a court of limited jurisdiction is any court organized under Titles 3, 35, or 35A RCW.

[1980 c 162 § 1.]

Notes:

Effective dates, savings--1980 c 162: "Sections 1 through 4 of this 1980 act shall take effect on January 1, 1981, and shall apply to civil or criminal actions commenced on or after January 1, 1981. Sections 8 and 9 of this 1980 act shall take effect on May 1, 1980." [1980 c 162 § 13.]

Severability--1980 c 162: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 162 § 12.]

RCW 3.02.020 Review of proceedings.

Review of the proceedings in a court of limited jurisdiction shall be by the superior court, the procedure for which may be established by supreme court rule.

[1980 c 162 § 2.]

Notes:

Effective dates, savings--Severability--1980 c 162: See notes following RCW 3.02.010.

RCW 3.02.030 Record of proceedings.

The supreme court may, by court rule, establish a method of making a record of the proceedings of a court of limited jurisdiction for purposes of review.

[1980 c 162 § 3.]

Notes:

Effective dates, savings--Severability--1980 c 162: See notes following RCW 3.02.010.

RCW 3.02.040 Electronic recording equipment.

The administrator for the courts shall supervise the selection, installation, and operation of any electronic recording equipment in courts of limited jurisdiction.

[1980 c 162 § 4.]

Notes:

Effective dates, savings--Severability--1980 c 162: See notes following RCW 3.02.010.

RCW 3.02.045 Use of collection agencies and attorneys to collect unpaid amounts--Interest to agency authorized--Credit or debit card use--Assessment of amounts paid for collection as court costs.

(1) Courts of limited jurisdiction may use collection agencies under chapter 19.16 RCW for purposes of collecting unpaid penalties on infractions, criminal fines, costs, assessments, civil judgments, or forfeitures that have been imposed by the courts. Courts of limited jurisdiction may enter into agreements with one or more attorneys or collection agencies for collection of outstanding penalties, fines, costs, assessments, and forfeitures. These agreements may specify the scope of work, remuneration for services, and other charges deemed appropriate. Such agreements may authorize collection agencies to retain all or any portion of the interest collected on these accounts.

(2) Courts of limited jurisdiction may use credit cards or debit cards for purposes of billing and collecting unpaid penalties, fines, costs, assessments, and forfeitures so imposed. Courts of limited jurisdiction may enter into agreements with one or more financial institutions for the purpose of the collection of penalties, fines, costs, assessments, and forfeitures. The agreements may specify conditions, remuneration for services, and other charges deemed appropriate.

(3) Servicing of delinquencies by collection agencies or by collecting attorneys in which the court retains control of its delinquencies shall not constitute assignment of debt.

(4) For purposes of this section, the term debt shall include penalties, fines, costs, assessments, or forfeitures imposed by the courts.

(5) The court may assess as court costs the moneys paid for remuneration for services or charges paid to collecting attorneys, to collection agencies, or, in the case of credit cards, to financial institutions.

[1995 c 291 § 1; 1995 c 38 § 1; 1994 c 301 § 1; 1987 c 266 § 1.]

Notes:

Reviser's note: This section was amended by 1995 c 38 § 1 and by 1995 c 291 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Acts of municipal officers ratified and confirmed--1995 c 38: "Acts of municipal officers before July 23, 1995, that are consistent with its terms, including, but not limited to, acts consistent with chapter 301, Laws of 1994, are ratified and confirmed." [1995 c 38 § 12.]

RCW 3.02.050 Discovery rules in civil cases.

By January 1, 1982, the supreme court shall adopt rules providing for discovery in civil cases in the courts of limited jurisdiction.

[1981 c 331 § 8.]

Notes:

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

RCW 3.02.060 Judge pro tempore appointments.

A judge pro tempore may be authorized under RCW 3.50.090 or 35.20.200 whenever a judge of the municipal court serves on a judicial commission, board, or committee established by the legislature or the chief justice of the supreme court. The judge pro tempore shall be compensated as specified in RCW 3.50.090 or 35.20.200.

[2000 c 165 § 2.]

Chapter 3.20 RCW

VENUE

(Formerly: Jurisdiction and venue)

Sections

3.20.100 Change of venue--Affidavit of prejudice.

Notes:

District courts, civil procedure: Title 12 RCW.

RCW 3.20.100 Change of venue--Affidavit of prejudice.

If, previous to the commencement of any trial before a justice of the peace, the defendant, his attorney or agent, shall make and file with the justice an affidavit that the deponent believes that the defendant cannot have an impartial trial before such justice, it shall be the duty of the justice to forthwith transmit all papers and documents belonging to the case to the next nearest justice of the peace in the same county, who is not of kin to either party, sick, absent from the county, or interested in the result of the action, either as counsel or otherwise. The justice to

whom such papers and documents are so transmitted shall proceed as if the suit had been instituted before him. Distance, as contemplated by this section, shall mean to be by the nearest traveled route. The costs of such change of venue shall abide the result of the suit. In precincts, and incorporated cities and towns where there are two or more justices of the peace, any one of them shall be considered the next nearest justice of the peace.

[1943 c 126 § 1; 1881 p 8 §§ 2, 3; Code 1881 § 1938; 1867 p 88 § 2; Rem. Supp. 1943 § 1774.]

Chapter 3.30 RCW DISTRICT COURTS

Sections

3.30.010	Definitions.
3.30.015	Construction of "justices of the peace," "justice courts," "justice of the peace courts."
3.30.020	Application of chapters 3.30 through 3.74 RCW.
3.30.030	Nomenclature for judges and courts.
3.30.040	Sessions.
3.30.050	Departments.
3.30.060	Adjournments.
3.30.070	Records.
3.30.080	Rules.
3.30.090	Violations bureau.

Notes:

Rules of court: See *Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ)*.

County probation services for persons convicted in district court: RCW 9.92.060, 9.95.210, 36.01.070.

RCW 3.30.010 Definitions.

As used in this chapter unless the context clearly requires otherwise:

"City" means an incorporated city or town.

"Department" means an administrative unit of a district court established for the orderly and efficient administration of business and may include, without being limited in scope thereby, a unit or units for determining traffic cases, violations of city ordinances, violations of state law, criminal cases, civil cases, or jury cases.

"Population" means the latest population of the judicial district of each county as estimated and certified by the office of financial management. The office of financial management, on or before May 1, 1970 and on or before May 1st each four years thereafter, shall estimate and certify to the county legislative authority the population of each judicial district of each county.

[1984 c 258 § 3; 1979 c 151 § 1; 1967 ex.s. c 42 § 1; 1961 c 299 § 1.]

Notes:

Court Improvement Act of 1984--Effective dates--1984 c 258: "(1) Sections 1 through 210, 511, 601 through 808, and 901 of this act shall take effect on July 1, 1984.

(2) Sections 501 through 510 and 512 through 524 of this act shall take effect on January 1, 1985.

(3) Sections 301 through 405 of this act shall take effect on July 1, 1985." [1984 c 258 § 902.]

Court Improvement Act of 1984--Severability--1984 c 258: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 258 § 903.]

Short title--1984 c 258: "This act may be known and cited as the court improvement act of 1984." [1984 c 258 § 1.]

Savings--1967 ex.s. c 42: "All matters relating to functions transferred under the provisions of this 1967 amendatory act which at the time of transfer have not been completed may be undertaken and completed by the director of the planning and community affairs agency, who is authorized, empowered, and directed to promulgate any and all orders, rules and regulations necessary to accomplish this purpose." [1967 ex.s. c 42 § 4.] The planning and community affairs agency has been redesignated the department of community, trade, and economic development. See RCW 43.330.020.

Effective date--1967 ex.s. c 42: "This 1967 amendatory act shall take effect on July 1, 1967." [1967 ex.s. c 42 § 5.]

Population determinations, office of financial management: Chapter 43.62 RCW.

RCW 3.30.015 Construction of "justices of the peace," "justice courts," "justice of the peace courts."

All references to justices of the peace in other titles of the Revised Code of Washington shall be construed as meaning district judges. All references to justice courts or justice of the peace courts in other titles of the Revised Code of Washington shall be construed as meaning district courts.

[1984 c 258 § 90.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.30.020 Application of chapters 3.30 through 3.74 RCW.

The provisions of chapters 3.30 through 3.74 RCW shall apply to each county with a population of two hundred ten thousand or more: PROVIDED, That any city having a population of more than four hundred thousand may by resolution of its legislative body elect to continue to operate a municipal court pursuant to the provisions of chapter 35.20 RCW, as if chapters 3.30 through 3.74 RCW had never been enacted: PROVIDED FURTHER, That if a city elects to continue its municipal court pursuant to this section, the number of district judges allocated to the county in RCW 3.34.010 shall be reduced by two and the number of full time district judges allocated by RCW 3.34.020 to the district in which the city is situated shall also be reduced by two. The provisions of chapters 3.30 through 3.74 RCW may be made applicable to any county with a population of less than two hundred ten thousand upon a majority vote of its county legislative authority.

[1991 c 363 § 4; 1987 c 202 § 110; 1961 c 299 § 2.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Intent--1987 c 202: See note following RCW 2.04.190.

Municipal courts in cities of over four hundred thousand: Chapter 35.20 RCW.

RCW 3.30.030 Nomenclature for judges and courts.

The judges of each district court district shall be the justices of the peace of the district elected or appointed as provided in chapters 3.30 through 3.74 RCW. Such courts shall alternately be referred to as district courts and the judges thereof as district judges.

[1984 c 258 § 4; 1971 c 73 § 1; 1961 c 299 § 3.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.30.040 Sessions.

The district courts shall be open except on nonjudicial days. Sessions of the court shall be held at such places as shall be provided by the district court districting plan. The court shall sit as often as business requires in each city of the district which provides suitable courtroom facilities, to hear causes in which such city is the plaintiff.

[1984 c 258 § 5; 1961 c 299 § 4.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.30.050 Departments.

Each court may be organized in a manner consistent with the departments created by the districting plan.

[1984 c 258 § 6; 1971 c 73 § 2; 1961 c 299 § 5.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.30.060 Adjournments.

Adjournments from day to day, or from time to time, are to be construed as recesses in the sessions, and shall not prevent the court from sitting at any time.

[1961 c 299 § 6.]

RCW 3.30.070 Records.

The clerk of each district court shall keep uniform records of each case filed and the

proceedings had therein including an accounting for all funds received and disbursed. Financial reporting shall be in such form as may be prescribed by the state auditor. The form of other records may be prescribed by the supreme court.

[1995 c 301 § 30; 1971 c 73 § 3; 1961 c 299 § 7.]

RCW 3.30.080 Rules.

The supreme court may adopt rules of procedure for district courts. A district court may adopt local rules of procedure which are not inconsistent with state law or with the rules adopted by the supreme court. The rules for a county with a single district and multiple facilities may include rules to provide where cases shall be filed and where cases shall be heard. If the rules of the supreme court authorized under this section are adopted, all procedural laws in conflict with the rules shall be of no effect.

[1989 c 227 § 5; 1984 c 258 § 7; 1961 c 299 § 8.]

Notes:

Intent--1989 c 227: See note following RCW 3.38.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.30.090 Violations bureau.

A violations bureau may be established by any city or district court having jurisdiction of traffic cases to assist in processing traffic cases. As designated by written order of the court having jurisdiction of traffic cases, specific offenses under city ordinance, county resolution, or state law may be processed by such bureau. Such bureau may be authorized to receive the posting of bail for such specified offenses, and, as authorized by the court order, to accept forfeiture of bail and payment of monetary penalties. The court order shall specify the amount of bail to be posted and shall also specify the circumstances or conditions which will require an appearance before the court. Such bureau, upon accepting the prescribed bail, shall issue a receipt to the alleged violator, which receipt shall bear a legend informing him of the legal consequences of bail forfeiture. The bureau shall transfer daily to the clerk of the proper department of the court all bail posted for offenses where forfeiture is not authorized by the court order, as well as copies of all receipts. All forfeitures or penalties paid to a violations bureau for violations of municipal ordinances shall be placed in the city general fund or such other fund as may be prescribed by ordinance. All forfeitures or penalties paid to a violations bureau for violations of state laws or county resolutions shall be remitted at least monthly to the county treasurer for deposit in the current expense fund. Employees of violations bureaus of a city shall be city employees under any applicable municipal civil service system.

[1979 ex.s. c 136 § 15; 1971 c 73 § 4; 1961 c 299 § 9.]

Notes:

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

Chapter 3.34 RCW DISTRICT JUDGES

Sections

3.34.010	District judges--Number for each county.
3.34.020	District judges--Number--Changes.
3.34.025	District judge positions--Approval and agreement.
3.34.040	District judges--Full time--Other.
3.34.050	District judges--Election.
3.34.060	District judges--Eligibility and qualifications.
3.34.070	District judges--Term of office.
3.34.080	Oath--District judges--Court commissioners.
3.34.090	Bonds--Insurance as reimbursable expense.
3.34.100	District judges--Vacancies--Remuneration.
3.34.110	District judges--Disqualification.
3.34.120	District judges--Disqualification of partners.
3.34.130	District judges pro tempore--Reduction in salary of replaced judges--Exception--Reimbursement of counties.
3.34.140	Exchange of district judges--Reimbursement for expenses.
3.34.150	Presiding judge.

RCW 3.34.010 **District judges--Number for each county.**

The number of district judges to be elected in each county shall be: Adams, two; Asotin, one; Benton, three; Chelan, two; Clallam, two; Clark, five; Columbia, one; Cowlitz, two; Douglas, one; Ferry, one; Franklin, one; Garfield, one; Grant, two; Grays Harbor, two; Island, one; Jefferson, one; King, twenty-six; Kitsap, three; Kittitas, two; Klickitat, two; Lewis, two; Lincoln, one; Mason, one; Okanogan, two; Pacific, two; Pend Oreille, one; Pierce, eleven; San Juan, one; Skagit, two; Skamania, one; Snohomish, eight; Spokane, nine; Stevens, one; Thurston, two; Wahkiakum, one; Walla Walla, two; Whatcom, two; Whitman, one; Yakima, four. This number may be increased only as provided in RCW 3.34.020.

[1998 c 64 § 1; 1995 c 168 § 1; 1994 c 111 § 1; 1991 c 354 § 1; 1989 c 227 § 6; 1987 c 202 § 111; 1975 1st ex.s. c 153 § 1; 1973 1st ex.s. c 14 § 1; 1971 ex.s. c 147 § 1; 1970 ex.s. c 23 § 1; 1969 ex.s. c 66 § 1; 1965 ex.s. c 110 § 5; 1961 c 299 § 10.]

Notes:

Effective date--1995 c 168: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 1, 1995]." [1995 c 168 § 2.]

Intent--1989 c 227: See note following RCW 3.38.070.

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 3.34.020 **District judges--Number--Changes.**

(1) Any change in the number of full and part-time district judges after January 1, 1992, shall be determined by the legislature after receiving a recommendation from the supreme court. The supreme court shall make its recommendations to the legislature based on a weighted caseload analysis that takes into account the following:

- (a) The extent of time that existing judges have available to hear cases in that court;
- (b) A measurement of the judicial time needed to process various types of cases;
- (c) A determination of the time required to process each type of case to the individual court workload;
- (d) A determination of the amount of a judge's annual work time that can be devoted exclusively to processing cases; and
- (e) An assessment of judicial resource needs, including annual case filings, and case weights and the judge year value determined under the weighted caseload method.

(2) The administrator for the courts, under the supervision of the supreme court, may consult with the board of judicial administration and the district and municipal court judge's association in developing the procedures and methods of applying the weighted caseload analysis.

(3) For each recommended change from the number of full and part-time district judges in any county as of January 1, 1992, the administrator for the courts, under the supervision of the supreme court, shall complete a judicial impact note detailing any local or state cost associated with such recommended change.

(4) If the legislature approves an increase in the base number of district judges in any county as of January 1, 1992, such increase in the base number of district judges and all related costs may be paid for by the county from moneys provided under RCW 82.14.310, and any such costs shall be deemed to be expended for criminal justice purposes as provided in *RCW 82.14.315, and such expenses shall not constitute a supplanting of existing funding.

(5)(a) A county legislative authority that desires to change the number of full or part-time district judges from the base number on January 1, 1992, must first request the assistance of the supreme court. The administrator for the courts, under the supervision of the supreme court, shall conduct a weighted caseload analysis and make a recommendation of its findings to the legislature for consideration as provided in this section.

(b) The legislative authority of any county may change a part-time district judge position to a full-time position.

[1997 c 41 § 3; 1991 c 313 § 2; 1987 c 202 § 112; 1984 c 258 § 8; 1982 c 29 § 1; 1973 1st ex.s. c 14 § 2; 1970 ex.s. c 23 § 2; 1969 ex.s. c 66 § 7; 1961 c 299 § 11.]

Notes:

***Reviser's note:** RCW 82.14.315 expired July 1, 1991.

Intent--1987 c 202: See note following RCW 2.04.190.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.025 District judge positions--Approval and agreement.

Any additional district judge positions created under RCW 3.34.020 shall be effective only if the legislative authority of the affected county documents its approval of any additional positions and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial positions as provided by statute. The additional expenses include, but are not limited to, expenses incurred for court facilities. The legislative authority of any such county may, at its discretion, phase in any judicial positions over a period of time not to exceed two years from the effective date of the additional district judge positions.

[1991 c 313 § 3.]

RCW 3.34.040 District judges--Full time--Other.

A district judge serving a district having a population of forty thousand or more persons, and a district judge receiving a salary equal to the maximum salary set by the salary commission under RCW 3.58.020 for district judges shall be deemed full time judges and shall devote all of their time to the office and shall not engage in the practice of law. Other judges shall devote sufficient time to the office to properly fulfill the duties thereof and may engage in other occupations but shall maintain a separate office for private business and shall not use for private business the services of any clerk or secretary paid for by the county or office space or supplies furnished by the judicial district.

[1991 c 338 § 2; 1984 c 258 § 10; 1983 c 195 § 1; 1974 ex.s. c 95 § 2; 1971 ex.s. c 147 § 2; 1961 c 299 § 13.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.050 District judges--Election.

At the general election in November 1962 and quadrennially thereafter, there shall be elected by the voters of each district court district the number of judges authorized for the district by the district court districting plan. Judges shall be elected for each district and electoral district, if any, by the qualified electors of the district in the same manner as judges of courts of record are elected, except as provided in chapter 29.21 RCW. Not less than ten days before the time for filing declarations of candidacy for the election of judges for districts entitled to more than one judge, the county auditor shall designate each such office of district judge to be filled by a number, commencing with the number one and numbering the remaining offices consecutively. At the time of the filing of the declaration of candidacy, each candidate shall designate by number which one, and only one, of the numbered offices for which he or she is a candidate and the name of the candidate shall appear on the ballot for only the numbered office for which the candidate filed a declaration of candidacy.

[1998 c 19 § 2; 1989 c 227 § 3; 1984 c 258 § 11; 1975-'76 2nd ex.s. c 120 § 8; 1961 c 299 § 14.]

Notes:

Intent--1989 c 227: See note following RCW 3.38.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Severability--1975-'76 2nd ex.s. c 120: See note following RCW 29.21.010.

RCW 3.34.060 District judges--Eligibility and qualifications.

To be eligible to file a declaration of candidacy for and to serve as a district court judge, a person must:

(1) Be a registered voter of the district court district and electoral district, if any; and

(2) Be either:

(a) A lawyer admitted to practice law in the state of Washington; or

(b) A person who has been elected and has served as a justice of the peace, district judge, municipal judge, or police judge in Washington; or

(c) In those districts having a population of less than five thousand persons, a person who has taken and passed the qualifying examination for the office of district judge as shall be provided by rule of the supreme court.

[1991 c 361 § 1; 1989 c 227 § 4; 1984 c 258 § 12; 1961 c 299 § 15.]

Notes:

Intent--1989 c 227: See note following RCW 3.38.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.070 District judges--Term of office.

Every district judge shall hold office for a term of four years from and after the second Monday in January next succeeding his or her selection and continuing until a successor is elected and qualified.

[1984 c 258 § 13; 1961 c 299 § 16.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.080 Oath--District judges--Court commissioners.

Each district judge, district judge pro tempore and district court commissioner shall, before entering upon the duties of office, take an oath to support the Constitution of the United States and the Constitution and laws of the state of Washington, and to perform the duties of the office faithfully and impartially and to the best of his or her ability.

[1984 c 258 § 14; 1961 c 299 § 17.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.090 Bonds--Insurance as reimbursable expense.

The county legislative authority shall provide for the bonding of each district judge, district judge pro tempore, district court commissioner, clerk of the district court, and court employee, at the expense of the county, in such amount as the county legislative authority shall prescribe, conditioned that each such person will pay over according to law all moneys which shall come into the person's custody in causes filed in the district court. Such bond shall not be less than the maximum amount of money liable to be under the control, at any one time, of each such person in the performance of his or her duties. Such bond may be a blanket bond. If the county obtains errors and omissions insurance covering district court personnel, the costs of such coverage shall be a reimbursable expense pursuant to RCW 3.62.050 as now or hereafter amended.

[1984 c 258 § 15; 1971 c 73 § 5; 1961 c 299 § 18.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.100 District judges--Vacancies--Remuneration.

If a district judge dies, resigns, is convicted of a felony, ceases to reside in the district, fails to serve for any reason except temporary disability, or if his or her term of office is terminated in any other manner, the office shall be deemed vacant. The county legislative authority shall fill all vacancies by appointment and the judge thus appointed shall hold office until the next general election and until a successor is elected and qualified. District judges shall be granted sick leave in the same manner as other county employees. A district judge may receive when vacating office remuneration for unused accumulated leave and sick leave at a rate equal to one day's monetary compensation for each full day of accrued leave and one day's monetary compensation for each four full days of accrued sick leave, the total remuneration for leave and sick leave not to exceed the equivalent of thirty days' monetary compensation.

[1992 c 76 § 1; 1984 c 258 § 16; 1961 c 299 § 19.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.110 District judges--Disqualification.

A district judge shall not act as judge in any of the following cases:

(1) In an action to which the judge is a party, or in which the judge is directly interested, or in which the judge has been an attorney for a party.

(2) When the judge or one of the parties believes that the parties cannot have an impartial trial before the judge. Only one change of judges shall be allowed each party under this subsection.

When a judge is disqualified under this section, the case shall be heard before another judge or judge pro tempore of the same county.

[1984 c 258 § 17; 1961 c 299 § 20.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.120 District judges--Disqualification of partners.

The partner and associates of a judge who is a lawyer shall not practice law before the judge.

[1984 c 258 § 18; 1961 c 299 § 21.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.130 District judges pro tempore--Reduction in salary of replaced judges--Exception--Reimbursement of counties.

(1) Each district court shall designate one or more persons as judge pro tempore who shall serve during the temporary absence, disqualification, or incapacity of a district judge or to serve as an additional judge for excess caseload or special set cases. The qualifications of a judge pro tempore shall be the same as for a district judge, except that with respect to RCW 3.34.060(1), the person appointed need only be a registered voter of the state. A district that has a population of not more than ten thousand and that has no person available who meets the qualifications under RCW 3.34.060(2) (a) or (b), may appoint as a pro tempore judge a person who has taken and passed the qualifying examination for the office of district judge as is provided by rule of the supreme court. A judge pro tempore may sit in any district of the county for which he or she is appointed. A judge pro tempore shall be paid the salary authorized by the county legislative authority.

(2) For each day that a judge pro tempore serves in excess of thirty days during any calendar year, the annual salary of the district judge in whose place the judge pro tempore serves shall be reduced by an amount equal to one-two hundred fiftieth of such salary: PROVIDED, That each full time district judge shall have up to fifteen days annual leave without reduction for service on judicial commissions established by the legislature or the chief justice of the supreme court. No reduction in salary shall occur when a judge pro tempore serves:

- (a) While a district judge is using sick leave granted in accordance with RCW 3.34.100;
- (b) While a district court judge is disqualified from serving following the filing of an affidavit of prejudice;
- (c) As an additional judge for excess case load or special set cases; or
- (d) While a district judge is otherwise involved in administrative, educational, or judicial functions related to the performance of the judge's duties: PROVIDED, That the appointment of judge pro tempore authorized under subsection (2)(c) and (d) of this section is subject to an appropriation for this purpose by the county legislative authority.

(3) The legislature may appropriate money for the purpose of reimbursing counties for the

salaries of judges pro tempore for certain days in excess of thirty worked per year that the judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (2) of this section. No later than September 1 of each year, each county treasurer shall certify to the administrator for the courts for the year ending the preceding June 30, the number of days in excess of thirty that any judge pro tempore was required to work as the result of service by a judge on a commission as authorized under subsection (2) of this section. Upon receipt of the certification, the administrator for the courts shall reimburse the county from money appropriated for that purpose.

[1996 c 16 § 1; 1994 c 18 § 1; 1993 c 330 § 1; 1986 c 161 § 4; 1984 c 258 § 302; 1984 c 258 § 19; 1983 c 195 § 2; 1981 c 331 § 9; 1961 c 299 § 22.]

Notes:

Severability--1986 c 161: See note following RCW 43.03.010.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

RCW 3.34.140 Exchange of district judges--Reimbursement for expenses.

Any district judge may hold a session in any district in the state, at the request of the judge or majority of judges in the district if the visiting judge determines that the state of business in his or her district allows the judge to be absent. The county legislative authority in which the district court is located shall first approve the temporary absence and the judge pro tempore shall not be required to serve during the judge's absence. A visiting judge shall be entitled to reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060 as now or hereafter amended while so acting, to be paid by the visited district. These expenses shall not be paid to the visiting judge unless the legislative authority of the county in which the visited district is located has approved the payment before the visit.

[1984 c 258 § 20; 1981 c 186 § 5; 1961 c 299 § 23.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.34.150 Presiding judge.

If a district has more than one judge, the supreme court may by rule provide for the manner of selection of one of the judges to serve as presiding judge and prescribe the presiding judge's duties. If a county has multiple districts or has one district with multiple electoral districts, the supreme court may by rule provide for the manner of selection of one of the judges to serve as presiding judge and prescribe the presiding judge's duties.

[1989 c 227 § 7; 1984 c 258 § 21; 1961 c 299 § 24.]

Notes:

Intent--1989 c 227: See note following RCW 3.38.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Chapter 3.38 RCW
DISTRICT COURT DISTRICTS

Sections

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3.38.030	Districting plan--Adoption.
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3.38.060	Joint district court districts.
3.38.070	Separate electoral districts--Establishment.
3.38.080	Separate electoral districts--Definition.

RCW 3.38.010 Districting committee--Membership.

There is established in each county a district court districting committee composed of the following:

- (1) The judge of the superior court, or, if there be more than one such judge, then one of the judges selected by that court;
- (2) The prosecuting attorney, or a deputy selected by the prosecuting attorney;
- (3) A practicing lawyer of the county selected by the president of the largest local bar association, if there be one, and if not, then by the county legislative authority;
- (4) A judge of a court of limited jurisdiction in the county selected by the president of the Washington state district and municipal court judges' association; and
- (5) The mayor, or representative appointed by the mayor, of each city or town with a population of three thousand or more in the county;
- (6) One person to represent the cities and towns with populations of three thousand or less in the county, if any, to be selected by a majority vote of the mayors of those cities and towns with a population of less than three thousand. However, if there should not be a city in the county with a population of ten thousand or more, the mayor, or the mayor's representative, of each city or town with a population of less than three thousand shall be a member;
- (7) The chair of the county legislative authority; and
- (8) The county auditor.

[1995 c 37 § 1. Prior: 1994 c 81 § 1; 1994 c 32 § 2; 1984 c 258 § 22; 1961 c 299 § 25.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.020 Districting committee--Duties--Districting plan.

The district court districting committee shall meet at the call of the prosecuting attorney to prepare a plan for the districting of the county into one or more district court districts in accordance with the provisions of chapters 3.30 through 3.74 RCW. The plan shall include the following:

- (1) The boundaries of each district proposed to be established;
- (2) The number of judges to be elected in each district;
- (3) The location of the central office, courtrooms and records of each court;
- (4) The other places in the district, if any, where the court shall sit;
- (5) The number and location of district court commissioners to be authorized, if any;
- (6) The departments, if any, into which each district court shall be initially organized, including municipal departments provided for in chapter 3.46 RCW;
- (7) The name of each district; and
- (8) The allocation of the time and allocation of salary of each judge who will serve part time in a municipal department.

[1984 c 258 § 23; 1965 ex.s. c 110 § 1; 1961 c 299 § 26.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.022 Location of offices and courtrooms.

The districting plan may provide that the offices and courtrooms of more than one district may be in the same building: PROVIDED, That no office or courtroom of any district shall be located further than two miles outside the boundary of the district which it serves.

[1984 c 258 § 24; 1963 c 213 § 1.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.030 Districting plan--Adoption.

Upon receipt of the districting plan, the county legislative authority shall hold a public hearing, pursuant to the provisions of RCW 36.32.120(7), as now or hereafter amended. At the hearing, anyone interested in the plan may attend and be heard as to the convenience which will be afforded to the public by the plan, and as to any other matters pertaining thereto. If the county legislative authority finds that the plan proposed by the districting committee conforms to the standards set forth in chapters 3.30 through 3.74 RCW and is conducive to the best interests and welfare of the county as a whole it may adopt such plan. If the county legislative authority finds

that the plan does not conform to the standards as provided in chapters 3.30 through 3.74 RCW, the county legislative authority may modify, revise or amend the plan and adopt such amended or revised plan as the county's district court districting plan. The plan decided upon shall be adopted by the county legislative authority not later than six months after the county initially obtains a population of two hundred ten thousand or more or the adoption of the elective resolution.

[1991 c 363 § 5; 1984 c 258 § 25; 1965 ex.s. c 110 § 2; 1961 c 299 § 27.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.031 Districting plan--Transitional provisions.

As a part of the districting plan, the county legislative authority shall designate a date on which the terms of the district judges of the county shall end.

For each judicial position under the districting plan, the county legislative authority shall appoint a person qualified under RCW 3.34.060 who shall take office on the date designated by the county legislative authority and shall serve until the next quadrennial election of district judges as provided in RCW 3.34.050.

Pending cases, proceedings, and matters shall be transferred to the appropriate court as provided in RCW 3.74.900.

[1984 c 258 § 26; 1965 ex.s. c 110 § 3.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.040 Districting plan--Amendment.

The districting committee may meet for the purpose of amending the districting plan at any time on call of the county legislative authority, the chairperson of the committee or a majority of its members. Amendments to the plan shall be submitted to the county legislative authority not later than March 15th of each year for adoption by the county legislative authority following the same procedure as with the original districting plan. Amendments shall be adopted not later than May 1st following submission by the districting committee. Any amendment which would reduce the salary or shorten the term of any judge shall not be effective until the next regular election for district judge. All other amendments may be effective on a date set by the county legislative authority.

[1984 c 258 § 27; 1969 ex.s. c 66 § 3; 1961 c 299 § 28.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.050 District court districts--Standards.

District court districts shall be established in accordance with the following standards:

- (1) Every part of the county shall be in some district.
- (2) The whole county may constitute one district.
- (3) There shall not be more districts than there are judges authorized for the county.
- (4) A district boundary shall not intersect the boundary of an election precinct.
- (5) A city shall not lie in more than one district.

(6) Whenever a county is divided into more than one district, each district shall be so established as best to serve the convenience of the people of the district, considering the distances which must be traveled by parties and witnesses in going to and from the court and any natural barriers which may obstruct such travel.

[1984 c 258 § 28; 1961 c 299 § 29.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.060 Joint district court districts.

Joint districts may be established containing all or part of two or more counties. The county containing the largest portion of the population of a joint district shall be known as the "principal county" and each joint district shall be deemed to lie within the principal county for the purpose of chapters 3.30 through 3.74 RCW. A joint district may be established by resolution of one county concurred in by a resolution of each other county: PROVIDED, That the county legislative authority of a county containing the largest portion of the population of a city may include the portions of such city lying outside the county in a joint district without concurrence of the other counties.

Elections of judges in joint districts shall be conducted and canvassed in the same manner as elections of superior court judges in joint judicial districts.

[1984 c 258 § 29; 1961 c 299 § 30.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.38.070 Separate electoral districts--Establishment.

A county legislative authority for a county that has a single district but has multiple locations for courtrooms may establish separate electoral districts to provide for election of district court judges by subcounty local districts. In any county containing a city of more than four hundred thousand population, the legislative authority of such a county shall establish such separate electoral districts. The procedures in chapter 3.38 RCW for the establishment of district court districts apply to the establishment of separate electoral districts authorized by this section.

[1990 c 257 § 1; 1989 c 227 § 2.]

Notes:

Intent--1989 c 227: "It is the intent of the legislature to continue to provide the option for local election of district court judges where a county district court with multiple courtrooms is unified into a single district court for operational and administrative purposes." [1989 c 227 § 1.]

RCW 3.38.080 Separate electoral districts--Definition.

In any county in which separate electoral districts have been established pursuant to RCW 3.38.070, the term "district" also means "electoral district" for purposes of RCW 3.38.022, 3.38.050, and 3.38.060.

[1990 c 257 § 2.]

**Chapter 3.42 RCW
DISTRICT COURT COMMISSIONERS**

Sections

3.42.010	District court commissioners--Appointment--Qualifications--Term of office.
3.42.020	Powers of commissioners.
3.42.030	Transfer of cases to district judge.
3.42.040	Compensation.

RCW 3.42.010 District court commissioners--Appointment--Qualifications--Term of office.

When so authorized by the districting plan, one or more district court commissioners may be appointed in any district by the judges of the district. Each commissioner shall be a registered voter of the county in which the district or a portion thereof is located, and shall hold office at the pleasure of the appointing judges. Any person appointed as a commissioner authorized to hear or dispose of cases shall be a lawyer who is admitted to the practice of law in the state of Washington or who has passed the qualifying examination for lay judges as provided under RCW 3.34.060.

[1984 c 258 § 30; 1980 c 162 § 7; 1961 c 299 § 31.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Severability--1980 c 162: See note following RCW 3.02.010.

District court commissioners

bond: RCW 3.34.090.

oath: RCW 3.34.080.

RCW 3.42.020 Powers of commissioners.

Each district court commissioner shall have such power, authority, and jurisdiction in criminal and civil matters as the appointing judges possess and shall prescribe.

[1984 c 258 § 31; 1979 ex.s. c 136 § 16; 1961 c 299 § 32.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 3.42.030 Transfer of cases to district judge.

Any party may have a case transferred from a district court commissioner to a judge of the same district for hearing, by filing a motion for transfer as long as the motion is filed and called to the attention of the commissioner before any discretionary ruling has been made. The following are not considered discretionary rulings: (1) The arrangement of the calendar; (2) the setting of an action, motion, or proceeding for hearing or trial; (3) the arraignment of the accused; or (4) the fixing of bail. The commissioner shall forthwith transfer the case to the judge.

[2000 c 164 § 1; 1984 c 258 § 32; 1961 c 299 § 33.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.42.040 Compensation.

District court commissioners shall receive such compensation as the county legislative authority or city council shall provide.

[1984 c 258 § 33; 1969 ex.s. c 66 § 4; 1961 c 299 § 34.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

District court commissioners

salary: RCW 3.46.090 and 3.58.030.

travel expenses: RCW 3.58.040.

**Chapter 3.46 RCW
MUNICIPAL DEPARTMENTS**

Sections

3.46.010	Municipal department authorized.
3.46.020	Judges.
3.46.030	Jurisdiction.
3.46.040	Petition.
3.46.050	Selection of full time judges.
3.46.060	Selection of part time judges.

3.46.063	Judicial positions--Filling--Circumstances permitted.
3.46.067	Judges--Residency requirement.
3.46.070	Election.
3.46.080	Term and removal.
3.46.090	Salary--City cost.
3.46.100	Vacancy.
3.46.110	Night sessions.
3.46.120	Revenue--Disposition--Interest.
3.46.130	Facilities.
3.46.140	Personnel.
3.46.145	Court commissioners.
3.46.150	Termination of municipal department--Agreement covering costs of handling resulting criminal cases--Arbitration.
3.46.155	Termination of municipal department--Waiting period for establishing another.

Notes:

Rules of court: See *Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ)*.

RCW 3.46.010 Municipal department authorized.

Any city may secure the establishment of a municipal department of the district court, to be designated "The Municipal Department of (city)." Such department may also be designated "The Municipal Court of (city)."

[1984 c 258 § 72; 1961 c 299 § 35.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.020 Judges.

Each judge of a municipal department shall be a judge of the district court in which the municipal department is situated. Such judge shall be designated as a municipal judge.

[1987 c 3 § 1; 1984 c 258 § 73; 1961 c 299 § 36.]

Notes:

Severability--1987 c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."
[1987 c 3 § 21.]

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.030 Jurisdiction.

A municipal department shall have exclusive jurisdiction of matters arising from ordinances of the city, and no jurisdiction of other matters except as conferred by statute. A municipal department participating in the program established by the office of the administrator

for the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any court of limited jurisdiction participating in the program.

[2000 c 111 § 5; 1985 c 303 § 13; 1961 c 299 § 37.]

RCW 3.46.040 Petition.

Establishment of a municipal department shall be initiated by a petition from the legislative body of the city to the county legislative authority. Such petition shall be filed not less than thirty days prior to February 1, 1962, or any subsequent year, and shall set forth: (1) The number of full time and part time judges required for the municipal department; (2) the amount of time for which a part time judge will be required for the municipal department; and (3) whether the full time judge or judges will be elected or appointed. In a petition filed subsequent to 1962 provision shall be made for temporary appointment of a municipal judge to fill each elective position until the next election for district judges. The petition shall be forthwith transmitted to the districting committee. The organization of the municipal department shall be incorporated into the districting plan. The districting committee in its plan shall designate the proportion of the salary of each judge serving as a part time municipal judge to be paid by the city, which shall be proportionate to the time of such judge allotted to the municipal department by the districting plan. A city may withdraw its petition any time prior to adoption of the districting plan by the county legislative authority, and thereupon the municipal department pursuant to this chapter shall not be established.

[1984 c 258 § 74; 1961 c 299 § 38.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.050 Selection of full time judges.

Each city may select its full time municipal judge or judges by election, or by appointment in such manner as the city legislative body determines: PROVIDED, That in cities having a population in excess of four hundred thousand, the municipal judges shall be elected.

[1975 c 33 § 2; 1961 c 299 § 39.]

Notes:

Severability--1975 c 33: See note following RCW 35.21.780.

RCW 3.46.060 Selection of part time judges.

In district court districts having more than one judge, appointment of part time municipal judges shall be made from the judges of the district by the mayor in such manner as the city legislative body shall determine.

[1984 c 258 § 75; 1961 c 299 § 40.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.063 Judicial positions--Filling--Circumstances permitted.

Notwithstanding RCW 3.46.050 and 3.46.060, judicial positions may be filled only by election under the following circumstances:

(1) Each full-time equivalent judicial position shall be filled by election. This requirement applies regardless of how many judges are employed to fill the position. For purposes of this section, a full-time equivalent position is thirty-five or more hours per week of compensated time.

(2) In any city with one or more full-time equivalent judicial positions, an additional judicial position or positions that is or are in combination more than one-half of a full-time equivalent position shall be filled by election.

[1993 c 317 § 3.]

Notes:

Severability--Effective date--1993 c 317: See notes following RCW 3.46.155.

RCW 3.46.067 Judges--Residency requirement.

A judge of a municipal department of a district court need not be a resident of the city in which the department is created, but must be a resident of the county in which the city is located.

[1993 c 317 § 5.]

Notes:

Severability--Effective date--1993 c 317: See notes following RCW 3.46.155.

RCW 3.46.070 Election.

In each district court district where an election is held for the position of municipal judge, the county auditor, prior to the date for filing declarations for the office of district judge, shall designate the proper number of municipal judge positions, commencing with number one, and if there is more than one municipal judge in any municipal department, one or more positions may, at the request of the legislative body of the city, be further designated as municipal traffic judge positions. Only voters of the city shall vote for municipal judges.

[1984 c 258 § 76; 1961 c 299 § 41.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.080 Term and removal.

A municipal judge shall serve in such capacity for his or her term as district judge and may be removed from so serving in the same manner and for the same reasons as he or she may be removed from the office of district judge.

[1984 c 258 § 77; 1961 c 299 § 42.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.090 Salary--City cost.

The salary of a full time municipal judge shall be paid wholly by the city. The salary of a district judge serving a municipal department part time shall be paid jointly by the county and the city in the same proportion as the time of the judge has been allocated to each. Salaries of court commissioners serving the municipal department shall be paid by the city.

[1984 c 258 § 78; 1969 ex.s. c 66 § 5; 1961 c 299 § 43.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.100 Vacancy.

A vacancy in a position of full time municipal judge shall be filled for the unexpired term by appointment in such manner as the city may determine. In districts having more than one judge, a vacancy in a position of part time municipal judge shall be filled for the unexpired term by appointment in such manner as the city shall determine from the judges of the district, including any judge appointed by the county commissioners to fill an unexpired term.

[1984 c 258 § 79; 1961 c 299 § 44.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.110 Night sessions.

A city may authorize its municipal department to hold night sessions.

[1961 c 299 § 45.]

RCW 3.46.120 Revenue--Disposition--Interest.

(1) All money received by the clerk of a municipal department including penalties, fines, bail forfeitures, fees and costs shall be paid by the clerk to the city treasurer.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions, and certain costs to the state

treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(5) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts.

[1995 c 291 § 2; 1988 c 169 § 1; 1985 c 389 § 3; 1984 c 258 § 303; 1975 1st ex.s. c 241 § 4; 1961 c 299 § 46.]

Notes:

Effective date--1985 c 389: See note following RCW 27.24.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Legislative intent--1984 c 258 §§ 302-340: "It is the intent of the legislature to assure accountability, uniformity, economy, and efficiency in the collection and distribution by superior, district, and municipal courts of fees, fines, forfeitures, and penalties assessed and collected for violations of state statutes, and county, city, and town ordinances." [1984 c 258 § 301.]

RCW 3.46.130 Facilities.

All courtrooms, offices, facilities and supplies for the operation of a municipal department shall be furnished by the city.

[1961 c 299 § 47.]

RCW 3.46.140 Personnel.

All such personnel shall be deemed employees of the city, shall be compensated wholly by the city, and shall be appointed under and subject to any applicable civil service laws and regulations.

[1961 c 299 § 48.]

RCW 3.46.145 Court commissioners.

The provisions of chapter 3.42 RCW shall apply to this chapter 3.46 RCW.

[1969 ex.s. c 66 § 6.]

RCW 3.46.150 Termination of municipal department--Agreement covering costs of handling resulting criminal cases--Arbitration.

Any city, having established a municipal department as provided in this chapter may, by written notice to the county legislative authority not less than thirty days prior to February 1st of any year, require the termination of the municipal department created pursuant to this chapter. However, the city may not give the written notice required by this section unless the city has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

[1984 c 258 § 210; 1961 c 299 § 49.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.46.155 Termination of municipal department--Waiting period for establishing another.

Any city that terminates a municipal department under this chapter may not establish another municipal department under this chapter until at least ten years have elapsed from the date of termination.

[1993 c 317 § 1.]

Notes:

Severability--1993 c 317: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 317 § 11.]

Effective date--1993 c 317: "This act shall take effect January 1, 1995." [1993 c 317 § 12.]

Chapter 3.50 RCW
MUNICIPAL COURTS--ALTERNATE PROVISION
(Formerly: Municipal departments--Alternate provision)

Sections
3.50.003 Definition.

- 3.50.005 Legislative finding--Alternative court structure for cities and towns of four hundred thousand or less.
- 3.50.007 Cities and towns of four hundred thousand or less to operate municipal court under this chapter or chapter 3.46 RCW--Municipal judges in office on July 1, 1984--Terms.
- 3.50.010 Municipal court authorized in cities of four hundred thousand or less.
- 3.50.020 Jurisdiction.
- 3.50.030 Violations bureau for traffic cases--Disposition of moneys collected.
- 3.50.040 Municipal judges--Appointed--Terms, qualifications--District judge as part time municipal judge.
- 3.50.050 Municipal judge may be elective position--Qualifications, term.
- 3.50.055 Judicial positions--Filling--Circumstances permitted.
- 3.50.057 Judges--Residency requirement.
- 3.50.060 Termination of municipal court--Requirements--Establishment of court.
- 3.50.070 Additional judges--Appointment, election.
- 3.50.075 Court commissioners--Appointment--Qualification--Part-time appointed judge.
- 3.50.080 Salaries of judges--Payment of court operating costs from city funds--Judges and employees as city employees.
- 3.50.090 Judges pro tem.
- 3.50.093 Municipal judge--Vacancy--Appointment.
- 3.50.095 Municipal judge--Removal from office.
- 3.50.097 Judge's oath--Bonds.
- 3.50.100 Revenue--Disposition--Interest.
- 3.50.110 Sessions.
- 3.50.115 Municipal court seal.
- 3.50.125 Transfer within municipal court.
- 3.50.135 Request for jury trial in civil cases--Exception--Fee--Juror compensation--Jury trials in criminal cases.
- 3.50.300 Execution of sentence--Jail in lieu of fine and costs, computation.
- 3.50.320 Deferral of sentence--Change of plea, dismissal.
- 3.50.330 Continuing jurisdiction of court after sentence.
- 3.50.340 Revocation of deferred or suspended sentence--Limitations--Termination of probation.
- 3.50.425 Issuance of criminal process.
- 3.50.430 Criminal prosecution in city's name for violation of ordinances.
- 3.50.440 Penalty if no other punishment prescribed.
- 3.50.450 Pleadings, practice and procedure not provided for governed by district court law.
- 3.50.800 Repeal of municipal criminal code--Agreement covering costs of handling resulting criminal cases--Arbitration--Renewal.
- 3.50.805 Termination of municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration--Repeal of municipal criminal code--Agreement--Arbitration--Repeal of a municipal crime equivalent to offense in RCW 46.63.020--Agreement--Arbitration.
- 3.50.810 Termination of municipal court--Waiting period for establishing another.

Notes:

Rules of court: See *Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RALJ)*.

RCW 3.50.003 Definition.

"Mayor," as used in this chapter, means the chief administrative officer of the city.

[1984 c 258 § 125.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.005 Legislative finding--Alternative court structure for cities and towns of four hundred thousand or less.

The legislature finds that there is a multitude of statutes governing the municipal courts of the state. This situation is confusing and misleading to attorneys, judges, court personnel, and others who work with the municipal courts. The legislature therefore finds that a reorganization of the municipal courts of the state would allow those courts to operate in a more effective and efficient manner. This chapter provides a court structure which may be used by cities and towns with a population of four hundred thousand or less which choose to operate under this chapter.

[1984 c 258 § 101.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: "The enactment of sections 101 through 139 of this act shall not affect any case, proceeding, appeal, or other matter pending in any court operating under Title 35 or 35A RCW on the effective date of this act [July 1, 1984]. The enactment of sections 101 through 139 of this act shall not have the effect of terminating or in any way modifying any right or liability, civil or criminal, which may be in existence on the effective date of this act [July 1, 1984]." [1984 c 258 § 128.]

RCW 3.50.007 Cities and towns of four hundred thousand or less to operate municipal court under this chapter or chapter 3.46 RCW--Municipal judges in office on July 1, 1984--Terms.

After January 1, 1985, cities and towns with a population of four hundred thousand or less which are operating a municipal court under Title 35 or 35A RCW shall operate the court pursuant to this chapter. In the alternative, a city or town may establish a municipal department of a district court under chapter 3.46 RCW.

Municipal judges holding office on July 1, 1984, shall continue to hold office until expiration of their term or January 1, 1986, whichever occurs first.

[1984 c 258 § 102.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.010 Municipal court authorized in cities of four hundred thousand or less.

Any city or town with a population of four hundred thousand or less may by ordinance provide for an inferior court to be known and designated as a municipal court, which shall be

entitled "The Municipal Court of (insert name of city or town)", hereinafter designated and referred to as "municipal court", which court shall have jurisdiction and shall exercise all powers by this chapter declared to be vested in the municipal court, together with such other powers and jurisdiction as are generally conferred upon such court in this state either by common law or by express statute.

[1984 c 258 § 103; 1961 c 299 § 50.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.020 Jurisdiction.

The municipal court shall have exclusive original jurisdiction over traffic infractions arising under city ordinances and exclusive original criminal jurisdiction of all violations of city ordinances duly adopted by the city in which the municipal court is located and shall have original jurisdiction of all other actions brought to enforce or recover license penalties or forfeitures declared or given by such ordinances or by state statutes. The municipal court shall also have the jurisdiction as conferred by statute. The municipal court is empowered to forfeit cash bail or bail bonds and issue execution thereon; and in general to hear and determine all causes, civil or criminal, including traffic infractions, arising under such ordinances and to pronounce judgment in accordance therewith. A municipal court participating in the program established by the office of the administrator for the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any court of limited jurisdiction participating in the program.

[2000 c 111 § 6; 1985 c 303 § 14; 1984 c 258 § 104; 1979 ex.s. c 136 § 17; 1961 c 299 § 51.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 3.50.030 Violations bureau for traffic cases--Disposition of moneys collected.

Every city or town may establish and operate under the supervision of the municipal court a violations bureau to assist the court in processing traffic cases. Each municipal court shall designate the specific traffic offenses and traffic infractions under city or town ordinances which may be processed by the violations bureau.

A violations bureau may be authorized to process traffic infractions in conformity with chapter 46.63 RCW.

A violations bureau may be authorized to receive the posting of bail for specified offenses and, to the extent authorized by court order, permitted to accept forfeiture of bail and payment of penalties. Any violations bureau, upon accepting the prescribed bail, shall issue a receipt therefor

to the alleged violator, acknowledging the posting thereof and informing the accused of the legal consequences of bail forfeiture. Any person charged with any criminal traffic offense within the authority of the violations bureau may, upon signing a written appearance, a written plea of guilty and a written waiver of trial, pay to the violations bureau the fine established for the offense charged and costs and this shall have the same effect as a court conviction. All penalties and forfeitures paid to a violations bureau for the violation of municipal ordinance shall be placed in the city or town general fund or such other fund as may be prescribed by ordinance of the city or town or laws of the state of Washington.

Any employees of an existing violations bureau of any city shall continue as city employees.

[1984 c 258 § 105; 1979 ex.s. c 136 § 18; 1961 c 299 § 52.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

RCW 3.50.040 Municipal judges--Appointed--Terms, qualifications--District judge as part time municipal judge.

Within thirty days after the effective date of the ordinance creating the municipal court, the mayor of each city or town shall appoint a municipal judge or judges of the municipal court for a term of four years. The terms of judges serving on July 1, 1984, and municipal judges who are appointed to terms commencing before January 1, 1986, shall expire January 1, 1986. The terms of their successors shall commence on January 1, 1986, and on January 1 of each fourth year thereafter, pursuant to appointment or election as provided in this chapter. Appointments shall be made on or before December 1 of the year next preceding the year in which the terms commence.

The legislative authority of a city or town that has the general power of confirmation over mayoral appointments shall have the power to confirm the appointment of a municipal judge.

A person appointed as a full-time or part-time municipal judge shall be a citizen of the United States of America and of the state of Washington; and an attorney admitted to practice law before the courts of record of the state of Washington: PROVIDED, That in a municipality having a population less than five thousand persons, a person other than an attorney may be the judge. Any city or town shall have authority to appoint a district judge as its municipal judge when the municipal judge is not required to serve full time. In the event of the appointment of a district judge, the city or town shall pay a pro rata share of the salary.

[1984 c 258 § 106; 1975-'76 2nd ex.s. c 35 § 1; 1961 c 299 § 53.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.050 Municipal judge may be elective position--Qualifications, term.

The legislative authority of the city or town may, by ordinance, provide that the position of municipal judge within the city or town shall be an elective position. The ordinance shall provide for the qualifications of the municipal judge which shall be the same as the qualifications necessary for the appointment thereof; and further, shall provide that the municipal judge shall be elected in the same manner as other elective city officials are elected to office, and that the term of the municipal judge shall be for a term of four years commencing on January 1, 1986, and every four years thereafter.

[1984 c 258 § 107; 1961 c 299 § 54.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.055 Judicial positions--Filling--Circumstances permitted.

Notwithstanding RCW 3.50.040 and 3.50.050, judicial positions may be filled only by election under the following circumstances:

(1) Each full-time equivalent judicial position shall be filled by election. This requirement applies regardless of how many judges are employed to fill the position. For purposes of this section, a full-time equivalent position is thirty-five or more hours per week of compensated time.

(2) In any city with one or more full-time equivalent judicial positions, an additional judicial position or positions that is or are in combination more than one-half of a full-time equivalent position shall also be filled by election.

[1993 c 317 § 4.]

Notes:

Severability--Effective date--1993 c 317: See notes following RCW 3.46.155.

RCW 3.50.057 Judges--Residency requirement.

A judge of a municipal court need not be a resident of the city in which the court is created, but must be a resident of the county in which the city is located.

[1993 c 317 § 6.]

Notes:

Severability--Effective date--1993 c 317: See notes following RCW 3.46.155.

RCW 3.50.060 Termination of municipal court--Requirements--Establishment of court.

A city or town electing to establish a municipal court pursuant to this chapter may

terminate such court by adoption of an appropriate ordinance. However no municipal court may be terminated unless the municipality has complied with RCW 3.50.805, 35.22.425, *35.23.595, **35.24.455, 35.27.515, 35.30.100, and 35A.11.200.

A city or town newly establishing a municipal court pursuant to this chapter shall do so by adoption of an appropriate ordinance on or before December 1 of any year, to take effect January 1 of the following year.

[1984 c 258 § 108; 1961 c 299 § 55.]

Notes:

Reviser's note: *(1) RCW 35.23.595 was repealed by 1994 c 81 § 89.

** (2) RCW 35.24.455 was recodified as RCW 35.23.555 pursuant to 1994 c 81 § 90.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.070 Additional judges--Appointment, election.

Additional full or part time judges may be appointed or elected, as provided by ordinance of the legislative body of the city or town when public interest and the administration of justice makes such additional judge or judges necessary.

[1984 c 258 § 109; 1961 c 299 § 56.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.075 Court commissioners--Appointment--Qualification--Part-time appointed judge.

One or more court commissioners may be appointed by a judge of the municipal court. Each commissioner holds office at the pleasure of the appointing judge. A commissioner authorized to hear or dispose of cases must be a lawyer who is admitted to practice law in the state of Washington or a nonlawyer who has passed the qualifying examination for lay judges for courts of limited jurisdiction under RCW 3.34.060.

A commissioner need not be a resident of the city or of the county in which the municipal court is created. When a court commissioner has not been appointed and the municipal court is presided over by a part-time appointed judge, the judge need not be a resident of the city or of the county in which the municipal court is created.

[1994 c 10 § 1.]

RCW 3.50.080 Salaries of judges--Payment of court operating costs from city funds--Judges and employees as city employees.

Salaries of municipal court judges shall be fixed by ordinance. All costs of operating the

municipal court, including but not limited to salaries of judges and court employees, dockets, books of records, forms, furnishings, and supplies, shall be paid wholly out of the funds of the city or town. The city shall provide a suitable place for holding court and pay all expenses of maintaining it.

All employees of the municipal court shall, for all purposes, be deemed employees of the city or town. They shall be appointed by and serve at the pleasure of the court.

[1984 c 258 § 111; 1961 c 299 § 57.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.
Salaries of municipal judges in cities over 400,000: RCW 3.58.010 and 35.20.160.

RCW 3.50.090 Judges pro tem.

The presiding municipal court judge may designate one or more persons as judges pro tem to serve in the absence or disability of the elected or duly appointed judges of the court, subsequent to the filing of an affidavit of prejudice, or in addition to the elected or duly appointed judges when the administration of justice and the accomplishment of the work of the court make it necessary. The qualifications of a judge pro tempore shall be the same as for judges as provided under RCW 3.50.040 except that a judge pro tempore need not be a resident of the city or county in which the municipal court is located. Judges pro tempore shall have all of the powers of the duly appointed or elected judges when serving as judges pro tempore of the court. Before entering on his or her duties, each judge pro tempore shall take, subscribe, and file an oath as is taken by a duly appointed or elected judge. Such pro tempore judges shall receive such compensation as shall be fixed by ordinance by the municipality in which the court is located and such compensation shall be paid by the municipality.

[2000 c 55 § 1; 1984 c 258 § 112; 1961 c 299 § 58.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.
Judges pro tempore appointments: RCW 3.02.060.

RCW 3.50.093 Municipal judge--Vacancy--Appointment.

Any vacancy in the municipal court due to a death, disability, or resignation of a municipal court judge shall be filled by the mayor, for the remainder of the unexpired term. The appointment shall be subject to confirmation by the legislative authority of the city or town if the legislative authority has the general power of confirmation over mayoral appointments. The appointed judge shall be qualified to hold the position of judge of the municipal court as

provided in this chapter.

[1984 c 258 § 113.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.095 Municipal judge--Removal from office.

A municipal judge shall be removed only upon conviction of misconduct or malfeasance in office, or because of physical or mental disability rendering the judge incapable of performing the duties of the office.

[1984 c 258 § 124.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.097 Judge's oath--Bonds.

Every judge of a municipal court, before entering upon the duties of the office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully discharge the duties of the office of judge of the municipal court of the city of (naming such city) according to the best of my ability." The oath shall be filed in the office of the county auditor. The judge shall also give such bonds to the state and city for the faithful performance of the judge's duties as may be by law or ordinance directed.

[1984 c 258 § 110.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.100 Revenue--Disposition--Interest.

(1) Costs in civil and criminal actions may be imposed as provided in district court. All fees, costs, fines, forfeitures and other money imposed by any municipal court for the violation of any municipal or town ordinances shall be collected by the court clerk and, together with any other noninterest revenues received by the clerk, shall be deposited with the city or town treasurer as a part of the general fund of the city or town, or deposited in such other fund of the city or town, or deposited in such other funds as may be designated by the laws of the state of Washington.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions, and certain costs to the state

treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(5) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts.

[1995 c 291 § 3; 1988 c 169 § 2; 1985 c 389 § 4; 1984 c 258 § 304; 1975 1st ex.s. c 241 § 3; 1961 c 299 § 59.]

Notes:

Effective date--1985 c 389: See note following RCW 27.24.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

RCW 3.50.110 Sessions.

The municipal court shall be open and shall hold such regular and special sessions as may be prescribed by the legislative body of the city or town: PROVIDED, That the municipal court shall not be open on nonjudicial days.

[1984 c 258 § 114; 1961 c 299 § 60.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.115 Municipal court seal.

The municipal court shall have a seal which shall be the vignette of George Washington, with the words "Seal of The Municipal Court of (name of city), State of Washington," surrounding the vignette. All process from the court runs throughout the state. The supreme court may determine by rule what process must be issued under seal.

[1999 c 152 § 1; 1984 c 258 § 123.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.125 Transfer within municipal court.

A transfer of a case from the municipal court to either another municipal judge of the same city or to a judge pro tempore appointed in the manner prescribed by this chapter shall be allowed in accordance with RCW 3.66.090 in all civil and criminal proceedings.

[1984 c 258 § 122.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.135 Request for jury trial in civil cases--Exception--Fee--Juror compensation--Jury trials in criminal cases.

In all civil cases, the plaintiff or defendant may demand a jury, which shall consist of six citizens of the state who shall be impaneled and sworn as in cases before district courts, or the trial may be by a judge of the municipal court: PROVIDED, That no jury trial may be held on a proceeding involving a traffic infraction. A party requesting a jury shall pay to the court a fee which shall be the same as that for a jury in district court. If more than one party requests a jury, only one jury fee shall be collected by the court. The fee shall be apportioned among the requesting parties. Each juror may receive up to twenty-five dollars but in no case less than ten dollars for each day in attendance upon the municipal court, and in addition thereto shall receive mileage at the rate determined under RCW 43.03.060: PROVIDED, That the compensation paid jurors shall be determined by the legislative authority of the city and shall be uniformly applied. Jury trials shall be allowed in all criminal cases unless waived by the defendant.

[1984 c 258 § 126.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.300 Execution of sentence--Jail in lieu of fine and costs, computation.

In all cases of conviction, unless otherwise provided in chapters 3.30 through 3.74 RCW as now or hereafter amended, where a jail sentence is given to the defendant, execution shall issue accordingly and where the judgment of the court is that the defendant pay a fine and costs, the defendant may be committed to jail until the judgment is paid in full.

A defendant who has been committed shall be discharged upon the payment for such part of the fine and costs as remains unpaid after deducting from the whole amount any previous

payment, and after deducting the amount allowed for each day of imprisonment, which amount shall be the same and computed in the same manner as provided for superior court cases in RCW 10.82.030 and 10.82.040, as now or hereafter amended. In addition, all other proceedings in respect of such fine and costs shall be the same as in like cases in the superior court.

[1984 c 258 § 115; 1969 c 84 § 1; 1961 c 299 § 79.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.320 Deferral of sentence--Change of plea, dismissal.

After a conviction, the court may defer sentencing and place the defendant on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty, permit the defendant to enter a plea of not guilty, and dismiss the charges.

[1984 c 258 § 116; 1983 c 156 § 5; 1961 c 299 § 81.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.330 Continuing jurisdiction of court after sentence.

For a period not to exceed five years after imposition of sentence for a defendant sentenced under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court shall have continuing jurisdiction and authority to suspend the execution of all or any part of the sentence upon stated terms, including installment payment of fines. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720.

[1999 c 56 § 1; 1984 c 258 § 117; 1983 c 156 § 6; 1961 c 299 § 82.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.340 Revocation of deferred or suspended sentence--Limitations--Termination of probation.

Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the court shall impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater

than the original sentence, with credit given for time served and money paid on fine and costs.

Any time before entering an order terminating probation, the court may revoke or modify its order suspending the imposition or execution of the sentence. If the ends of justice will be served and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held.

[1984 c 258 § 118; 1983 c 156 § 7; 1961 c 299 § 83.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.425 Issuance of criminal process.

All criminal process issued by the municipal court shall be in the name of the state of Washington and run throughout the state, and be directed to and served by the chief of police, marshal, or other police officer of any city or to any sheriff in the state.

[1984 c 258 § 127.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.430 Criminal prosecution in city's name for violation of ordinances.

All criminal prosecutions for the violation of a city ordinance shall be conducted in the name of the city and may be upon the complaint of any person.

[1984 c 258 § 119; 1961 c 299 § 92.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.440 Penalty if no other punishment prescribed.

Every person convicted by the municipal court of a violation of the criminal provisions of an ordinance for which no punishment is specifically prescribed in the ordinance shall be punished by a fine of not more than five thousand dollars or imprisonment in the city jail for a period not to exceed one year, or both such fine and imprisonment.

[1984 c 258 § 120; 1961 c 299 § 93.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.450 Pleadings, practice and procedure not provided for governed by district court law.

Pleadings, practice and procedure in cases not governed by statutes or rules specifically applicable to municipal courts shall, insofar as applicable, be governed by the statutes and rules now existing or hereafter adopted governing pleadings, practice and procedure applicable to district courts.

[1984 c 258 § 121; 1961 c 299 § 94.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1984 c 258 §§ 101-139: See note following RCW 3.50.005.

RCW 3.50.800 Repeal of municipal criminal code--Agreement covering costs of handling resulting criminal cases--Arbitration--Renewal.

(1) If a municipality has, prior to July 1, 1984, repealed in its entirety that portion of its municipal code defining crimes but continues to hear and determine traffic infraction cases under chapter 46.63 RCW in a municipal court, the municipality and the appropriate county shall, prior to January 1, 1985, enter into an agreement under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs incurred after January 1, 1985, associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. If the municipality and the county cannot come to an agreement within the time prescribed by this section, they shall be deemed to have entered into an agreement to submit the issue to arbitration pursuant to chapter 7.04 RCW. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

(2) The agreement between the municipality and the county shall include provisions for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

[1984 c 258 § 202.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.50.805 Termination of municipal court--Agreement covering costs of handling resulting criminal cases--Arbitration--Repeal of municipal criminal code--Agreement--Arbitration--Repeal of a municipal crime equivalent to offense in RCW

46.63.020--Agreement--Arbitration.

(1) A municipality operating a municipal court under this chapter shall not terminate that court unless the municipality has reached an agreement with the appropriate county or another municipality under chapter 39.34 RCW under which the county or municipality is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district or municipal court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county or municipality are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county or municipality have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW. A municipality that has entered into agreements with other municipalities that have terminated their municipal courts may not thereafter terminate its court unless each municipality has reached an agreement with the appropriate county in accordance with this section.

(2) A municipality operating a municipal court under this chapter may not repeal in its entirety that portion of its municipal code defining crimes while retaining the court's authority to hear and determine traffic infractions under chapter 46.63 RCW unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

(3) A municipality operating a municipal court under this chapter may not repeal a provision of its municipal code which defines a crime equivalent to an offense listed in RCW 46.63.020 unless the municipality has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the repeal. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04 RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04 RCW.

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.50.810 Termination of municipal court--Waiting period for establishing another.

Any city that terminates a municipal court under this chapter may not establish another municipal court under this chapter until at least ten years have elapsed from the date of termination.

[1993 c 317 § 2.]

Notes:

Severability--Effective date--1993 c 317: See notes following RCW 3.46.155.

**Chapter 3.54 RCW
CLERKS AND DEPUTY CLERKS**

Sections

3.54.010	Compensation.
3.54.020	Powers and duties.
3.54.030	Seal.

RCW 3.54.010 Compensation.

The clerk and deputy clerks of district courts shall receive such compensation as shall be provided by the county legislative authority.

[1984 c 258 § 34; 1971 c 73 § 6; 1961 c 299 § 98.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.54.020 Powers and duties.

The district courts shall prescribe the duties of the clerk and deputy clerks. Such duties shall include all of the requirements of RCW 3.62.020 and 3.62.040 as now or hereafter amended and the receipt of bail and additionally the power to:

- (1) Accept and enter pleas;
- (2) Receive bail as set by the court;
- (3) Set cases for trial;
- (4) Administer oaths.

[1975 1st ex.s. c 241 § 1; 1971 c 73 § 7; 1961 c 299 § 99.]

RCW 3.54.030 Seal.

The district court shall have a seal that shall be the vignette of George Washington, with the words "Seal of the District Court of County, State of Washington," surrounding the vignette. All process from the court runs throughout the state. The supreme court may determine by rule what process must be issued under seal.

[1999 c 152 § 2; 1992 c 29 § 1.]

**Chapter 3.58 RCW
SALARIES AND EXPENSES**

Sections

3.58.010	Salaries of full time district court judges.
3.58.020	Salaries of part time district judges.
3.58.030	Payment of salaries.
3.58.040	Travel expenses.
3.58.050	Other court expenses--Lease, construction, of courtrooms and offices.

RCW 3.58.010 Salaries of full time district court judges.

The annual salary of each full time district court judge shall be established by the Washington citizen's commission on salaries for elected officials. A member of the legislature whose term of office is partly coextensive with or extends beyond the present term of office of any of the officials whose salary is increased by virtue of the provisions of RCW 43.03.010, 2.04.092, 2.06.062, 2.08.092, and 3.58.010 shall be eligible to be appointed or elected to any of the offices the salary of which is increased hereby but he shall not be entitled to receive such increased salary until after the expiration of his present term of office and his subsequent election or reelection to the office to which he was appointed or elected respectively during his term of office as legislator.

[1986 c 155 § 7; 1985 c 7 § 1; 1983 c 186 § 2; 1980 c 162 § 8; 1979 ex.s. c 255 § 8; 1977 ex.s. c 318 § 5; 1975 1st ex.s. c 263 § 5; 1975 c 33 § 3; 1974 ex.s. c 149 § 6 (Initiative Measure No. 282, approved November 6, 1973); 1972 ex.s. c 100 § 4; 1969 c 52 § 1; 1965 c 147 § 1; 1961 c 299 § 100.]

Notes:

Contingent effective date--Severability--1986 c 155: See notes following RCW 43.03.300.

Effective dates, savings--Severability--1980 c 162: See notes following RCW 3.02.010.

Effective date--1979 ex.s. c 255: See note following RCW 43.03.010.

Effective date--1977 ex.s. c 318: See note following RCW 43.03.010.

Severability--Effective date--1975 1st ex.s. c 263: See notes following RCW 43.03.010.

Severability--1975 c 33: See note following RCW 35.21.780.

Severability--1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

District court judges' salaries: State Constitution Art. 28 § 1.

District courts, judges pro tempore, salaries: RCW 3.34.130.

Municipal courts, cities over 400,000, judges' salaries: RCW 35.20.160.

Superior courts, judges' salaries: RCW 2.08.092.

Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

RCW 3.58.020 Salaries of part time district judges.

The annual salaries of part time district judges shall be set by the citizens' commission on salaries.

[1991 c 338 § 3; 1984 c 258 § 35; 1982 c 29 § 2; 1979 ex.s. c 255 § 9; 1974 ex.s. c 95 § 1; 1969 ex.s. c 192 § 1; 1961 c 299 § 101.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Effective date--1979 ex.s. c 255: See note following RCW 43.03.010.

District judges--Full time--Other: RCW 3.34.040.

RCW 3.58.030 Payment of salaries.

The compensation of judges, clerks, judges pro tempore, deputy clerks, and court commissioners payable by the county shall be paid monthly out of the county treasury from the same funds out of which other salaried county officers are paid.

[1984 c 258 § 36; 1961 c 299 § 102.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.58.040 Travel expenses.

District judges, judges pro tempore, court commissioners, and district court employees shall receive their reasonable traveling expenses when engaged in the business of the court as provided in chapter 42.24 RCW.

[1984 c 258 § 37; 1983 c 3 § 3; 1961 c 299 § 103.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.58.050 Other court expenses--Lease, construction, of courtrooms and offices.

The county legislative authority shall furnish all necessary facilities for the district courts, including suitable courtrooms, furniture, books, stationery, postage, office equipment, heat, light and telephone and may lease or construct courtrooms and offices for such purpose. The county legislative authority shall not be required to furnish courtroom space in any place other than as

provided in the districting plan.

[1984 c 258 § 38; 1963 c 213 § 3; 1961 c 299 § 104.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Chapter 3.62 RCW INCOME OF COURT

Sections

3.62.010	Suspension of fine or penalty.
3.62.020	Costs, fees, fines, forfeitures, and penalties except city cases--Disposition--Interest.
3.62.040	Costs, fines, forfeitures, and penalties from city cases--Disposition--Interest.
3.62.050	Court expenditures to be paid from county current expense fund--Exception.
3.62.060	Filing fees in civil cases--Fees allowed as court costs.
3.62.065	Fees allowed as court costs.
3.62.070	Filing fees in criminal cases and traffic infractions--Arbitration if no agreement.
3.62.090	Public safety and education assessment--Amount.
3.62.100	Promotion of efficiency.

RCW 3.62.010 Suspension of fine or penalty.

The district court may at the time of sentencing or at any time thereafter suspend a portion or all of a fine or penalty.

[1984 c 258 § 305; 1961 c 299 § 105.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

RCW 3.62.020 Costs, fees, fines, forfeitures, and penalties except city cases--Disposition--Interest.

(1) Except as provided in subsection (4) of this section, all costs, fees, fines, forfeitures and penalties assessed and collected in whole or in part by district courts, except costs, fines, forfeitures and penalties assessed and collected, in whole or in part, because of the violation of city ordinances, shall be remitted by the clerk of the district court to the county treasurer at least monthly, together with a financial statement as required by the state auditor, noting the information necessary for crediting of such funds as required by law.

(2) The county treasurer shall remit thirty-two percent of the noninterest money received under subsection (1) of this section except certain costs to the state treasurer. "Certain costs" as

used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state or county in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received by the county treasurer under subsection (1) of this section shall be deposited in the county current expense fund.

(4) All money collected for county parking infractions shall be remitted by the clerk of the district court at least monthly, with the information required under subsection (1) of this section, to the county treasurer for deposit in the county current expense fund.

(5) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(6) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the county current expense fund, and twenty-five percent to the county current expense fund to fund local courts.

[1995 c 301 § 31; 1995 c 291 § 5; 1988 c 169 § 3; 1985 c 389 § 5; 1984 c 258 § 306; 1971 c 73 § 8; 1969 ex.s. c 199 § 2; 1961 c 299 § 106.]

Notes:

Reviser's note: This section was amended by 1995 c 291 § 5 and by 1995 c 301 § 31, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1985 c 389: See note following RCW 27.24.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

RCW 3.62.040 Costs, fines, forfeitures, and penalties from city cases--Disposition--Interest.

(1) Except as provided in subsection (4) of this section, all costs, fines, forfeitures and penalties assessed and collected, in whole or in part, by district courts because of violations of city ordinances shall be remitted by the clerk of the district court at least monthly directly to the treasurer of the city wherein the violation occurred.

(2) The city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions and certain costs, to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing

parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) All money collected for city parking infractions shall be remitted by the clerk of the district court at least monthly to the city treasurer for deposit in the city's general fund.

(5) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(6) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts.

[1995 c 291 § 6; 1988 c 169 § 4; 1985 c 389 § 6; 1984 c 258 § 307; 1975 1st ex.s. c 241 § 2; 1961 c 299 § 108.]

Notes:

Effective date--1985 c 389: See note following RCW 27.24.070.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

RCW 3.62.050 Court expenditures to be paid from county current expense fund--Exception.

The total expenditures of the district courts, including the cost of providing courtroom and office space, the cost of probation and parole services and any personnel employment therefor, and the cost of providing services necessary for the preparation and presentation of a defense at public expense, except costs of defense to be paid by a city pursuant to RCW 3.62.070, shall be paid from the county current expense fund.

[1987 c 202 § 114; 1984 c 258 § 308; 1973 1st ex.s. c 10 § 1; 1969 ex.s. c 199 § 3; 1969 c 111 § 1; 1963 c 213 § 2; 1961 c 299 § 109.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

RCW 3.62.060 Filing fees in civil cases--Fees allowed as court costs.

Clerks of the district courts shall collect the following fees for their official services:

(1) In any civil action commenced before or transferred to a district court, the plaintiff shall, at the time of such commencement or transfer, pay to such court a filing fee of thirty-one dollars plus any surcharge authorized by RCW 7.75.035. No party shall be compelled to pay to the court any other fees or charges up to and including the rendition of judgment in the action other than those listed.

(2) For issuing a writ of garnishment or other writ a fee of six dollars.

(3) For filing a supplemental proceeding a fee of twelve dollars.

(4) For demanding a jury in a civil case a fee of fifty dollars to be paid by the person demanding a jury.

(5) For preparing a transcript of a judgment a fee of six dollars.

(6) For certifying any document on file or of record in the clerk's office a fee of five dollars.

(7) For preparing the record of a case for appeal to superior court a fee of forty dollars including any costs of tape duplication as governed by the rules of appeal for courts of limited jurisdiction (RALJ).

(8) For duplication of part or all of the electronic tape or tapes of a proceeding ten dollars per tape.

The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

[1992 c 62 § 8; 1990 c 172 § 2; 1987 c 382 § 2; 1984 c 258 § 309; 1981 c 330 § 1; 1980 c 162 § 9; 1969 c 25 § 1; 1965 c 55 § 1; 1961 c 299 § 110.]

Notes:

Effective date--1992 c 62: See RCW 27.24.900.

Effective date--1990 c 172: See note following RCW 7.75.035.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

Severability--1981 c 330: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 330 § 11.]

Effective dates, savings--Severability--1980 c 162: See notes following RCW 3.02.010.

RCW 3.62.065 Fees allowed as court costs.

All courts organized under Title 3 or 35 RCW may charge fees as prescribed in RCW 3.62.060. The fees or charges imposed under this section shall be allowed as court costs whenever a judgment for costs is awarded.

[1992 c 62 § 7.]

Notes:

Effective date--1992 c 62: See RCW 27.24.900.

RCW 3.62.070 Filing fees in criminal cases and traffic infractions--Arbitration if no agreement.

Except in traffic cases wherein bail is forfeited or a monetary penalty paid to a violations bureau, and except in cases filed in municipal departments established pursuant to chapter 3.46 RCW and except in cases where a city has contracted with another city for such services pursuant to chapter 39.34 RCW, in every criminal or traffic infraction action filed by a city for an ordinance violation, the city shall be charged a filing fee. Fees shall be determined pursuant to an agreement as provided for in chapter 39.34 RCW, the interlocal cooperation act, between the city and the county providing the court service. In such criminal or traffic infraction actions the cost of providing services necessary for the preparation and presentation of a defense at public expense are not within the filing fee and shall be paid by the city. In all other criminal or traffic infraction actions, no filing fee shall be assessed or collected: PROVIDED, That in such cases, for the purposes of RCW 3.62.010, four dollars or the agreed filing fee of each fine or penalty, whichever is greater, shall be deemed filing costs.

In the event no agreement is reached between a city and the county providing the court service, either party may invoke binding arbitration on the fee issue by notice to the other party. In the case of establishing initial fees, the notice shall be thirty days. In the case of renewal or proposed nonrenewal, the notice shall be given one hundred twenty days prior to the expiration of the existing contract. In the event that such issue is submitted to arbitration, the arbitrator or arbitrators shall only consider those additional costs borne by the county in providing district court services for such city. The city and the county shall each select one arbitrator, the two of whom shall pick a third arbitrator. The existing contract shall remain in effect until a new agreement is reached or until an arbitration award is made.

[1994 c 266 § 15; 1993 c 317 § 8; 1984 c 258 § 39; 1980 c 128 § 14; 1979 ex.s. c 129 § 1; 1973 1st ex.s. c 10 § 2; 1961 c 299 § 111.]

Notes:

Effective date--1994 c 266 § 15: "Section 15 of this act shall take effect January 1, 1995." [1994 c 266 § 16.]

Severability--Effective date--1993 c 317: See notes following RCW 3.46.155.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Effective date--Severability--1980 c 128: See notes following RCW 46.63.060.

RCW 3.62.090 Public safety and education assessment--Amount.

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to sixty percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under RCW 46.61.5055, and in

addition to the public safety and education assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

(3) This section does not apply to the fee imposed under *RCW 43.63.110(6).

[1997 c 331 § 4; 1995 c 332 § 7; 1994 c 275 § 34; 1986 c 98 § 4; 1984 c 258 § 337.]

Notes:

***Reviser's note:** RCW 46.63.110(6) was apparently intended.

Effective date--1997 c 331: See note following RCW 70.168.135.

Severability--Effective dates--1995 c 332: See notes following RCW 46.20.308.

Short title--Effective date--1994 c 275: See notes following RCW 46.04.015.

Effective date--1986 c 98 § 4: "Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1986." [1986 c 98 § 5.]

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

Public safety and education account: RCW 43.08.250.

RCW 3.62.100 Promotion of efficiency.

District courts shall take all steps necessary to promote efficiencies in calendaring in order to minimize costs to cities that use the district courts. Cities shall cooperate with the district courts in order to minimize those costs.

[1993 c 317 § 7.]

Notes:

Severability--Effective date--1993 c 317: See notes following RCW 3.46.155.

**Chapter 3.66 RCW
JURISDICTION AND VENUE**

Sections

3.66.010	Powers of district court.
3.66.020	Civil jurisdiction.
3.66.030	Restrictions on civil jurisdiction.
3.66.040	Venue--Civil action.
3.66.050	Transfer of proceedings.
3.66.060	Criminal jurisdiction.
3.66.065	Assessment of punishment.
3.66.067	Assessment of punishment--Deferral of sentence, probation--Withdrawal of plea and dismissal of

	charges.
3.66.068	Assessment of punishment--Suspension of sentence--Terms.
3.66.069	Assessment of punishment--Revocation of deferred or suspended sentence--Limitations--Termination of probation.
3.66.070	Venue--Criminal actions.
3.66.080	Criminal venue corrected.
3.66.090	Change of venue.
3.66.095	Removal of certain civil actions to superior court.
3.66.100	Territorial jurisdiction--Process--Limitation.
3.66.110	Advertising authority to solemnize marriages is breach of judicial ethics.

RCW 3.66.010 Powers of district court.

(1) The justices of the peace elected in accordance with chapters 3.30 through 3.74 RCW are authorized to hold court as judges of the district court for the trial of all actions enumerated in chapters 3.30 through 3.74 RCW or assigned to the district court by law; to hear, try, and determine the same according to the law, and for that purpose where no special provision is otherwise made by law, such court shall be vested with all the necessary powers which are possessed by courts of record in this state; and all laws of a general nature shall apply to such district court as far as the same may be applicable and not inconsistent with the provisions of chapters 3.30 through 3.74 RCW. The district court shall, upon the demand of either party, impanel a jury to try any civil or criminal case in accordance with the provisions of chapter 12.12 RCW. No jury trial may be held in a proceeding involving a traffic infraction.

(2) A district court participating in the program established by the office of the administrator for the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any other court of limited jurisdiction participating in the program.

[2000 c 111 § 2; 1984 c 258 § 40; 1979 ex.s. c 136 § 20; 1961 c 299 § 112.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Effective date--Severability--1979 ex.s. c 136: See notes following RCW 46.63.010.

Powers and jurisdiction of district court commissioner: RCW 3.42.020.

RCW 3.66.020 Civil jurisdiction.

If the value of the claim or the amount at issue does not exceed fifty thousand dollars, exclusive of interest, costs, and attorneys' fees, the district court shall have jurisdiction and cognizance of the following civil actions and proceedings:

- (1) Actions arising on contract for the recovery of money;
- (2) Actions for damages for injuries to the person, or for taking or detaining personal property, or for injuring personal property, or for an injury to real property when no issue raised

by the answer involves the plaintiff's title to or possession of the same and actions to recover the possession of personal property;

(3) Actions for a penalty;

(4) Actions upon a bond conditioned for the payment of money, when the amount claimed does not exceed fifty thousand dollars, though the penalty of the bond exceeds that sum, the judgment to be given for the sum actually due, not exceeding the amount claimed in the complaint;

(5) Actions on an undertaking or surety bond taken by the court;

(6) Actions for damages for fraud in the sale, purchase, or exchange of personal property;

(7) Proceedings to take and enter judgment on confession of a defendant;

(8) Proceedings to issue writs of attachment, garnishment and replevin upon goods, chattels, moneys, and effects; and

(9) All other actions and proceedings of which jurisdiction is specially conferred by statute, when the title to, or right of possession of real property is not involved.

[2000 c 49 § 1; 1997 c 246 § 1; 1991 c 33 § 1; 1984 c 258 § 41; 1981 c 331 § 7; 1979 c 102 § 3; 1965 c 95 § 1; 1961 c 299 § 113.]

Notes:

Effective date--1991 c 33: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 33 § 7.]

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

Application, savings--1979 c 102: "Sections 2, 3, and 4 of this 1979 amendatory act upon taking effect shall apply to all actions filed on or after December 8, 1977. Any party to an action which is pending on the effective date of this act shall be permitted to amend any pleadings to reflect such increase in court jurisdiction: PROVIDED, That nothing in this act shall affect the validity of judicial acts taken prior to its effective date." [1979 c 102 § 5.]

Severability--1979 c 102: "If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 102 § 6.]

Effective date--1979 c 102: "Sections 2 through 5 of this 1979 amendatory act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1979." [1979 c 102 § 7.]

RCW 3.66.030 Restrictions on civil jurisdiction.

The jurisdiction covered by RCW 3.66.020 shall not extend to the following civil actions:

(1) Actions involving title to real property;

(2) Actions for the foreclosure of a mortgage or enforcement of a lien on real estate;

(3) Actions for false imprisonment, libel, slander, malicious prosecution, criminal conversation, or seduction; and

(4) Actions against an executor or administrator as such.

[1961 c 299 § 114.]

RCW 3.66.040 Venue--Civil action.

(1) An action arising under RCW 3.66.020 (1), (2) except for the recovery of possession of personal property, (4), (6), (7), and (9) may be brought in any district in which the defendant, or, if there be more than one defendant, where some one of the defendants, resides at the time the complaint is filed or in which the defendant, or if there be more than one defendant, where some one of the defendants may be served with the notice and complaint in which latter case, however, the district where the defendant or defendants is or are served must be within the county in which the said defendant or defendants reside. If the residence of the defendant is not ascertained by reasonable efforts, the action may be brought in the district in which the defendant's place of actual physical employment is located.

(2) An action arising under RCW 3.66.020(2) for the recovery of possession of personal property and RCW 3.66.020(8) shall be brought in the district in which the subject matter of the action or some part thereof is situated.

(3) An action arising under RCW 3.66.020 (3) and (5) shall be brought in the district in which the cause of action, or some part thereof arose.

(4) An action arising under RCW 3.66.020(2) for the recovery of damages for injuries to the person or for injury to personal property arising from a motor vehicle accident may be brought, at the plaintiff's option, either in the district in which the cause of action, or some part thereof, arose, or in the district in which the defendant, or, if there be more than one defendant, where some one of the defendants, resides at the time the complaint is filed.

(5) An action against a nonresident of this state may be brought in any district where service of process may be had, or in which the cause of action or some part thereof arose, or in which the plaintiff or one of them resides.

(6) For the purposes of chapters 3.30 through 3.74 RCW, the residence of a corporation defendant shall be deemed to be in any district where the corporation transacts business or has an office for the transaction of business or transacted business at the time the cause of action arose or where any person resides upon whom process may be served upon the corporation, unless herein otherwise provided.

[1988 c 71 § 1; 1984 c 258 § 42; 1961 c 299 § 115.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.66.050 Transfer of proceedings.

If a civil action is brought in the wrong district, the action may nevertheless be tried therein unless the defendant, at the time the defendant appears, requests a transfer of the action to the proper district. Upon such demand an order shall be entered transferring the action to the proper district and awarding the defendant a reasonable attorney's fee to be paid by the plaintiff.

[1984 c 258 § 43; 1961 c 299 § 116.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.66.060 Criminal jurisdiction.

The district court shall have jurisdiction: (1) Concurrent with the superior court of all misdemeanors and gross misdemeanors committed in their respective counties and of all violations of city ordinances. It shall in no event impose a greater punishment than a fine of five thousand dollars, or imprisonment for one year in the county or city jail as the case may be, or both such fine and imprisonment, unless otherwise expressly provided by statute. It may suspend and revoke vehicle operators' licenses in the cases provided by law; (2) to sit as a committing magistrate and conduct preliminary hearings in cases provided by law; (3) concurrent with the superior court of a proceeding to keep the peace in their respective counties; (4) concurrent with the superior court of all violations under *Title 75 RCW; (5) to hear and determine traffic infractions under chapter 46.63 RCW; and (6) to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by other courts of limited jurisdiction when those courts are participating in the program established under RCW 2.56.160.

[2000 c 111 § 3; 1984 c 258 § 44; 1983 1st ex.s. c 46 § 176; 1982 c 150 § 1; 1961 c 299 § 117.]

Notes:

***Reviser's note:** Title 75 RCW was recodified, repealed, and/or decodified in its entirety by 2000 c 107. See Comparative Table for Title 75 RCW in the Table of Disposition of Former RCW Sections, Volume 0.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.66.065 Assessment of punishment.

If a defendant is found guilty, a judge holding office pursuant to chapters 3.30 through 3.74 RCW, or chapter 35.20 RCW, and not the jury, shall assess punishment, notwithstanding the provisions of RCW 10.04.100. If the judge determines that the punishment authorized is inadequate compared to the gravity of the offense he or she may order such defendant to enter recognizance to appear in the superior court of the county and may also recognize the witnesses and shall proceed as a committing magistrate.

[1984 c 258 § 45; 1975 c 29 § 1; 1965 ex.s. c 110 § 7.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Sentence and judgment: Rules of court: CrRLJ 7.2.

RCW 3.66.067 Assessment of punishment--Deferral of sentence, probation--Withdrawal of plea and dismissal of charges.

After a conviction, the court may defer sentencing the defendant and place the defendant

on probation and prescribe the conditions thereof, but in no case shall it extend for more than two years from the date of conviction. During the time of the deferral, the court may, for good cause shown, permit a defendant to withdraw the plea of guilty and to enter a plea of not guilty, and the court may dismiss the charges.

[1984 c 258 § 46; 1983 c 156 § 1; 1969 c 75 § 1.]

Notes:

Rules of court: ER 410.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.66.068 Assessment of punishment--Suspension of sentence--Terms.

For a period not to exceed five years after imposition of sentence for a defendant sentenced under RCW 46.61.5055 and two years after imposition of sentence for all other offenses, the court has continuing jurisdiction and authority to suspend the execution of all or any part of its sentence upon stated terms, including installment payment of fines. However, the jurisdiction period in this section does not apply to the enforcement of orders issued under RCW 46.20.720.

[1999 c 56 § 2; 1983 c 156 § 2; 1969 c 75 § 2.]

RCW 3.66.069 Assessment of punishment--Revocation of deferred or suspended sentence--Limitations--Termination of probation.

Deferral of sentence and suspension of execution of sentence may be revoked if the defendant violates or fails to carry out any of the conditions of the deferral or suspension. Upon the revocation of the deferral or suspension, the court may impose the sentence previously suspended or any unexecuted portion thereof. In no case shall the court impose a sentence greater than the original sentence, with credit given for time served and money paid on fine and costs.

Any time before entering an order terminating probation, the court may revoke or modify its order suspending the imposition or execution of the sentence. Whenever the ends of justice will be served and when warranted by the reformation of the probationer, the court may terminate the period of probation and discharge the person so held.

[1983 c 156 § 3; 1969 c 75 § 3.]

RCW 3.66.070 Venue--Criminal actions.

All criminal actions shall be brought in the district where the alleged violation occurred: PROVIDED, That (1) the prosecuting attorney may file felony cases in the district in which the county seat is located, (2) with the consent of the defendant criminal actions other than those arising out of violations of city ordinances may be brought in or transferred to the district in which the county seat is located, (3) if the alleged violation relates to driving, or being in actual physical control of, a motor vehicle while under the influence of intoxicating liquor or any drug

and the alleged violation occurred within a judicial district which has been designated an enhanced enforcement district under RCW 2.56.110, the charges may be filed in that district or in a district within the same county which is adjacent to the district in which the alleged violation occurred, and (4) a district court participating in the program established by the office of the administrator for the courts pursuant to RCW 2.56.160 shall have jurisdiction to take recognizance, approve bail, and arraign defendants held within its jurisdiction on warrants issued by any other court of limited jurisdiction participating in the program.

[2000 c 111 § 4; 1991 c 290 § 2; 1984 c 258 § 47; 1983 c 165 § 32; 1961 c 299 § 118.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Legislative finding, intent--Effective dates--Severability--1983 c 165: See notes following RCW 46.20.308.

RCW 3.66.080 Criminal venue corrected.

If a criminal action is commenced in an improper district under RCW 3.66.070, the court may of its own volition or at the request of either party order the case removed for trial to a proper district.

[1984 c 258 § 48; 1961 c 299 § 119.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.66.090 Change of venue.

A change of venue may be allowed upon motion:

- (1) Where there is reason to believe that an impartial trial cannot be had in the district or municipal court in which the action was commenced; or
- (2) Where the convenience of witnesses or the ends of justice would be forwarded by the change.

When such change is ordered, it shall be to the district court of another district in the same county, if any, otherwise to the district court of an adjacent district in another county: PROVIDED, That where an affidavit of prejudice is filed against a judge of a municipal court the cause shall be transferred to another department of the municipal court, if one exists, otherwise to a judge pro tempore appointed in the manner prescribed by law. The court to which a case is removed on change of venue under this section shall have the same jurisdiction, either civil or criminal to hear and determine the case as the court from which the case was removed.

[1984 c 258 § 49; 1967 c 241 § 1; 1961 c 299 § 120.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Application--1967 c 241: "The provisions of this 1967 amendatory act shall apply only to those cities as to

which the law requires that the judge be a qualified attorney." [1967 c 241 § 10.]

RCW 3.66.095 Removal of certain civil actions to superior court.

See chapter 4.14 RCW.

RCW 3.66.100 Territorial jurisdiction--Process--Limitation.

(1) Every district judge having authority to hear a particular case may issue criminal process in and to any place in the state.

(2) Every district judge having authority to hear a particular case may issue civil process, including writs of execution, attachment, garnishment, and replevin, in and to any place as permitted by statute or rule. This statute does not authorize service of process pursuant to RCW 4.28.180 in actions filed pursuant to chapter 12.40 RCW or in civil infraction matters.

[1998 c 73 § 1; 1987 c 442 § 1101; 1984 c 258 § 701; 1961 c 299 § 121.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Issuance of process

infractions generally: RCW 7.80.020.

natural resource infractions: RCW 7.84.120.

traffic infractions: RCW 46.63.130.

RCW 3.66.110 Advertising authority to solemnize marriages is breach of judicial ethics.

It shall be a breach of judicial ethics for any judge of any court of limited jurisdiction, as defined in RCW 3.02.010, to advertise in any manner that he or she is authorized to solemnize marriages. Any violation of this section shall be grounds for forfeiture of office.

[1983 c 186 § 3; 1961 c 299 § 122.]

**Chapter 3.70 RCW
MAGISTRATES' ASSOCIATION**

Sections

3.70.010	District and municipal court judges' association established.
3.70.020	Formalities--Meetings.
3.70.030	Expenses of members.
3.70.040	Duties.

RCW 3.70.010 District and municipal court judges' association established.

There is established in the state an association, to be known as the Washington state district and municipal court judges' association, membership in which shall include all duly elected or appointed and qualified judges of courts of limited jurisdiction, including but not limited to district judges and municipal court judges.

[1994 c 32 § 3; 1987 c 3 § 2; 1984 c 258 § 50; 1961 c 299 § 123.]

Notes:

Severability--1987 c 3: See note following RCW 3.46.020.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.70.020 Formalities--Meetings.

Members of the Washington state district and municipal court judges' association may either amend the present bylaws of the association, adopt a constitution, or provide for bylaws only, electing officers as provided therein and doing all things necessary and proper to formally establish a permanent Washington state district and municipal court judges' association. The association may meet each year at a time established by the association's governing board. Meetings shall be held in the state of Washington.

[1994 c 32 § 4; 1984 c 258 § 51; 1961 c 299 § 124.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.70.030 Expenses of members.

For attendance at the annual meetings of the association, beginning in 1962 and thereafter, a judge of a court of limited jurisdiction shall be entitled to receive reimbursement for judge's reasonable travel expenses as provided in RCW 43.03.050 and 43.03.060 from the county or city responsible for the operating cost of the court over which he or she presides while attending meetings of the association. The per diem and transportation or mileage allowance authorized by this section shall not be paid to any judge for more than five days in any one calendar year.

[1984 c 258 § 52; 1961 c 299 § 125.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.70.040 Duties.

The Washington state district and municipal court judges' association shall:

(1) Continuously survey and study the operation of the courts served by its membership, the volume and condition of business of such courts, the methods of procedure therein, the work accomplished, and the character of the results;

(2) Promulgate suggested rules for the administration of the courts of limited jurisdiction

not inconsistent with the law or rules of the supreme court relating to such courts;

(3) Report annually to the supreme court as well as the governor and the legislature on the condition of business in the courts of limited jurisdiction, including the association's recommendations as to needed changes in the organization, operation, judicial procedure, and laws or statutes implemented or enforced in these courts.

[1994 c 32 § 5; 1984 c 258 § 53; 1980 c 162 § 10; 1961 c 299 § 126.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Severability--1980 c 162: See note following RCW 3.02.010.

Chapter 3.74 RCW MISCELLANEOUS

Sections

3.74.010	District judges to be members of state retirement system.
3.74.020	Full time district judges ineligible for any other office or public employment than judicial.
3.74.030	Mandatory retirement for district judges.
3.74.900	Transfer of proceedings--1961 c 299.
3.74.930	Severability--1961 c 299.
3.74.931	Severability--1965 ex.s. c 110.
3.74.932	Severability--1967 c 241.
3.74.940	Validation--1991 c 363; 1965 ex.s. c 110.

RCW 3.74.010 District judges to be members of state retirement system.

All district judges under chapters 3.30 through 3.74 RCW shall remain members of the state retirement system.

[1984 c 258 § 54; 1961 c 299 § 130.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.74.020 Full time district judges ineligible for any other office or public employment than judicial.

The full time judges of the district court shall be ineligible to any other office, or public employment than a judicial office or employment during the term for which they shall have been elected.

[1984 c 258 § 55; 1961 c 299 § 131.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.74.030 Mandatory retirement for district judges.

A district judge shall retire from judicial office at the end of the calendar year in which he or she has attained the age of seventy-five years. This provision shall not affect the term to which any such judge shall have been elected or appointed prior to August 11, 1969.

[1984 c 258 § 56; 1969 ex.s. c 6 § 1.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 3.74.900 Transfer of proceedings--1961 c 299.

All cases, proceedings and matters pending before justice courts, police courts, municipal courts and night courts shall be transferred to the appropriate court established by chapters 3.30 through 3.74 RCW, together with all files, records and proceedings relating to such cases. Chapters 3.30 through 3.74 RCW shall not affect any appeal from any municipal court, police court, justice court or night court, but such appeal shall be conducted and concluded as if chapters 3.30 through 3.74 RCW had not been enacted, except that if remanded from the superior court the superseding court shall have the authority and power to forfeit bail or bond or impose sentence thereon.

[1961 c 299 § 127.]

RCW 3.74.930 Severability--1961 c 299.

If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1961 c 299 § 132.]

RCW 3.74.931 Severability--1965 ex.s. c 110.

If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

[1965 ex.s. c 110 § 8.]

RCW 3.74.932 Severability--1967 c 241.

If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected.

[1967 c 241 § 11.]

RCW 3.74.940 Validation--1991 c 363; 1965 ex.s. c 110.

Any prior action by the legislative authority of any county with a population of less than two hundred ten thousand to make the provisions of chapters 3.30 through 3.74 RCW applicable to their county and the organization of any justice court as a result thereof, and all other things and proceedings done or taken by such county or by their respective officers acting under or in pursuance to such prior action and organization are hereby declared legal and valid and of full force and effect.

[1991 c 363 § 6; 1965 ex.s. c 110 § 4.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

**Title 4 RCW
CIVIL PROCEDURE**

Chapters

- 4.04 Rule of decision--Form of actions.**
- 4.08 Parties to actions.**
- 4.12 Venue--Jurisdiction.**
- 4.14 Removal of certain actions to superior court.**
- 4.16 Limitation of actions.**
- 4.18 Uniform conflict of laws--Limitations act.**
- 4.20 Survival of actions.**
- 4.22 Contributory fault--Effect--Imputation--Contribution--Settlement agreements.**
- 4.24 Special rights of action and special immunities.**
- 4.28 Commencement of actions.**
- 4.32 Pleadings.**
- 4.36 General rules of pleading.**
- 4.40 Issues.**
- 4.44 Trial.**
- 4.48 Trial before referee.**
- 4.52 Agreed cases.**
- 4.56 Judgments--Generally.**
- 4.60 Judgment by confession.**
- 4.64 Entry of judgments.**

- 4.68 Procedure to bind joint debtor.**
- 4.72 Vacation and modification of judgments.**
- 4.76 New trials.**
- 4.80 Exceptions.**
- 4.84 Costs.**
- 4.88 Appeals.**
- 4.92 Actions and claims against state.**
- 4.96 Actions against political subdivisions, municipal and quasi-municipal corporations.**

Notes:

Arbitration of civil actions: Chapter 7.06 RCW.

Bonds, judicial

attachment: Chapter 6.25 RCW.

bail and appearance: Chapter 10.19 RCW.

civil actions, court to fix amount: RCW 4.44.470.

civil appeals from district courts: Chapter 12.36 RCW.

contempt: Chapter 7.21 RCW.

costs, security: RCW 4.84.210 through 4.84.240.

creditors, assignment for benefit: RCW 7.08.050.

criminal appeals from district courts: Chapter 10.10 RCW.

criminal appeals to supreme court: Chapter 10.73 RCW.

executions, levy on joint personalty: RCW 6.17.180, 6.17.190.

extradition: Chapter 10.88 RCW.

garnishment: Chapter 6.27 RCW.

guardians: Chapters 11.88, 11.92 RCW.

injunction: Chapter 7.40 RCW.

judgments, sentences, good behavior, maintain peace: RCW 10.64.070.

municipal courts: Chapter 35.20 RCW.

ne exeat: Chapter 7.44 RCW.

nuisance, stay of warrant: RCW 7.48.040.

preliminary hearings: Chapter 10.16 RCW.

public officers, official bonds: Chapter 42.08 RCW.

replevin: Chapter 7.64 RCW.

replevin, district courts: Chapter 12.28 RCW.

suretyship, generally: Chapters 19.72, 48.28 RCW.

Chattel mortgages, foreclosure: Article 62A.9A RCW.

Claims against

cities and towns: Chapters 35.31, 35A.31 RCW.

counties: Chapter 36.45 RCW.

Claims, reports, etc., filing and receipt: RCW 1.12.070.

Federal court local law certificate procedure act: Chapter 2.60 RCW.

Foreign corporations, nonadmitted--Actions against: Chapter 23B.18 RCW.

Immunity from implied warranties and civil liability relating to blood, plasma, and blood derivatives--Scope--Effective date: RCW 70.54.120.

Indians, jurisdiction in criminal and civil causes: Chapter 37.12 RCW.

Industrial insurance, procedure: Title 51 RCW.

Justice without unnecessary delay: State Constitution Art. 1 § 10.

Liens, foreclosure: Title 60 RCW.

Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.

Real estate mortgages, foreclosure: Chapter 61.12 RCW.

Redress of injuries to property under code of military justice: RCW 38.38.856.

Tax refunds: Chapter 84.69 RCW.

Chapter 4.04 RCW RULE OF DECISION--FORM OF ACTIONS

Sections

4.04.010 Extent to which common law prevails.

Notes:

General definitions: Chapter 1.16 RCW.

Rules of construction: Chapter 1.12 RCW.

RCW 4.04.010 Extent to which common law prevails.

The common law, so far as it is not inconsistent with the Constitution and laws of the United States, or of the state of Washington nor incompatible with the institutions and condition of society in this state, shall be the rule of decision in all the courts of this state.

[1891 c 17 § 1; Code 1881 § 1; 1877 p 3 § 1; 1862 p 83 § 1; RRS § 143. Formerly RCW 1.12.030.]

Chapter 4.08 RCW PARTIES TO ACTIONS

Sections

4.08.030 Either husband or wife may sue for community--Necessary parties.

4.08.040 When husband and wife may join, defend.

4.08.050 Guardian ad litem for infant.

4.08.060 Guardian ad litem for incapacitated person.

4.08.080 Action on assigned choses in action.

4.08.100 Action to recover purchase money on land--Final judgment.

4.08.110 Action by public corporations.

4.08.120 Action against public corporations.

4.08.140 New party entitled to service of summons.

4.08.150 Substitution and interpleader.

4.08.160 Action to determine conflicting claims to property.

4.08.170 Action to determine conflicting claims to property--Disclaimer and deposit in court.

4.08.180 Action to determine conflicting claims to property--Trial of issue.

Notes:

Persons licensed to provide health care or related services, employees, hospitals, clinics, etc.--Professional review committee, society, examining or disciplinary board members, etc.--Immunity from civil suit arising from duties: RCW 4.24.240.

RCW 4.08.030 Either husband or wife may sue for community--Necessary parties.

Either husband or wife may sue on behalf of the community: PROVIDED, That

(1) When the action is for personal injuries, the spouse having sustained personal injuries is a necessary party;

(2) When the action is for compensation for services rendered, the spouse having rendered the services is a necessary party.

[1972 ex.s. c 108 § 1; Code 1881 § 6; 1877 p 4 § 6; 1875 p 4 § 2; 1869 p 4 § 6; 1854 p 131 § 5; RRS § 181.]

RCW 4.08.040 When husband and wife may join, defend.

Husband and wife may join in all causes of action arising from injuries to the person or character of either or both of them, or from injuries to the property of either or both of them, or arising out of any contract in favor of either or both of them.

If a husband and wife be sued together, either or both spouses may defend, and if one spouse neglects to defend, the other spouse may defend for the nonacting spouse also. And each spouse may defend in all cases in which he or she is interested, whether that spouse is sued with the other spouse or not.

[1972 ex.s. c 108 § 2; Code 1881 § 7; 1877 p 4 § 7; 1875 p 4 § 3; 1854 p 219 § 492; RRS § 182.]

RCW 4.08.050 Guardian ad litem for infant.

Except as provided under RCW 26.50.020 and 28A.225.035, when an infant is a party he or she shall appear by guardian, or if he or she has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act. Said guardian shall be appointed as follows:

(1) When the infant is plaintiff, upon the application of the infant, if he or she be of the age of fourteen years, or if under that age, upon the application of a relative or friend of the infant.

(2) When the infant is defendant, upon the application of the infant, if he or she be of the age of fourteen years, and applies within thirty days after the service of the summons; if he or she be under the age of fourteen, or neglects to apply, then upon the application of any other party to the action, or of a relative or friend of the infant.

[1996 c 134 § 7; 1992 c 111 § 9; 1891 c 30 § 1; Code 1881 § 12; 1854 p 132 §§ 6, 7; RRS § 187.]

Notes:

Severability--1992 c 111: See RCW 26.50.903.

Findings--1992 c 111: See note following RCW 26.50.030.

RCW 4.08.060 Guardian ad litem for incapacitated person.

When an incapacitated person is a party to an action in the superior courts he or she shall appear by guardian, or if he or she has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act as guardian ad litem. Said guardian shall be appointed as follows:

(1) When the incapacitated person is plaintiff, upon the application of a relative or friend of the incapacitated person.

(2) When the incapacitated person is defendant, upon the application of a relative or friend of such incapacitated person, such application shall be made within thirty days after the service of summons if served in the state of Washington, and if served out of the state or service is made by publication, then such application shall be made within sixty days after the first publication of summons or within sixty days after the service out of the state. If no such application be made within the time above limited, application may be made by any party to the action.

[1996 c 249 § 5; 1899 c 91 § 1; RRS § 188.]

Notes:

Intent--1996 c 249: See note following RCW 2.56.030.

RCW 4.08.080 Action on assigned choses in action.

Any assignee or assignees of any judgment, bond, specialty, book account, or other chose in action, for the payment of money, by assignment in writing, signed by the person authorized to make the same, may, by virtue of such assignment, sue and maintain an action or actions in his or her name, against the obligor or obligors, debtor or debtors, named in such judgment, bond, specialty, book account, or other chose in action, notwithstanding the assignor may have an interest in the thing assigned: PROVIDED, That any debtor may plead in defense as many defenses, counterclaims and offsets, whether they be such as have heretofore been denominated legal or equitable, or both, if held by him against the original owner, against the debt assigned, save that no counterclaim or offset shall be pleaded against negotiable paper assigned before due, and where the holder thereof has purchased the same in good faith and for value, and is the owner of all interest therein.

[1927 c 87 § 1; 1891 c 30 § 2; Code 1881 § 15; 1879 p 122 § 1; 1854 p 131 § 3; RRS § 191.]

RCW 4.08.100 Action to recover purchase money on land--Final judgment.

In any action brought for the recovery of the purchase money against any person holding a contract for the purchase of lands, the party bound to perform the contract, if not the plaintiff, may be made a party, and the court in a final judgment may order the interest of purchaser to be sold or transferred to the plaintiff upon such terms as may be just, and may also order a specific

performance of the contract in favor of the complainant, or the purchaser, in case a sale be ordered.

[Code 1881 § 19; 1877 p 6 § 19; 1854 p 219 § 490; RRS § 195.]

RCW 4.08.110 Action by public corporations.

An action at law may be maintained by any county, incorporated town, school district or other public corporation of like character, in its corporate name, and upon a cause of action accruing to it, in its corporate character and not otherwise, in any of the following cases:

- (1) Upon a contract made with such public corporation;
- (2) Upon a liability prescribed by law in favor of such public corporation;
- (3) To recover a penalty or forfeiture given to such public corporation;
- (4) To recover damages for an injury to the corporate rights or property of such public corporation.

[1953 c 118 § 1. Prior: Code 1881 § 661; 1869 p 154 § 601; RRS § 950.]

RCW 4.08.120 Action against public corporations.

An action may be maintained against a county or other of the public corporations mentioned or described in RCW 4.08.110, either upon a contract made by such county, or other public corporation in its corporate character and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of such county or other public corporation.

[1953 c 118 § 2. Prior: Code 1881 § 662; 1869 p 154 § 602; RRS § 951.]

RCW 4.08.140 New party entitled to service of summons.

When a new party is introduced into an action as a representative or successor of a former party, such new party is entitled to the same summons to be served in the same manner as required for defendants in the commencement of an action.

[1957 c 7 § 1. Prior: Code 1881 §§ 21, 742; 1877 pp 6 and 151 §§ 21, 747; 1873 pp 7 and 176 §§ 21, 682; 1869 pp 6 and 172 §§ 21, 684; 1863 p 194 § 524; 1860 p 99 § 477; 1854 p 219 § 485; RRS § 197.]

Notes:

Rules of court: Cf. CR 3; CR 5.

RCW 4.08.150 Substitution and interpleader.

A defendant against whom an action is pending upon a contract, or for specific real or personal property, at any time before answer, upon affidavit that a person not a party to the action, and without collusion with him, makes against him a demand for the same debt or property, upon due notice to such person and the adverse party, may apply to the court for an

order to substitute such person in his place, and discharge him from liability to either party on his depositing in court the amount of the debt, or delivering the property or its value to such person as the court may direct; and the court may make the order.

[Code 1881 § 22; 1877 p 6 § 22; 1869 p 7 § 22; 1854 p 132 § 12; RRS § 198.]

Notes:

Rules of court: Interpleader--CR 22; Substitution--CR 25.

RCW 4.08.160 Action to determine conflicting claims to property.

Anyone having in his possession, or under his control, any property or money, or being indebted, where more than one person claims to be the owner of, entitled to, interested in, or to have a lien on, such property, money or indebtedness, or any part thereof, may commence an action in the superior court against all or any of such persons, and have their rights, claims, interest or liens adjudged, determined and adjusted in such action.

[1890 p 93 § 1; RRS § 199.]

RCW 4.08.170 Action to determine conflicting claims to property--Disclaimer and deposit in court.

In any action commenced under RCW 4.08.160, the plaintiff may disclaim any interest in the money, property or indebtedness, and deposit with the clerk of the court the full amount of such money or indebtedness, or other property, and he shall not be liable for any costs accruing in said action. And the clerks of the various courts shall receive and file such complaint, and all other officers shall execute the necessary processes to carry out the purposes of this section, and RCW 4.08.160 and 4.08.180, free from all charge to said plaintiff, and the court, in its discretion, shall determine the liability for costs of the action.

[1890 p 93 § 2; RRS § 200.]

RCW 4.08.180 Action to determine conflicting claims to property--Trial of issue.

Either of the defendants may set up or show any claim or lien he may have to such property, money or indebtedness, or any part thereof, and the superior right, title or lien, whether legal or equitable, shall prevail.

The court or judge thereof may make all necessary orders, during the pendency of said action, for the preservation and protection of the rights, interests or liens of the several parties.

[1890 p 94 § 3; RRS § 201.]

Chapter 4.12 RCW

VENUE--JURISDICTION

Sections

4.12.010	Actions to be commenced where subject is situated.
4.12.020	Actions to be tried in county where cause arose.
4.12.025	Action to be brought where defendant resides--Optional venue of actions upon unlawful issuance of check or draft--Residence of corporations--Optional venue of actions against corporations.
4.12.030	Grounds authorizing change of venue.
4.12.040	Prejudice of judge, transfer to another department, visiting judge--Change of venue generally, criminal cases.
4.12.050	Affidavit of prejudice.
4.12.060	To what county venue may be changed--Limitation on number of changes.
4.12.070	Change to newly created county.
4.12.080	Change by stipulation.
4.12.090	Transmission of record on change of venue--Costs, attorney's fee.
4.12.100	Transcript of record entries.
4.12.110	Effect of neglect of moving party.
4.12.120	Change deemed complete, when.

Notes:

Rules of court: *Venue--CR 82.*

Actions against nonresident motorist: RCW 46.64.040.

RCW 4.12.010 Actions to be commenced where subject is situated.

Actions for the following causes shall be commenced in the county in which the subject of the action, or some part thereof, is situated:

(1) For the recovery of, for the possession of, for the partition of, for the foreclosure of a mortgage on, or for the determination of all questions affecting the title, or for any injuries to real property.

(2) All questions involving the rights to the possession or title to any specific article of personal property, in which last mentioned class of cases, damages may also be awarded for the detention and for injury to such personal property.

[Code 1881 § 47; 1877 p 11 § 48; 1869 p 12 § 48; 1860 p 7 § 15; 1854 p 133 § 13; RRS § 204.]

RCW 4.12.020 Actions to be tried in county where cause arose.

Actions for the following causes shall be tried in the county where the cause, or some part thereof, arose:

(1) For the recovery of a penalty or forfeiture imposed by statute;

(2) Against a public officer, or person specially appointed to execute his duties, for an act done by him in virtue of his office, or against a person who, by his command or in his aid, shall do anything touching the duties of such officer;

(3) For the recovery of damages arising from a motor vehicle accident; but in a cause

arising because of motor vehicle accident plaintiff shall have the option of suing either in the county in which the cause of action or some part thereof arose, or in the county in which the defendant resides, or if there be more than one defendant, where some one of the defendants resides, at the time of the commencement of the action.

[1941 c 81 § 1; Code 1881 § 48; 1877 p 11 § 49; 1869 p 12 § 49; 1860 p 7 § 16; 1854 p 133 § 14; Rem. Supp. 1941 § 205.]

RCW 4.12.025 Action to be brought where defendant resides--Optional venue of actions upon unlawful issuance of check or draft--Residence of corporations--Optional venue of actions against corporations.

(1) An action may be brought in any county in which the defendant resides, or, if there be more than one defendant, where some one of the defendants resides at the time of the commencement of the action. For the purpose of this section, the residence of a corporation defendant shall be deemed to be in any county where the corporation: (a) Transacts business; (b) has an office for the transaction of business; (c) transacted business at the time the cause of action arose; or (d) where any person resides upon whom process may be served upon the corporation.

(2) An action upon the unlawful issuance of a check or draft may be brought in any county in which the defendant resides or may be brought in any division of the judicial district in which the check was issued or presented as payment.

(3) The venue of any action brought against a corporation, at the option of the plaintiff, shall be: (a) In the county where the tort was committed; (b) in the county where the work was performed for said corporation; (c) in the county where the agreement entered into with the corporation was made; or (d) in the county where the corporation has its residence.

[1998 c 56 § 1; 1985 c 68 § 2; 1983 c 31 § 1; 1965 c 53 § 168; 1927 c 173 § 1; RRS § 205-1. Prior: 1909 c 42 § 1; Code 1881 § 49; 1877 p 11 § 50; 1869 p 13 § 50; 1860 p 101 § 488; 1854 p 220 § 494.]

RCW 4.12.030 Grounds authorizing change of venue.

The court may, on motion, in the following cases, change the place of trial when it appears by affidavit, or other satisfactory proof:

- (1) That the county designated in the complaint is not the proper county; or,
- (2) That there is reason to believe that an impartial trial cannot be had therein; or,
- (3) That the convenience of witnesses or the ends of justice would be forwarded by the change; or,
- (4) That from any cause the judge is disqualified; which disqualification exists in either of the following cases: In an action or proceeding to which he is a party, or in which he is interested; when he is related to either party by consanguinity or affinity, within the third degree; when he has been of counsel for either party in the action or proceeding.

[Code 1881 § 51; 1877 p 12 § 52; 1875 p 6 § 8; 1869 p 13 § 52; 1854 p 134 § 16; RRS § 209.]

RCW 4.12.040 Prejudice of judge, transfer to another department, visiting judge--Change of venue generally, criminal cases.

(1) No judge of a superior court of the state of Washington shall sit to hear or try any action or proceeding when it shall be established as hereinafter provided that said judge is prejudiced against any party or attorney, or the interest of any party or attorney appearing in such cause. In such case the presiding judge in judicial districts where there is more than one judge shall forthwith transfer the action to another department of the same court, or call in a judge from some other court. In all judicial districts where there is only one judge, a certified copy of the motion and affidavit filed in the cause shall be transmitted by the clerk of the superior court to the clerk of the superior court designated by the chief justice of the supreme court. Upon receipt the clerk of said superior court shall transmit the forwarded affidavit to the presiding judge who shall direct a visiting judge to hear and try such action as soon as convenient and practical.

(2) The presiding judge in judicial districts where there is more than one judge, or the presiding judge of judicial districts where there is only one judge, may send a case for trial to another court if the convenience of witnesses or the ends of justice will not be interfered with by such a course and the action is of such a character that a change of venue may be ordered: PROVIDED, That in criminal prosecutions the case shall not be sent for trial to any court outside the county unless the accused shall waive his right to a trial by a jury of the county in which the offense is alleged to have been committed.

[1989 c 15 § 1; 1961 c 303 § 1; 1927 c 145 § 1; 1911 c 121 § 1; RRS § 209-1.]

Notes:

Criminal proceedings, venue and jurisdiction: Chapter 10.25 RCW.

RCW 4.12.050 Affidavit of prejudice.

Any party to or any attorney appearing in any action or proceeding in a superior court, may establish such prejudice by motion, supported by affidavit that the judge before whom the action is pending is prejudiced against such party or attorney, so that such party or attorney cannot, or believes that he cannot, have a fair and impartial trial before such judge: PROVIDED, That such motion and affidavit is filed and called to the attention of the judge before he shall have made any ruling whatsoever in the case, either on the motion of the party making the affidavit, or on the motion of any other party to the action, of the hearing of which the party making the affidavit has been given notice, and before the judge presiding has made any order or ruling involving discretion, but the arrangement of the calendar, the setting of an action, motion or proceeding down for hearing or trial, the arraignment of the accused in a criminal action or the fixing of bail, shall not be construed as a ruling or order involving discretion within the meaning of this proviso; and in any event, in counties where there is but one resident judge, such motion and affidavit shall be filed not later than the day on which the case is called to be set for trial: AND PROVIDED FURTHER, That notwithstanding the filing of such motion and affidavit, if

the parties shall, by stipulation in writing agree, such judge may hear argument and rule upon any preliminary motions, demurrers, or other matter thereafter presented: AND PROVIDED FURTHER, That no party or attorney shall be permitted to make more than one such application in any action or proceeding under this section and RCW 4.12.040.

[1941 c 148 § 1; 1927 c 145 § 2; 1911 c 121 § 2; Rem. Supp. 1941 § 209-2.]

Notes:

Rules of court: *Demurrers abolished--CR 7(c).*

RCW 4.12.060 To what county venue may be changed--Limitation on number of changes.

If the motion for a change of the place of trial be allowed, the change shall be made to the county where the action ought to have been commenced, if it be for the cause mentioned in RCW 4.12.030(1), and in other cases to the most convenient county where the cause alleged does not exist. Neither party shall be entitled to more than one change of the place of trial, except for causes not in existence when the first change was allowed.

[Code 1881 § 52; 1877 p 12 § 53; 1869 p 14 § 53; RRS § 210.]

RCW 4.12.070 Change to newly created county.

Any party in a civil action pending in the superior court in a county out of whose limits a new county, in whole or in part, has been created, may file with the clerk of such superior court an affidavit setting forth that he is a resident of such newly created county, and that the venue of such action is transitory, or that the venue of such action is local, and that it ought properly to be tried in such newly created county; and thereupon the clerk shall make out a transcript of the proceedings already had in such action in such superior court, and certify it under the seal of the court, and transmit such transcript, together with the papers on file in his office connected with such action, to the clerk of the superior court of such newly created county, wherein it shall be proceeded with as in other cases.

[1891 c 33 § 2; Code 1881 § 53; 1877 p 12 § 54; 1869 p 14 § 54; 1854 p 377 § 2; RRS § 211.]

RCW 4.12.080 Change by stipulation.

Notwithstanding the provisions of RCW 4.12.030 all the parties to the action by stipulation in writing or by consent in open court entered in the records may agree that the place of trial be changed to any county of the state, and thereupon the court must order the change agreed upon.

[Code 1881 § 55; 1877 p 13 § 56; RRS § 216.]

RCW 4.12.090 Transmission of record on change of venue--Costs, attorney's fee.

(1) When an order is made transferring an action or proceeding for trial, the clerk of the court must transmit the pleadings and papers therein to the court to which it is transferred. The costs and fees thereof and of filing the papers anew must be paid by the party at whose instance the order was made, except in the cases mentioned in RCW 4.12.030(1), in which case the plaintiff shall pay costs of transfer and, in addition thereto, if the court finds that the plaintiff could have determined the county of proper venue with reasonable diligence, it shall order the plaintiff to pay the reasonable attorney's fee of the defendant for the changing of venue to the proper county. The court to which an action or proceeding is transferred has and exercises over the same the like jurisdiction as if it had been originally commenced therein.

(2) In acting on any motion for dismissal without prejudice in a case where a motion for change of venue under subsection (1) of this section has been made, the court shall, if it determines the motion for change of venue proper, determine the amount of attorney's fee properly to be awarded to defendant and, if the action be dismissed, the attorney's fee shall be a setoff against any claim subsequently brought on the same cause of action.

[1969 ex.s. c 144 § 1; Code 1881 § 54; 1877 p 12 § 55; 1875 p 7 § 10; 1869 p 14 §§ 55, 56; RRS § 215.]

RCW 4.12.100 Transcript of record entries.

The clerk of the court must also transmit with the original papers where an order is made changing the place of trial, a certified transcript of all record entries up to and including the order for such change.

[Code 1881 § 58; 1877 p 13 § 59; RRS § 219.]

RCW 4.12.110 Effect of neglect of moving party.

If such papers be not transmitted to the clerk of the proper court within the time prescribed in the order allowing the change, and the delay be caused by the act or omission of the party procuring the change, the adverse party, on motion to the court or judge thereof, may have the order vacated, and thereafter no other change of the place of trial shall be allowed to such party.

[Code 1881 § 56; 1877 p 13 § 57; 1869 p 15 § 57; 1854 p 135 § 21; RRS § 217.]

RCW 4.12.120 Change deemed complete, when.

Upon the filing of the papers with the clerk of the court to which the cause is transferred, the change of venue shall be deemed complete, and thereafter the action shall proceed as though it had been commenced in that court.

[Code 1881 § 57; 1877 p 13 § 58; 1869 p 15 § 58; 1854 p 135 § 22; RRS § 218.]

Chapter 4.14 RCW
REMOVAL OF CERTAIN ACTIONS TO SUPERIOR COURT

Sections

4.14.010	Removal of certain actions from justice court to superior court authorized--Grounds--Joint claims or actions--Exceptions.
4.14.020	Petition for removal--Contents--Filing--Notice.
4.14.030	Orders and process upon removal--Remand of cases improvidently removed.
4.14.040	Attached property--Custody.

RCW 4.14.010 Removal of certain actions from justice court to superior court authorized--Grounds--Joint claims or actions--Exceptions.

Whenever the removal of such action to superior court is required in order to acquire jurisdiction over a third party defendant, who is or may be liable to the defendant for all or part of the judgment and resides outside the county wherein the action was commenced, any civil action which could have been brought in superior court may, if commenced in district court, be removed by the defendant or defendants to the superior court for the county where such action is pending if the district court determines that there are reasonable grounds to believe that a third party may be liable to the plaintiff and issues an order so stating.

Whenever a separate or independent claim or cause of action which would be removable if sued upon alone is joined with one or more otherwise nonremovable claims or causes of action, the entire case may be removed and the superior court may determine all issues therein, or, in its discretion, may remand all matters not otherwise within its original jurisdiction.

This section does not apply to cases originally filed in the small claims department of a district court, or transferred to the small claims department pursuant to RCW 12.40.025, except as set forth in RCW 12.40.027.

[1997 c 352 § 6; 1967 ex.s. c 46 § 4.]

RCW 4.14.020 Petition for removal--Contents--Filing--Notice.

(1) A defendant or defendants desiring to remove any civil action from a justice court as authorized by RCW 4.14.010 shall file in the superior court in the county where such action is pending, a verified petition containing a short and plain statement of the facts which entitle him or them to removal together with a copy of all process, pleadings and orders served upon him or them in such action.

(2) The petition for removal of a civil action or proceeding shall be filed within twenty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.

If the case stated by the initial pleading is not removable, a petition for removal may be

filed within twenty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper, including the defendant's answer, from which it may first be ascertained that the case is or has become removable.

(3) Promptly after the filing of such petition the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the justice court, which shall effect the removal and the justice court shall proceed no further unless and until the case is remanded.

[1967 ex.s. c 46 § 5.]

RCW 4.14.030 Orders and process upon removal--Remand of cases improvidently removed.

In any case removed from justice court under the provisions of this chapter, the superior court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the justice court or otherwise.

If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the superior court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by the clerk of the superior court to the justice court. The justice court may thereupon proceed with such case.

[1967 ex.s. c 46 § 6.]

RCW 4.14.040 Attached property--Custody.

Whenever any action is removed from a justice court to a superior court under the provisions of this chapter, any attachment or sequestration of the property of the defendant in such action in the justice court shall remain in the custody of the sheriff to answer the final judgment or decree in the same manner as would have been held to answer had the cause been brought in the superior court originally.

[1967 ex.s. c 46 § 7.]

**Chapter 4.16 RCW
LIMITATION OF ACTIONS**

Sections

4.16.005	Commencement of actions.
4.16.020	Actions to be commenced within ten years--Exception.
4.16.030	Actions to foreclose special assessments.
4.16.040	Actions limited to six years.
4.16.050	Action on irrigation or drainage district warrant.
4.16.060	Action on irrigation district bonds.
4.16.070	Actions limited to five years.

- 4.16.080 Actions limited to three years.
- 4.16.085 Actions based on product defects, etc.
- 4.16.090 Action to cancel tax deed.
- 4.16.100 Actions limited to two years.
- 4.16.110 Actions limited to one year.
- 4.16.112 Actions for contribution between joint tort feasons.
- 4.16.115 Special provisions for action on penalty.
- 4.16.130 Action for relief not otherwise provided for.
- 4.16.150 Action on mutual open accounts.
- 4.16.160 Application of limitations to actions by state, counties, municipalities.
- 4.16.170 Tolling of statute--Actions, when deemed commenced or not commenced.
- 4.16.180 Statute tolled by absence from state, concealment, etc.
- 4.16.190 Statute tolled by personal disability.
- 4.16.200 Statute tolled by death.
- 4.16.210 Statute tolled--By war as to enemy alien.
- 4.16.220 Statute tolled--As to person in military service of United States.
- 4.16.230 Statute tolled by judicial proceedings.
- 4.16.240 Effect of reversal of judgment on appeal.
- 4.16.250 Disability must exist when right of action accrued.
- 4.16.260 Coexisting disabilities.
- 4.16.270 Effect of partial payment.
- 4.16.280 New promise must be in writing.
- 4.16.290 Foreign statutes of limitation, how applied.
- 4.16.300 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property.
- 4.16.310 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property--Accrual and limitations of actions or claims.
- 4.16.320 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property--Construction.
- 4.16.340 Actions based on childhood sexual abuse.
- 4.16.350 Action for injuries resulting from health care or related services--Physicians, dentists, nurses, etc.--Hospitals, clinics, nursing homes, etc.
- 4.16.360 Application of chapter to paternity action.
- 4.16.370 Actions against personal representative or trustee for breach of fiduciary duties--Statute of limitations.

Notes:

Claims against

counties: RCW 36.32.330; chapter 36.45 RCW.

estates: RCW 11.40.051, 11.40.060.

the state: RCW 4.92.050.

Criminal procedure, limitation of actions: RCW 9A.04.080.

Garnishment writ, dismissal after one year: RCW 6.27.310.

Lawyer discipline: Rules of court--RLD 12.10.

Product liability actions: RCW 7.72.060(3).

Tax liability, action by another state, limitation: RCW 4.24.140.

Uniform conflict of laws--Limitations act: Chapter 4.18 RCW.

Usury, business organizations engaged in lending or real estate development cannot bring action: RCW 19.52.080.

RCW 4.16.005 Commencement of actions.

Except as otherwise provided in this chapter, and except when in special cases a different limitation is prescribed by a statute not contained in this chapter, actions can only be commenced within the periods provided in this chapter after the cause of action has accrued.

[1989 c 14 § 1.]

RCW 4.16.020 Actions to be commenced within ten years--Exception.

The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his or her ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) For an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States, unless the ten-year period is extended in accordance with RCW 6.17.020(3).

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child support that has accrued under an order entered after July 23, 1989, by any of the above-named courts or that has accrued under an administrative order as defined in RCW 74.20A.020(6), which is issued after July 23, 1989.

[1994 c 189 § 2; 1989 c 360 § 1; 1984 c 76 § 1; 1980 c 105 § 1; Code 1881 § 26; 1877 p 7 § 26; 1854 p 363 § 2; RRS § 156.]

Notes:

Application--1980 c 105: "This act shall apply to all judgments which have not expired before June 12, 1980." [1980 c 105 § 7.]

Adverse possession

limitation tolled when personal disability: RCW 7.28.090.

recovery of realty, limitation: RCW 7.28.050.

RCW 4.16.030 Actions to foreclose special assessments.

An action to collect any special assessment for local improvements of any kind against any person, corporation or property whatsoever, or to enforce any lien for any special assessment for local improvements of any kind, whether said action be brought by a municipal corporation or by the holder of any delinquency certificate, or by any other person having the right to bring such an action, shall be commenced within ten years after such assessment shall have become delinquent, or due, or within ten years after the last installment of any such special assessment

shall have become delinquent or due when said special assessment is payable in installments.

[1907 c 182 § 1; Rem. Supp. 1945 § 10322C-1.]

Notes:

Actions brought by code city: RCW 35A.21.200.

Actions to foreclose special assessments in cities or towns: RCW 35.50.050.

RCW 4.16.040 Actions limited to six years.

The following actions shall be commenced within six years:

- (1) An action upon a contract in writing, or liability express or implied arising out of a written agreement.
- (2) An action upon an account receivable incurred in the ordinary course of business.
- (3) An action for the rents and profits or for the use and occupation of real estate.

[1989 c 38 § 1; 1980 c 105 § 2; 1927 c 137 § 1; Code 1881 § 27; 1854 p 363 § 3; RRS § 157.]

Notes:

Application--1980 c 105: See note following RCW 4.16.020.

RCW 4.16.050 Action on irrigation or drainage district warrant.

Action to enforce any right arising out of the issuance or ownership of any warrant of an irrigation or drainage district organized under the laws of this state, must be brought within six years from and after the date of the issuance of such warrant.

[1931 c 75 § 1; RRS § 157-1.]

Notes:

Reviser's note: Transitional proviso omitted. The proviso reads: "PROVIDED, That this section shall not apply to actions not otherwise barred on warrants heretofore issued, if the same shall be commenced within one year after the taking effect of this act".

RCW 4.16.060 Action on irrigation district bonds.

No action against any irrigation district organized under the laws of this state, or its officers, to enforce any right or claim arising out of the issuance or ownership of any negotiable bond, payable on a day certain, of the irrigation district, where such district is under contract with the United States, or any department or agency thereof, to sell its lands and its right, title and interest in its distribution canals and pipelines and its water rights, thereby necessitating the discontinuance of the district operation upon fulfillment of the contract, shall be brought after a period of six years from and after the maturity date of such bond.

[1939 c 57 § 1; RRS § 157-2.]

Notes:

Reviser's note: Transitional proviso omitted. The proviso reads: "PROVIDED, That this section shall not apply to actions not otherwise barred on such irrigation district bonds heretofore issued, if the same shall be commenced within six (6) months after the taking effect of this act".

RCW 4.16.070 Actions limited to five years.

No action for the recovery of any real estate sold by an executor or administrator under the laws of this state shall be maintained by any heir or other person claiming under the deceased, unless it is commenced within five years next after the sale, and no action for any estate sold by a guardian shall be maintained by the ward, or by any person claiming under him, unless commenced within five years next after the termination of the guardianship, except that minors, and other persons under legal disability to sue at the time when the right of action first accrued, may commence such action at any time within three years after the removal of the disability.

[1890 p 81 § 1; RRS § 158. Prior: 1863 p 245 §§ 251, 252; 1860 p 205 §§ 217, 218; 1854 p 290 §§ 137, 138.]

Notes:

Age of majority: Chapter 26.28 RCW.

Probate

actions by and against executors, etc.: Chapter 11.48 RCW.

guardianship: Chapters 11.88, 11.92 RCW.

sales and mortgages of real estate: Chapter 11.56 RCW; RCW 11.60.010.

Sales not voided by irregularities: RCW 11.56.115.

RCW 4.16.080 Actions limited to three years.

The following actions shall be commenced within three years:

- (1) An action for waste or trespass upon real property;
- (2) An action for taking, detaining, or injuring personal property, including an action for the specific recovery thereof, or for any other injury to the person or rights of another not hereinafter enumerated;
- (3) Except as provided in RCW 4.16.040(2), an action upon a contract or liability, express or implied, which is not in writing, and does not arise out of any written instrument;
- (4) An action for relief upon the ground of fraud, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud;
- (5) An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and by virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution; but this subdivision shall not apply to action for an escape;
- (6) An action against an officer charged with misappropriation or a failure to properly account for public funds intrusted to his custody; an action upon a statute for penalty or forfeiture, where an action is given to the party aggrieved, or to such party and the state, except when the statute imposing it prescribed a different limitation: PROVIDED, HOWEVER, The cause of action for such misappropriation, penalty or forfeiture, whether for acts heretofore or hereafter done, and regardless of lapse of time or existing statutes of limitations, or the bar thereof, even though complete, shall not be deemed to accrue or to have accrued until discovery by the aggrieved party of the act or acts from which such liability has arisen or shall arise, and

such liability, whether for acts heretofore or hereafter done, and regardless of lapse of time or existing statute of limitation, or the bar thereof, even though complete, shall exist and be enforceable for three years after discovery by aggrieved party of the act or acts from which such liability has arisen or shall arise.

[1989 c 38 § 2; 1937 c 127 § 1; 1923 c 28 § 1; Code 1881 § 28; 1869 p 8 § 28; 1854 p 363 § 4; RRS § 159.]

Notes:

Reviser's note: Transitional proviso omitted from subsection (6). The proviso reads: "PROVIDED, FURTHER, That no action heretofore barred under the provisions of this paragraph shall be commenced after ninety days from the time this act becomes effective;".

RCW 4.16.085 Actions based on product defects, etc.

See RCW 7.72.060(3).

RCW 4.16.090 Action to cancel tax deed.

Actions to set aside or cancel any deed heretofore or hereafter issued by any county treasurer after and upon the sale of lands for general, state, county or municipal taxes, or upon the sale of lands acquired by any county on foreclosure of general, state, county or municipal taxes, or for the recovery of any lands so sold, must be brought within three years from and after the date of the issuance of such treasurer's deed.

[1949 c 74 § 1; 1907 c 173 § 1; Rem. Supp. 1949 § 162.]

Notes:

Reviser's note: Transitional proviso omitted. The proviso reads: "PROVIDED, This act shall not apply to actions not otherwise barred on deeds heretofore issued if the same be commenced within one year after the passage of this act".

RCW 4.16.100 Actions limited to two years.

Within two years:

- (1) An action for libel, slander, assault, assault and battery, or false imprisonment.
- (2) An action upon a statute for a forfeiture or penalty to the state.

[Code 1881 § 29; 1877 p 8 § 29; 1869 p 9 § 29; 1854 p 363 § 5; RRS § 160.]

Notes:

Limitation of action for recovery of transportation charges: RCW 81.28.270.

RCW 4.16.110 Actions limited to one year.

Within one year an action shall be brought against a sheriff, or other officer for the escape of a prisoner arrested or imprisoned on civil process.

[1985 c 11 § 2. Prior: 1984 c 149 § 1; Code 1881 § 30; 1877 p 8 § 30; 1869 p 9 § 30; 1854 p 364 § 5; RRS § 161.]

Notes:

Purpose--1985 c 11: "The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution." [1985 c 11 § 1.]

Severability--1985 c 11: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 11 § 4.]

Reviser's note: 1985 c 11 reenacted RCW 4.16.110 and 4.16.370 without amendment.

Short title--Application--1985 c 30: See RCW 11.02.900 and 11.02.901.

Severability--Effective dates--1984 c 149: See notes following RCW 11.02.005.
Sheriff, civil liability: RCW 36.28.150.

RCW 4.16.112 Actions for contribution between joint tortfeasors.

See RCW 4.22.050.

RCW 4.16.115 Special provisions for action on penalty.

An action upon a statute for a penalty given in whole or in part to the person who may prosecute for the same, shall be commenced within three years [one year] after the commission of the offense; and if the action be not commenced within one year by a private party, it may be commenced within two years after the commission of the offense in behalf of the state by the prosecuting attorney of the county, where said offense was committed.

[1877 p 9 § 31; 1854 p 364 § 6; RRS § 163. Formerly RCW 4.16.140. Cf. Code 1881 § 31.]

Notes:

Reviser's note: "one year" appeared in Laws of 1854 and 1877; "three years" appears in Code of 1881.

RCW 4.16.130 Action for relief not otherwise provided for.

An action for relief not hereinbefore provided for, shall be commenced within two years after the cause of action shall have accrued.

[Code 1881 § 33; 1877 p 9 § 32; 1854 p 364 § 7; RRS § 165.]

Notes:

Limitation of action to recover taxes paid: RCW 84.68.060.

RCW 4.16.150 Action on mutual open accounts.

In an action brought to recover a balance due upon a mutual open and current account, where there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item proved in the account on either side, but whenever a period of more than one year shall have elapsed between any of a series of items or demands, they are not to be deemed such an account.

[Code 1881 § 34; 1877 p 9 § 33; 1869 p 10 § 33; 1854 p 364 § 8; RRS § 166.]

RCW 4.16.160 Application of limitations to actions by state, counties, municipalities.

The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other municipality or quasimunicipality of the state, in the same manner as to actions brought by private parties: PROVIDED, That, except as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall ever be asserted against the state: AND FURTHER PROVIDED, That no previously existing statute of limitations shall be interposed as a defense to any action brought in the name or for the benefit of the state, although such statute may have run and become fully operative as a defense prior to February 27, 1903, nor shall any cause of action against the state be predicated upon such a statute.

[1986 c 305 § 701; 1955 c 43 § 2. Prior: 1903 c 24 § 1; Code 1881 § 35; 1873 p 10 §§ 34, 35; 1869 p 10 §§ 34, 35; 1854 p 364 § 9; RRS § 167, part.]

Notes:

Preamble--1986 c 305: "Tort law in this state has generally been developed by the courts on a case-by-case basis. While this process has resulted in some significant changes in the law, including amelioration of the harshness of many common law doctrines, the legislature has periodically intervened in order to bring about needed reforms. The purpose of this chapter is to enact further reforms in order to create a more equitable distribution of the cost and risk of injury and increase the availability and affordability of insurance.

The legislature finds that counties, cities, and other governmental entities are faced with increased exposure to lawsuits and awards and dramatic increases in the cost of insurance coverage. These escalating costs ultimately affect the public through higher taxes, loss of essential services, and loss of the protection provided by adequate insurance. In order to improve the availability and affordability of quality governmental services, comprehensive reform is necessary.

The legislature also finds comparable cost increases in professional liability insurance. Escalating malpractice insurance premiums discourage physicians and other health care providers from initiating or continuing their practice or offering needed services to the public and contribute to the rising costs of consumer health care. Other professionals, such as architects and engineers, face similar difficult choices, financial instability, and unlimited risk in providing services to the public.

The legislature also finds that general liability insurance is becoming unavailable or unaffordable to many businesses, individuals, and nonprofit organizations in amounts sufficient to cover potential losses. High premiums have discouraged socially and economically desirable activities and encourage many to go without adequate insurance coverage.

Therefore, it is the intent of the legislature to reduce costs associated with the tort system, while assuring that adequate and appropriate compensation for persons injured through the fault of others is available." [1986 c 305 § 100.]

Report to legislature--1986 c 305: "The insurance commissioner shall submit a report to the legislature by January 1, 1991, on the effects of this act on insurance rates and the availability of insurance coverage and the impact on the civil justice system." [1986 c 305 § 909.]

Application--1986 c 305: "Except as provided in sections 202 and 601 of this act and except for section 904 of this act, this act applies to all actions filed on or after August 1, 1986." [1986 c 305 § 910.]

Severability--1986 c 305: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 305 § 911.]

RCW 4.16.170 Tolling of statute--Actions, when deemed commenced or not commenced.

For the purpose of tolling any statute of limitations an action shall be deemed commenced when the complaint is filed or summons is served whichever occurs first. If service has not been had on the defendant prior to the filing of the complaint, the plaintiff shall cause one or more of the defendants to be served personally, or commence service by publication within ninety days from the date of filing the complaint. If the action is commenced by service on one or more of the defendants or by publication, the plaintiff shall file the summons and complaint within ninety days from the date of service. If following service, the complaint is not so filed, or following filing, service is not so made, the action shall be deemed to not have been commenced for purposes of tolling the statute of limitations.

[1971 ex.s. c 131 § 1; 1955 c 43 § 3. Prior: 1903 c 24 § 1; Code 1881 § 35; 1873 p 10 § 35; 1869 p 10 § 35; RRS § 167, part.]

RCW 4.16.180 Statute tolled by absence from state, concealment, etc.

If the cause of action shall accrue against any person who is a nonresident of this state, or who is a resident of this state and shall be out of the state, or concealed therein, such action may be commenced within the terms herein respectively limited after the coming, or return of such person into the state, or after the end of such concealment; and if after such cause of action shall have accrued, such person shall depart from and reside out of this state, or conceal himself, the time of his absence or concealment shall not be deemed or taken as any part of the time limit for the commencement of such action.

[1927 c 132 § 1; Code 1881 § 36; 1854 p 364 § 10; RRS § 168.]

RCW 4.16.190 Statute tolled by personal disability.

If a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter 11.88 RCW, or imprisoned on a criminal charge prior to sentencing, the time of such disability shall not be a part of the time limited for the commencement of action.

[1993 c 232 § 1; 1977 ex.s. c 80 § 2; 1971 ex.s. c 292 § 74; Code 1881 § 37; 1877 p 9 § 38; 1869 p 10 § 38; 1861 p 61 § 1; 1854 p 364 § 11; RRS § 169.]

Notes:

Purpose--Intent--1977 ex.s. c 80: "It is the purpose of the legislature in enacting this 1977 amendatory act to provide for a comprehensive revision of out-dated and offensive language, procedures and assumptions that have previously been used to identify and categorize mentally, physically, and sensory handicapped citizens. It is

legislative intent that language references such as idiots, imbeciles, feeble-minded or defective persons be deleted and replaced with more appropriate references to reflect current statute law more recently enacted by the federal government and this legislature. It is legislative belief that use of the undefined term "insanity" be avoided in preference to the use of a process for defining incompetency or disability as fully set forth in chapter 11.88 RCW; that language that has allowed or implied a presumption of incompetency or disability on the basis of an apparent condition or appearance be deleted in favor of a reference to necessary due process allowing a judicial determination of the existence or lack of existence of such incompetency or disability." [1977 ex.s. c 80 § 1.]

Severability--1977 ex.s. c 80: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 80 § 76.]

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.
Adverse possession, personal disability, limitation tolled: RCW 7.28.090.

RCW 4.16.200 Statute tolled by death.

Limitations on actions against a person who dies before the expiration of the time otherwise limited for commencement thereof are as set forth in chapter 11.40 RCW. Subject to the limitations on claims against a deceased person under chapter 11.40 RCW, if a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced by his representatives after the expiration of the time and within one year from his death.

[1989 c 333 § 8; Code 1881 § 38; 1877 p 9 § 38; 1854 p 364 § 12; RRS § 170.]

Notes:

Application--Effective date--1989 c 333: See note following RCW 11.40.010.

Decedents

claims against, time limits: RCW 11.40.051, 11.40.060.

liability for debts: RCW 11.04.270.

RCW 4.16.210 Statute tolled--By war as to enemy alien.

When a person shall be an alien subject or a citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

[1941 c 174 § 1, part; Code 1881 § 39; 1854 p 365 § 13; Rem. Supp. 1941 § 171, part.]

RCW 4.16.220 Statute tolled--As to person in military service of United States.

When the enforcement of civil liabilities against a person in the military service of the United States has been suspended by operation of law, the period of such suspension shall not be a part of the period limited for the commencement of the action.

[1941 c 174 § 1, part; Code 1881 § 39; 1854 p 365 § 13; Rem. Supp. 1941 § 171, part.]

Notes:

Application of federal law: RCW 73.16.070.

RCW 4.16.230 Statute tolled by judicial proceedings.

When the commencement of an action is stayed by injunction or a statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

[Code 1881 § 40; 1877 p 10 § 41; 1854 p 365 § 14; RRS § 172.]

RCW 4.16.240 Effect of reversal of judgment on appeal.

If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on error or appeal, the plaintiff, or if he dies and the cause of action survives, his heirs or representatives may commence a new action within one year after reversal.

[Code 1881 § 41; 1877 p 10 § 42; 1854 p 365 § 15; RRS § 173.]

RCW 4.16.250 Disability must exist when right of action accrued.

No person shall avail himself of a disability unless it existed when his right of action accrued.

[Code 1881 § 42; 1877 p 10 § 43; 1854 p 365 § 16; RRS § 174.]

RCW 4.16.260 Coexisting disabilities.

When two or more disabilities shall coexist at the time the right of action accrues, the limitation shall not attach until they all be removed.

[Code 1881 § 43; 1877 p 10 § 44; 1854 p 365 § 17; RRS § 175.]

RCW 4.16.270 Effect of partial payment.

When any payment of principal or interest has been or shall be made upon any existing contract, whether it be a bill of exchange, promissory note, bond or other evidence of indebtedness, if such payment be made after the same shall have become due, the limitation shall commence from the time the last payment was made.

[Code 1881 § 45; 1877 p 10 § 46; 1854 p 365 § 19; RRS § 177.]

RCW 4.16.280 New promise must be in writing.

No acknowledgment or promise shall be sufficient evidence of a new or continuing contract whereby to take the case out of the operation of this chapter, unless it is contained in some writing signed by the party to be charged thereby; but this section shall not alter the effect

of any payment of principal or interest.

[Code 1881 § 44; 1877 p 10 § 45; 1854 p 365 § 18; RRS § 176.]

RCW 4.16.290 Foreign statutes of limitation, how applied.

When the cause of action has arisen in another state, territory or country between nonresidents of this state, and by the laws of the state, territory or country where the action arose, an action cannot be maintained thereon by reason of the lapse of time, no action shall be maintained thereon in this state.

[Code 1881 § 46; 1877 p 10 § 47; 1854 p 365 § 20; RRS § 178.]

RCW 4.16.300 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property.

RCW 4.16.300 through 4.16.320 shall apply to all claims or causes of action of any kind against any person, arising from such person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair of any improvement upon real property. This section is intended to benefit only those persons referenced herein and shall not apply to claims or causes of action against manufacturers.

[1986 c 305 § 703; 1967 c 75 § 1.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.16.310 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property--Accrual and limitations of actions or claims.

All claims or causes of action as set forth in RCW 4.16.300 shall accrue, and the applicable statute of limitation shall begin to run only during the period within six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later. The phrase "substantial completion of construction" shall mean the state of completion reached when an improvement upon real property may be used or occupied for its intended use. Any cause of action which has not accrued within six years after such substantial completion of construction, or within six years after such termination of services, whichever is later, shall be barred: PROVIDED, That this limitation shall not be asserted as a defense by any owner, tenant or other person in possession and control of the improvement at the time such cause of action accrues. The limitations prescribed in this section apply to all claims or causes of action as set forth in RCW 4.16.300 brought in the name or for the benefit of the state which are made or commenced after June 11,

1986.

[1986 c 305 § 702; 1967 c 75 § 2.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.16.320 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property--Construction.

Nothing in RCW 4.16.300 through 4.16.320 shall be construed as extending the period now permitted by law for bringing any kind of action.

[1967 c 75 § 3.]

RCW 4.16.340 Actions based on childhood sexual abuse.

(1) All claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall be commenced within the later of the following periods:

- (a) Within three years of the act alleged to have caused the injury or condition;
- (b) Within three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act; or
- (c) Within three years of the time the victim discovered that the act caused the injury for which the claim is brought:

PROVIDED, That the time limit for commencement of an action under this section is tolled for a child until the child reaches the age of eighteen years.

(2) The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse or exploitation.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a person under the age of eighteen years.

(4) For purposes of this section, "child" means a person under the age of eighteen years.

(5) As used in this section, "childhood sexual abuse" means any act committed by the defendant against a complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed.

[1991 c 212 § 2; 1989 c 317 § 2; 1988 c 144 § 1.]

Notes:

Finding--Intent--1991 c 212: "The legislature finds that:

- (1) Childhood sexual abuse is a pervasive problem that affects the safety and well-being of many of our citizens.
- (2) Childhood sexual abuse is a traumatic experience for the victim causing long-lasting damage.

(3) The victim of childhood sexual abuse may repress the memory of the abuse or be unable to connect the abuse to any injury until after the statute of limitations has run.

(4) The victim of childhood sexual abuse may be unable to understand or make the connection between childhood sexual abuse and emotional harm or damage until many years after the abuse occurs.

(5) Even though victims may be aware of injuries related to the childhood sexual abuse, more serious injuries may be discovered many years later.

(6) The legislature enacted RCW 4.16.340 to clarify the application of the discovery rule to childhood sexual abuse cases. At that time the legislature intended to reverse the Washington supreme court decision in *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986).

It is still the legislature's intention that *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986) be reversed, as well as the line of cases that state that discovery of any injury whatsoever caused by an act of childhood sexual abuse commences the statute of limitations. The legislature intends that the earlier discovery of less serious injuries should not affect the statute of limitations for injuries that are discovered later." [1991 c 212 § 1.]

Intent--1989 c 317: "(1) The legislature finds that possible confusion may exist in interpreting the statute of limitations provisions for child sexual abuse civil actions in RCW 4.16.190 and 4.16.340 regarding the accrual of a cause of action for a person under age eighteen. The legislature finds that amending RCW 4.16.340 will clarify that the time limit for commencement of an action under RCW 4.16.340 is tolled until the child reaches age eighteen. The 1989 amendment to RCW 4.16.340 is intended as a clarification of existing law and is not intended to be a change in the law.

(2) The legislature further finds that the enactment of chapter 145, Laws of 1988, which deleted specific reference to RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b) from RCW 9A.04.080 and also deleted those specific referenced provisions from the laws of Washington, did not intend to change the statute of limitations governing those offenses from seven to three years." [1989 c 317 § 1.]

Application--1988 c 144: "Sections 1 and 2 of this act apply to all causes of action commenced on or after June 9, 1988, regardless of when the cause of action may have arisen. To this extent, sections 1 and 2 of this act apply retrospectively." [1988 c 144 § 3.]

RCW 4.16.350 Action for injuries resulting from health care or related services--Physicians, dentists, nurses, etc.--Hospitals, clinics, nursing homes, etc.

Any civil action for damages for injury occurring as a result of health care which is provided after June 25, 1976 against:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his estate or personal representative;

(2) An employee or agent of a person described in subsection (1) of this section, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subsection (1) of this section, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his employment, including, in the event such officer, director, employee, or agent is deceased, his estate or personal representative;

based upon alleged professional negligence shall be commenced within three years of the act or

omission alleged to have caused the injury or condition, or one year of the time the patient or his representative discovered or reasonably should have discovered that the injury or condition was caused by said act or omission, whichever period expires later, except that in no event shall an action be commenced more than eight years after said act or omission: PROVIDED, That the time for commencement of an action is tolled upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic or diagnostic purpose or effect, until the date the patient or the patient's representative has actual knowledge of the act of fraud or concealment, or of the presence of the foreign body; the patient or the patient's representative has one year from the date of the actual knowledge in which to commence a civil action for damages.

For purposes of this section, notwithstanding RCW 4.16.190, the knowledge of a custodial parent or guardian shall be imputed to a person under the age of eighteen years, and such imputed knowledge shall operate to bar the claim of such minor to the same extent that the claim of an adult would be barred under this section. Any action not commenced in accordance with this section shall be barred.

For purposes of this section, with respect to care provided after June 25, 1976, and before August 1, 1986, the knowledge of a custodial parent or guardian shall be imputed as of April 29, 1987, to persons under the age of eighteen years.

This section does not apply to a civil action based on intentional conduct brought against those individuals or entities specified in this section by a person for recovery of damages for injury occurring as a result of childhood sexual abuse as defined in RCW 4.16.340(5).

[1998 c 147 § 1; 1988 c 144 § 2; 1987 c 212 § 1401; 1986 c 305 § 502; 1975-'76 2nd ex.s. c 56 § 1; 1971 c 80 § 1.]

Notes:

Application--1998 c 147: "This act applies to any cause of action filed on or after June 11, 1998." [1998 c 147 § 2.]

Application--1988 c 144: See note following RCW 4.16.340.

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

Severability--1975-'76 2nd ex.s. c 56: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 56 § 15.]

Actions for injuries resulting from health care: Chapter 7.70 RCW.

Complaint in personal injury actions not to include statement of damages: RCW 4.28.360.

Evidence of furnishing or offering to pay medical expenses inadmissible to prove liability in personal injury actions for medical negligence: Chapter 5.64 RCW.

Immunity of members of professional review committees, societies, examining, licensing or disciplinary boards from civil suit: RCW 4.24.240.

Proof and evidence required in actions against hospitals, personnel and members of healing arts: RCW 4.24.290.

Verdict or award of future economic damages in personal injury or property damage action may provide for periodic payments: RCW 4.56.260.

RCW 4.16.360 Application of chapter to paternity action.

This chapter does not limit the time in which an action for determination of paternity may

be brought under chapter 26.26 RCW.

[1983 1st ex.s. c 41 § 13.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 4.16.370 Actions against personal representative or trustee for breach of fiduciary duties--Statute of limitations.

The statute of limitations for actions against a personal representative or trustee for breach of fiduciary duties is as set forth in RCW 11.96A.070.

[1999 c 42 § 602; 1985 c 11 § 3. Prior: 1984 c 149 § 2.]

Notes:

Part headings and captions not law--Effective date--1999 c 42: See RCW 11.96A.901 and 11.96A.902.

Short title--Application--1985 c 30: See RCW 11.02.900 and 11.02.901.

Purpose--Severability--1985 c 11: See notes following RCW 4.16.110.

Severability--Effective dates--1984 c 149: See notes following RCW 11.02.005.

**Chapter 4.18 RCW
UNIFORM CONFLICT OF LAWS--LIMITATIONS ACT**

Sections

4.18.010	Definitions.
4.18.020	Conflict of laws--Limitation periods.
4.18.030	Rules of law applicable to computation of limitation period.
4.18.040	Application of limitation period of other state--Unfairness.
4.18.900	Short title.
4.18.901	Application of chapter--Existing and future claims.
4.18.902	Uniformity of application and construction of chapter.
4.18.903	Severability--1983 c 152.
4.18.904	Captions not law--1983 c 152.

Notes:

Limitation of actions generally: Chapter 4.16 RCW.

RCW 4.18.010 Definitions.

As used in this chapter:

(1) "Claim" means a right of action that may be asserted in a civil action or proceeding and includes a right of action created by statute.

(2) "State" means a state, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, or a political

subdivision of any of them.

[1983 c 152 § 1.]

RCW 4.18.020 Conflict of laws--Limitation periods.

(1) Except as provided by RCW 4.18.040, if a claim is substantively based:

(a) Upon the law of one other state, the limitation period of that state applies; or

(b) Upon the law of more than one state, the limitation period of one of those states, chosen by the law of conflict of laws of this state, applies.

(2) The limitation period of this state applies to all other claims.

[1983 c 152 § 2.]

RCW 4.18.030 Rules of law applicable to computation of limitation period.

If the statute of limitations of another state applies to the assertion of a claim in this state, the other state's relevant statutes and other rules of law governing tolling and accrual apply in computing the limitation period, but its statutes and other rules of law governing conflict of laws do not apply.

[1983 c 152 § 3.]

RCW 4.18.040 Application of limitation period of other state--Unfairness.

If the court determines that the limitation period of another state applicable under RCW 4.18.020 and 4.18.030 is substantially different from the limitation period of this state and has not afforded a fair opportunity to sue upon, or imposes an unfair burden in defending against, the claim, the limitation period of this state applies.

[1983 c 152 § 4.]

RCW 4.18.900 Short title.

This chapter may be cited as the Uniform Conflict of Laws--Limitations Act.

[1983 c 152 § 7.]

RCW 4.18.901 Application of chapter--Existing and future claims.

This chapter applies to claims:

(1) Accruing after July 24, 1983; or

(2) Asserted in a civil action or proceeding more than one year after July 24, 1983, but it does not revive a claim barred before July 24, 1983.

[1983 c 152 § 5.]

RCW 4.18.902 Uniformity of application and construction of chapter.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

[1983 c 152 § 6.]

RCW 4.18.903 Severability--1983 c 152.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1983 c 152 § 8.]

RCW 4.18.904 Captions not law--1983 c 152.

Section captions used in this act constitute no part of the law.

[1983 c 152 § 9.]

**Chapter 4.20 RCW
SURVIVAL OF ACTIONS**

Sections

4.20.005	Wrongful death--Application of terms.
4.20.010	Wrongful death--Right of action.
4.20.020	Wrongful death--Beneficiaries of action.
4.20.030	Workers' compensation act not affected.
4.20.046	Survival of actions.
4.20.050	Action not abated by death or disability if it survives--Substitution.
4.20.060	Action for personal injury survives to surviving spouse, child, stepchildren, or heirs.

Notes:

Action for injury or death of a child: RCW 4.24.010.

Actions by and against executors: Chapter 11.48 RCW.

Imputation of contributory fault of decedent in wrongful death actions: RCW 4.22.020.

RCW 4.20.005 Wrongful death--Application of terms.

Words in RCW 4.20.010, 4.20.020, and 4.20.030 denoting the singular shall be understood as belonging to a plurality of persons or things. The masculine shall apply also to the feminine, and the word person shall also apply to bodies politic and corporate.

[1917 c 123 § 3; RRS § 183-2. Formerly RCW 4.20.010, part.]

RCW 4.20.010 Wrongful death--Right of action.

When the death of a person is caused by the wrongful act, neglect or default of another his personal representative may maintain an action for damages against the person causing the death; and although the death shall have been caused under such circumstances as amount, in law, to a felony.

[1917 c 123 § 1; RRS § 183. FORMER PARTS OF SECTION: 1917 c 123 § 3 now codified as RCW 4.20.005. Prior: 1909 c 129 § 1; Code 1881 § 8; 1875 p 4 § 4; 1854 p 220 § 496.]

RCW 4.20.020 Wrongful death--Beneficiaries of action.

Every such action shall be for the benefit of the wife, husband, child or children, including stepchildren, of the person whose death shall have been so caused. If there be no wife or husband or such child or children, such action may be maintained for the benefit of the parents, sisters or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death.

In every such action the jury may give such damages as, under all circumstances of the case, may to them seem just.

[1985 c 139 § 1; 1973 1st ex.s. c 154 § 2; 1917 c 123 § 2; RRS § 183-1.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 4.20.030 Workers' compensation act not affected.

RCW 4.20.005, 4.20.010, and 4.20.020 shall not repeal or supersede chapter 74 of the Laws of 1911 [Title 51 RCW] and acts amendatory thereof, or any part thereof.

[1917 c 123 § 5; RRS § 183-3.]

RCW 4.20.046 Survival of actions.

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this section: PROVIDED, HOWEVER, That the personal representative shall only be entitled to recover damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by a deceased on behalf of those beneficiaries enumerated in RCW 4.20.020, and such damages are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action. The liability of property of a husband and wife held by them as

community property to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses; and a cause of action shall remain an asset as though both claiming spouses continued to live despite the death of either or both claiming spouses.

(2) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

[1993 c 44 § 1; 1961 c 137 § 1.]

RCW 4.20.050 Action not abated by death or disability if it survives--Substitution.

No action shall abate by the death, marriage or other disability of the party, or by the transfer of any interest therein, if the cause of action survives or continues; but the court may at any time within one year thereafter, on motion, allow the action to be continued by or against his representatives or successors in interest.

[Code 1881 § 17; 1877 p 6 § 17; 1869 p 6 § 17; 1854 p 132 § 11; RRS § 193.]

Notes:

Rules of court: Cf. RAP 3.2, 18.22.

RCW 4.20.060 Action for personal injury survives to surviving spouse, child, stepchildren, or heirs.

No action for a personal injury to any person occasioning death shall abate, nor shall such right of action determine, by reason of such death, if such person has a surviving spouse or child living, including stepchildren, or leaving no surviving spouse or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator of the deceased, in favor of such surviving spouse, or in favor of the surviving spouse and such children, or if no surviving spouse, in favor of such child or children, or if no surviving spouse or such child or children, then in favor of the decedent's parents, sisters or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death.

[1985 c 139 § 2; 1973 1st ex.s. c 154 § 3; 1927 c 156 § 1; 1909 c 144 § 1; Code 1881 § 18; 1854 p 220 § 495; RRS § 194.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

**Chapter 4.22 RCW
CONTRIBUTORY**

FAULT--EFFECT--IMPUTATION--CONTRIBUTION--SETTLEMENT AGREEMENTS

Sections

4.22.005	Effect of contributory fault.
4.22.015	"Fault" defined.
4.22.020	Imputation of contributory fault--Spouse or minor child of spouse--Wrongful death actions.
4.22.030	Nature of liability.
4.22.040	Right of contribution--Indemnity.
4.22.050	Enforcement of contribution.
4.22.060	Effect of settlement agreement.
4.22.070	Percentage of fault--Determination--Exception--Limitations.
4.22.080	Year 2000 failure--Actions against agency or public service provider--Definitions.
4.22.900	Effective date--1973 1st ex.s. c 138.
4.22.910	Severability--1973 1st ex.s. c 138.
4.22.911	Severability--1981 c 27.
4.22.920	Applicability--1981 c 27.
4.22.925	Applicability--1981 c 27 § 17.

Notes:

Preamble--1981 c 27: See note following RCW 7.72.010.

Product liability actions: Chapter 7.72 RCW.

RCW 4.22.005 Effect of contributory fault.

In an action based on fault seeking to recover damages for injury or death to person or harm to property, any contributory fault chargeable to the claimant diminishes proportionately the amount awarded as compensatory damages for an injury attributable to the claimant's contributory fault, but does not bar recovery. This rule applies whether or not under prior law the claimant's contributory fault constituted a defense or was disregarded under applicable legal doctrines, such as last clear chance.

[1981 c 27 § 8.]

RCW 4.22.015 "Fault" defined.

"Fault" includes acts or omissions, including misuse of a product, that are in any measure negligent or reckless toward the person or property of the actor or others, or that subject a person to strict tort liability or liability on a product liability claim. The term also includes breach of warranty, unreasonable assumption of risk, and unreasonable failure to avoid an injury or to mitigate damages. Legal requirements of causal relation apply both to fault as the basis for liability and to contributory fault.

A comparison of fault for any purpose under RCW 4.22.005 through 4.22.060 shall

involve consideration of both the nature of the conduct of the parties to the action and the extent of the causal relation between such conduct and the damages.

[1981 c 27 § 9.]

RCW 4.22.020 Imputation of contributory fault--Spouse or minor child of spouse--Wrongful death actions.

The contributory fault of one spouse shall not be imputed to the other spouse or the minor child of the spouse to diminish recovery in an action by the other spouse or the minor child of the spouse, or his or her legal representative, to recover damages caused by fault resulting in death or in injury to the person or property, whether separate or community, of the spouse. In an action brought for wrongful death or loss of consortium, the contributory fault of the decedent or injured person shall be imputed to the claimant in that action.

[1987 c 212 § 801; 1981 c 27 § 10; 1973 1st ex.s. c 138 § 2.]

Notes:

Wrongful death actions: Chapter 4.20 RCW.

RCW 4.22.030 Nature of liability.

Except as otherwise provided in RCW 4.22.070, if more than one person is liable to a claimant on an indivisible claim for the same injury, death or harm, the liability of such persons shall be joint and several.

[1986 c 305 § 402; 1981 c 27 § 11.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.22.040 Right of contribution--Indemnity.

(1) A right of contribution exists between or among two or more persons who are jointly and severally liable upon the same indivisible claim for the same injury, death or harm, whether or not judgment has been recovered against all or any of them. It may be enforced either in the original action or by a separate action brought for that purpose. The basis for contribution among liable persons is the comparative fault of each such person. However, the court may determine that two or more persons are to be treated as a single person for purposes of contribution.

(2) Contribution is available to a person who enters into a settlement with a claimant only (a) if the liability of the person against whom contribution is sought has been extinguished by the settlement and (b) to the extent that the amount paid in settlement was reasonable at the time of the settlement.

(3) The common law right of indemnity between active and passive tort feors is abolished: PROVIDED, That the common law right of indemnity between active and passive tort feors is not abolished in those cases to which a right of contribution by virtue of RCW

4.22.920(2) does not apply.

[1982 c 100 § 1; 1981 c 27 § 12.]

Notes:

Severability--1982 c 100: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 100 § 4.]

RCW 4.22.050 Enforcement of contribution.

(1) If the comparative fault of the parties to a claim for contribution has been established previously by the court in the original action, a party paying more than that party's equitable share of the obligation, upon motion, may recover judgment for contribution.

(2) If the comparative fault of the parties to the claim for contribution has not been established by the court in the original action, contribution may be enforced in a separate action, whether or not a judgment has been rendered against either the person seeking contribution or the person from whom contribution is being sought.

(3) If a judgment has been rendered, the action for contribution must be commenced within one year after the judgment becomes final. If no judgment has been rendered, the person bringing the action for contribution either must have (a) discharged by payment the common liability within the period of the statute of limitations applicable to the claimant's right of action against him and commenced the action for contribution within one year after payment, or (b) agreed while the action was pending to discharge the common liability and, within one year after the agreement, have paid the liability and commenced an action for contribution.

[1981 c 27 § 13.]

RCW 4.22.060 Effect of settlement agreement.

(1) A party prior to entering into a release, covenant not to sue, covenant not to enforce judgment, or similar agreement with a claimant shall give five days' written notice of such intent to all other parties and the court. The court may for good cause authorize a shorter notice period. The notice shall contain a copy of the proposed agreement. A hearing shall be held on the issue of the reasonableness of the amount to be paid with all parties afforded an opportunity to present evidence. A determination by the court that the amount to be paid is reasonable must be secured. If an agreement was entered into prior to the filing of the action, a hearing on the issue of the reasonableness of the amount paid at the time it was entered into may be held at any time prior to final judgment upon motion of a party.

The burden of proof regarding the reasonableness of the settlement offer shall be on the party requesting the settlement.

(2) A release, covenant not to sue, covenant not to enforce judgment, or similar agreement entered into by a claimant and a person liable discharges that person from all liability for contribution, but it does not discharge any other persons liable upon the same claim unless it

so provides. However, the claim of the releasing person against other persons is reduced by the amount paid pursuant to the agreement unless the amount paid was unreasonable at the time of the agreement in which case the claim shall be reduced by an amount determined by the court to be reasonable.

(3) A determination that the amount paid for a release, covenant not to sue, covenant not to enforce judgment, or similar agreement was unreasonable shall not affect the validity of the agreement between the released and releasing persons nor shall any adjustment be made in the amount paid between the parties to the agreement.

[1987 c 212 § 1901; 1981 c 27 § 14.]

RCW 4.22.070 Percentage of fault--Determination--Exception--Limitations.

(1) In all actions involving fault of more than one entity, the trier of fact shall determine the percentage of the total fault which is attributable to every entity which caused the claimant's damages except entities immune from liability to the claimant under Title 51 RCW. The sum of the percentages of the total fault attributed to at-fault entities shall equal one hundred percent. The entities whose fault shall be determined include the claimant or person suffering personal injury or incurring property damage, defendants, third-party defendants, entities released by the claimant, entities with any other individual defense against the claimant, and entities immune from liability to the claimant, but shall not include those entities immune from liability to the claimant under Title 51 RCW. Judgment shall be entered against each defendant except those who have been released by the claimant or are immune from liability to the claimant or have prevailed on any other individual defense against the claimant in an amount which represents that party's proportionate share of the claimant's total damages. The liability of each defendant shall be several only and shall not be joint except:

(a) A party shall be responsible for the fault of another person or for payment of the proportionate share of another party where both were acting in concert or when a person was acting as an agent or servant of the party.

(b) If the trier of fact determines that the claimant or party suffering bodily injury or incurring property damages was not at fault, the defendants against whom judgment is entered shall be jointly and severally liable for the sum of their proportionate shares of the claimant's [claimant's] total damages.

(2) If a defendant is jointly and severally liable under one of the exceptions listed in subsections (1)(a) or (1)(b) of this section, such defendant's rights to contribution against another jointly and severally liable defendant, and the effect of settlement by either such defendant, shall be determined under RCW 4.22.040, 4.22.050, and 4.22.060.

(3)(a) Nothing in this section affects any cause of action relating to hazardous wastes or substances or solid waste disposal sites.

(b) Nothing in this section shall affect a cause of action arising from the tortious interference with contracts or business relations.

(c) Nothing in this section shall affect any cause of action arising from the manufacture or

marketing of a fungible product in a generic form which contains no clearly identifiable shape, color, or marking.

[1993 c 496 § 1; 1986 c 305 § 401.]

Notes:

Effective date--1993 c 496: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 496 § 3.]

Application--1993 c 496: "This act applies to all causes of action that the parties have not settled or in which judgment has not been entered prior to July 1, 1993." [1993 c 496 § 4.]

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.22.080 Year 2000 failure--Actions against agency or public service provider--Definitions. (Expires December 31, 2009.)

(1) The definitions in this section apply throughout this section and RCW 4.24.650, 48.18.560, 51.04.140, and 82.32.420.

(a) "Agency" means any state or local government board, commission, bureau, committee, department, institution, division, or tribunal in the legislative, executive, or judicial branch, including elective and legislative offices, institutions of higher education created and supported by state government, counties, cities, towns, special purpose districts, local service districts, municipal corporations, quasi-municipal corporations, and political subdivisions of such agencies and corporations, and any officer, employee, or agent of these entities acting within the scope of the officer, employee, or agent's employment or duties. "Agency" does not include municipal electric or gas utilities formed under Title 35 RCW or electric public utility districts formed under Title 54 RCW.

(b) "Electric cooperative utility" means any nonprofit, member-owned cooperative organized under chapter 23.86 RCW and engaged in the business of distributing electric energy in the state.

(c) "Electric mutual utility" means any nonprofit, member-owned corporation or association organized under chapter 24.06 RCW and engaged in the business of distributing electric energy in the state.

(d) "Electronic computing device" means any computer hardware or software, computer chip, embedded chip, process control equipment, or other information system used to capture, store, manipulate, or process data, or that controls, monitors, or assists in the operation of physical apparatus that is not primarily used as a computer, but that relies on automation or digital technology to function, including but not limited to vehicles, vessels, buildings, structures, facilities, elevators, medical equipment, traffic signals, factory machinery, and the like.

(e) "Public service provider" means any municipal electric or gas utility formed under Title 35 RCW, electric public utility district formed under Title 54 RCW, electrical company, as defined in RCW 80.04.010, gas company, as defined in RCW 80.04.010, electric cooperative utility, and electric mutual utility.

(f) "Year 2000 failure" means with respect to an electronic computing device, a

computing failure that prevents such electronic computing device from accurately interpreting, producing, computing, generating, accounting for, processing, calculating, comparing, or sequencing date or time data from, into, or between the years 1999 and 2000, or with regard to leap year calculations.

(2) In any action against an agency or public service provider, whether based in tort, contract, or otherwise, for damages caused in whole or in part by computational or interpretive errors generated by an electronic computing device in connection with a year 2000 failure:

(a) Any liability shall be several, not joint, and the liability shall be determined as a percentage of fault in a manner consistent with RCW 4.22.070; and

(b) Agencies as defined in this section shall have no liability for the first one hundred dollars of damages per claimant that would otherwise be owed by the agency.

(3) This section shall not apply to any action for damages arising from bodily personal injury, or to wrongful death and survival actions under chapter 4.20 RCW or RCW 4.24.010.

(4) This section does not apply to any claim or cause of action filed after December 31, 2003.

(5) This section expires December 31, 2009.

[1999 c 369 § 1.]

Notes:

Effective date--1999 c 369: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 17, 1999]." [1999 c 369 § 7.]

RCW 4.22.900 Effective date--1973 1st ex.s. c 138.

This act takes effect as of 12:01 a.m. on April 1, 1974.

[1973 1st ex.s. c 138 § 3.]

RCW 4.22.910 Severability--1973 1st ex.s. c 138.

If any provision of this act or the application thereof to any person or circumstance is held unconstitutional, the remainder of this act and the application of such provisions to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

[1973 1st ex.s. c 138 § 4.]

RCW 4.22.911 Severability--1981 c 27.

If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1981 c 27 § 18.]

RCW 4.22.920 Applicability--1981 c 27.

(1) Chapter 27, Laws of 1981 shall apply to all claims arising on or after July 26, 1981.

(2) Notwithstanding subsection (1) of this section, RCW 4.22.040, 4.22.050, and 4.22.060 shall also apply to all actions in which trial on the underlying action has not taken place prior to July 26, 1981, except that there is no right of contribution in favor of or against any party who has, prior to July 26, 1981, entered into a release, covenant not to sue, covenant not to enforce judgment, or similar agreement with the claimant.

[1982 c 100 § 2; 1981 c 27 § 15.]

Notes:

Severability--1982 c 100: See note following RCW 4.22.040.

RCW 4.22.925 Applicability--1981 c 27 § 17.

In accordance with section 15(1), chapter 27, Laws of 1981, the repeal of RCW 4.22.010 by section 17, chapter 27, Laws of 1981 applies only to claims arising on or after July 26, 1981. RCW 4.22.010 shall continue to apply to claims arising prior to July 26, 1981.

[1982 c 100 § 3.]

Notes:

Severability--1982 c 100: See note following RCW 4.22.040.

Chapter 4.24 RCW
SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

Sections

4.24.005	Tort actions--Attorneys' fees--Determination of reasonableness.
4.24.010	Action for injury or death of child.
4.24.020	Action by parent for seduction of child.
4.24.040	Action for negligently permitting fire to spread.
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Notes:

Action for money damages due to gambling violations: RCW 9.46.200.

Arson reporting immunity act: Chapter 48.50 RCW.

Consent to treatment of minor for sexually transmitted disease, liability: RCW 70.24.110.

Food donation and distribution, limitation of liability: Chapter 69.80 RCW.

Malpractice insurance for retired physicians providing health care services: RCW 43.70.460.

Special proceedings and actions: Title 7 RCW.

RCW 4.24.005 Tort actions--Attorneys' fees--Determination of reasonableness.

Any party charged with the payment of attorney's fees in any tort action may petition the court not later than forty-five days of receipt of a final billing or accounting for a determination

of the reasonableness of that party's attorneys' fees. The court shall make such a determination and shall take into consideration the following:

- (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) The fee customarily charged in the locality for similar legal services;
- (4) The amount involved and the results obtained;
- (5) The time limitations imposed by the client or by the circumstances;
- (6) The nature and length of the professional relationship with the client;
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) Whether the fee is fixed or contingent;
- (9) Whether the fixed or contingent fee agreement was in writing and whether the client was aware of his or her right to petition the court under this section;
- (10) The terms of the fee agreement.

[1987 c 212 § 1601; 1986 c 305 § 201.]

Notes:

Application--1987 c 212 § 1601: "Section 1601 of this act applies to agreements for attorneys' fees entered into after April 29, 1987." [1987 c 212 § 1602.]

Application--1986 c 305 § 201: "Section 201 of this act applies to agreements for attorney's fees entered into after June 11, 1986." [1986 c 305 § 202.]

Preamble--Report to legislature--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.24.010 Action for injury or death of child.

A mother or father, or both, who has regularly contributed to the support of his or her minor child, and the mother or father, or both, of a child on whom either, or both, are dependent for support may maintain or join as a party an action as plaintiff for the injury or death of the child.

This section creates only one cause of action, but if the parents of the child are not married, are separated, or not married to each other damages may be awarded to each plaintiff separately, as the trier of fact finds just and equitable.

If one parent brings an action under this section and the other parent is not named as a plaintiff, notice of the institution of the suit, together with a copy of the complaint, shall be served upon the other parent: PROVIDED, That notice shall be required only if parentage has been duly established.

Such notice shall be in compliance with the statutory requirements for a summons. Such notice shall state that the other parent must join as a party to the suit within twenty days or the right to recover damages under this section shall be barred. Failure of the other parent to timely appear shall bar such parent's action to recover any part of an award made to the party instituting the suit.

In such an action, in addition to damages for medical, hospital, medication expenses, and loss of services and support, damages may be recovered for the loss of love and companionship of the child and for injury to or destruction of the parent-child relationship in such amount as, under all the circumstances of the case, may be just.

[1998 c 237 § 2; 1973 1st ex.s. c 154 § 4; 1967 ex.s. c 81 § 1; 1927 c 191 § 1; Code 1881 § 9; 1877 p 5 § 9; 1873 p 5 § 10; 1869 p 4 § 9; RRS § 184.]

Notes:

Intent--1998 c 237: "It is the intent of this act to address the constitutional issue of equal protection addressed by the Washington state supreme court in *Guard v. Jackson*, 132 Wn.2d 660 (1997). The legislature intends to provide a civil cause of action for wrongful injury or death of a minor child to a mother or father, or both, if the mother or father has had significant involvement in the child's life, including but not limited to, emotional, psychological, or financial support." [1998 c 237 § 1.]

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 4.24.020 Action by parent for seduction of child.

A father or mother, may maintain an action as plaintiff for the seduction of a child, and the guardian for the seduction of a ward, though the child or the ward be not living with or in the service of the plaintiff at the time of the seduction or afterwards, and there be no loss of service.

[1973 1st ex.s. c 154 § 5; Code 1881 § 10; 1877 p 5 § 10; 1869 p 4 § 10; RRS § 185.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 4.24.040 Action for negligently permitting fire to spread.

If any person shall for any lawful purpose kindle a fire upon his own land, he shall do it at such time and in such manner, and shall take such care of it to prevent it from spreading and doing damage to other persons' property, as a prudent and careful man would do, and if he fails so to do he shall be liable in an action on the case to any person suffering damage thereby to the full amount of such damage.

[Code 1881 § 1226; 1877 p 300 § 3; RRS § 5647.]

Notes:

Reviser's note: The words "on the case" appear in the 1877 law and in the 1881 enrolled bill but were inadvertently omitted from the printed Code of 1881. See also *Pettigrew v. McCoy*, 138 Wash. 619. *Arson, reckless burning, and malicious mischief: Chapter 9A.48 RCW.*

RCW 4.24.050 Kindling of fires by persons driving lumber.

Persons engaged in driving lumber upon any waters or streams of this state, may kindle fires when necessary for the purposes in which they are engaged, but shall be bound to use the utmost caution to prevent the same from spreading and doing damage; and if they fail so to do,

they shall be subject to all liabilities and penalties of RCW 4.24.040, 4.24.050, and 4.24.060, in the same manner as if the privilege granted by this section had not been allowed.

[1983 c 3 § 4; Code 1881 § 1228; 1877 p 300 § 5; RRS § 5648.]

RCW 4.24.060 Application of common law.

The common law right to an action for damages done by fires, is not taken away or diminished by RCW 4.24.040, 4.24.050, and 4.24.060, but it may be pursued; but any person availing himself of the provisions of RCW 4.24.040, shall be barred of his action at common law for the damage so sued for, and no action shall be brought at common law for kindling fires in the manner described in RCW 4.24.050; but if any such fires shall spread and do damage, the person who kindled the same and any person present and concerned in driving such lumber, by whose act or neglect such fire is suffered to spread and do damage shall be liable in an action on the case for the amount of damages thereby sustained.

[1983 c 3 § 5; Code 1881 § 1229; 1877 p 300 § 6; RRS § 5649.]

RCW 4.24.070 Recovery of money lost at gambling.

All persons losing money or anything of value at or on any illegal gambling games shall have a cause of action to recover from the dealer or player winning, or from the proprietor for whose benefit such game was played or dealt, or such money or things of value won, the amount of the money or the value of the thing so lost.

[1957 c 7 § 2; Code 1881 § 1255; 1879 p 98 § 3; RRS § 5851.]

Notes:

Gambling: Chapter 9.46 RCW.

RCW 4.24.080 Action to recover leased premises used for gambling.

It shall be lawful for any person letting or renting any house, room, shop or other building whatsoever, or any boat, booth, garden, or other place, which shall, at any time, be used by the lessee or occupant thereof, or any other person, with his knowledge or consent, for gambling purposes, upon discovery thereof, to avoid and terminate such lease, or contract of occupancy, and to recover immediate possession of the premises by an action at law for that purpose.

[1957 c 7 § 3; Code 1881 § 1257; 1879 p 98 § 5; RRS § 5852.]

RCW 4.24.090 Validity of evidence of gambling debt.

All notes, bills, bonds, mortgages, or other securities, or other conveyances, the consideration for which shall be money, or other things of value, won by playing at any unlawful game, shall be void and of no effect, as between the parties thereto and all other persons, except holders in good faith, without notice of the illegality of such contract or conveyance.

[1957 c 7 § 4; Code 1881 § 1254; 1879 p 98 § 2; RRS § 5853.]

RCW 4.24.115 Validity of agreement to indemnify against liability for negligence relative to construction, alteration, improvement, etc., of structure or improvement attached to real estate.

A covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith, purporting to indemnify against liability for damages arising out of bodily injury to persons or damage to property:

(1) Caused by or resulting from the sole negligence of the indemnitee, his agents or employees is against public policy and is void and unenforceable;

(2) Caused by or resulting from the concurrent negligence of (a) the indemnitee or the indemnitee's agents or employees, and (b) the indemnitor or the indemnitor's agents or employees, is valid and enforceable only to the extent of the indemnitor's negligence and only if the agreement specifically and expressly provides therefor, and may waive the indemnitor's immunity under industrial insurance, Title 51 RCW, only if the agreement specifically and expressly provides therefor and the waiver was mutually negotiated by the parties. This subsection applies to agreements entered into after June 11, 1986.

[1986 c 305 § 601; 1967 ex.s. c 46 § 2.]

Notes:

Preamble--Report to legislature--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.24.130 Action for change of name--Fees.

(1) Any person desiring a change of his or her name or that of his or her child or ward, may apply therefor to the district court of the judicial district in which he or she resides, by petition setting forth the reasons for such change; thereupon such court in its discretion may order a change of the name and thenceforth the new name shall be in place of the former.

(2) An offender under the jurisdiction of the department of corrections who applies to change his or her name under subsection (1) of this section shall submit a copy of the application to the department of corrections not fewer than five days before the entry of an order granting the name change. No offender under the jurisdiction of the department of corrections at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate penological interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. An offender under the jurisdiction of the department of corrections who receives an order changing his or her name shall submit a copy of the order to the department of corrections within five days of the entry of the order. Violation of this subsection is a misdemeanor.

(3) A sex offender subject to registration under RCW 9A.44.130 who applies to change his or her name under subsection (1) of this section shall follow the procedures set forth in *RCW 9A.44.130(6).

(4) The district court shall collect the fees authorized by RCW 36.18.010 for filing and recording a name change order, and transmit the fee and the order to the county auditor. The court may collect a reasonable fee to cover the cost of transmitting the order to the county auditor.

(5) Name change petitions may be filed and shall be heard in superior court when the person desiring a change of his or her name or that of his or her child or ward is a victim of domestic violence as defined in RCW 26.50.010(1) and the person seeks to have the name change file sealed due to reasonable fear for his or her safety or that of his or her child or ward. Upon granting the name change, the superior court shall seal the file if the court finds that the safety of the person seeking the name change or his or her child or ward warrants sealing the file. In all cases filed under this subsection, whether or not the name change petition is granted, there shall be no public access to any court record of the name change filing, proceeding, or order, unless the name change is granted but the file is not sealed.

[1998 c 220 § 5; 1995 sp.s. c 19 § 14; 1995 c 246 § 34; 1992 c 30 § 1; 1991 c 33 § 5; Code 1881 § 635; 1877 p 132 § 638; RRS § 998.]

Notes:

***Reviser's note:** RCW 9A.44.130 was amended by 1999 sp.s. c 6 § 2, changing subsection (6) to subsection (7).

Severability--1998 c 220: See note following RCW 9A.44.130.

Findings--Purpose--Short title--Severability--Effective date--1995 1st sp.s. c 19: See notes following RCW 72.09.450.

Severability--1995 c 246: See note following RCW 26.50.010.

Effective date--1991 c 33: See note following RCW 3.66.020.

RCW 4.24.140 Action by another state to enforce tax liability.

The courts of the state shall recognize and enforce the liability for taxes lawfully imposed by the laws of any other state which extends a like comity in respect to the liability for taxes lawfully imposed by the laws of this state and the officials of such state are hereby authorized to bring an action in all the courts of this state for the collection of such taxes: PROVIDED, That the courts of this state shall not recognize claims for such taxes against this state or any of its political subdivisions: PROVIDED, FURTHER, That the time limitations upon the bringing of such actions which may be imposed by the laws of such other state shall not be tolled by the absence from such state of the person from whom the taxes are sought. The certificate of the secretary of state of such other state to the effect that such officials have the authority to collect the taxes sought to be recovered by such action shall be conclusive proof of that authority.

[1951 c 166 § 1. FORMER PART OF SECTION: 1951 c 166 § 2 now codified as RCW 4.24.141.]

Notes:

Limitation of actions: Chapter 4.16 RCW.

RCW 4.24.141 Action by another state to enforce tax liability--"Taxes" defined.

The term "taxes" as used in RCW 4.24.140 shall include:

- (1) Any and all tax assessments lawfully made whether they be based upon a return or other disclosure of the taxpayer, upon information and belief of the taxing authority, or otherwise;
- (2) Any and all penalties lawfully imposed pursuant to a tax statute;
- (3) Interest charges lawfully added to the tax liability which constitutes the subject of the action.

[1951 c 166 § 2. Formerly RCW 4.24.140, part.]

RCW 4.24.150 Action for fines or forfeitures.

Fines and forfeitures may be recovered by an action at law in the name of the officer or person to whom they are by law given, or in the name of the officer or person who by law is authorized to prosecute for them.

[Code 1881 § 657; 1869 p 153 § 597; RRS § 963.]

Notes:

Limitation of actions: Chapter 4.16 RCW.

RCW 4.24.160 Action for penalty--Amount of recovery.

When an action shall be commenced for a penalty, which by law is not to exceed a certain amount, the action may be commenced for that amount, and if judgment be given for the plaintiff, it may be for such amount or less, in the discretion of the court, in proportion to the offense.

[Code 1881 § 658; 1869 p 153 § 598; RRS § 964.]

RCW 4.24.170 Judgment for penalty or forfeiture--Effect of collusion.

A recovery of a judgment for a penalty or forfeiture by collusion between the plaintiff and defendant, with intent to save the defendant wholly or partially from the consequences contemplated by law, in case when the penalty or forfeiture is given wholly or partly to the person who prosecutes, shall not bar the recovery of the same by another person.

[Code 1881 § 659; 1869 p 153 § 599; RRS § 965.]

RCW 4.24.180 Disposition of fines, fees, penalties and forfeitures--Venue.

Fines and forfeitures not specially granted or otherwise appropriated by law, when recovered, shall be paid into the school fund of the proper county: PROVIDED, That all fees,

finances, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. Whenever, by the provisions of law, any property real or personal shall be forfeited to the state, or to any officer for its use, the action for the recovery of such property may be commenced in any county where the defendant may be found or where such property may be.

[1987 c 202 § 115; 1969 ex.s. c 199 § 9; Code 1881 § 660; 1869 p 153 § 600; RRS § 966.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Disposition of fines, fees, costs, penalties and forfeitures: RCW 10.82.070.

RCW 4.24.190 Action against parent for willful injury to person or property by minor--Monetary limitation--Common law liability preserved.

The parent or parents of any minor child under the age of eighteen years who is living with the parent or parents and who shall willfully or maliciously destroy or deface property, real or personal or mixed, or who shall willfully and maliciously inflict personal injury on another person, shall be liable to the owner of such property or to the person injured in a civil action at law for damages in an amount not to exceed five thousand dollars. This section shall in no way limit the amount of recovery against the parent or parents for their own common law negligence.

[1996 c 35 § 2; 1992 c 205 § 116; 1977 ex.s. c 145 § 1; 1967 ex.s. c 46 § 1; 1961 c 99 § 1.]

Notes:

Part headings not law--Severability--1992 c 205: See notes following RCW 13.40.010.

RCW 4.24.200 Liability of owners or others in possession of land and water areas for injuries to recreation users--Purpose.

The purpose of RCW 4.24.200 and 4.24.210 is to encourage owners or others in lawful possession and control of land and water areas or channels to make them available to the public for recreational purposes by limiting their liability toward persons entering thereon and toward persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

[1969 ex.s. c 24 § 1; 1967 c 216 § 1.]

RCW 4.24.210 Liability of owners or others in possession of land and water areas for injuries to recreation users--Limitation.

(1) Except as otherwise provided in subsection (3) of this section, any public or private landowners or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting,

fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, hanggliding, paragliding, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land. Nothing in this section shall prevent the liability of such a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. Nothing in RCW 4.24.200 and 4.24.210 limits or expands in any way the doctrine of attractive nuisance. Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(4) For purposes of this section, a license or permit issued for state-wide use under authority of *chapter 43.51 RCW, **Title 75, or Title 77 RCW is not a fee.

[1997 c 26 § 1; 1992 c 52 § 1. Prior: 1991 c 69 § 1; 1991 c 50 § 1; 1980 c 111 § 1; 1979 c 53 § 1; 1972 ex.s. c 153 § 17; 1969 ex.s. c 24 § 2; 1967 c 216 § 2.]

Notes:

Reviser's note: *(1) Chapter 43.51 RCW was recodified as chapter 79A.05 RCW pursuant to 1999 c 249 § 1601.

** (2) Title 75 RCW was recodified, repealed, and/or decodified in its entirety by 2000 c 107. See Comparative Table for Title 75 RCW in the Table of Disposition of Former RCW Sections, Volume 0.

Purpose--1972 ex.s. c 153: See RCW 79A.35.070.

Off-road and nonhighway vehicles: Chapter 46.09 RCW.

Snowmobiles: Chapter 46.10 RCW.

RCW 4.24.220 Action for being detained on mercantile establishment premises for investigation--"Reasonable grounds" as defense.

In any civil action brought by reason of any person having been detained on or in the immediate vicinity of the premises of a mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise, it shall be a defense of such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer or by the owner of the mercantile establishment, his authorized employee or agent, and that such peace officer, owner, employee or

agent had reasonable grounds to believe that the person so detained was committing or attempting to commit larceny or shoplifting on such premises of such merchandise. As used in this section, "reasonable grounds" shall include, but not be limited to, knowledge that a person has concealed possession of unpurchased merchandise of a mercantile establishment, and a "reasonable time" shall mean the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise.

[1967 c 76 § 3.]

Notes:

Theft and robbery: Chapter 9A.56 RCW.

RCW 4.24.230 Liability for conversion of goods or merchandise from store or mercantile establishment, leaving restaurant or hotel or motel without paying--Adults, minors--Parents, guardians--Notice.

(1) An adult or emancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller, and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof shall be liable in addition to actual damages, for a penalty to the owner or seller in the amount of the retail value thereof not to exceed one thousand dollars, plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars, plus all reasonable attorney's fees and court costs expended by the owner or seller. A customer who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves without paying, is subject to liability under this section. A person who shall receive any food, money, credit, lodging, or accommodation at any hotel, motel, boarding house, or lodging house, and then leaves without paying the proprietor, manager, or authorized employee thereof, is subject to liability under this section.

(2) The parent or legal guardian having the custody of an unemancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof, shall be liable as a penalty to the owner or seller for the retail value of such goods, wares, or merchandise not to exceed five hundred dollars plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars, plus all reasonable attorney's fees and court costs expended by the owner or seller. The parent or legal guardian having the custody of an unemancipated minor, who orders a meal in a restaurant or other eating establishment, receives at least a portion thereof, and then leaves without paying, is subject to liability under this section. The parent or legal guardian having the custody of an unemancipated minor, who receives any food, money, credit, lodging, or accommodation at any hotel, motel, boarding house, or lodging house, and then leaves without paying the proprietor,

manager, or authorized employee thereof, is subject to liability under this section. For the purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parent assigned responsibility for the minor child pursuant to court order or action of the department of social and health services.

(3) Judgments and claims arising under this section may be assigned.

(4) A conviction for violation of chapter 9A.56 RCW shall not be a condition precedent to maintenance of a civil action authorized by this section.

(5) An owner or seller demanding payment of a penalty under subsection (1) or (2) of this section shall give written notice to the person or persons from whom the penalty is sought. The notice shall state:

"IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."

This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of a penalty described in subsection (1) or (2) of this section.

[1994 c 9 § 1; 1987 c 353 § 1; 1981 c 126 § 1; 1977 ex.s. c 134 § 1; 1975 1st ex.s. c 59 § 1.]

Notes:

Obtaining food from restaurant without paying: RCW 19.48.110.

RCW 4.24.235 Physicians--Immunity from liability regarding safety belts.

A licensed physician shall not be liable for civil damages resulting directly or indirectly from providing, or refusing to provide, a written verification that a person under that physician's care is [is] unable to wear an automotive safety belt.

[1986 c 152 § 2.]

Notes:

Safety belts, use required: RCW 46.61.688.

RCW 4.24.240 Persons licensed to provide health care or related services, employees, hospitals, clinics, etc.--Professional review committee, society, examining, licensing or disciplinary board members, etc.--Immunity from civil suit.

(1)(a) A person licensed by this state to provide health care or related services, including, but not limited to, a licensed acupuncturist, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, osteopathic physician's assistant, nurse practitioner, including, in the event such person is deceased, his or her estate or personal representative;

(b) An employee or agent of a person described in subparagraph (a) of this subsection, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

[1995 c 323 § 1; 1985 c 326 § 25; 1975-'76 2nd ex.s. c 56 § 4; 1975 1st ex.s. c 114 § 1; 1969 ex.s. c 157 § 1.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

RCW 4.24.250 Health care provider filing charges or presenting evidence--Immunity--Records, members, employees, etc., of review committees or boards not subject to process.

Any health care provider as defined in RCW 7.70.020 (1) and (2) as now existing or hereafter amended who, in good faith, files charges or presents evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before a regularly constituted review committee or board of a professional society or hospital whose duty it is to evaluate the competency and qualifications of members of the profession, including limiting the extent of practice of such person in a hospital or similar institution, or before a regularly constituted committee or board of a hospital whose duty it is to review and evaluate the quality of patient care, shall be immune from civil action for damages arising out of such activities. The proceedings, reports, and written records of such committees or boards, or of a member, employee, staff person, or investigator of such a committee or board, shall not be subject to subpoena or discovery proceedings in any civil action, except actions arising out of the recommendations of such committees or boards involving the restriction or revocation of the clinical or staff privileges of a health care provider as defined above.

[1981 c 181 § 1; 1979 c 17 § 1; 1977 c 68 § 1; 1975 1st ex.s. c 114 § 2; 1971 ex.s. c 144 § 1.]

RCW 4.24.260 Physicians, dentists, or pharmacists filing charges or presenting evidence before commissions or board--Immunity.

Physicians licensed under chapter 18.71 RCW, dentists licensed under chapter 18.32 RCW, and pharmacists licensed under chapter 18.64 RCW who, in good faith, file charges or present evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before the medical quality assurance commission established under chapter 18.71 RCW, in a proceeding under chapter 18.32 RCW, or to the board of pharmacy under RCW 18.64.160 shall be immune from civil action for damages arising out of such activities.

[1994 sp.s. c 9 § 701; 1975 1st ex.s. c 114 § 3; 1971 ex.s. c 144 § 2.]

Notes:

Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 4.24.264 Boards of directors or officers of nonprofit corporations--Liability--Limitations.

(1) Except as provided in subsection (2) of this section, a member of the board of directors or an officer of any nonprofit corporation is not individually liable for any discretionary decision or failure to make a discretionary decision within his or her official capacity as director or officer unless the decision or failure to decide constitutes gross negligence.

(2) Nothing in this section shall limit or modify in any manner the duties or liabilities of a director or officer of a corporation to the corporation or the corporation's members.

[1987 c 212 § 1101; 1986 c 305 § 903.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.24.270 Physician or hospital rendering emergency care--Immunity from civil liability.

See RCW 18.71.220.

RCW 4.24.280 Acts or omissions of physician's trained mobile intensive care paramedic--Immunity from liability.

See RCW 18.71.210.

RCW 4.24.290 Action for damages based on professional negligence of hospitals or members of healing arts--Standard of proof--Evidence--Exception.

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an acupuncturist licensed under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapter 18.79 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

[1995 c 323 § 2; 1994 sp.s. c 9 § 702; 1985 c 326 § 26; 1983 c 149 § 1; 1975 1st ex.s. c 35 § 1.]

Notes:

Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Limitations of actions for injuries resulting from health care or related services: RCW 4.16.350.

RCW 4.24.295 Special action for injuries resulting from health care, special procedure.

See chapter 7.70 RCW.

RCW 4.24.300 Persons rendering emergency care or transportation--Immunity from liability--Exclusion.

Any person, including but not limited to a volunteer provider of emergency or medical services, who without compensation or the expectation of compensation renders emergency care at the scene of an emergency or who participates in transporting, not for compensation, therefrom an injured person or persons for emergency medical treatment shall not be liable for civil damages resulting from any act or omission in the rendering of such emergency care or in transporting such persons, other than acts or omissions constituting gross negligence or wilful or wanton misconduct. Any person rendering emergency care during the course of regular employment and receiving compensation or expecting to receive compensation for rendering such care is excluded from the protection of this subsection.

[1985 c 443 § 19; 1975 c 58 § 1.]

Notes:

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Citizen's immunity if aiding police officer: RCW 9.01.055.

Infectious disease testing availability: RCW 70.05.180.

RCW 4.24.310 Persons rendering emergency care or transportation--Definitions.

For the purposes of RCW 4.24.300 the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Compensation" has its ordinary meaning but does not include: Nominal payments, reimbursement for expenses, or pension benefits; payments made to volunteer part-time and volunteer on-call personnel of fire departments, fire districts, ambulance districts, police departments, or any emergency response organizations; or any payment to a person employed as a transit operator who is paid for his or her regular work, which work does not routinely include providing emergency care or emergency transportation.

(2) "Emergency care" means care, first aid, treatment, or assistance rendered to the injured person in need of immediate medical attention and includes providing or arranging for further medical treatment or care for the injured person. Except with respect to the injured person or persons being transported for further medical treatment or care, the immunity granted by RCW 4.24.300 does not apply to the negligent operation of any motor vehicle.

(3) "Scene of an emergency" means the scene of an accident or other sudden or unexpected event or combination of circumstances which calls for immediate action.

[1989 c 223 § 1; 1987 c 212 § 501; 1985 c 443 § 20; 1975 c 58 § 2.]

Notes:

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Infectious disease testing availability: RCW 70.05.180.

RCW 4.24.312 Person rendering emergency aid in hazardous materials incident--Immunity from liability--Limitations.

See RCW 70.136.050.

RCW 4.24.314 Person causing hazardous materials incident--Responsibility for incident clean-up--Liability.

(1) Any person transporting hazardous materials shall clean up any hazardous materials incident that occurs during transportation, and shall take such additional action as may be reasonably necessary after consultation with the designated incident command agency in order to achieve compliance with all applicable federal and state laws and regulations.

Any person transporting hazardous materials that is responsible for causing a hazardous materials incident, as defined in RCW 70.136.020, other than the operating employees of a transportation company, is liable to the state or any political subdivision thereof for extraordinary costs incurred by the state or the political subdivision in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident.

(2) Any person, other than a person transporting hazardous materials or an operating employee of a company, responsible for causing a hazardous materials incident, as defined in RCW 70.136.020, is liable to a municipal fire department or fire district for extraordinary costs

incurred by the municipal fire department or fire district, in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident, until the incident oversight is assumed by the department of ecology.

(3) "Extraordinary costs" as used in this section means those reasonable and necessary costs incurred by a governmental entity in the course of protecting life and property that exceed the normal and usual expenses anticipated for police and fire protection, emergency services, and public works. These shall include, but not be limited to, overtime for public employees, unusual fuel consumption requirements, any loss or damage to publicly owned equipment, and the purchase or lease of any special equipment or services required to protect the public during the hazardous materials incident.

[1989 c 406 § 1; 1984 c 165 § 3.]

RCW 4.24.316 Emergency care, rescue, assistance, or recovery services in mine rescue or recovery work--Immunity from liability.

See RCW 38.52.198.

RCW 4.24.320 Action by person damaged by malicious mischief to livestock or by owner damaged by theft of livestock--Treble damages, attorney's fees.

Any person who suffers damages as a result of actions described in *RCW 9A.48.080(c) or any owner of a horse, mule, cow, heifer, bull, steer, swine, or sheep who suffers damages as a result of a wilful, unauthorized act described in RCW 9A.56.080 may bring an action against the person or persons committing the act in a court of competent jurisdiction for exemplary damages up to three times the actual damages sustained, plus attorney's fees.

[1979 c 145 § 1; 1977 ex.s. c 174 § 3.]

Notes:

*Reviser's note: RCW 9A.48.080 was amended by 1994 c 261 § 17 deleting subsection (c).

RCW 4.24.350 Actions for damages that are false, unfounded, malicious, without probable cause, or part of conspiracy--Action, claim, or counterclaim by judicial officer, prosecuting authority, or law enforcement officer for malicious prosecution--Damages and costs--Attorneys' fees--Definitions.

(1) In any action for damages, whether based on tort or contract or otherwise, a claim or counterclaim for damages may be litigated in the principal action for malicious prosecution on the ground that the action was instituted with knowledge that the same was false, and unfounded, malicious and without probable cause in the filing of such action, or that the same was filed as a part of a conspiracy to misuse judicial process by filing an action known to be false and unfounded.

(2) In any action, claim, or counterclaim brought by a judicial officer, prosecuting authority, or law enforcement officer for malicious prosecution arising out of the performance or

purported performance of the public duty of such officer, an arrest or seizure of property need not be an element of the claim, nor do special damages need to be proved. A judicial officer, prosecuting authority, or law enforcement officer prevailing in such an action may be allowed an amount up to one thousand dollars as liquidated damages, together with a reasonable attorneys' fee, and other costs of suit. A government entity which has provided legal services to the prevailing judicial officer, prosecuting authority, or law enforcement officer has reimbursement rights to any award for reasonable attorneys' fees and other costs, but shall have no such rights to any liquidated damages allowed.

(3) No action may be brought against an attorney under this section solely because of that attorney's representation of a party in a lawsuit.

(4) As used in this section:

(a) "Judicial officer" means a justice, judge, magistrate, or other judicial officer of the state or a city, town, or county.

(b) "Prosecuting authority" means any officer or employee of the state or a city, town, or county who is authorized by law to initiate a criminal or civil proceeding on behalf of the public.

(c) "Law enforcement officer" means a member of the state patrol, a sheriff or deputy sheriff, or a member of the police force of a city, town, university, state college, or port district, or a "wildlife agent" or "ex officio wildlife agent" as defined in *RCW 77.08.010.

[1997 c 206 § 1; 1984 c 133 § 2; 1977 ex.s. c 158 § 1.]

Notes:

***Reviser's note:** RCW 77.08.010 was amended by 1998 c 190 § 111, changing the definition of "wildlife agent" and "ex officio wildlife agent" to "fish and wildlife officer" and "ex officio fish and wildlife officer."

Legislative findings--1984 c 133: "The legislature finds that a growing number of unfounded lawsuits, claims, and liens are filed against law enforcement officers, prosecuting authorities, and judges, and against their property, having the purpose and effect of deterring those officers in the exercise of their discretion and inhibiting the performance of their public duties.

The legislature also finds that the cost of defending against such unfounded suits, claims and liens is severely burdensome to such officers, and also to the state and the various cities and counties of the state. The purpose of section 2 of this 1984 act is to provide a remedy to those public officers and to the public." [1984 c 133 § 1.]

Construction--1984 c 133: "The provisions of section 2 of this 1984 act are remedial and shall be liberally construed." [1984 c 133 § 3.]

Severability--1984 c 133: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 133 § 4.]

RCW 4.24.360 Construction contract provision waiving, releasing, etc., rights of contractor, etc., to damages or adjustment for unreasonable delay caused by contractee, etc.--Declared void and unenforceable--Exceptions.

Any clause in a construction contract, as defined in RCW 4.24.370, which purports to waive, release, or extinguish the rights of a contractor, subcontractor, or supplier to damages or an equitable adjustment arising out of unreasonable delay in performance which delay is caused

by the acts or omissions of the contractee or persons acting for the contractee is against public policy and is void and unenforceable.

This section shall not be construed to void any provision in a construction contract, as defined in RCW 4.24.370, which (1) requires notice of delays, (2) provides for arbitration or other procedure for settlement, or (3) provides for reasonable liquidated damages.

[1979 ex.s. c 264 § 1.]

RCW 4.24.370 Construction contract provision waiving, releasing, etc., rights of contractor, etc., to damages or adjustment for unreasonable delay caused by contractee, etc.--"Construction contract" defined.

"Construction contract" for purposes of RCW 4.24.360 means any contract or agreement for the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith.

[1979 ex.s. c 264 § 2.]

RCW 4.24.380 Construction contract provision waiving, releasing, etc., rights of contractor, etc., to damages or adjustment for unreasonable delay caused by contractee, etc.--Prospective application of RCW 4.24.360.

The provisions of RCW 4.24.360 shall apply to contracts or agreements entered into after September 1, 1979.

[1979 ex.s. c 264 § 3.]

RCW 4.24.400 Building warden assisting others to evacuate building or attempting to control hazard--Immunity from liability.

No building warden, who acts in good faith, with or without compensation, shall be personally liable for civil damages arising from his or her negligent acts or omissions during the course of assigned duties in assisting others to evacuate industrial, commercial, governmental or multi-unit residential buildings or in attempting to control or alleviate a hazard to the building or its occupants caused by fire, earthquake or other threat to life or limb. The term "building warden" means an individual who is assigned to take charge of the occupants on a floor or in an area of a building during an emergency in accordance with a predetermined fire safety or evacuation plan; and/or an individual selected by a municipal fire chief or the chief of the Washington state patrol, through the director of fire protection, after an emergency is in progress to assist in evacuating the occupants of such a building or providing for their safety. This section shall not apply to any acts or omissions constituting gross negligence or wilful or wanton misconduct.

[1995 c 369 § 2; 1986 c 266 § 79; 1981 c 320 § 1.]

Notes:

Effective date--1995 c 369: See note following RCW 43.43.930.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 4.24.405 Action for malicious harassment of another because of race, color, religion, ancestry or national origin.

See RCW 9A.36.080.

RCW 4.24.410 Dog handler using dog in line of duty--Immunity.

(1) As used in this section:

(a) "Police dog" means a dog used by a law enforcement agency specially trained for law enforcement work and under the control of a dog handler.

(b) "Accelerant detection dog" means a dog used exclusively for accelerant detection by the state fire marshal or a fire department and under the control of the state fire marshal or his or her designee or a fire department handler.

(c) "Dog handler" means a law enforcement officer who has successfully completed training as prescribed by the Washington state criminal justice training commission in police dog handling, or in the case of an accelerant detection dog, the state fire marshal's designee or an employee of the fire department authorized by the fire chief to be the dog's handler.

(2) Any dog handler who uses a police dog in the line of duty in good faith is immune from civil action for damages arising out of such use of the police dog or accelerant detection dog.

[1993 c 180 § 1; 1989 c 26 § 1; 1982 c 22 § 1.]

RCW 4.24.420 Action by person committing a felony--Defense--Actions under 42 U.S.C. Sec. 1983.

It is a complete defense to any action for damages for personal injury or wrongful death that the person injured or killed was engaged in the commission of a felony at the time of the occurrence causing the injury or death and the felony was a proximate cause of the injury or death. However, nothing in this section shall affect a right of action under 42 U.S.C. Sec. 1983.

[1987 c 212 § 901; 1986 c 305 § 501.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.24.450 Liability of operators for nuclear incidents--Definitions.

Unless the context clearly requires otherwise the following definitions apply throughout

RCW 4.24.460:

(1) "Nuclear incident" means any occurrence within this state causing, within or without this state, bodily injury, sickness, disease or death; loss or damage to property; or loss of use of property arising out of the resultant radioactive, toxic, explosive, or other hazardous properties of radioactive wastes being stored in or being transported to or from a waste repository in this state.

(2) "Operator" means the entity or entities that have been given responsibility for constructing, operating, or monitoring waste repositories or transporting radioactive waste and may include the United States and its federal agencies.

(3) "Radioactive waste" includes, but is not limited to, high-level radioactive waste, low-level radioactive waste, transuranic radioactive waste, spent nuclear fuel, and radioactive defense waste. It does not include de minimus radioactive waste.

(4) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(5) "Waste repository" means any system which is intended or may be used for the disposal or storage of radioactive waste including permanent disposal systems, interim storage systems, monitored retrievable storage systems, defense waste storage systems, test and evaluation facilities, or similar systems.

[1985 c 275 § 1.]

RCW 4.24.460 Liability of operators for nuclear incidents--Presumption of operator negligence--Rebuttal--Recovery for negligence or against other parties not limited by section.

(1) Operators are liable for failure to exercise ordinary and reasonable care to protect persons and property subject to injury in nuclear incidents. In addition, operators are liable for operational expenses and emergency purchases incurred by local or state governments in responding to nuclear incidents.

(2) If a nuclear incident occurs, there is a presumption that the operator of a waste repository was negligent in constructing, operating, or monitoring the waste repository, or in transporting radioactive waste, and that the operator was an actual cause of the nuclear incident. The presumption may be rebutted by a clear and convincing showing by the operator that the nuclear incident was not the result of the operator's negligence and that the operator's negligence was not an actual cause of the nuclear incident.

(3) This section does not limit the recovery of parties injured by a nuclear incident against the operators of a waste repository under theories of negligence in selecting contractors, failure to retain adequate controls over the waste repository, vicarious liability for contractors, failure to take reasonable precautionary measures with respect to inherently dangerous activities, and other negligence theories. This section does not limit the recovery of parties injured by a nuclear incident against parties other than operators of a waste facility.

[1985 c 275 § 2.]

RCW 4.24.470 Liability of officials and members of governing body of public agency--Definitions.

(1) An appointed or elected official or member of the governing body of a public agency is immune from civil liability for damages for any discretionary decision or failure to make a discretionary decision within his or her official capacity, but liability shall remain on the public agency for the tortious conduct of its officials or members of the governing body.

(2) For purposes of this section:

(a) "Public agency" means any state agency, board, commission, department, institution of higher education, school district, political subdivision, or unit of local government of this state including but not limited to municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts.

(b) "Governing body" means the policy-making body of a public agency.

[1987 c 212 § 401.]

Notes:

Actions against local government for tortious conduct: Chapter 4.96 RCW.

RCW 4.24.480 Liability of members of state hazardous materials planning committee and local emergency planning committees.

Any person who is appointed by the state emergency response commission under the authority of Sec. 301(c) of Title III of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Sec. 11001) to serve on the state hazardous materials planning committee or a local emergency planning committee who, in good faith, assists in the development or review of local plans to respond to hazardous materials incidents is not liable for civil damages as a result of any act or omission in the development, review, or implementation of such plans unless the act or omission constitutes gross negligence or wilful misconduct.

[1988 c 42 § 15.]

Notes:

Severability--1988 c 42: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 42 § 19.]

RCW 4.24.490 Indemnification of state employees.

(1) The state shall indemnify and hold harmless its employees in the amount of any judgment obtained or fine levied against an employee in any state or federal court, or in the amount of the settlement of a claim, or shall pay the judgment, fine, or settlement, if the act or omission that gave rise to the civil or criminal liability was in good faith and occurred while the employee was acting within the scope of his or her employment or duties and the employee is being represented in accordance with RCW 4.92.070.

(2) For purposes of this section "state employee" means a member of the civil service or an exempt person under chapter 41.06 RCW, or *higher education personnel under chapter 28B.16 RCW.

[1989 c 413 § 3.]

Notes:

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.015 and 28B.16.240, which was recodified as RCW 41.06.382. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

RCW 4.24.500 Good faith communication to government agency--Legislative findings--Purpose.

Information provided by citizens concerning potential wrongdoing is vital to effective law enforcement and the efficient operation of government. The legislature finds that the threat of a civil action for damages can act as a deterrent to citizens who wish to report information to federal, state, or local agencies. The costs of defending against such suits can be severely burdensome. The purpose of RCW 4.24.500 through 4.24.520 is to protect individuals who make good-faith reports to appropriate governmental bodies.

[1989 c 234 § 1.]

RCW 4.24.510 Good faith communication to government agency or self-regulatory organization--Immunity.

A person who in good faith communicates a complaint or information to any agency of federal, state, or local government, or to any self-regulatory organization that regulates persons involved in the securities or futures business and that has been delegated authority by a federal, state, or local government agency and is subject to oversight by the delegating agency, is immune from civil liability for claims based upon the communication to the agency or organization regarding any matter reasonably of concern to that agency or organization. A person prevailing upon the defense provided for in this section shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense.

[1999 c 54 § 1; 1989 c 234 § 2.]

RCW 4.24.520 Good faith communication to government agency--When agency or attorney general may defend against lawsuit--Costs and fees.

In order to protect the free flow of information from citizens to their government, an agency receiving a complaint or information under RCW 4.24.510 may intervene in and defend against any suit precipitated by the communication to the agency. In the event that a local governmental agency does not intervene in and defend against a suit arising from any communication protected under chapter 234, Laws of 1989, the office of the attorney general may intervene in and defend against the suit. An agency prevailing upon the defense provided for

in RCW 4.24.510 shall be entitled to recover costs and reasonable attorneys' fees incurred in establishing the defense. If the agency fails to establish the defense provided for in RCW 4.24.510, the party bringing the action shall be entitled to recover from the agency costs and reasonable attorney's fees incurred in proving the defense inapplicable or invalid.

[1989 c 234 § 4.]

RCW 4.24.530 Limitations on liability for equine activities--Definitions.

Unless the context clearly indicates otherwise, the definitions in this section apply to RCW 4.24.530, 4.24.540, and section 3, chapter 292, Laws of 1989.

(1) "Equine" means a horse, pony, mule, donkey, or hinny.

(2) "Equine activity" means: (a) Equine shows, fairs, competitions, performances, or parades that involve any or all breeds of equines and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeplechasing, endurance trail riding and western games, and hunting; (b) equine training and/or teaching activities; (c) boarding equines; (d) riding, inspecting, or evaluating an equine belonging to another whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect, or evaluate the equine; and (e) rides, trips, hunts, or other equine activities of any type however informal or impromptu that are sponsored by an equine activity sponsor.

(3) "Equine activity sponsor" means an individual, group or club, partnership, or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes, or provides the facilities for, an equine activity including but not limited to: Pony clubs, 4-H clubs, hunt clubs, riding clubs, school and college sponsored classes and programs, therapeutic riding programs, and, operators, instructors, and promoters of equine facilities, including but not limited to stables, clubhouses, ponyride strings, fairs, and arenas at which the activity is held.

(4) "Participant" means any person, whether amateur or professional, who directly engages in an equine activity, whether or not a fee is paid to participate in the equine activity.

(5) "Engages in an equine activity" means a person who rides, trains, drives, or is a passenger upon an equine, whether mounted or unmounted, and does not mean a spectator at an equine activity or a person who participates in the equine activity but does not ride, train, drive, or ride as a passenger upon an equine.

(6) "Equine professional" means a person engaged for compensation (a) in instructing a participant or renting to a participant an equine for the purpose of riding, driving, or being a passenger upon the equine, or, (b) in renting equipment or tack to a participant.

[1989 c 292 § 1.]

Notes:

Application--1989 c 292 §§ 1 and 2: "Sections 1 and 2 of this act apply only to causes of action filed on

or after July 23, 1989." [1989 c 292 § 3.]

RCW 4.24.540 Limitations on liability for equine activities--Exceptions.

(1) Except as provided in subsection (2) of this section, an equine activity sponsor or an equine professional shall not be liable for an injury to or the death of a participant engaged in an equine activity, and, except as provided in subsection (2) of this section, no participant nor participant's representative may maintain an action against or recover from an equine activity sponsor or an equine professional for an injury to or the death of a participant engaged in an equine activity.

(2)(a) RCW 4.24.530 and 4.24.540 do not apply to the horse racing industry as regulated in chapter 67.16 RCW.

(b) Nothing in subsection (1) of this section shall prevent or limit the liability of an equine activity sponsor or an equine professional:

(i) If the equine activity sponsor or the equine professional:

(A) Provided the equipment or tack and the equipment or tack caused the injury; or

(B) Provided the equine and failed to make reasonable and prudent efforts to determine the ability of the participant to engage safely in the equine activity, determine the ability of the equine to behave safely with the participant, and determine the ability of the participant to safely manage the particular equine;

(ii) If the equine activity sponsor or the equine professional owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition which was known to or should have been known to the equine activity sponsor or the equine professional and for which warning signs have not been conspicuously posted;

(iii) If the equine activity sponsor or the equine professional commits an act or omission that constitutes willful or wanton disregard for the safety of the participant and that act or omission caused the injury;

(iv) If the equine activity sponsor or the equine professional intentionally injures the participant;

(v) Under liability provisions as set forth in the products liability laws; or

(vi) Under liability provisions in chapter 16.04, *16.13, or *16.16 RCW.

[1989 c 292 § 2.]

Notes:

***Reviser's note:** Chapters 16.13 and 16.16 RCW were each recodified and/or repealed in their entirety by 1989 c 286. For disposition of chapters 16.13 and 16.16 RCW, see Table of Disposition of Former RCW Sections, Volume 0.

Application--1989 c 292 §§ 1 and 2: See note following RCW 4.24.530.

RCW 4.24.550 Sex offenders and kidnapping offenders--Release of information to public--When authorized--Immunity.

(1) Public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the

information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW 9A.44.130; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) The extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; and (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large.

(4) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date. The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(5) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in

this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(6) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(7) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(8) When a local law enforcement agency or official classifies an offender differently than the offender is classified by the department of corrections, the department of social and health services, or the indeterminate sentence review board, the law enforcement agency or official shall notify the appropriate department or the board and submit its reasons supporting the change in classification.

[1998 c 220 § 6. Prior: 1997 c 364 § 1; 1997 c 113 § 2; 1996 c 215 § 1; 1994 c 129 § 2; 1990 c 3 § 117.]

Notes:

Severability--1998 c 220: See note following RCW 9A.44.130.

Severability--1997 c 364: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 364 § 9.]

Findings--1997 c 113: "The legislature finds that offenders who commit kidnapping offenses against minor children pose a substantial threat to the well-being of our communities. Child victims are especially vulnerable and unable to protect themselves. The legislature further finds that requiring sex offenders to register has assisted law enforcement agencies in protecting their communities. Similar registration requirements for offenders who have kidnapped or unlawfully imprisoned a child would also assist law enforcement agencies in protecting the children in their communities from further victimization." [1997 c 113 § 1.]

Findings--Intent--1994 c 129: "The legislature finds that members of the public may be alarmed when law enforcement officers notify them that a sex offender who is about to be released from custody will live in or near their neighborhood. The legislature also finds that if the public is provided adequate notice and information, the community can develop constructive plans to prepare themselves and their children for the offender's release. A sufficient time period allows communities to meet with law enforcement to discuss and prepare for the release, to establish block watches, to obtain information about the rights and responsibilities of the community and the offender, and to provide education and counseling to their children. Therefore, the legislature intends that when law enforcement officials decide to notify the public about a sex offender's pending release that notice be given at least fourteen days before the offender's release whenever possible." [1994 c 129 § 1.]

Finding--Policy--1990 c 3 § 117: "The legislature finds that sex offenders pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. The legislature further finds that the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may

result in failure of both systems to meet this paramount concern of public safety. Overly restrictive confidentiality and liability laws governing the release of information about sexual predators have reduced willingness to release information that could be appropriately released under the public disclosure laws, and have increased risks to public safety. Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sexual predators to public agencies and under limited circumstances, the general public, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

Therefore, this state's policy as expressed in RCW 4.24.550 is to require the exchange of relevant information about sexual predators among public agencies and officials and to authorize the release of necessary and relevant information about sexual predators to members of the general public." [1990 c 3 § 116.]

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

Release of information regarding

convicted sex offenders: RCW 9.94A.153, 9.95.145.

juveniles found to have committed sex offenses: RCW 13.40.217.

persons in custody of department of social and health services: RCW 10.77.207, 71.05.427, 71.06.135, 71.09.120.

RCW 4.24.5501 Sex offenders--Model policy for disclosure by law enforcement agencies--Development by Washington association of sheriffs and police chiefs.

(1) By December 1, 1997, the Washington association of sheriffs and police chiefs shall develop a model policy for law enforcement agencies to follow when they disclose information about sex offenders to the public under RCW 4.24.550. The model policy shall be designed to further the objectives of providing adequate notice to the community concerning sex offenders who are or will be residing in the community and of assisting community members in developing constructive plans to prepare themselves and their children for residing near released sex offenders.

(2) In developing the policy, the association shall consult with representatives of the following agencies and professions: (a) The department of corrections; (b) the department of social and health services; (c) the indeterminate sentence review board; (d) the Washington state council of police officers; (e) local correctional agencies; (f) the Washington association of prosecuting attorneys; (g) the Washington public defender association; (h) the Washington association for the treatment of sexual abusers; and (i) victim advocates.

(3) The model policy shall, at a minimum, include recommendations to address the following issues: (a) Procedures for local agencies or officials to accomplish the notifications required under RCW 4.24.550(8); (b) contents and form of community notification documents, including procedures for ensuring the accuracy of factual information contained in the notification documents, and ways of protecting the privacy of victims of the offenders' crimes; (c) methods of distributing community notification documents; (d) methods of providing follow-up notifications to community residents at specified intervals and of disclosing information about offenders to law enforcement agencies in other jurisdictions if necessary to protect the public; (e) methods of educating community residents at public meetings on how they can use the

information in the notification document in a reasonable manner to enhance their individual and collective safety; (f) procedures for educating community members regarding the right of sex offenders not to be the subject of harassment or criminal acts as a result of the notification process; and (g) other matters the Washington association of sheriffs and police chiefs deems necessary to ensure the effective and fair administration of RCW 4.24.550.

[1997 c 364 § 6.]

RCW 4.24.5502 Sex offenders--Consistent approach to risk assessment by agencies to implement 1997 c 364.

The department of corrections, the department of social and health services, and the indeterminate sentence review board shall jointly develop, by September 1, 1997, a consistent approach to risk assessment for the purposes of implementing chapter 364, Laws of 1997, including consistent standards for classifying sex offenders into risk levels I, II, and III.

[1999 c 372 § 1; 1997 c 364 § 7.]

RCW 4.24.555 Release of information not restricted by pending appeal, petition, or writ.

An offender's pending appeal, petition for personal restraint, or writ of habeas corpus shall not restrict the agency's, official's, or employee's authority to release relevant information concerning an offender's prior criminal history. However, the agency must release the latest dispositions of the charges as provided in chapter 10.97 RCW, the Washington state criminal records privacy act.

[1990 c 3 § 118.]

Notes:

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

RCW 4.24.560 Defense to action for injury caused by indoor air pollutants.

It is a defense in a civil action brought for damages for injury caused by indoor air pollutants in a residential structure on which construction was begun on or after July 1, 1991, that the builder or design professional complied in good faith, without negligence or misconduct, with:

- (1) Building product safety standards, including labeling;
- (2) Restrictions on the use of building materials known or believed to contain substances that contribute to indoor air pollution; and
- (3) The ventilation and radon resistive construction requirements adopted under RCW 19.27.190.

[1992 c 132 § 2; 1990 c 2 § 8.]

Notes:

Effective dates--1990 c 2: See note following RCW 19.27.040.

Findings--Severability--1990 c 2: See notes following RCW 19.27A.015.

RCW 4.24.570 Acts against animals in research or educational facilities.

(1) Joint and several liability for damages shall apply to persons and organizations that commit an intentional tort by (a) taking, releasing, destroying, contaminating, or damaging any animal or animals kept in a research or educational facility, where the animal or animals are used or to be used for medical research or other research purposes, or for educational purposes; or (b) destroying or damaging any records, equipment, research product, or other thing pertaining to such animal or animals.

(2) Any person or organization that plans or assists in the development of a plan to commit an intentional tort covered by subsection (1) of this section is liable for damages to the same extent as a person who has committed the tort. However, a person or organization that assists in the development of a plan is not liable under this subsection, if, at the time of providing the assistance the person or organization does not know, or have reason to know, that the assistance is promoting the commission of the tort. Membership in a liable organization does not in itself establish the member's liability under this subsection. The common law defense of prior renunciation is allowed in actions brought under this subsection.

(3) In any case where damages are awarded under this section, the court shall award to the plaintiff all costs of the litigation, including reasonable attorneys' fees, investigation costs, and court costs, and shall impose on any liable party a civil fine of not to exceed one hundred thousand dollars to be paid to the plaintiff.

[1991 c 325 § 3.]

Notes:

Severability--1991 c 325: See note following RCW 9.08.080.

Criminal acts against animal facilities: RCW 9.08.080, 9.08.090.

RCW 4.24.575 Acts against animals kept for agricultural or veterinary purposes.

(1) Joint and several liability for damages shall apply to persons and organizations that commit an intentional tort by taking, releasing, destroying or damaging any animal or animals kept by a person for agricultural production purposes or by a veterinarian for veterinary purposes; or by destroying or damaging any farm or veterinary equipment or supplies pertaining to such animal or animals.

(2) Any person or organization that plans or assists in the development of a plan to commit an intentional tort covered by subsection (1) of this section is liable for damages to the same extent as a person who has committed the tort. However, a person or organization that assists in the development of a plan is not liable under this subsection, if, at the time of providing the assistance the person or organization does not know, or have reason to know, that the assistance is promoting the commission of the tort. Membership in a liable organization does not

in itself establish the member's liability under this subsection. The common law defense of prior renunciation is allowed in actions brought under this subsection.

(3) In any case where damages are awarded under this section, the court shall award to the plaintiff all costs of the litigation, including reasonable attorneys' fees, investigation costs, and court costs, and shall impose on any liable party a civil fine of not to exceed one hundred thousand dollars to be paid to the plaintiff.

(4) "Agricultural production," for purposes of this section, means all activities associated with the raising of animals for agricultural purposes, including but not limited to animals raised for wool or fur. Agricultural production also includes the exhibiting or marketing of live animals raised for agricultural purposes.

[1991 c 325 § 4.]

Notes:

Severability--1991 c 325: See note following RCW 9.08.080.
Criminal acts against animal facilities: RCW 9.08.080, 9.08.090.

RCW 4.24.580 Acts against animal facilities--Injunction.

Any individual having reason to believe that he or she may be injured by the commission of an intentional tort under RCW 4.24.570 or 4.24.575 may apply for injunctive relief to prevent the occurrence of the tort. Any individual who owns or is employed at a research or educational facility or an agricultural production facility where animals are used for research, educational, or agricultural purposes who is harassed, or believes that he or she is about to be harassed, by an organization, person, or persons whose intent is to stop or modify the facility's use or uses of an animal or animals, may apply for injunctive relief to prevent the harassment.

For the purposes of this section:

(1) "Agricultural production" means all activities associated with the raising of animals for agricultural purposes, including but not limited to animals raised for wool or fur. Agricultural production also includes the exhibiting or marketing of live animals raised for agricultural purposes; and

(2) "Harassment" means any threat, without lawful authority, that the recipient has good reason to fear will be carried out, that is knowingly made for the purpose of stopping or modifying the use of animals, and that either (a) would cause injury to the person or property of the recipient, or result in the recipient's physical confinement or restraint, or (b) is a malicious threat to do any other act intended to substantially cause harm to the recipient's mental health or safety.

[1991 c 325 § 5.]

Notes:

Severability--1991 c 325: See note following RCW 9.08.080.

RCW 4.24.590 Liability of foster parents.

In actions for personal injury or property damage commenced by foster children or their parents against foster parents licensed pursuant to chapter 74.15 RCW, the liability of foster parents for the care and supervision of foster children shall be the same as the liability of biological and adoptive parents for the care and supervision of their children.

[1991 c 283 § 3.]

Notes:

Findings--Effective date--1991 c 283: See notes following RCW 74.14B.080.

RCW 4.24.601 Hazards to the public--Information--Legislative findings, policy, intent.

The legislature finds that public health and safety is promoted when the public has knowledge that enables members of the public to make informed choices about risks to their health and safety. Therefore, the legislature declares as a matter of public policy that the public has a right to information necessary to protect members of the public from harm caused by alleged hazards to the public. The legislature also recognizes that protection of trade secrets, other confidential research, development, or commercial information concerning products or business methods promotes business activity and prevents unfair competition. Therefore, the legislature declares it a matter of public policy that the confidentiality of such information be protected and its unnecessary disclosure be prevented.

[1994 c 42 § 1.]

Notes:

Application--1994 c 42: "This act applies to all confidentiality provisions entered or executed with respect to product liability/hazardous substance claims on or after May 1, 1994." [1994 c 42 § 3.]

Effective date--1994 c 42: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect May 1, 1994." [1994 c 42 § 4.]

RCW 4.24.611 Product liability/hazardous substance claims--Public right to information--Confidentiality--Damages, costs, attorneys' fees--Repeal.

As used in RCW 4.24.601 and this section:

(1)(a) "Product liability/hazardous substance claim" means a claim for damages for personal injury, wrongful death, or property damage caused by a product or hazardous or toxic substances, that is an alleged hazard to the public and that presents an alleged risk of similar injury to other members of the public.

(b) "Confidentiality provision" means any terms in a court order or a private agreement settling, concluding, or terminating a product liability/hazardous substance claim, that limit the possession, disclosure, or dissemination of information about an alleged hazard to the public, whether those terms are integrated in the order or private agreement or written separately.

(c) "Members of the public" includes any individual, group of individuals, partnership, corporation, or association.

(2) Except as provided in subsection (4) of this section, members of the public have a

right to information necessary for a lay member of the public to understand the nature, source, and extent of the risk from alleged hazards to the public.

(3) Except as provided in subsection (4) of this section, members of the public have a right to the protection of trade secrets as defined in RCW 19.108.010, other confidential research, development, or commercial information concerning products or business methods.

(4)(a) Nothing in this chapter shall limit the issuance of any protective or discovery orders during the course of litigation pursuant to court rules.

(b) Confidentiality provisions may be entered into or ordered or enforced by the court only if the court finds, based on the evidence, that the confidentiality provision is in the public interest. In determining the public interest, the court shall balance the right of the public to information regarding the alleged risk to the public from the product or substance as provided in subsection (2) of this section against the right of the public to protect the confidentiality of information as provided in subsection (3) of this section.

(5)(a) Any confidentiality provisions that are not adopted consistent with the provisions of this section are voidable by the court.

(b) Any confidentiality provisions that are determined to be void are severable from the remainder of the order or agreement notwithstanding any provision to the contrary and the remainder of the order or agreement shall remain in force.

(c) Nothing in RCW 4.24.601 and this section prevents the court from denying the request for confidentiality provisions under other law nor limits the scope of discovery pursuant to applicable court rules.

(6) In cases of third party actions challenging confidentiality provisions in orders or agreements, the court has discretion to award to the prevailing party actual damages, costs, reasonable attorneys' fees, and such other terms as the court deems just.

(7) The following acts or parts of acts are each repealed on May 1, 1994:

- (a) RCW 4.24.600 and 1993 c 17 § 1;
- (b) RCW 4.24.610 and 1993 c 17 § 2;
- (c) RCW 4.24.620 and 1993 c 17 § 3;
- (d) RCW 4.16.380 and 1993 c 17 § 5; and
- (e) 1993 c 17 § 4 (uncodified).

[1994 c 42 § 2.]

Notes:

Application--Effective date--1994 c 42: See notes following RCW 4.24.601.

RCW 4.24.630 Liability for damage to land and property--Damages--Costs--Attorneys' fees--Exceptions.

(1) Every person who goes onto the land of another and who removes timber, crops, minerals, or other similar valuable property from the land, or wrongfully causes waste or injury to the land, or wrongfully injures personal property or improvements to real estate on the land, is liable to the injured party for treble the amount of the damages caused by the removal, waste, or injury. For purposes of this section, a person acts "wrongfully" if the person intentionally and

unreasonably commits the act or acts while knowing, or having reason to know, that he or she lacks authorization to so act. Damages recoverable under this section include, but are not limited to, damages for the market value of the property removed or injured, and for injury to the land, including the costs of restoration. In addition, the person is liable for reimbursing the injured party for the party's reasonable costs, including but not limited to investigative costs and reasonable attorneys' fees and other litigation-related costs.

(2) This section does not apply in any case where liability for damages is provided under RCW 64.12.030, 79.01.756, 79.01.760, 79.40.070, or where there is immunity from liability under RCW 64.12.035.

[1999 c 248 § 2; 1994 c 280 § 1.]

Notes:

Severability--1999 c 248: See note following RCW 64.12.035.

RCW 4.24.640 Firearm safety program liability.

No person who owns, operates, is employed by, or volunteers at a program approved under RCW 77.32.155 shall be liable for any injury that occurs while the person who suffered the injury is participating in the course, unless the injury is the result of gross negligence.

[1994 sp.s. c 7 § 513.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

RCW 4.24.650 Year 2000 failure--Affirmative defense to contract action. (*Expires December 31, 2006.*)

(1) A person has an affirmative defense to any claim or action, based on a contract, brought against the person if he or she establishes that:

(a) The default, failure to pay, breach, omission, or other violation that is the basis of the claim against him or her was caused, in whole or in part, by a year 2000 failure associated with an electronic computing device;

(b) The year 2000 failure being asserted was not proximately caused by a failure of the person to update an electronic computing device, that is under his or her dominion or control, to be year 2000 compliant; and

(c) If it were not for the year 2000 failure, the person would have been able to satisfy the contractual obligation that was the basis of the claim.

(2) If an affirmative defense as set forth in subsection (1) of this section is established, then the person or entity making the claim may not reassert the claim against which the affirmative defense was asserted for a period of thirty days from the date on which the court dismissed the case as a result of the affirmative defense. Any statute of limitations applicable to the claim shall be tolled for forty-five days upon the dismissal of the case under this section.

(3) The dismissal of an action as the result of the affirmative defense under this section does not impair, extinguish, discharge, satisfy, or otherwise affect the underlying obligation that is the basis of the claim against which the affirmative defense was asserted. However, the ability of a party to bring the claim based upon the obligation is delayed as set forth in subsection (2) of this section.

(4) A person who has established an affirmative defense as set forth in subsection (1) of this section may dispute directly with a credit reporting agency operating in this state any item of information in the person's consumer file relating to the subject of the affirmative defense. The dispute shall be filed in accordance with RCW 19.182.090(6). If requested by the person under this subsection (4), the credit reporting agency shall furnish a statement, made in accordance with RCW 19.182.090(7), to the person and include the statement in the person's consumer file. The credit reporting agency may not charge the person a fee for the inclusion of this statement in the person's consumer file.

(5)(a) The definitions in RCW 4.22.080 apply to this section unless the context clearly requires otherwise.

(b) As used in this section, unless the context clearly requires otherwise, "person" means a natural person or a small business as defined in RCW 19.85.020.

(6) This section does not affect those transactions upon which a default has occurred before any disruption of financial or data transfer operations attributable to a year 2000 failure.

(7) This section does not apply to or affect any contract that specifically provides for a year 2000 failure.

(8) This section does not apply to any claim or cause of action filed after December 31, 2003.

(9) This section expires December 31, 2006.

[1999 c 369 § 2.]

Notes:

Effective date--1999 c 369: See note following RCW 4.22.080.

RCW 4.24.660 Liability of school districts under contracts with youth programs.

(1) A school district shall not be liable for an injury to or the death of a person due to action or inaction of persons employed by, or under contract with, a youth program if:

(a) The action or inaction takes place on school property and during the delivery of services of the youth program;

(b) The private nonprofit group provides proof of being insured, under an accident and liability policy issued by an insurance company authorized to do business in this state, that covers any injury or damage arising from delivery of its services. Coverage for a policy meeting the requirements of this section must be at least fifty thousand dollars due to bodily injury or death of one person, or at least one hundred thousand dollars due to bodily injury or death of two or more persons in any incident; and

(c) The group provides proof of such insurance before the first use of the school facilities.

The immunity granted shall last only as long as the insurance remains in effect.

(2) Immunity under this section does not apply to any school district before January 1, 2000.

(3) As used in this section, "youth programs" means any program or service, offered by a private nonprofit group, that is operated primarily to provide persons under the age of eighteen with opportunities to participate in services or programs.

(4) This section does not impair or change the ability of any person to recover damages for harm done by: (a) Any contractor or employee of a school district acting in his or her capacity as a contractor or employee; or (b) the existence of unsafe facilities or structures or programs of any school district.

[1999 c 316 § 3.]

Notes:

Intent--Effective date--1999 c 316: See notes following RCW 28A.335.155.

Chapter 4.28 RCW COMMENCEMENT OF ACTIONS

Sections

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Notes:

Rules of court: CR 3; CR 4; CR 4.1; CR 5; and CR 6.

Claims against

cities and towns: Chapters 35.31, 35A.31 RCW.

counties: Chapter 36.45 RCW.

political subdivisions, municipal corporations, and quasi municipal corporations: Chapter 4.96 RCW.

state: Chapter 4.92 RCW.

Foreign corporations, actions against: RCW 23B.15.100 and 23B.15.310.

Nonadmitted foreign corporations, actions against: Chapter 23B.18 RCW.

Proceedings as to mentally ill: Chapter 71.05 RCW.

Publication of legal notices: Chapter 65.16 RCW.

Service of papers on foreign corporation: RCW 23B.15.100 and 23B.15.310.

Service of process on

foreign savings and loan association: RCW 33.32.050.

nonadmitted foreign corporation: RCW 23B.18.040.

nonresident motor vehicle operator: RCW 46.64.040.

Sheriff's fees for service of process and other official services: RCW 36.18.040.

RCW 4.28.011 Tolling statute of limitations--Action deemed commenced, when.

See RCW 4.16.170.

RCW 4.28.020 Jurisdiction acquired, when.

From the time of the commencement of the action by service of summons, or by the filing of a complaint, or as otherwise provided, the court is deemed to have acquired jurisdiction and to have control of all subsequent proceedings.

[1984 c 76 § 2; 1895 c 86 § 4; 1893 c 127 § 15; RRS § 238.]

RCW 4.28.080 Summons, how served.

Service made in the modes provided in this section shall be taken and held to be personal service. The summons shall be served by delivering a copy thereof, as follows:

(1) If the action be against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

(2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

(3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person

having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7) If against a foreign or alien insurance company, as provided in chapter 48.05 RCW.

(8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

(9) If the suit be against a company or corporation other than those designated in the preceding subdivisions of this section, to the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, registered agent, secretary, cashier or managing agent.

(10) If the suit be against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his or her father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he or she resides, or in whose service he or she is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) If against a self-insurance program regulated by chapter 48.62 RCW, as provided in chapter 48.62 RCW.

(15) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.

(16) In lieu of service under subsection (15) of this section, where the person cannot with reasonable diligence be served as described, the summons may be served as provided in this subsection, and shall be deemed complete on the tenth day after the required mailing: By leaving a copy at his or her usual mailing address with a person of suitable age and discretion who is a resident, proprietor, or agent thereof, and by thereafter mailing a copy by first class mail, postage prepaid, to the person to be served at his or her usual mailing address. For the purposes of this subsection, "usual mailing address" shall not include a United States postal service post office box or the person's place of employment.

[1997 c 380 § 1; 1996 c 223 § 1; 1991 sp.s. c 30 § 28; 1987 c 361 § 1; 1977 ex.s. c 120 § 1; 1967 c 11 § 1; 1957 c 202 § 1; 1893 c 127 § 7; RRS § 226, part. FORMER PART OF SECTION: 1897 c 97 § 1 now codified in RCW 4.28.081.]

Notes:

Rules of court: *Service of process--CR 4(d), (e).*

Effective date, implementation, application--Severability--1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

Severability--1977 ex.s. c 120: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 120 § 3.]

Service of process on

foreign corporation: RCW 23B.15.100 and 23B.15.310.

foreign savings and loan association: RCW 33.32.050.

nonadmitted foreign corporation: RCW 23B.18.040.

nonresident motor vehicle operator: RCW 46.64.040.

RCW 4.28.081 Summons, how served--When corporation in hands of receiver.

Whenever any domestic or foreign corporation, which has been doing business in this state, has been placed in the hands of a receiver and the receiver is in possession of any of the property or assets of such corporation, service of all process upon such corporation may be made upon the receiver thereof.

[1897 c 97 § 1; RRS § 226, part. Formerly RCW 4.28.080(13).]

RCW 4.28.090 Service on corporation without officer in state upon whom process can be served.

Whenever any corporation, created by the laws of this state, or late territory of Washington, does not have an officer in this state upon whom legal service of process can be made, an action or proceeding against the corporation may be commenced in any county where the cause of action may arise, or the corporation may have property, and service may be made upon the corporation by depositing a copy of the summons, writ, or other process, in the office of the secretary of state, which shall be taken, deemed and treated as personal service on the corporation: PROVIDED, A copy of the summons, writ, or other process, shall be deposited in the post office, postage paid, directed to the secretary or other proper officer of the corporation, at the place where the main business of the corporation is transacted, when the place of business is known to the plaintiff, and be published at least once a week for six weeks in a newspaper of general circulation at the seat of government of this state, before the service shall be deemed perfect.

[1985 c 469 § 1; 1893 c 127 § 8; RRS § 227.]

RCW 4.28.100 Service of summons by publication--When authorized.

When the defendant cannot be found within the state, and upon the filing of an affidavit of the plaintiff, his agent, or attorney, with the clerk of the court, stating that he believes that the defendant is not a resident of the state, or cannot be found therein, and that he has deposited a

copy of the summons (substantially in the form prescribed in RCW 4.28.110) and complaint in the post office, directed to the defendant at his place of residence, unless it is stated in the affidavit that such residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service may be made by publication of the summons, by the plaintiff or his attorney in any of the following cases:

- (1) When the defendant is a foreign corporation, and has property within the state;
- (2) When the defendant, being a resident of this state, has departed therefrom with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with like intent;
- (3) When the defendant is not a resident of the state, but has property therein and the court has jurisdiction of the subject of the action;
- (4) When the action is for divorce in the cases prescribed by law;
- (5) When the subject of the action is real or personal property in this state, and the defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists wholly, or partly, in excluding the defendant from any interest or lien therein;
- (6) When the action is to foreclose, satisfy, or redeem from a mortgage, or to enforce a lien of any kind on real estate in the county where the action is brought, or satisfy or redeem from the same;
- (7) When the action is against any corporation, whether private or municipal, organized under the laws of the state, and the proper officers on whom to make service do not exist or cannot be found;
- (8) When the action is brought under RCW 4.08.160 and 4.08.170 to determine conflicting claims to property in this state.

[1981 c 331 § 13; 1953 c 102 § 1. Prior: 1929 c 81 § 1; 1915 c 45 § 1; 1893 c 127 § 9; RRS § 228.]

Notes:

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

RCW 4.28.110 Manner of publication and form of summons.

The publication shall be made in a newspaper of general circulation in the county where the action is brought once a week for six consecutive weeks: PROVIDED, That publication of summons shall not be made until after the filing of the complaint, and the service of the summons shall be deemed complete at the expiration of the time prescribed for publication. The summons must be subscribed by the plaintiff or his attorney or attorneys. The summons shall contain the date of the first publication, and shall require the defendant or defendants upon whom service by publication is desired, to appear and answer the complaint within sixty days from the date of the first publication of the summons; and the summons for publication shall also contain a brief statement of the object of the action. The summons for publication shall be substantially as follows:

In the superior court of the State of Washington for the

county of

., Plaintiff,

vs.

No.

., Defendant.

The State of Washington to the said (naming the defendant or defendants to be served by publication):

You are hereby summoned to appear within sixty days after the date of the first publication of this summons, to wit, within sixty days after the day of, 1, and defend the above entitled action in the above entitled court, and answer the complaint of the plaintiff, and serve a copy of your answer upon the undersigned attorneys for plaintiff, at his (or their) office below stated; and in case of your failure so to do, judgment will be rendered against you according to the demand of the complaint, which has been filed with the clerk of said court. (Insert here a brief statement of the object of the action.)

.,

Plaintiff's Attorneys.

P.O. Address

County

Washington.

[1985 c 469 § 2; 1895 c 86 § 2; 1893 c 127 § 10; RRS § 233.]

Notes:

Publication of legal notices: Chapter 65.16 RCW.

RCW 4.28.120 Publication of notice in eminent domain proceedings.

If a party having or claiming a share or interest in or lien upon any property sought to be appropriated for public use be unknown, and such fact be made to appear by affidavit filed in the office of the clerk of the court, the notice required by law in such cases may be served by publication as in the case of nonresident owners, and such notice shall be directed by name to every owner of a share or interest in or lien upon the property sought to be so appropriated, and generally to all persons unknown having or claiming an interest or estate in the property or any portion thereof, and all such unknown parties shall in all papers and proceedings be designated as "unknown owners," and shall be bound by the provisions and be entitled to the benefits of the

judgment the same as if they had been known and duly named.

[1895 c 140 § 1; RRS § 239.]

Notes:

Eminent domain: Title 8 RCW.

Publication of legal notices: Chapter 65.16 RCW.

RCW 4.28.140 Affidavit as to unknown heirs.

Upon presenting an affidavit to the court or judge, showing to his satisfaction that the heirs of such deceased person are proper parties to the action, and that their names and residences cannot with use of reasonable diligence be ascertained, such court or judge may grant an order that service of the summons in such action be made on such "Unknown heirs" by publication thereof in the same manner as in actions against nonresident defendants.

[1903 c 144 § 2; RRS § 230.]

Notes:

Rules of court: Cf. CR 10(a).

RCW 4.28.150 Title of cause--Unknown claimants--Service by publication.

In any action brought to determine any adverse claim, estate, lien, or interest in real property, or to quiet title to real property, the plaintiff may include as a defendant in such action, and insert in the title thereof, in addition to the names of such persons or parties as appear of record to have, and other persons or parties who are known to have, some title, claim, estate, lien, or interest in the lands in controversy, the following, viz.: "Also all other persons or parties unknown claiming any right, title, estate, lien, or interest in the real estate described in the complaint herein." And service of summons may be had upon all such unknown persons or parties defendant by publication as provided by law in case of nonresident defendants.

[1903 c 144 § 3; RRS § 231.]

Notes:

Publication of legal notices: Chapter 65.16 RCW.

RCW 4.28.160 Rights of unknown claimants and heirs--Effect of judgment--Lis pendens.

All such unknown heirs of deceased persons, and all such unknown persons or parties, so served by publication as in RCW 4.28.150, provided, shall have the same rights as are provided by law in case of all other defendants upon whom service is made by publication, and the action shall proceed against such unknown heirs, or unknown persons or parties, in the same manner as against defendants, who are named, upon whom service is made by publication, and with like effect; and any such unknown heirs or unknown persons or parties who have or claim any right,

estate, lien, or interest in the said real property in controversy, at the time of the commencement of the action, duly served as aforesaid, shall be bound and concluded by the judgment in such action, if the same is in favor of the plaintiff therein as effectually as if the action was brought against such defendant by his or her name and constructive service of summons obtained: PROVIDED, HOWEVER, That such judgment shall not bind such unknown heirs, or unknown persons or parties, defendant, unless the plaintiff shall file a notice of lis pendens in the office of the auditor of each county in which said real estate is located, in the manner provided by law, before commencing the publication of said summons.

[1903 c 144 § 4; RRS § 232.]

RCW 4.28.180 Personal service out of state.

Personal service of summons or other process may be made upon any party outside the state. If upon a citizen or resident of this state or upon a person who has submitted to the jurisdiction of the courts of this state, it shall have the force and effect of personal service within this state; otherwise it shall have the force and effect of service by publication. The summons upon the party out of the state shall contain the same and be served in like manner as personal summons within the state, except it shall require the party to appear and answer within sixty days after such personal service out of the state.

[1959 c 131 § 1; 1895 c 86 § 3; 1893 c 127 § 11; RRS § 234.]

Notes:

Rules of court: Cf. CR 4(e), CR 12(a), CR 82(a).

Service of process on nonresident motor vehicle operator: RCW 46.64.040.

RCW 4.28.185 Personal service out of state--Acts submitting person to jurisdiction of courts--Saving.

(1) Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated, thereby submits said person, and, if an individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

- (a) The transaction of any business within this state;
- (b) The commission of a tortious act within this state;
- (c) The ownership, use, or possession of any property whether real or personal situated in this state;
- (d) Contracting to insure any person, property or risk located within this state at the time of contracting;
- (e) The act of sexual intercourse within this state with respect to which a child may have been conceived;
- (f) Living in a marital relationship within this state notwithstanding subsequent departure from this state, as to all proceedings authorized by chapter 26.09 RCW, so long as the petitioning

party has continued to reside in this state or has continued to be a member of the armed forces stationed in this state.

(2) Service of process upon any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the defendant outside this state, as provided in RCW 4.28.180, with the same force and effect as though personally served within this state.

(3) Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.

(4) Personal service outside the state shall be valid only when an affidavit is made and filed to the effect that service cannot be made within the state.

(5) In the event the defendant is personally served outside the state on causes of action enumerated in this section, and prevails in the action, there may be taxed and allowed to the defendant as part of the costs of defending the action a reasonable amount to be fixed by the court as attorneys' fees.

(6) Nothing herein contained limits or affects the right to serve any process in any other manner now or hereafter provided by law.

[1977 c 39 § 1; 1975-'76 2nd ex.s. c 42 § 22; 1959 c 131 § 2.]

Notes:

Rules of court: *Cf. CR 4(e), CR 12(a), CR 82(a).*

Severability--Construction--1975-'76 2nd ex.s. c 42: See RCW 26.26.900, 26.26.905.

Uniform parentage act: Chapter 26.26 RCW.

RCW 4.28.200 Right of one constructively served to appear and defend or reopen.

If the summons is not served personally on the defendant in the cases provided in RCW 4.28.110 and 4.28.180, he or his representatives, on application and sufficient cause shown, at any time before judgment, shall be allowed to defend the action and, except in an action for divorce, the defendant or his representative may in like manner be allowed to defend after judgment, and within one year after the rendition of such judgment, on such terms as may be just; and if the defense is successful, and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution may thereupon be compelled as the court directs.

[1893 c 127 § 12; RRS § 235.]

RCW 4.28.210 Appearance, what constitutes.

A defendant appears in an action when he answers, demurs, makes any application for an order therein, or gives the plaintiff written notice of his appearance. After appearance a defendant is entitled to notice of all subsequent proceedings; but when a defendant has not appeared, service of notice or papers in the ordinary proceedings in an action need not be made upon him. Every such appearance made in an action shall be deemed a general appearance, unless the defendant in making the same states that the same is a special appearance.

[1893 c 127 § 16; RRS § 241.]

Notes:

Rules of court: *Demurrers abolished--CR 7(c).*

RCW 4.28.290 Assessment of damages without answer.

A defendant who has appeared may, without answering, demand in writing an assessment of damages, of the amount which the plaintiff is entitled to recover, and thereupon such assessment shall be had or any such amount ascertained in such manner as the court on application may direct, and judgment entered by the clerk for the amount so assessed or ascertained.

[1893 c 127 § 25; RRS § 251.]

RCW 4.28.320 Lis pendens in actions affecting title to real estate.

In an action affecting the title to real property the plaintiff, at the time of filing the complaint, or at any time afterwards, or whenever a writ of attachment of property shall be issued, or at any time afterwards, the plaintiff or a defendant, when he sets up an affirmative cause of action in his answer, and demands substantive relief at the time of filing his answer, or at any time afterwards, if the same be intended to affect real property, may file with the auditor of each county in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property in that county affected thereby. From the time of the filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he were a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice: PROVIDED, HOWEVER, That such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by the personal service thereof on a defendant within sixty days after such filing. And the court in which the said action was commenced may, at its discretion, at any time after the action shall be settled, discontinued or abated, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be canceled of record, in whole or in part, by the county auditor of any county in whose office the same may have been filed or recorded, and such cancellation shall be evidenced by the recording of the court order.

[1999 c 233 § 1; 1893 c 127 § 17; RRS § 243.]

Notes:

Effective date--1999 c 233: "This act takes effect August 1, 1999." [1999 c 233 § 24.]

RCW 4.28.325 Lis pendens in actions in United States district courts affecting title to real estate.

In an action in a United States district court for any district in the state of Washington affecting the title to real property in the state of Washington, the plaintiff, at the time of filing the complaint, or at any time afterwards, or a defendant, when he sets up an affirmative cause of action in his answer, or at any time afterward, if the same be intended to affect real property, may file with the auditor of each county in which the property is situated a notice of the pendency of the action, containing the names of the parties, the object of the action and a description of the real property in that county affected thereby. From the time of the filing only shall the pendency of the action be constructive notice to a purchaser or encumbrancer of the property affected thereby, and every person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken after the filing of such notice to the same extent as if he were a party to the action. For the purpose of this section an action shall be deemed to be pending from the time of filing such notice: PROVIDED, HOWEVER, That such notice shall be of no avail unless it shall be followed by the first publication of the summons, or by personal service thereof on a defendant within sixty days after such filing. And the court in which the said action was commenced may, in its discretion, at any time after the action shall be settled, discontinued or abated, on application of any person aggrieved and on good cause shown and on such notice as shall be directed or approved by the court, order the notice authorized in this section to be canceled, in whole or in part, by the county auditor of any county in whose office the same may have been filed or recorded, and such cancellation shall be evidenced by the recording of the court order.

[1999 c 233 § 4; 1963 c 137 § 1.]

Notes:

Effective date--1999 c 233: See note following RCW 4.28.320.

RCW 4.28.328 Lis pendens--Liability of claimants--Damages, costs, attorneys' fees.

(1) For purposes of this section:

(a) "Lis pendens" means a lis pendens filed under RCW 4.28.320 or 4.28.325 or other instrument having the effect of clouding the title to real property, however named, including consensual commercial lien, common law lien, commercial contractual lien, or demand for performance of public office lien, but does not include a lis pendens filed in connection with an action under Title 6, 60, other than chapter 60.70 RCW, or 61 RCW;

(b) "Claimant" means a person who files a lis pendens, but does not include the United States, any agency thereof, or the state of Washington, any agency, political subdivision, or municipal corporation thereof; and

(c) "Aggrieved party" means (i) a person against whom the claimant asserted the cause of action in which the lis pendens was filed, but does not include parties fictitiously named in the pleading; or (ii) a person having an interest or a right to acquire an interest in the real property

against which the lis pendens was filed, provided that the claimant had actual or constructive knowledge of such interest or right when the lis pendens was filed.

(2) A claimant in an action not affecting the title to real property against which the lis pendens was filed is liable to an aggrieved party who prevails on a motion to cancel the lis pendens, for actual damages caused by filing the lis pendens, and for reasonable attorneys' fees incurred in canceling the lis pendens.

(3) Unless the claimant establishes a substantial justification for filing the lis pendens, a claimant is liable to an aggrieved party who prevails in defense of the action in which the lis pendens was filed for actual damages caused by filing the lis pendens, and in the court's discretion, reasonable attorneys' fees and costs incurred in defending the action.

[1994 c 155 § 1.]

RCW 4.28.330 Notice to alien property custodian.

In any court or administrative action or proceeding within this state, involving property within this state or any interest therein, in which service of process is required to be made upon or notice thereof given to any person who is in a designated enemy country or enemy-occupied territory, in addition to the service of process upon or giving of notice to the person as required by any law, statute or rule applicable to the action or proceeding, a copy of the process or notice shall be sent by registered mail to the alien property custodian, Washington, District of Columbia.

[1943 c 62 § 1; Rem. Supp. 1943 § 254-1.]

RCW 4.28.340 Notice to alien property custodian--Definitions.

For the purposes of RCW 4.28.330 through 4.28.350:

(1) "Person" includes any individual, partnership, association and corporation;

(2) "Designated enemy country" means any foreign country as to which the United States has declared the existence of a state of war and any other country with which the United States is at war in the future;

(3) "Enemy-occupied territory" means any place under the control of any designated enemy country or any place with which, by reason of the existence of a state of war, the United States does not maintain postal communication.

[1943 c 62 § 2; Rem. Supp. 1943 § 254-2.]

RCW 4.28.350 Notice to alien property custodian--Duration.

RCW 4.28.330 and 4.28.340 shall remain in force only so long as a state of war shall exist between the United States and the designated enemy country involved in the action or proceeding described in RCW 4.28.330.

[1943 c 62 § 3; Rem. Supp. 1943 § 254-3.]

RCW 4.28.360 Personal injury action--Complaint not to include statement of damages--Request for statement.

In any civil action for personal injuries, the complaint shall not contain a statement of the damages sought but shall contain a prayer for damages as shall be determined. A defendant in such action may at any time request a statement from the plaintiff setting forth separately the amounts of any special damages and general damages sought. Not later than fifteen days after service of such request to the plaintiff, the plaintiff shall have served the defendant with such statement.

[1975-'76 2nd ex.s. c 56 § 2.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

Actions and procedure for injuries resulting from health care: Chapter 7.70 RCW.

Verdict or award of future economic damages in personal injury or property damage action may provide for periodic payments: RCW 4.56.260.

**Chapter 4.32 RCW
PLEADINGS**

Sections

4.32.070	Objection may be taken by answer.
4.32.120	Setoff against beneficiary of trust estate.
4.32.130	Setoff in probate actions brought by personal representatives.
4.32.140	Setoff in probate actions against personal representatives.
4.32.150	Setoff must be pleaded.
4.32.170	Answer may be stricken.
4.32.250	Effect of minor defects in pleading.

RCW 4.32.070 Objection may be taken by answer.

When any of the matters enumerated in *RCW 4.32.050 do not appear upon the face of the complaint, the objection may be taken by answer.

[Code 1881 § 79; 1877 p 18 § 79; 1854 p 139 § 42; RRS § 261.]

Notes:

***Reviser's note:** RCW 4.32.050 was repealed by 1984 c 76 § 11.

RCW 4.32.120 Setoff against beneficiary of trust estate.

If the plaintiff be a trustee to any other, or if the action be in a name of the plaintiff who has no real interest in the contract upon which the action is founded, so much of a demand existing against those whom the plaintiff represents or for whose benefit the action is brought,

may be set off as will satisfy the plaintiff's debt, if the same might have been set off in an action brought by those beneficially interested.

[Code 1881 § 498; 1877 p 107 § 502; RRS § 267.]

RCW 4.32.130 Setoff in probate actions brought by personal representatives.

In actions brought by executors and administrators, demands against their testators and intestates, and belonging to defendant at the time of their death, may be set off by the defendant in the same manner as if the action had been brought by and in the name of the deceased.

[Code 1881 § 499; 1877 p 107 § 503; RRS § 268.]

RCW 4.32.140 Setoff in probate actions against personal representatives.

In actions against executors and administrators and against trustees and others, sued in their representative character, the defendants may set off demands belonging to their testators or intestates or those whom they represent, in the same manner as the person so represented would have been entitled to set off the same, in an action against them.

[Code 1881 § 501; 1877 p 107 § 505; RRS § 270.]

RCW 4.32.150 Setoff must be pleaded.

To entitle a defendant to a setoff he must set the same forth in his answer.

[Code 1881 § 502; 1877 p 108 § 506; RRS § 271.]

RCW 4.32.170 Answer may be stricken.

Sham, frivolous and irrelevant answers and defenses may be stricken out on motion, and upon such terms as the court may in its discretion impose.

[Code 1881 § 85; 1877 p 19 § 85; 1869 p 21 § 83; 1854 p 140 § 47; RRS § 275.]

RCW 4.32.250 Effect of minor defects in pleading.

A notice or other paper is valid and effectual though the title of the action in which it is made is omitted, or it is defective either in respect to the court or parties, if it intelligently refers to such action or proceedings; and in furtherance of justice upon proper terms, any other defect or error in any notice or other paper or proceeding may be amended by the court, and any mischance, omission or defect relieved within one year thereafter; and the court may enlarge or extend the time, for good cause shown, within which by statute any act is to be done, proceeding had or taken, notice or paper filed or served, or may, on such terms as are just, permit the same to be done or supplied after the time therefor has expired.

[1988 c 202 § 2; 1893 c 127 § 24; RRS § 250.]

Notes:

Rules of court: Cf. CR 6(b), RAP 5.2, 18.22.

Severability--1988 c 202: See note following RCW 2.24.050.

Chapter 4.36 RCW GENERAL RULES OF PLEADING

Sections

4.36.070	Pleading judgments.
4.36.080	Conditions precedent, how pleaded.
4.36.120	Libel or slander, how pleaded.
4.36.130	Answer in justification and mitigation.
4.36.140	Answer in action to recover property distrained.
4.36.170	Material allegation defined.
4.36.210	Variance in action to recover personal property.
4.36.240	Harmless error disregarded.

RCW 4.36.070 Pleading judgments.

In pleading a judgment or other determination of a court or office of special jurisdiction, it shall not be necessary to state the facts conferring jurisdiction, but such judgment or determination may be stated to have been duly given or made. If such allegation be controverted, the party pleading shall be bound to establish on the trial the facts conferring jurisdiction.

[Code 1881 § 96; 1877 p 21 § 96; 1854 p 142 § 58; RRS § 287.]

Notes:

Rules of court: Cf. CR 9(e).

RCW 4.36.080 Conditions precedent, how pleaded.

In pleading the performance of conditions precedent in a contract, it shall not be necessary to state the facts showing such performance, but it may be stated generally that the party duly performed all the conditions on his part; and if such allegation be controverted, the party pleading shall be bound to establish, on the trial, the facts showing such performance.

[Code 1881 § 97; 1877 p 21 § 97; 1854 p 142 § 59; RRS § 288.]

Notes:

Rules of court: Cf. CR 9(c).

RCW 4.36.120 Libel or slander, how pleaded.

In an action for libel or slander, it shall not be necessary to state in the complaint any extrinsic facts, for the purpose of showing the application to the plaintiff, of the defamatory matter out of which the cause arose, but it shall be sufficient to state generally, that the same was published or spoken concerning the plaintiff; and if such allegation be controverted, the plaintiff shall be bound to establish on trial that it was so published or spoken.

[Code 1881 § 99; 1877 p 22 § 99; 1854 p 142 § 61; RRS § 292.]

Notes:

Rules of court: *Cf. CR 8.*

RCW 4.36.130 Answer in justification and mitigation.

In an action mentioned in RCW 4.36.120, the defendant may, in his answer, allege both the truth of the matter charged as defamatory, and any mitigating circumstances to reduce the amount of damages; and whether he proves the justification or not, he may give in evidence the mitigating circumstances.

[Code 1881 § 100; 1877 p 22 § 100; 1854 p 143 § 62; RRS § 293.]

RCW 4.36.140 Answer in action to recover property distrained.

In an action to recover the possession of property distrained doing damage, an answer that the defendant or person by whose command he acted, was lawfully possessed of the real property upon which the distress was made, and that the property distrained was at the time doing the damage thereon, shall be good, without setting forth the title to such real property.

[Code 1881 § 101; 1877 p 22 § 101; 1854 p 143 § 63; RRS § 295.]

RCW 4.36.170 Material allegation defined.

A material allegation in a pleading is one essential to the claim or defense, and which could not be stricken from the pleading without leaving it insufficient.

[Code 1881 § 104; 1877 p 22 § 104; 1854 p 143 § 65; RRS § 298.]

RCW 4.36.210 Variance in action to recover personal property.

Where the plaintiff in an action to recover the possession of personal property on a claim of being the owner thereof, shall fail to establish on trial such ownership, but shall prove that he is entitled to the possession thereof, by virtue of a special property therein, he shall not thereby be defeated of his action, but shall be permitted to amend, on reasonable terms his complaint, and be entitled to judgment according to the proof in the case.

[Code 1881 § 108; 1877 p 23 § 108; 1869 p 27 § 106; 1856 p 10 § 11; RRS § 302.]

RCW 4.36.240 Harmless error disregarded.

The court shall, in every stage of an action, disregard any error or defect in pleadings or proceedings which shall not affect the substantial rights of the adverse party, and no judgment shall be reversed or affected by reason of such error or defect.

[Code 1881 § 113; 1877 p 24 § 113; 1854 p 144 § 71; RRS § 307.]

Notes:

Rules of court: Cf. RAP 2.4(a), 18.22.

**Chapter 4.40 RCW
ISSUES**

Sections

4.40.010	Issues defined--Kinds.
4.40.050	Trial of issue of law.
4.40.060	Trial of certain issues of fact--Jury.
4.40.070	Trial of other issues of fact.

RCW 4.40.010 Issues defined--Kinds.

Issues arise upon the pleadings when a fact or conclusion of law is maintained by one party and controverted by the other, they are of two kinds--first, of law; and second, of fact.

[1893 c 127 § 28; Code 1881 § 200; 1877 p 42 § 204; 1854 p 163 § 179; RRS § 309.]

RCW 4.40.050 Trial of issue of law.

An issue of law shall be tried by the court, unless it is referred as provided by the statutes relating to referees.

[1893 c 127 § 32; Code 1881 § 204; 1877 p 42 § 208; 1854 p 164 § 183; RRS § 313.]

Notes:

Trial before referee: Chapter 4.48 RCW.

RCW 4.40.060 Trial of certain issues of fact--Jury.

An issue of fact, in an action for the recovery of money only, or of specific real or personal property shall be tried by a jury, unless a jury is waived, as provided by law, or a reference ordered, as provided by statute relating to referees.

[1893 c 127 § 33; Code 1881 § 204; 1877 p 42 § 208; 1873 p 52 § 206; 1869 p 50 § 208; 1854 p 164 § 183; RRS § 314.]

RCW 4.40.070 Trial of other issues of fact.

Every other issue of fact shall be tried by the court, subject, however, to the right of the parties to consent, or of the court to order, that the whole issue, or any specific question of fact involved therein, be tried by a jury, or referred.

[1893 c 127 § 34; RRS § 315.]

**Chapter 4.44 RCW
TRIAL**

Sections

4.44.020	Notice of trial--Note of issue.
4.44.025	Priority permitted for aged or ill parties in civil cases.
4.44.060	Proceedings in trial by court--Findings deemed verdict.
4.44.070	Findings and conclusions, how made.
4.44.080	Questions of law to be decided by court.
4.44.090	Questions of fact for jury.
4.44.095	Right to jury trial upon an issue of fact in an action at law.
4.44.110	Jury fee part of taxable costs.
4.44.120	Impanelling jury--Voir dire, challenge for cause--Number.
4.44.130	Challenges--Kind and number.
4.44.140	Peremptory challenges defined.
4.44.150	Challenges for cause defined.
4.44.160	General causes of challenge.
4.44.170	Particular causes of challenge.
4.44.180	Implied bias defined.
4.44.190	Challenge for actual bias.
4.44.210	Peremptory challenges, how taken.
4.44.220	Order of taking challenges.
4.44.230	Exceptions to challenges--Determination.
4.44.240	Trial of challenge.
4.44.250	Challenge, exception, denial may be oral.
4.44.260	Oath of jurors.
4.44.270	View of premises by jury.
4.44.280	Admonitions to jurors.
4.44.290	Procedure when juror becomes ill.
4.44.300	Care of jury while deliberating.
4.44.310	Expense of keeping jury.
4.44.330	Discharge of jury without verdict.
4.44.340	Effect of discharge of jury.
4.44.350	Court recess while jury is out.
4.44.360	Proceedings when jury have agreed.
4.44.370	Manner of giving verdict.
4.44.380	Number of jurors required to render verdict.
4.44.390	Jury may be polled.

4.44.400	Correction of informal verdict--Polling jury.
4.44.410	General or special verdicts.
4.44.420	Verdict in action for specific personal property.
4.44.440	Special verdict controls.
4.44.450	Jury to assess amount of recovery.
4.44.460	Receiving verdict and discharging jury.
4.44.470	Court may fix amount of bond in civil actions.
4.44.480	Deposits in court--Order.
4.44.490	Deposits in court--Enforcement of order.
4.44.500	Deposits in court--Custody of money deposited.

Notes:

District court, civil trial: Chapter 12.12 RCW.

Juries

crimes relating to: Chapter 9.51 RCW.

generally: Chapter 2.36 RCW.

RCW 4.44.020 Notice of trial--Note of issue.

At any time after the issues of fact are completed in any case by the service of complaint and answer or reply when necessary, as herein provided, either party may cause the issues of fact to be brought on for trial, by serving upon the opposite party a notice of trial at least three days before any day provided by rules of court for setting causes for trial, which notice shall give the title of the cause as in the pleadings, and notify the opposite party that the issues in such action will be brought on for trial at the time set by the court; and the party giving such notice of trial shall, at least three days before the day of setting such causes for trial file with the clerk of the court a note of issue containing the title of the action, the names of the attorneys and the date when the last pleading was served; and the clerk shall thereupon enter the cause upon the trial docket according to the date of the issue.

In case an issue of law raised upon the pleadings is desired to be brought on for argument, either party shall, at least three days before the day set apart by the court under its rules for hearing issues of law, serve upon the opposite party a like notice of trial and furnish the clerk of the court with a note of issue as above provided, which note of issue shall specify that the issue to be tried is an issue of law; and the clerk of the court shall thereupon enter such action upon the motion docket of the court.

When a cause has once been placed upon either docket of the court, if not tried or argued at the time for which notice was given, it need not be noticed for a subsequent session or day, but shall remain upon the docket from session to session or from law day to law day until final disposition or stricken off by the court. The party upon whom notice of trial is served may file the note of issue and cause the action to be placed upon the calendar without further notice on his part.

[1893 c 127 § 35; RRS § 319.]

Notes:

Rules of court: Cf. CR 40(c).

RCW 4.44.025 Priority permitted for aged or ill parties in civil cases.

When setting civil cases for trial, unless otherwise provided by statute, upon motion of a party, the court may give priority to cases in which a party is frail and over seventy years of age or is afflicted with a terminal illness.

[1991 c 197 § 1.]

RCW 4.44.060 Proceedings in trial by court--Findings deemed verdict.

The order of proceedings on a trial by the court shall be the same as provided in trials by jury. The finding of the court upon the facts shall be deemed a verdict, and may be set aside in the same manner and for the same reason as far as applicable, and a new trial granted.

[Code 1881 § 247; 1877 p 51 § 251; 1869 p 60 § 251; RRS § 368.]

RCW 4.44.070 Findings and conclusions, how made.

Any party may, when the evidence is closed, submit in distinct and concise propositions the conclusions of fact which he claims to be established, or the conclusions of law which he desires to be adjudged, or both. They may be written and handed to the court, or at the option of the court, oral, and entered in the judge's minutes.

[Code 1881 § 222; 1877 p 47 § 226; 1869 p 56 § 226; RRS § 341.]

Notes:

Rules of court: Cf. CR 52(a).

RCW 4.44.080 Questions of law to be decided by court.

All questions of law including the admissibility of testimony, the facts preliminary to such admission, and the construction of statutes and other writings, and other rules of evidence, are to be decided by the court, and all discussions of law addressed to it.

[Code 1881 § 223; 1877 p 47 § 227; 1869 p 56 § 227; RRS § 342.]

Notes:

Rules of court: Cf. ER 104 and ER 1008.

RCW 4.44.090 Questions of fact for jury.

All questions of fact other than those mentioned in RCW 4.44.080, shall be decided by the jury, and all evidence thereon addressed to them.

[Code 1881 § 224; 1877 p 47 § 228; 1869 p 56 § 228; RRS § 343.]

Notes:

Rules of court: *Cf. ER 1008.*

Charging juries: State Constitution Art. 4 § 16.

Right to trial by jury: State Constitution Art. 1 § 21; RCW 4.48.010.

RCW 4.44.095 Right to jury trial upon an issue of fact in an action at law.

See RCW 4.48.010.

RCW 4.44.110 Jury fee part of taxable costs.

The jury fee paid by the party demanding a trial by jury shall be a part of the taxable costs in such action.

[1961 c 304 § 3; 1903 c 43 § 2; RRS § 317.]

RCW 4.44.120 Impanelling jury--Voir dire, challenge for cause--Number.

When the action is called for trial, the jurors shall be selected at random from the jurors summoned who have appeared and have not been excused. A voir dire examination of the panel shall be conducted for the purpose of discovering any basis for challenge for cause and to permit the intelligent exercise of peremptory challenges. Any necessary additions to the panel shall be selected at random from the list of qualified jurors. The jury shall consist of six persons, unless the parties in their written demand for jury demand that the jury be twelve in number or consent to a less number. The parties may consent to a jury less than six in number but not less than three, and such consent shall be entered by the clerk on the minutes of the trial.

[1996 c 40 § 1; 1972 ex.s. c 57 § 3; Code 1881 § 206; 1877 p 43 § 210; 1869 p 51 § 210; 1854 p 164 § 185; RRS § 323.]

Notes:

Rules of court: *Cf. CR 48.*

Juries, district courts: Chapter 12.12 RCW.

RCW 4.44.130 Challenges--Kind and number.

Either party may challenge the jurors. The challenge shall be to individual jurors, and be peremptory or for cause. Each party shall be entitled to three peremptory challenges. When there is more than one party on either side, the parties need not join in a challenge for cause; but, they shall join in a peremptory challenge before it can be made. If the court finds that there is a conflict of interests between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.

[1969 ex.s. c 37 § 1; Code 1881 § 207; 1877 p 43 § 211; 1854 p 165 § 186; RRS § 324.]

RCW 4.44.140 Peremptory challenges defined.

A peremptory challenge is an objection to a juror for which no reason need be given, but upon which the court shall exclude him.

[Code 1881 § 208; 1877 p 43 § 212; 1869 p 51 § 212; RRS § 325.]

RCW 4.44.150 Challenges for cause defined.

A challenge for cause is an objection to a juror, and may be either:

- (1) General; that the juror is disqualified from serving in any action; or
- (2) Particular; that he is disqualified from serving in the action on trial.

[Code 1881 § 209; 1877 p 43 § 213; 1869 p 51 § 213; RRS § 326.]

RCW 4.44.160 General causes of challenge.

General causes of challenge are:

- (1) A want of any of the qualifications prescribed for a juror, as set out in RCW 2.36.070.
- (2) Unsoundness of mind, or such defect in the faculties of the mind, or organs of the body, as renders him or her incapable of performing the duties of a juror in any action.

[1992 c 93 § 6; 1975 1st ex.s. c 203 § 2; Code 1881 § 210; 1877 p 44 § 214; 1869 p 52 § 214; RRS § 327.]

Notes:

Qualifications of jurors: RCW 2.36.070.

RCW 4.44.170 Particular causes of challenge.

Particular causes of challenge are of three kinds:

- (1) For such a bias as when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this code as implied bias.
- (2) For the existence of a state of mind on the part of the juror in reference to the action, or to either party, which satisfies the court that the challenged person cannot try the issue impartially and without prejudice to the substantial rights of the party challenging, and which is known in this code as actual bias.
- (3) For the existence of a defect in the functions or organs of the body which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the party challenging.

[1975 1st ex.s. c 203 § 3; Code 1881 § 211; 1877 p 44 § 215; 1869 p 52 § 215; RRS § 329.]

Notes:

Reviser's note: The word "code" appeared in Code 1881 § 211.

Qualification of jurors: RCW 2.36.070.

RCW 4.44.180 Implied bias defined.

A challenge for implied bias may be taken for any or all of the following causes, and not otherwise:

(1) Consanguinity or affinity within the fourth degree to either party.

(2) Standing in the relation of guardian and ward, attorney and client, master and servant or landlord and tenant, to the adverse party; or being a member of the family of, or a partner in business with, or in the employment for wages, of the adverse party, or being surety or bail in the action called for trial, or otherwise, for the adverse party.

(3) Having served as a juror on a previous trial in the same action, or in another action between the same parties for the same cause of action, or in a criminal action by the state against either party, upon substantially the same facts or transaction.

(4) Interest on the part of the juror in the event of the action, or the principal question involved therein, excepting always, the interest of the juror as a member or citizen of the county or municipal corporation.

[Code 1881 § 212; 1877 p 44 § 216; 1869 p 52 § 216; 1854 p 165 § 187; RRS § 330.]

RCW 4.44.190 Challenge for actual bias.

A challenge for actual bias may be taken for the cause mentioned in RCW 4.44.170(2). But on the trial of such challenge, although it should appear that the juror challenged has formed or expressed an opinion upon what he may have heard or read, such opinion shall not of itself be sufficient to sustain the challenge, but the court must be satisfied, from all the circumstances, that the juror cannot disregard such opinion and try the issue impartially.

[Code 1881 § 213; 1877 p 44 § 217; 1869 p 53 § 217; RRS § 331.]

RCW 4.44.210 Peremptory challenges, how taken.

The jurors having been examined as to their qualifications, first by the plaintiff and then by the defendant, and passed for cause, the peremptory challenges shall be conducted as follows, to wit:

The plaintiff may challenge one, and then the defendant may challenge one, and so alternately until the peremptory challenges shall be exhausted. The panel being filled and passed for cause, after said challenge shall have been made by either party, a refusal to challenge by either party in the said order of alternation, shall not defeat the adverse party of his full number of challenges, but such refusal on the part of the plaintiff to exercise his challenge in proper turn, shall conclude him as to the jurors once accepted by him, and if his right be not exhausted, his further challenges shall be confined, in his proper turn, to talesmen only.

[Code 1881 § 215; 1877 p 45 § 219; 1869 p 53 § 219; RRS § 333.]

RCW 4.44.220 Order of taking challenges.

The challenges of either party shall be taken separately in the following order, including in each challenge all the causes of challenge belonging to the same class:

- (1) For general disqualification.
- (2) For implied bias.
- (3) For actual bias.
- (4) Peremptory.

[Code 1881 § 216; 1877 p 45 § 220; 1869 p 53 § 220; RRS § 334.]

RCW 4.44.230 Exceptions to challenges--Determination.

The challenge may be excepted to by the adverse party for insufficiency, and if so, the court shall determine the sufficiency thereof, assuming the facts alleged therein to be true. The challenge may be denied by the adverse party, and if so, the court shall try the issue and determine the law and the facts.

[Code 1881 § 217; 1877 p 45 § 221; 1869 p 53 § 221; RRS § 335.]

RCW 4.44.240 Trial of challenge.

Upon the trial of a challenge, the rules of evidence applicable to testimony offered upon the trial of an ordinary issue of fact shall govern. The juror challenged, or any other person otherwise competent may be examined as a witness by either party. If a challenge be determined to be sufficient, or found to be true, as the case may be, it shall be allowed, and the juror to whom it was taken excluded; but if determined or found otherwise, it shall be disallowed.

[Code 1881 § 218; 1877 p 45 § 222; 1869 p 54 § 222; RRS § 336.]

RCW 4.44.250 Challenge, exception, denial may be oral.

The challenge, the exception and the denial may be made orally. The judge of the court shall note the same upon his minutes, and the substance of the testimony on either side.

[Code 1881 § 219; 1877 p 45 § 223; 1869 p 54 § 223; RRS § 337.]

RCW 4.44.260 Oath of jurors.

As soon as the number of the jury has been completed, an oath or affirmation shall be administered to the jurors, in substance that they and each of them, will well, and truly try, the matter in issue between the plaintiff and defendant, and a true verdict give, according to the law and evidence as given them on the trial.

[Code 1881 § 220; 1877 p 46 § 224; 1869 p 54 § 224; RRS § 338.]

Notes:

Oaths and mode of administering: State Constitution Art. 1 § 6.

RCW 4.44.270 View of premises by jury.

Whenever in the opinion of the court it is proper that the jury should have a view of real property which is the subject of litigation, or of the place in which any material fact occurred, it may order the jury to be conducted in a body, in the custody of a proper officer, to the place which shall be shown to them by the judge or by a person appointed by the court for that purpose. While the jury are thus absent no person other than the judge, or person so appointed, shall speak to them on any subject connected with the trial.

[Code 1881 § 225; 1877 p 47 § 229; 1869 p 56 § 229; RRS § 344.]

RCW 4.44.280 Admonitions to jurors.

The jurors may be admonished by the court that it is their duty not to converse with any other person, or among themselves, on any subject connected with the trial, or to express any opinion thereon, until the case is finally submitted to them.

[1957 c 7 § 5; Code 1881 § 226; 1877 p 47 § 230; 1869 p 56 § 230; RRS § 345.]

Notes:

Care of jury while deliberating: RCW 4.44.300.

RCW 4.44.290 Procedure when juror becomes ill.

If after the formation of the jury, and before verdict, a juror become sick so as to be unable to perform his duty, the court may order him to be discharged. In that case, unless the parties agree to proceed with the other jurors, a new juror may be sworn and the trial begin anew; or the jury may be discharged and a new jury then or afterwards formed.

[Code 1881 § 227; 1877 p 48 § 231; 1869 p 56 § 231; RRS § 347.]

RCW 4.44.300 Care of jury while deliberating.

After hearing the charge, the jury may either decide in the jury box or retire for deliberation. If they retire, they must be kept together in a room provided for them, or some other convenient place under the charge of one or more officers, until they agree upon their verdict, or are discharged by the court. The officer shall, to the best of his ability, keep the jury thus separate from other persons, without drink, except water, and without food, except [as] ordered by the court. He must not suffer any communication to be made to them, nor make any himself, unless by order of the court, except to ask them if they have agreed upon their verdict, and he shall not, before the verdict is rendered, communicate to any person the state of their deliberations or the verdict agreed on.

[Code 1881 § 229; 1877 p 48 § 233; 1869 p 57 § 233; 1854 p 166 § 194; RRS § 349.]

Notes:

Rules of court: *Cf. CR 47(i), 51(h).*

Admonitions to jury, separation: RCW 4.44.280.

RCW 4.44.310 Expense of keeping jury.

If, while the jury are kept together, either during the progress of the trial or after their retirement for deliberation, the court orders them to be provided with suitable and sufficient food and lodging, they shall be so provided by the sheriff, at the expense of the county.

[Code 1881 § 230; 1877 p 48 § 234; 1869 p 57 § 234; RRS § 350.]

RCW 4.44.330 Discharge of jury without verdict.

The jury may be discharged by the court on account of the sickness of a juror, or other accident or calamity requiring their discharge, or by consent of both parties, or after they have been kept together until it satisfactorily appears that there is no probability of their agreeing.

[Code 1881 § 233; 1877 p 48 § 237; 1869 p 58 § 237; RRS § 353.]

RCW 4.44.340 Effect of discharge of jury.

In all cases where a jury are discharged or prevented from giving a verdict, by reason of accident or other cause, during the progress of the trial or after the cause is submitted to them, the action shall thereafter be for trial anew.

[1891 c 60 § 2; Code 1881 § 234; 1877 p 49 § 238; 1869 p 58 § 238; RRS § 354.]

RCW 4.44.350 Court recess while jury is out.

While the jury is absent the court may adjourn from time to time, in respect to other business, but it is nevertheless to be deemed open for every purpose connected with the cause submitted to the jury until a verdict is rendered or the jury discharged.

[1957 c 9 § 2; Code 1881 § 235; 1877 p 49 § 239; 1869 p 58 § 239; 1854 p 166 § 197; RRS § 355.]

RCW 4.44.360 Proceedings when jury have agreed.

When the jury have agreed upon their verdict they shall be conducted into court by the officer having them in charge. Their names shall then be called, and if all do not appear, the rest shall be discharged without giving a verdict.

[Code 1881 § 236; 1877 p 49 § 240; 1869 p 58 § 240; RRS § 356.]

RCW 4.44.370 Manner of giving verdict.

If the jury appear, they shall be asked by the court or the clerk whether they have agreed upon their verdict, and if the foreman answers in the affirmative, he shall on being required declare the same.

[Code 1881 § 237; 1877 p 49 § 241; 1869 p 58 § 241; RRS § 357.]

RCW 4.44.380 Number of jurors required to render verdict.

In all trials by juries of six in the superior court, except criminal trials, when five of the jurors agree upon a verdict, the verdict so agreed upon shall be signed by the foreman, and the verdict shall stand as the verdict of the whole jury, and have all the force and effect of a verdict agreed to by six jurors. In cases where the jury is twelve in number, a verdict reached by ten shall have the same force and effect as described above, and the same procedures shall be followed.

[1972 ex.s. c 57 § 4; 1895 c 36 § 1; RRS § 358.]

Notes:

Trial by jury: State Constitution Art. 1 § 21.

RCW 4.44.390 Jury may be polled.

When the verdict is returned into court either party may poll the jury, and if the number of jurors required for verdict answer that it is the verdict said verdict shall stand. In case the number of jurors required for verdict do not answer in the affirmative the jury shall be returned to the jury room for further deliberation.

[1972 ex.s. c 57 § 6; 1895 c 36 § 2; RRS § 359.]

RCW 4.44.400 Correction of informal verdict--Polling jury.

When a verdict is given and before it is filed, the jury may be polled at the request of either party, for which purpose each shall be asked whether it is his verdict; if any juror answer in the negative the jury shall be sent out for further deliberation. If the verdict be informal or insufficient, it may be corrected by the jury under the advice of the court, or the jury may again be sent out.

[Code 1881 § 238; 1877 p 49 § 242; 1869 p 58 § 242; RRS § 360.]

Notes:

Reviser's note: For later enactment regarding the polling of a jury, see RCW 4.44.390.

RCW 4.44.410 General or special verdicts.

The verdict of a jury is either general or special.

[1984 c 76 § 4; Code 1881 § 240; 1877 p 49 § 244; 1869 p 59 § 244; 1854 p 167 § 198; RRS § 362.]

Notes:

Rules of court: See CR 49.

RCW 4.44.420 Verdict in action for specific personal property.

In an action for the recovery of specific personal property, if the property has not been delivered to the plaintiff, or the defendant by his answer claims a return thereof, the jury shall assess the value of the property if their verdict be in favor of the plaintiff, or if they find in favor of the defendant and that he is entitled to a return thereof, they may at the same time assess the damages, if any are claimed in the complaint or answer, which the prevailing party has sustained by reason of the detention or taking and withholding such property.

[Code 1881 § 241; 1877 p 50 § 245; 1869 p 59 § 245; 1854 p 167 § 199; RRS § 363.]

RCW 4.44.440 Special verdict controls.

When a special finding of facts shall be inconsistent with the general verdict, the former shall control the latter, and the court shall give judgment accordingly.

[Code 1881 § 243; 1877 p 50 § 247; 1869 p 60 § 247; 1854 p 167 § 201; RRS § 365.]

Notes:

Rules of court: Cf. CR 49(b).

RCW 4.44.450 Jury to assess amount of recovery.

When a verdict is found for the plaintiff in an action for the recovery of money, or for the defendant when a setoff for the recovery of money is established beyond the amount of the plaintiff's claim as established, the jury shall also assess the amount of the recovery; they may also, under the direction of the court, assess the amount of the recovery when the court gives judgment for the plaintiff on the pleadings.

[1891 c 60 § 3; Code 1881 § 244; 1877 p 50 § 248; 1869 p 60 § 248; 1854 p 167 § 202; RRS § 366.]

RCW 4.44.460 Receiving verdict and discharging jury.

When the verdict is given and is such as the court may receive, and if no juror disagrees or the jury be not again sent out, the clerk shall file the verdict. The verdict is then complete and the jury shall be discharged from the case. The verdict shall be in writing, and under the direction of the court shall be substantially entered in the journal as of the day's proceedings on which it was given.

[Code 1881 § 239; 1877 p 49 § 243; 1869 p 59 § 243; RRS § 361.]

RCW 4.44.470 Court may fix amount of bond in civil actions.

Whenever by statute a bond or other security is required for any purpose in an action or other proceeding in a court of record and if the party shall apply therefor, the court shall have power to prescribe the amount of the bond or other security notwithstanding any requirement of the statute; and in every such case money in an amount prescribed by the court may be deposited with the clerk in lieu of a bond. After a bond or other security shall have been given, the court in its discretion may require additional security either on its own motion or upon motion of an interested party or person. The courts shall exercise care to require adequate though not excessive security in every instance.

[1927 c 272 § 1; RRS § 958-4.]

Notes:

Suretyship: Chapters 19.72, 48.28 RCW.

RCW 4.44.480 Deposits in court--Order.

When it is admitted by the pleading or examination of a party, that he has in his possession, or under his control, any money, or other thing capable of delivery, which being the subject of the litigation, is held by him as trustee for another party, or which belongs or is due to another party, the court may order the same to be deposited in court, or delivered to such party, with or without security, subject to the further direction of the court.

[Code 1881 § 195; 1877 p 41 § 199; 1869 p 49 § 203; 1854 p 163 § 174; RRS § 745.]

Notes:

Rules of court: Cf. CR 67.

RCW 4.44.490 Deposits in court--Enforcement of order.

Whenever, in the exercise of its authority, a court shall have ordered the deposit or delivery of money or other thing, and the order is disobeyed, the court, besides punishing the disobedience as for contempt, may make an order requiring the sheriff to take the money or thing, and deposit or deliver it, in conformity with the direction of the court.

[Code 1881 § 196; 1877 p 41 § 200; 1869 p 49 § 200; 1854 p 163 § 175; RRS § 746.]

Notes:

Rules of court: Cf. CR 67.

RCW 4.44.500 Deposits in court--Custody of money deposited.

Money deposited, or paid into a court in an action, shall not be loaned out, unless, with the consent of all parties having an interest in, or making claim to the same.

[Code 1881 § 197; 1877 p 41 § 201; 1869 p 49 § 201; 1854 p 163 § 176; RRS § 747.]

Notes:

Rules of court: Cf. CR 67.

**Chapter 4.48 RCW
TRIAL BEFORE REFEREE**

Sections

4.48.010	Reference by consent--Right to jury trial--Referee may not preside--Parties' written consent constitutes waiver of right.
4.48.020	Reference without consent.
4.48.030	To whom reference may be ordered.
4.48.040	Qualifications of referees.
4.48.050	Challenges to referees.
4.48.060	Trial procedure--Powers of referee--Referee to provide clerical personnel.
4.48.070	Referee's report--Contents--Evidence, filing of, frivolous.
4.48.080	Proceedings on filing of report.
4.48.090	Judgment on referee's report.
4.48.100	Compensation of referee--Trial expense--Obligation of parties, when.
4.48.110	Referee's proposed report--Copies--Objections, etc.--Request for hearing--Final report--Additional items to be filed--Exception--Copies.
4.48.120	Termination of referral--Judgment--Review of referee's decision.
4.48.130	Notice of trial before referee.

RCW 4.48.010 Reference by consent--Right to jury trial--Referee may not preside--Parties' written consent constitutes waiver of right.

The court shall order all or any of the issues in a civil action, whether of fact or law, or both, referred to a referee upon the written consent of the parties which is filed with the clerk. Any party shall have the right in an action at law, upon an issue of fact, to demand a trial by jury. No referee appointed under this chapter may preside over a jury trial. The written consent of the parties constitutes a waiver of the right of trial by jury by any party having the right.

[1984 c 258 § 512; Code 1881 § 248; 1854 p 168 § 206; RRS § 369. Formerly RCW 4.44.100, part, and 4.48.010.]

Notes:

Rules of court: Cf. CR 38(a).

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.020 Reference without consent.

Where the parties do not consent, the court may upon the application of either party, direct a reference in all cases formerly cognizable in chancery in which reference might be made:

(1) When the trial of an issue of fact shall require the examination of a long account on either side, in which case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,

(2) When the taking of an account shall be necessary for the information of the court, before judgment upon an issue of law, or for carrying a judgment or order into effect; or,

(3) When a question of fact other than upon the pleadings shall arise, upon motion or otherwise, in any stage of the action; or,

(4) When it is necessary for the information of the court in a special proceeding.

[1984 c 258 § 513; Code 1881 § 249; 1877 p 51 § 253; 1869 p 61 § 253; 1854 p 168 § 207; RRS § 370.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.030 To whom reference may be ordered.

A reference may be ordered to any person or persons not exceeding three, agreed upon by the parties. If the reference is not agreed to by the parties, the court may appoint one or more persons, not exceeding three.

[1984 c 258 § 514; Code 1881 § 250; 1877 p 51 § 254; 1869 p 61 § 254; 1854 p 168 § 208; RRS § 371.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.040 Qualifications of referees.

A person appointed by the court as a referee or who serves as a referee with the consent of the parties shall be:

(1) Qualified as a juror as provided by statute.

(2) Competent as juror between the parties.

(3) A duly admitted and practicing attorney.

[1984 c 258 § 515; Code 1881 § 251; 1877 p 51 § 255; 1859 p 61 § 255; 1854 p 169 § 209; RRS § 372.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.050 Challenges to referees.

If a referee is appointed by the court, each party shall have the same right to challenge the appointment. Challenges shall be made and determined in the same manner and with like effect as in the formation of juries, except that neither party shall be entitled to a peremptory challenge.

[1984 c 258 § 516; Code 1881 § 252; 1877 p 52 § 256; 1869 p 61 § 256; RRS § 373.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.060 Trial procedure--Powers of referee--Referee to provide clerical

personnel.

(1) Subject to the limitations and directions prescribed in the order of reference, the trial conducted by a referee shall be conducted in the same manner as a trial by the court. Unless waived in whole or in part, the referee shall apply the rules of pleading, practice, procedure, and evidence used in the superior courts of this state. The referee shall have the same power to grant adjournments, administer oaths, preserve order, punish all violations thereof upon such trial, compel the attendance of witnesses, and to punish them for nonattendance or refusal to be sworn or testify, as is possessed by the court.

(2) A referee appointed under RCW 4.48.010 shall provide clerical personnel necessary for the conduct of the proceeding, including a court reporter.

[1984 c 258 § 517; Code 1881 § 253; 1877 p 52 § 257; 1869 p 62 § 257; 1854 p 169 § 210; RRS § 374.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.070 Referee's report--Contents--Evidence, filing of, frivolous.

The report of a referee appointed by the court under RCW 4.48.020 shall state the facts found, and when the order of reference includes an issue of law, it shall state the conclusions of law separately from the facts. The referee shall file with the report the evidence received upon the trial. If evidence offered by either party shall not be admitted on the trial and the party offering the same excepts to the decision rejecting such evidence at the time, the exceptions shall be noted by the referees and they shall take and receive such testimony and file it with the report. Whatever judgment the court may give upon the report, it shall, when it appears that such evidence was frivolous and inadmissible, require the party at whose instance it was taken and reported, to pay all costs and disbursements thereby incurred.

[1984 c 258 § 518; Code 1881 § 254; 1877 p 52 § 258; 1869 p 62 § 258; 1854 p 169 § 210; RRS § 375.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.080 Proceedings on filing of report.

The report of a referee appointed by the court under RCW 4.48.020 shall be filed with the clerk within twenty days after the trial concludes. Either party may, within such time as may be prescribed by the rules of court, or by special order, move to set the same aside, or for judgment thereon, or such order or proceeding as the nature of the case may require.

[1984 c 258 § 519; 1957 c 9 § 3; Code 1881 § 255; 1877 p 52 § 259; 1869 p 62 § 259; RRS § 376.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.090 Judgment on referee's report.

The court may affirm or set aside the report of a referee appointed under RCW 4.48.020 either in whole or in part. If it affirms the report it shall give judgment accordingly. If the report be set aside, either in whole or in part, the court may make another order of reference as to all or so much of the report as is set aside, to the original referees or others, or it may find the facts and determine the law itself and give judgment accordingly. Upon a motion to set aside a report, the conclusions thereof shall be deemed and considered as the verdict of the jury.

[1984 c 258 § 520; Code 1881 § 256; 1877 p 52 § 260; 1869 p 62 § 260; RRS § 377.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.100 Compensation of referee--Trial expense--Obligation of parties, when.

(1) The compensation of a referee appointed under RCW 4.48.020 shall be the same as that established for a superior court judge pro tempore under RCW 2.08.180.

(2) If a referee is appointed pursuant to RCW 4.48.010, the referee's compensation shall be at the rate prescribed by subsection (1) of this section, unless otherwise agreed to by the parties.

(3) Payment of the compensation of a referee appointed under RCW 4.48.010 and the expense of the trial before the referee shall be the obligation of the parties. The obligation shall be borne equally unless the parties agree to a different allocation.

[1984 c 258 § 524; Code 1881 § 514; 1877 p 109 § 518; 1854 p 202 § 376; RRS § 483.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Supplemental proceedings, fees of referees: RCW 6.32.280.

RCW 4.48.110 Referee's proposed report--Copies--Objections, etc.--Request for hearing--Final report--Additional items to be filed--Exception--Copies.

(1) Within twenty days after the conclusion of a trial before a referee appointed under RCW 4.48.010, unless a later time is agreed to by the parties, the referee shall mail to each party a copy of the referee's proposed written report. The proposed report shall contain the findings of fact and conclusions of law by the referee and the judgment of the referee.

(2) Within ten days after receipt of the copy of the proposed report, any party may serve written objections and suggested modifications or corrections to the proposed report on the referee and the other parties. The referee shall without delay consider the objections and suggestions and prepare a final written report. If requested by any party, the referee shall conduct a hearing on the proposed report and any suggested corrections or modifications before preparing the final written report.

(3) Upon completion of the final written report, the referee shall file with the clerk of the superior court:

- (a) Copies of all original papers in the action filed with the referee;
- (b) Exhibits offered and received or rejected during the trial;
- (c) The transcript of the proceedings in the trial; and
- (d) The final written report containing the findings of fact and conclusions of law by the referee and the judgment of the referee.

(4) The presiding judge of the superior court may allow the referee to file the final written report under subsection (3) of this section without any of the items listed in subsection (3) (a) through (c) of this section. However, the presiding judge shall require the referee to file those items if a timely notice of appeal of the judgment is filed.

(5) When the referee files the written report under subsection (3) of this section, the referee shall also mail to each party a copy of the report.

[1984 c 258 § 521.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.120 Termination of referral--Judgment--Review of referee's decision.

(1) Upon receipt by the clerk of the court of the final written report filed under RCW 4.48.110, the referral of the action shall terminate and the presiding judge of the superior court shall order the judgment contained in the report entered as the judgment of the court in the action. Subsequent motions and other post trial proceedings in the action may be conducted and disposed of by the referee upon order of the presiding judge, in the discretion of the presiding judge, or may otherwise be assigned by the presiding judge.

(2) The decision of a referee entered as provided in this section may be reviewed in the same manner as if the decision was made by the court.

[1984 c 258 § 522.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 4.48.130 Notice of trial before referee.

(1) If an action is to be tried by a referee appointed under RCW 4.48.010, at least five days before the date set for the trial the referee shall advise the clerk of the court of the time and place set for the trial. The clerk shall post in a conspicuous place in the courthouse a notice that includes the names of the parties to the action, the time and place set for the trial, the name of the referee, and a statement that the proceeding is being held before a referee agreed to by the parties under chapter 4.48 RCW.

(2) A person interested in attending a trial before a referee appointed under RCW 4.48.010 [4.48.010] is entitled to do so as in a trial of a civil action in superior court. Upon

request by any person, the referee shall give the person notice of the time and place set for the trial.

[1984 c 258 § 523.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Chapter 4.52 RCW AGREED CASES

Sections

4.52.010	Controversy may be submitted without action.
4.52.020	Judgment to be rendered as in other cases.
4.52.030	Enforcement of judgment--Appeal.

RCW 4.52.010 Controversy may be submitted without action.

Parties to a question in difference which might be the subject of a civil action may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought. But it must appear by affidavit that the controversy is real, and the proceedings in good faith to determine the rights of the parties. The court shall thereupon hear and determine the case and render judgment thereon as if an action were pending.

[Code 1881 § 298; 1877 p 61 § 302; 1869 p 73 § 300; RRS § 378.]

RCW 4.52.020 Judgment to be rendered as in other cases.

Judgment shall be entered in the judgment book as in other cases, but without costs for any proceedings prior to the trial. The case, the submission and a copy of the judgment shall constitute the judgment roll.

[Code 1881 § 299; 1877 p 61 § 303; 1869 p 74 § 301; RRS § 379.]

RCW 4.52.030 Enforcement of judgment--Appeal.

The judgment may be enforced in the same manner as if it had been rendered in an action, and shall be in the same manner subject to appeal.

[Code 1881 § 300; 1877 p 61 § 304; 1869 p 74 § 302; RRS § 380.]

Chapter 4.56 RCW

JUDGMENTS--GENERALLY

Sections

4.56.050	Effect of judgment against executor or administrator.
4.56.060	Judgment in case of setoff--When equal or less than plaintiff's debt.
4.56.070	Judgment in case of setoff--When exceeds plaintiff's debt--Effect of contract assignment.
4.56.075	Judgment in case of setoff--When exceeds plaintiff's debt or affirmative relief required.
4.56.080	Judgment in action to recover personal property.
4.56.090	Assignment of judgment--Filing.
4.56.100	Satisfaction of judgments for payment of money.
4.56.110	Interest on judgments.
4.56.115	Interest on judgments against state, political subdivisions or municipal corporations--Torts.
4.56.120	Judgment of dismissal or nonsuit, grounds, effect--Other judgments on merits.
4.56.150	Challenge to legal sufficiency of evidence--Judgment in bar or of nonsuit.
4.56.190	Lien of judgment.
4.56.200	Commencement of lien on real estate.
4.56.210	Cessation of lien--Extension prohibited--Exception.
4.56.250	Claims for noneconomic damages--Limitation.
4.56.260	Award of future economic damages--Proposal for periodic payments--Security--Satisfaction of judgment.

Notes:

Enforcement of judgments: Title 6 RCW.

Judgments, financial support of child: RCW 13.34.161.

Liens, cessation, financial support of child: RCW 13.34.161.

Pleading judgments: RCW 4.36.070.

Time limit for decision: State Constitution Art. 4 § 20.

Verdict or award of future economic damages in personal injury or property damage action may provide for periodic payments: RCW 4.56.260.

RCW 4.56.050 Effect of judgment against executor or administrator.

When a setoff shall be established in an action brought by executors or administrators, and a balance found due to the defendant, the judgment rendered thereon against the plaintiff shall have the same effect as if the action had been originally commenced by the defendant.

[Code 1881 § 500; 1877 p 107 § 504; RRS § 269.]

Notes:

Rules of court: *Cf. CR 54(b).*

RCW 4.56.060 Judgment in case of setoff--When equal or less than plaintiff's debt.

If the amount of the setoff, duly established, be equal to the plaintiff's debt or demand, judgment shall be rendered that the plaintiff take nothing by his action; if it be less than the plaintiff's debt or demand, the plaintiff shall have judgment for the residue only.

[Code 1881 § 503; 1877 p 108 § 507; RRS § 271 1/2.]

Notes:

Rules of court: Cf. CR 54(b).

RCW 4.56.070 Judgment in case of setoff--When exceeds plaintiff's debt--Effect of contract assignment.

If there be found a balance due from the plaintiff in the action to the defendant, judgment shall be rendered in favor of the defendant for the amount thereof, but no such judgment shall be rendered against the plaintiff when the contract, which is the subject of the action, shall have been assigned before the commencement of such action, nor for any balance due from any other person than the plaintiff in the action.

[Code 1881 § 504; 1877 p 108 § 508; RRS § 272. FORMER PART OF SECTION: Code 1881 § 303; RRS § 433 now codified as RCW 4.56.075.]

Notes:

Rules of court: Cf. CR 54(b).

RCW 4.56.075 Judgment in case of setoff--When exceeds plaintiff's debt or affirmative relief required.

If a setoff established at the trial, exceeds the plaintiff's demand so established, judgment for the defendant shall be given for the excess; or if it appears that the defendant is entitled to any affirmative relief, judgment shall be given accordingly.

[Code 1881 § 303; 1877 p 62 § 307; 1869 p 74 § 305; 1854 p 173 § 231; RRS § 433. Formerly RCW 4.56.070, part.]

Notes:

Rules of court: Cf. CR 54(b).

RCW 4.56.080 Judgment in action to recover personal property.

In an action to recover the possession of personal property, judgment for the plaintiff may be for the possession or value thereof, in case a delivery cannot be had, and damages for the detention. If the property has been delivered to the plaintiff, and the defendant claim a return thereof, judgment for the defendant may be for a return of the property, or the value thereof, in case a return cannot be had, and damages for taking and withholding the same.

[Code 1881 § 304; 1877 p 62 § 308; 1869 p 75 § 306; 1854 p 173 § 232; RRS § 434.]

RCW 4.56.090 Assignment of judgment--Filing.

When any judgment has been assigned, the assignment may be filed in the office of the county clerk in the county where the judgment is recorded and a certified copy thereof may be filed in any county where an abstract of such judgment has been filed and from the time of such

filing shall be notice of such assignment: PROVIDED, That such assignment of a judgment or such certified copy thereof, may not be filed unless it is properly acknowledged before an officer qualified by law to take acknowledgment of deeds.

[1935 c 22 § 1, part; 1929 c 60 § 5, part; RRS § 447. Prior: 1893 c 42 § 6.]

RCW 4.56.100 Satisfaction of judgments for payment of money.

(1) When any judgment for the payment of money only shall have been paid or satisfied, the clerk of the court in which such judgment was rendered shall note upon the record in the execution docket satisfaction thereof giving the date of such satisfaction upon either the payment to such clerk of the amount of such judgment, costs and interest and any accrued costs by reason of the issuance of any execution, or the filing with such clerk of a satisfaction entitled in such action and identifying the same executed by the judgment creditor or his or her attorney of record in such action or his or her assignee acknowledged as deeds are acknowledged. The clerk has the authority to note the satisfaction of judgments for criminal and juvenile legal financial obligations when the clerk's record indicates payment in full or as directed by the court. Every satisfaction of judgment and every partial satisfaction of judgment which provides for the payment of money shall clearly designate the judgment creditor and his or her attorney if any, the judgment debtor, the amount or type of satisfaction, whether the satisfaction is full or partial, the cause number, and the date of entry of the judgment. A certificate by such clerk of the entry of such satisfaction by him or her may be filed in the office of the clerk of any county in which an abstract of such judgment has been filed. When so satisfied by the clerk or the filing of such certificate the lien of such judgment shall be discharged.

(2) The department of social and health services shall file a satisfaction of judgment for welfare fraud conviction if a person does not pay money through the clerk as required under subsection (1) of this section.

(3) The department of corrections shall file a satisfaction of judgment if a person does not pay money through the clerk's office as required under subsection (1) of this section.

[1997 c 358 § 4; 1994 c 185 § 1; 1983 c 28 § 1; 1929 c 60 § 6; RRS § 454. Prior: 1893 c 42 § 7.]

RCW 4.56.110 Interest on judgments.

Interest on judgments shall accrue as follows:

(1) Judgments founded on written contracts, providing for the payment of interest until paid at a specified rate, shall bear interest at the rate specified in the contracts: PROVIDED, That said interest rate is set forth in the judgment.

(2) All judgments for unpaid child support that have accrued under a superior court order or an order entered under the administrative procedure act shall bear interest at the rate of twelve percent.

(3) Except as provided under subsections (1) and (2) of this section, judgments shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date

of entry thereof: PROVIDED, That in any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

[1989 c 360 § 19; 1983 c 147 § 1; 1982 c 198 § 1; 1980 c 94 § 5; 1969 c 46 § 1; 1899 c 80 § 6; 1895 c 136 § 4; RRS § 457.]

Notes:

Application--1983 c 147: "The 1983 amendments of RCW 4.56.110 and 4.56.115 apply only to judgments entered after July 24, 1983." [1983 c 147 § 3.]

Effective date--1980 c 94: See note following RCW 4.84.250.

RCW 4.56.115 Interest on judgments against state, political subdivisions or municipal corporations--Torts.

Judgments founded on the tortious conduct of the state of Washington or of the political subdivisions, municipal corporations, and quasi municipal corporations of the state, whether acting in their governmental or proprietary capacities, shall bear interest from the date of entry at the maximum rate permitted under RCW 19.52.020 on the date of entry thereof: PROVIDED, That in any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered.

[1983 c 147 § 2; 1975 c 26 § 1.]

Notes:

Application--1983 c 147: See note following RCW 4.56.110.

RCW 4.56.120 Judgment of dismissal or nonsuit, grounds, effect--Other judgments on merits.

An action in the superior court may be dismissed by the court and a judgment of nonsuit rendered in the following cases:

(1) Upon the motion of the plaintiff, (a) when the case is to be or is being tried before a jury, at any time before the court announces its decision in favor of the defendant upon a challenge to the legal sufficiency of the evidence, or before the jury retire to consider their verdict, (b) when the action, whether for legal or equitable relief, is to be or is being tried before the court without a jury, at any time before the court has announced its decision: PROVIDED, That no action shall be dismissed upon the motion of the plaintiff, if the defendant has interposed a setoff as a defense, or seeks affirmative relief growing out of the same transaction, or sets up a counterclaim, either legal or equitable, to the specific property or thing which is the subject matter of the action.

(2) Upon the motion of either party, upon the written consent of the other.

(3) When the plaintiff fails to appear at the time of trial and the defendant appears and asks for a dismissal.

(4) Upon its own motion, when, upon the trial and before the final submission of the case, the plaintiff abandons it.

(5) Upon its own motion, on the refusal or neglect of the plaintiff to make the necessary parties defendants, after having been ordered so to do by the court.

(6) Upon the motion of some of the defendants, when there are others whom the plaintiff fails to prosecute with diligence.

(7) Upon its own motion, for disobedience of the plaintiff to an order of the court concerning the proceedings in the action.

(8) Upon the motion of the defendant, when, upon the trial, the plaintiff fails to prove some material fact or facts necessary to sustain his action, as alleged in his complaint. When judgment of nonsuit is given, the action is dismissed, but such judgment shall not have the effect to bar another action for the same cause. In every case, other than those mentioned in this section, the judgment shall be rendered upon the merits and shall bar another action for the same cause.

[1929 c 89 § 1; RRS §§ 408, 409, 410. Formerly RCW 4.56.120, 4.56.130, and 4.56.140. Prior: Code 1881 §§ 286, 287, 288; 1877 p 58 §§ 290, 291, 292; 1869 p 69 §§ 288, 289, 290; 1854 p 171 §§ 223, 224.]

Notes:

Rules of court: Cf. CR 41(a), (b).

RCW 4.56.150 Challenge to legal sufficiency of evidence--Judgment in bar or of nonsuit.

In all cases tried in the superior court with a jury, the defendant, at the close of the plaintiff's evidence, or either party, at the close of all the evidence, may challenge the legal sufficiency of the evidence to warrant a verdict in favor of the adverse party, and if the court shall decide as a matter of law the evidence does not warrant a verdict, it shall thereupon discharge the jury from further consideration of the case and enter a judgment in accordance with its decision, which judgment if it be in favor of the defendant shall be a bar to another action by the plaintiff for the same cause: PROVIDED, That in case the defendant challenge the legal sufficiency of the evidence at the close of plaintiff's case, and the court shall decide that it is insufficient merely for failure of proof of some material fact, or facts, and that there is reasonable ground to believe that such proof can be supplied in a subsequent action, the court may discharge the jury and enter a judgment of nonsuit as provided in RCW 4.56.120: AND PROVIDED, FURTHER, That nothing in this section shall be construed to authorize the court to discharge the jury and determine disputed questions of fact.

[1929 c 89 § 2; 1895 c 40 § 1; RRS § 410-1.]

Notes:

Rules of court: Cf. CR 50(a).

RCW 4.56.190 Lien of judgment.

The real estate of any judgment debtor, and such as the judgment debtor may acquire, not

exempt by law, shall be held and bound to satisfy any judgment of the district court of the United States rendered in this state and any judgment of the supreme court, court of appeals, superior court, or district court of this state, and every such judgment shall be a lien thereupon to commence as provided in RCW 4.56.200 and to run for a period of not to exceed ten years from the day on which such judgment was entered unless the ten-year period is extended in accordance with RCW 6.17.020(3). As used in this chapter, real estate shall not include the vendor's interest under a real estate contract for judgments rendered after August 23, 1983. If a judgment debtor owns real estate, subject to execution, jointly or in common with any other person, the judgment shall be a lien on the interest of the defendant only.

Personal property of the judgment debtor shall be held only from the time it is actually levied upon.

[1994 c 189 § 3. Prior: 1987 c 442 § 1103; 1987 c 202 § 116; 1983 1st ex.s. c 45 § 5; 1980 c 105 § 3; 1971 c 81 § 16; 1929 c 60 § 1; RRS § 445; prior: 1893 c 42 § 9; Code 1881 § 321; 1869 p 78 § 317; 1860 p 51 § 234; 1857 p 11 § 15; 1854 p 175 § 240.]

Notes:

Application--1987 c 442 § 1103: "The amendment of RCW 4.56.190 by this act applies only to judgments entered after July 26, 1987." [1987 c 442 § 1104.]

Intent--1987 c 202: See note following RCW 2.04.190.

Application--1980 c 105: See note following RCW 4.16.020.

Repeal and saving--1929 c 60: "That chapter XXVIII (28), sections 320, 321, 322, and chapter XXIX (29), sections 323 and 324, and section 753 of the Code of Washington Territory of 1881; an act entitled 'An Act relating to the filing and recording of transcripts of judgments rendered in this state by the district or circuit courts of the United States', approved February 19, 1890, Laws of 1889/90, pages 97 to 98; section 5 of chapter XXXVIII (38) of the Laws of 1891, pages 77 to 78; chapter LXXXIV (84) of the Laws of 1891, pages 165 to 166; chapter XLII (42) of the Laws of 1893 pages 65 to 67, and chapter XXXIX (39) of the Laws of 1897, pages 52 to 53, chapter XI of the Laws of 1897, page 10, (sections 445, 446, 447, 450, 451, 452, 453, 454, 455, 456, 458, 459, 460, 461, 462 and 463 of Remington's Compiled Statutes; sections 8111, 8112, 8113, 8114, 8115, 8116, 8117, 8118, 8119, 8120, 8121, 8125, 8126, 8163, 8164 and 8165 of Pierce's Code) are hereby repealed: PROVIDED, That such repeal shall not be construed as affecting any rights acquired or the validity of any act done or proceeding had or pending under the provisions of any of said acts repealed." [1929 c 60 § 9.]

Entry of judgments--Superior court--District court--Small claims: RCW 6.01.020.

Execution of judgments: RCW 6.17.020.

RCW 4.56.200 Commencement of lien on real estate.

The lien of judgments upon the real estate of the judgment debtor shall commence as follows:

(1) Judgments of the district court of the United States rendered in the county in which the real estate of the judgment debtor is situated, and judgments of the superior court for the county in which the real estate of the judgment debtor is situated, from the time of the entry thereof;

(2) Judgments of the district court of the United States rendered in any county in this state other than that in which the real estate of the judgment debtor to be affected is situated, judgments of the supreme court of this state, judgments of the court of appeals of this state, and

judgments of the superior court for any county other than that in which the real estate of the judgment debtor to be affected is situated, from the time of the filing of a duly certified abstract of such judgment with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, as provided in this act;

(3) Judgments of a district court of this state rendered in the county in which the real estate of the judgment debtor is situated, from the time of the filing of a duly certified transcript of the docket of the district court with the county clerk of the county in which such judgment was rendered, and upon such filing said judgment shall become to all intents and purposes a judgment of the superior court for said county; and

(4) Judgments of a district court of this state rendered in any other county in this state than that in which the real estate of the judgment debtor to be affected is situated, a transcript of the docket of which has been filed with the county clerk of the county where such judgment was rendered, from the time of filing, with the county clerk of the county in which the real estate of the judgment debtor to be affected is situated, of a duly certified abstract of the record of said judgment in the office of the county clerk of the county in which the certified transcript of the docket of said judgment of said district court was originally filed.

[1987 c 202 § 117; 1971 c 81 § 17; 1929 c 60 § 2; RRS § 445-1.]

Notes:

Reviser's note: The words at the end of subsection (2) reading "as provided in this act" appeared in chapter 60, Laws of 1929 which is codified as RCW 4.56.090, 4.56.100, 4.56.190 through 4.56.210, 4.64.070, 4.64.090, 4.64.110, and 4.64.120.

Intent--1987 c 202: See note following RCW 2.04.190.

Entry of verdict in execution docket--Effect--Cessation of lien: RCW 4.64.020, 4.64.100.

RCW 4.56.210 Cessation of lien--Extension prohibited--Exception.

(1) Except as provided in subsections (2) and (3) of this section, after the expiration of ten years from the date of the entry of any judgment heretofore or hereafter rendered in this state, it shall cease to be a lien or charge against the estate or person of the judgment debtor. No suit, action or other proceeding shall ever be had on any judgment rendered in this state by which the lien shall be extended or continued in force for any greater or longer period than ten years.

(2) An underlying judgment or judgment lien entered after *the effective date of this act for accrued child support shall continue in force for ten years after the eighteenth birthday of the youngest child named in the order for whom support is ordered. All judgments entered after *the effective date of this act shall contain the birth date of the youngest child for whom support is ordered.

(3) A lien based upon an underlying judgment continues in force for an additional ten-year period if the period of execution for the underlying judgment is extended under RCW 6.17.020.

[1995 c 75 § 1; 1989 c 360 § 2; 1979 ex.s. c 236 § 1; 1929 c 60 § 7; RRS §§ 459, 460. Formerly RCW 4.56.210 and 4.56.220. Prior: 1897 c 39 §§ 1, 2.]

Notes:

***Reviser's note:** This act [1989 c 360] has three effective dates. Sections 9, 10, and 16 are effective May 12, 1989, section 39 is effective July 1, 1990, and the remainder of this act is effective July 23, 1989.
Entry of judgments--Superior court--District court--Small claims: RCW 6.01.020.

RCW 4.56.250 Claims for noneconomic damages--Limitation.

(1) As used in this section, the following terms have the meanings indicated unless the context clearly requires otherwise.

(a) "Economic damages" means objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities.

(b) "Noneconomic damages" means subjective, nonmonetary losses, including, but not limited to pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.

(c) "Bodily injury" means physical injury, sickness, or disease, including death.

(d) "Average annual wage" means the average annual wage in the state of Washington as determined under RCW 50.04.355.

(2) In no action seeking damages for personal injury or death may a claimant recover a judgment for noneconomic damages exceeding an amount determined by multiplying 0.43 by the average annual wage and by the life expectancy of the person incurring noneconomic damages, as the life expectancy is determined by the life expectancy tables adopted by the insurance commissioner. For purposes of determining the maximum amount allowable for noneconomic damages, a claimant's life expectancy shall not be less than fifteen years. The limitation contained in this subsection applies to all claims for noneconomic damages made by a claimant who incurred bodily injury. Claims for loss of consortium, loss of society and companionship, destruction of the parent-child relationship, and all other derivative claims asserted by persons who did not sustain bodily injury are to be included within the limitation on claims for noneconomic damages arising from the same bodily injury.

(3) If a case is tried to a jury, the jury shall not be informed of the limitation contained in subsection (2) of this section.

[1986 c 305 § 301.]

Notes:

Reviser's note: As to the constitutionality of this section, see *Sofie v. Fibreboard Corp.*, 112 Wn.2d 636 (1989).

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 4.56.260 Award of future economic damages--Proposal for periodic payments--Security--Satisfaction of judgment.

(1) In an action based on fault seeking damages for personal injury or property damage in which a verdict or award for future economic damages of at least one hundred thousand dollars is made, the court or arbitrator shall, at the request of a party, enter a judgment which provides for the periodic payment in whole or in part of the future economic damages. With respect to the judgment, the court or arbitrator shall make a specific finding as to the dollar amount of periodic payments intended to compensate the judgment creditor for the future economic damages.

(2) Prior to entry of judgment, the court shall request each party to submit a proposal for periodic payment of future economic damages to compensate the claimant. Proposals shall include provisions for: The name of the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, the number of payments or the period of time over which the payments shall be made, modification for hardship or unforeseen circumstances, posting of adequate security, and any other factor the court deems relevant under the circumstances. After each party has submitted a proposal, the court shall select the proposal, with any changes the court deems proper, which in the discretion of the court and the interests of justice best provides for the future needs of the claimant and enter judgment accordingly.

(3) If the court enters a judgment for periodic payments and any security required by the judgment is not posted within thirty days, the court shall enter a judgment for the payment of future damages in a lump sum.

(4) If at any time following entry of judgment for periodic payments, a judgment debtor fails for any reason to make a payment in a timely fashion according to the terms of the judgment, the judgment creditor may petition the court for an order requiring payment by the judgment debtor of the outstanding payments in a lump sum. In calculating the amount of the lump sum judgment, the court shall total the remaining periodic payments due and owing to the judgment creditor converted to present value. The court may also require payment of interest on the outstanding judgment.

(5) Upon the death of the judgment creditor, the court which rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages. Money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor.

(6) Upon satisfaction of a periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease and any security posted pursuant to this section shall revert to the judgment debtor.

[1986 c 305 § 801.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

**Chapter 4.60 RCW
JUDGMENT BY CONFESSION**

Sections

4.60.010	Judgment on confession authorized.
4.60.020	Confession by public and private corporations and minors.
4.60.030	Confession by person jointly liable.
4.60.040	Confession, how made.
4.60.050	Judgment by confession without suit.
4.60.060	Statement in writing--Requisites.
4.60.070	Judgment on confession--Entry--Execution.

Notes:

Damages, assessment without answer: RCW 4.28.290.

RCW 4.60.010 Judgment on confession authorized.

On the confession of the defendant, with the assent of the plaintiff or his attorney, judgment may be given against the defendant in any action before or after answer, for any amount or relief not exceeding or different from that demanded in the complaint.

[Code 1881 § 291; 1877 p 60 § 295; 1869 p 72 § 293; 1854 p 172 §§ 226-228; RRS § 413.]

RCW 4.60.020 Confession by public and private corporations and minors.

When the action is against the state, a county or other public corporation therein, or a private corporation, or a minor, the confession shall be made by the person who at the time sustains the relation to such state, corporation, county or minor, as would authorize the service of a notice [summons] upon him; or in the case of a minor, if a guardian for the action has been appointed, then by such guardian; in all other cases the confession shall be made by the defendant in person.

[Code 1881 § 292; 1877 p 60 § 296; 1869 p 72 § 294; RRS § 414.]

RCW 4.60.030 Confession by person jointly liable.

When the action is upon a contract and against one or more defendants jointly liable, judgment may be given on the confession of one or more defendants, against all the defendants thus jointly liable, whether such defendants have been served or not, to be enforced only against their joint property and against the joint and separate property of the defendant making the confession.

[Code 1881 § 293; 1877 p 60 § 297; 1869 p 72 § 295; RRS § 415.]

RCW 4.60.040 Confession, how made.

The confession and assent thereto shall be in writing and subscribed by the parties making the same, and acknowledged by each before some officer authorized to take acknowledgments of deeds.

[Code 1881 § 294; 1877 p 60 § 298; 1869 p 72 § 296; RRS § 416.]

RCW 4.60.050 Judgment by confession without suit.

A judgment by confession may be entered without action, either for money due or to become due, or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this chapter.

[Code 1881 § 295; 1877 p 60 § 299; 1869 p 73 § 297; RRS § 417.]

RCW 4.60.060 Statement in writing--Requisites.

A statement in writing shall be made, signed by the defendant and verified by his oath, to the following effect:

(1) It shall authorize the entry of judgment for a specified sum.

(2) If it be for money due or to become due, it shall state concisely the facts out of which the indebtedness arose, and shall show that the sum confessed to be due, is justly due or to become due.

(3) If it be for the purpose of securing the plaintiff against a contingent liability, it shall state concisely the facts constituting the liability, and show that the sum confessed therefor does not exceed the same.

[Code 1881 § 296; 1877 p 61 § 300; 1869 p 73 § 298; RRS § 418.]

RCW 4.60.070 Judgment on confession--Entry--Execution.

The statement must be presented to the superior court or a judge thereof, and if the same be found sufficient, the court or judge shall indorse thereon an order that judgment be entered by the clerk; whereupon it may be filed in the office of the clerk, who shall enter a judgment for the amount confessed, with costs. Execution may be issued and enforced thereon in the same manner as upon judgments in other cases.

[Code 1881 § 297; 1877 p 61 § 301; 1869 p 73 § 299; RRS § 419.]

**Chapter 4.64 RCW
ENTRY OF JUDGMENTS**

Sections

4.64.010	Time of entering judgment--Motions--Filing--Recording.
4.64.020	Entry of verdict in execution docket--Effect.
4.64.030	Entry of judgment--Form of judgment summary.
4.64.060	Execution docket--Index of record.
4.64.080	Entries in execution docket.
4.64.090	Abstract of judgment.

4.64.100	Abstract of verdict--Cessation of lien, certificate.
4.64.110	Transcript of district court docket.
4.64.120	Entry of abstract or transcript of judgment.

RCW 4.64.010 Time of entering judgment--Motions--Filing--Recording.

Notes:

Reviser's note: RCW 4.64.010 was amended by 1984 c 128 § 5 without reference to its repeal by 1984 c 76 § 16. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 4.64.020 Entry of verdict in execution docket--Effect.

(1) The clerk on the return of a verdict shall forthwith enter it in the execution docket, specifying the amount, the names of the parties to the action, and the names of the party or parties against whom the verdict is rendered; such entry shall be indexed in the record index and shall conform as near as may be to entries of judgments required to be made in the execution docket.

(2) Beginning at eight o'clock a.m. the day after the entry of a verdict as herein provided, it shall be notice to all the world of the rendition thereof, and any person subsequently acquiring title to or a lien upon the real property of the party or parties against whom the verdict is returned shall be deemed to have acquired such title or lien with notice, and such title or lien shall be subject and inferior to any judgment afterwards entered on the verdict.

[1987 c 442 § 1109; 1927 c 176 § 1; 1921 c 65 § 2; RRS § 431-1.]

Notes:

Rules of court: Cf. CR 58(b).

RCW 4.64.030 Entry of judgment--Form of judgment summary.

(1) The clerk shall enter all judgments in the execution docket, subject to the direction of the court and shall specify clearly the amount to be recovered, the relief granted, or other determination of the action.

(2)(a) On the first page of each judgment which provides for the payment of money, including judgments in rem, mandates of judgments, and judgments on garnishments, the following shall be succinctly summarized: The judgment creditor and the name of his or her attorney, the judgment debtor, the amount of the judgment, the interest owed to the date of the judgment, and the total of the taxable costs and attorney fees, if known at the time of the entry of the judgment.

(b) If the judgment provides for the award of any right, title, or interest in real property, the first page must also include an abbreviated legal description of the property in which the right, title, or interest was awarded by the judgment, including lot, block, plat, or section, township, and range, and reference to the judgment page number where the full legal description

is included, if applicable; or the assessor's property tax parcel or account number, consistent with RCW 65.04.045(1) (f) and (g).

(c) If the judgment provides for damages arising from the ownership, maintenance, or use of a motor vehicle as specified in RCW 46.29.270, the first page of the judgment summary must clearly state that the judgment is awarded pursuant to RCW 46.29.270 and that the clerk must give notice to the department of licensing as outlined in RCW 46.29.310.

(3) If the attorney fees and costs are not included in the judgment, they shall be summarized in the cost bill when filed. The clerk may not enter a judgment, and a judgment does not take effect, until the judgment has a summary in compliance with this section. The clerk is not liable for an incorrect summary.

[2000 c 41 § 1; 1999 c 296 § 1; 1997 c 358 § 5; 1995 c 149 § 1; 1994 c 185 § 2; 1987 c 442 § 1107; 1984 c 128 § 6; 1983 c 28 § 2; Code 1881 § 305; 1877 p 62 § 309; 1869 p 75 § 307; RRS § 435.]

Notes:

Rules of court: Cf. CR 58(a), CR 58(b), CR 78(e).

RCW 4.64.060 Execution docket--Index of record.

Every county clerk shall keep in the clerk's office a record, to be called the execution docket, which shall be a public record and open during the usual business hours to all persons desirous of inspecting it. The record must be indexed both directly and inversely, and include all judgments, abstracts, and transcripts of judgments in the clerk's office. The index must refer to each party against whom the judgment is rendered or whose property is affected by the judgment.

[1997 c 358 § 6; 1987 c 442 § 1105; 1967 ex.s. c 34 § 1; Code 1881 § 307; 1877 p 62 § 311; 1869 p 75 § 309; 1854 p 173 § 234; RRS § 444.]

RCW 4.64.080 Entries in execution docket.

When entering a judgment in the execution docket, the clerk shall leave space on the same page, if practicable, in which the clerk shall enter, in the order in which they occur, all the proceedings subsequent to the judgment in the case until its final satisfaction, including when and to what county an execution is issued, when returned, and the return or the substance thereof. When the execution is levied on personal property which is returned unsold, the entry shall be: "levied (noting the date) on property not sold." When any sheriff shall furnish the clerk with a copy of any levy upon real estate on any judgment the minutes of which are entered in the execution docket, the entry shall be: "levied upon real estate," noting the date. When any execution issued to any other county is returned levied upon real estate in such county, the entry in the docket shall be, "levied on real estate of, in county," noting the date, county, and defendants whose estate is levied upon. When any money is paid, the amount and time when paid shall be entered. When a judgment is appealed, modified, discharged, or in any manner satisfied, the facts in respect thereto shall be entered. The parties interested may also assign or discharge such judgment on such execution docket. When the judgment is fully satisfied in any

way, the clerk shall write the word "satisfied," in large letters across the face of the record of such judgment in the execution docket.

[1987 c 442 § 1108; 1957 c 7 § 6; 1923 c 130 § 2; Code 1881 § 310; 1877 p 63 § 314; 1869 p 76 § 312; 1854 p 174 § 237; RRS § 448.]

RCW 4.64.090 Abstract of judgment.

The abstract of a judgment shall contain (1) the name of the party, or parties, in whose favor the judgment was rendered; (2) the name of the party, or parties, against whom the judgment was rendered; (3) the date of the rendition of the judgment; (4) the amount for which the judgment was rendered, and in the following manner, viz: Principal \$. . . .; interest \$. . . .; costs \$. . . .; total \$. . . .

[1987 c 442 § 1113; 1957 c 7 § 8. Prior: 1929 c 60 § 3, part; 1893 c 42 § 3; RRS § 451.]

RCW 4.64.100 Abstract of verdict--Cessation of lien, certificate.

The clerk shall, on request and at the expense of the party in whose favor the verdict is rendered, or the party's attorney, prepare an abstract of such verdict in substantially the same form as an abstract of a judgment and transmit such abstract to the clerk of any court in any county in the state as directed, and shall make a note on the execution docket of the name of the county to which each of such abstracts is sent. The clerk receiving such abstract shall, on payment of the statutory fee, enter and index it in the execution docket in the same manner as an abstract of judgment. The entry shall have the same effect in such county as in the county where the verdict was rendered.

Whenever the verdict, or any judgment rendered thereon, shall cease to be a lien in the county where rendered, the clerk of the court shall on request of anyone, and the payment of the cost and expense thereof, certify that the lien has ceased, and transmit such certificate to the clerk of any court to which an abstract was forwarded, and the clerk receiving the certificate, on payment of the statutory fee, shall enter it in the execution docket, and then the lien of such verdict or judgment shall cease. Nothing in this section or RCW 4.64.020 shall be construed as authorizing the issuance of an execution by a clerk in any other county than that in which the judgment is rendered.

[1987 c 442 § 1110; 1984 c 76 § 5; 1921 c 65 § 3; RRS § 431-2.]

Notes:

Fees of

superior court clerks: RCW 36.18.020.

supreme and appellate court clerks: RCW 2.32.070.

RCW 4.64.110 Transcript of district court docket.

A transcript of the district court docket shall contain an exact copy of the district court

judgment from the docket.

[1987 c 202 § 118; 1957 c 7 § 9. Prior: 1929 c 60 § 3, part; 1893 c 42 § 4; RRS § 452.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 4.64.120 Entry of abstract or transcript of judgment.

It shall be the duty of the county clerk to enter in the execution docket any duly certified transcript of a judgment of a district court of this state and any duly certified abstract of any judgment of any court mentioned in RCW 4.56.200, filed in the county clerk's office, and to index the same in the same manner as judgments originally rendered in the superior court for the county of which he or she is clerk. Jurisdiction over the judgment, including modification to or vacation of the original judgment, transfers to the superior court. The superior court may, in its discretion, remand the cause to district court for determination of any motion to vacate or modify the original judgment.

[1997 c 358 § 2. Prior: 1987 c 442 § 1111; 1987 c 202 § 119; 1929 c 60 § 4; RRS § 453; prior: 1893 c 42 § 5.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

**Chapter 4.68 RCW
PROCEDURE TO BIND JOINT DEBTOR**

Sections

4.68.010	Summons after judgment.
4.68.020	Contents of summons.
4.68.030	Affidavit must accompany summons.
4.68.040	Defenses.
4.68.050	Pleadings.
4.68.060	Trial.

RCW 4.68.010 Summons after judgment.

When a judgment is recorded against one or more of several persons jointly indebted upon an obligation by proceeding as provided by the court by rule, such defendants who were not originally served with the summons, and did not appear to the action, may be summoned to show cause why they should not be bound by the judgment, in the same manner as though they had been originally served with the summons.

[1984 c 76 § 6; Code 1881 § 314; 1877 p 64 § 318; RRS § 436.]

RCW 4.68.020 Contents of summons.

The summons, as provided in RCW 4.68.010, must describe the judgment, and require the person summoned to show cause why he should not be bound by it, and must be served in the same manner and returnable within the same time, as the original summons. It is not necessary to file a new complaint.

[Code 1881 § 315; 1877 p 64 § 319; RRS § 437.]

RCW 4.68.030 Affidavit must accompany summons.

The summons must be accompanied by an affidavit of the plaintiff, his agent, representative, or attorney, that the judgment, or some part thereof, remains unsatisfied, and must specify the amount due thereon.

[Code 1881 § 316; 1877 p 65 § 320; RRS § 438.]

RCW 4.68.040 Defenses.

Upon the service of such summons and affidavit, the defendant may answer within the time specified therein, denying the judgment, or setting up any defense which may have arisen subsequently to the taking of the judgment, or he may deny his liability on the obligation upon which the judgment was rendered, except a discharge from such liability by the statute of limitations.

[Code 1881 § 317; 1877 p 65 § 321; RRS § 439.]

RCW 4.68.050 Pleadings.

If the defendant in his answer, deny the judgment, or set up any defense which may have arisen subsequently, the summons, with the affidavit annexed, and the answer, constitute the written allegations in the case; if he deny his liability on the obligation upon which the judgment was rendered, a copy of the original complaint and judgment, the summons with the affidavit annexed, and the answer constitute such written allegations.

[Code 1881 § 318; 1877 p 65 § 322; RRS § 440.]

RCW 4.68.060 Trial.

The issue formed may be tried as in other cases, but when the defendant denies in his answer any liability on the obligation upon which the judgment was rendered, if a verdict be found against him, it must not exceed the amount remaining unsatisfied on such original judgment, with interest thereon.

[Code 1881 § 319; 1877 p 65 § 323; RRS § 441.]

Chapter 4.72 RCW
VACATION AND MODIFICATION OF JUDGMENTS

Sections

4.72.010	Causes for enumerated.
4.72.020	Motion to vacate--Time limitation.
4.72.030	Petition to vacate for certain causes--Time limitation.
4.72.050	Conditions precedent to vacation.
4.72.060	Grounds for vacation may first be tried.
4.72.070	Injunction to suspend proceedings.
4.72.080	Construction of chapter--Time limitations when fraud, misrepresentation concerned.
4.72.090	Judgment upon denial of application.

RCW 4.72.010 Causes for enumerated.

The superior court in which a judgment or final order has been rendered, or made, shall have power to vacate or modify such judgment or order:

(1) By granting a new trial for the cause, within the time and in the manner, and for any of the causes prescribed by the rules of court relating to new trials.

(2) By a new trial granted in proceedings against defendant served by publication only as prescribed in RCW 4.28.200.

(3) For mistakes, neglect or omission of the clerk, or irregularity in obtaining a judgment or order.

(4) For fraud practiced by the successful party in obtaining the judgment or order.

(5) For erroneous proceedings against a minor or person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings.

(6) For the death of one of the parties before the judgment in the action.

(7) For unavoidable casualty, or misfortune preventing the party from prosecuting or defending.

(8) For error in a judgment shown by a minor, within twelve months after arriving at full age.

[1957 c 9 § 4; Code 1881 § 436; 1877 p 96 § 438; 1875 p 20 § 1; RRS § 464.]

Notes:

Rules of court: Cf. CR 52(d), CR 60(b).

Judgment to recover realty, vacation: RCW 7.28.260.

RCW 4.72.020 Motion to vacate--Time limitation.

The proceedings to vacate or modify a judgment or order for mistakes or omissions of the clerk, or irregularity in obtaining the judgment or order, shall be by motion served on the adverse party or on his attorney in the action, and within one year.

[1891 c 27 § 1; Code 1881 § 438; 1877 p 97 § 440; 1875 p 21 § 3; RRS § 466.]

Notes:

Rules of court: Cf. CR 60(b).

RCW 4.72.030 Petition to vacate for certain causes--Time limitation.

RCW 4.72.010 (2), (3), (4), (5), (6), and (7) shall be by petition verified by affidavit, setting forth the judgment or order, the facts or errors constituting a cause to vacate or modify it, and if the party is a defendant, the facts constituting a defense to the action; and such proceedings must be commenced within one year after the judgment or order was made, unless the party entitled thereto be a minor or person of unsound mind, and then within one year from the removal of such disability.

[1891 c 27 § 2; Code 1881 § 439; 1877 p 97 § 441; 1875 p 21 § 4; RRS § 467.]

Notes:

Rules of court: Cf. CR 60(b).

RCW 4.72.050 Conditions precedent to vacation.

The judgment shall not be vacated on motion or petition until it is adjudged that there is a valid defense to the action in which the judgment is rendered; or, if the plaintiff seeks its vacation, that there is a valid cause of action; and when judgment is modified, all liens and securities obtained under it shall be preserved to the modified judgment.

[Code 1881 § 441; 1877 p 97 § 443; 1875 p 22 § 6; RRS § 469.]

RCW 4.72.060 Grounds for vacation may first be tried.

The court may first try and decide upon the grounds to vacate or modify a judgment or order, before trying or deciding upon the validity of the defense or cause of action.

[Code 1881 § 442; 1877 p 97 § 440; 1875 p 22 § 7; RRS § 470.]

RCW 4.72.070 Injunction to suspend proceedings.

The party seeking to vacate or modify a judgment or order may obtain an injunction suspending proceedings on the whole or part thereof, which injunction may be granted by the court or the judge upon its being rendered probable, by affidavit or petition sworn to, or by exhibition of the record, that the party is entitled to have such judgment or order vacated or modified.

[Code 1881 § 443; 1877 p 97 § 445; 1875 p 22 § 8; RRS § 471.]

Notes:

Rules of court: Cf. CR 62.

RCW 4.72.080 Construction of chapter--Time limitations when fraud, misrepresentation concerned.

The provisions of this chapter shall not be so construed as to affect the power of the court to vacate or modify judgments or orders as elsewhere in this code provided; nor shall the time limitations set forth in this chapter within which proceedings to vacate or modify a judgment must be started apply to a judgment heretofore or hereafter entered by consent or stipulation where the grounds to vacate or modify such judgment are based on fraud or misrepresentation, or when after the entry of the judgment either party fails to fulfill the terms and conditions on which the consent judgment or stipulation was entered; nor shall any judgment of acquittal in a criminal action be vacated under the provisions of this chapter.

[1961 c 88 § 1; 1891 c 27 § 4; RRS § 472.]

Notes:

Reviser's note: The words "this code" appeared in 1891 c 27 § 4.

RCW 4.72.090 Judgment upon denial of application.

In all cases in which an application under this chapter to vacate or modify a judgment or order for the recovery of money is denied, if proceedings on the judgment or order shall have been suspended, judgment shall be rendered against the plaintiff [applicant] for the amount of the former judgment or order, interest and costs, together with damages at the discretion of the court, not exceeding ten percent on the amount of the judgment or order.

[1891 c 27 § 5; Code 1881 § 444; 1877 p 97 § 446; 1875 p 22 § 9; RRS § 473.]

**Chapter 4.76 RCW
NEW TRIALS**

Sections

- | | |
|----------|---|
| 4.76.010 | New trial defined. |
| 4.76.030 | Increase or reduction of verdict as alternative to new trial. |
| 4.76.070 | Newly discovered evidence, requirements as to. |
| 4.76.080 | Petition for new trial when discovery of grounds delayed. |

RCW 4.76.010 New trial defined.

A new trial is a reexamination of an issue in the same court after a trial and decision by a jury, court or referees.

[Code 1881 § 275; 1877 p 56 § 279; 1869 p 67 § 277; 1854 p 170 § 215; RRS § 398.]

RCW 4.76.030 Increase or reduction of verdict as alternative to new trial.

If the trial court shall, upon a motion for new trial, find the damages awarded by a jury to be so excessive or inadequate as unmistakably to indicate that the amount thereof must have been the result of passion or prejudice, the trial court may order a new trial or may enter an order providing for a new trial unless the party adversely affected shall consent to a reduction or increase of such verdict, and if such party shall file such consent and the opposite party shall thereafter appeal from the judgment entered, the party who shall have filed such consent shall not be bound thereby, but upon such appeal the court of appeals or the supreme court shall, without the necessity of a formal cross-appeal, review de novo the action of the trial court in requiring such reduction or increase, and there shall be a presumption that the amount of damages awarded by the verdict of the jury was correct and such amount shall prevail, unless the court of appeals or the supreme court shall find from the record that the damages awarded in such verdict by the jury were so excessive or so inadequate as unmistakably to indicate that the amount of the verdict must have been the result of passion or prejudice.

[1971 c 81 § 19; 1933 c 138 § 2; RRS § 399-1.]

Notes:

Severability--1933 c 138: "Adjudication of invalidity of any of the sections of this act, or any part of any section, shall not impair or otherwise affect the validity of any other of said sections or remaining part of any section." [1933 c 138 § 3.]

RCW 4.76.070 Newly discovered evidence, requirements as to.

If the motion be supported by affidavits and the cause be newly discovered evidence, the affidavits of any witness or witnesses, showing what their testimony will be, shall be produced or good reasons shown for their nonproduction.

[1891 c 59 § 2; Code 1881 § 282; 1877 p 57 § 286; 1869 p 68 § 284; 1854 p 170 § 219; RRS § 403.]

RCW 4.76.080 Petition for new trial when discovery of grounds delayed.

When the grounds for a new trial could not with reasonable diligence have been discovered before, but are discovered after the time when the verdict, report of referee, or decision was rendered or made, the application may be made by petition filed as in other cases, not later than after the discovery, on which notice shall be served and returned, and the defendant held to appear as in an original action. The facts stated in the petition shall be considered as denied without answer. The case shall be tried as other cases by ordinary proceedings, but no motion shall be filed more than one year after the final judgment was rendered.

[1955 c 44 § 1; Code 1881 § 437; 1875 p 21 § 2; RRS § 465.]

Chapter 4.80 RCW

EXCEPTIONS

Sections

4.80.010	Exception defined.
4.80.020	When to be taken.
4.80.030	Requisites--Entry in minutes.
4.80.040	Manner of taking and entry.
4.80.140	Application of chapter.

Notes:

Rules of court: Cf. CR 46.

RCW 4.80.010 **Exception defined.**

An exception is a claim of error in a ruling or decision of a court, judge or other tribunal, or officer exercising judicial functions, made in the course of an action or proceeding or after judgment therein.

[1893 c 60 § 1; RRS § 381.]

Notes:

Rules of court: Cf. CR 46.

Construction--1893 c 60: "This act shall govern proceedings had after it shall take effect, in actions then pending as well as those in actions thereafter begun; but it shall not affect any right acquired or proceeding had prior to the time when it shall take effect, nor restore any right or enlarge any time then already lost or expired. And except as above provided all acts and parts of acts inconsistent with the provisions of this act are hereby repealed." [1893 c 60 § 18.] This applies to RCW 4.80.010 through 4.80.140.

RCW 4.80.020 **When to be taken.**

It shall not be necessary or proper to take or enter an exception to any ruling or decision mentioned in RCW 4.80.010, which is embodied in a written judgment, order or journal entry in the cause. But this section shall not apply to the report of a referee or commissioner, or to findings of fact or conclusions of law in a report or decision of a referee or commissioner, or in a decision of a court or judge upon a cause or part of a cause, either legal or equitable, tried without a jury.

[1893 c 60 § 2; RRS § 382.]

Notes:

Rules of court: Cf. CR 46.

RCW 4.80.030 **Requisites--Entry in minutes.**

Exceptions to any ruling upon an objection to the admission of evidence, offered in the course of a trial or hearing, need not be formally taken, but the question put or other offer of

evidence, together with the objection thereto and the ruling thereon, shall be entered by the court, judge, referee or commissioner (or by the stenographer, if one is in attendance) in the minutes of the trial or hearing, and such entry shall import an exception by the party against whom the ruling was made.

[1893 c 60 § 5; RRS § 385.]

Notes:

Rules of court: Cf. CR 46.

RCW 4.80.040 Manner of taking and entry.

Exceptions to any ruling or decision made in the course of a trial or hearing, or in the progress of a cause, except those to which it is provided in this chapter that no exception need be taken and those to which some other mode of exception is in this chapter prescribed, may be taken by any party by stating to the court, judge, referee or commissioner making the ruling or decision, when the same is made, that such party excepts to the same; whereupon such court, judge, referee or commissioner shall note the exception in the minutes of the trial, hearing or cause, or shall cause the stenographer (if one is in attendance) so to note the same.

[1893 c 60 § 6; RRS § 386.]

Notes:

Rules of court: Cf. CR 46.

RCW 4.80.140 Application of chapter.

This chapter shall apply to and govern all civil actions and proceedings, both legal and equitable, and all criminal causes, in the superior courts, but shall not apply to district courts or other courts of limited jurisdiction from which an appeal does not lie directly to the supreme court or court of appeals.

[1987 c 202 § 120; 1971 c 81 § 21; 1893 c 60 § 17; RRS § 397, part.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

**Chapter 4.84 RCW
COSTS**

Sections

- 4.84.010 Costs allowed to prevailing party--Defined--Compensation of attorneys.
- 4.84.020 Amount of contracted attorneys' fee to be fixed by court.
- 4.84.030 Prevailing party to recover costs.
- 4.84.040 Limitation on costs in certain actions.
- 4.84.050 Limited to one of several actions.

- 4.84.060 Costs to defendant.
- 4.84.070 Costs to defendants defending separately.
- 4.84.080 Schedule of attorneys' fees.
- 4.84.090 Cost bill--Witnesses to report attendance.
- 4.84.100 Costs on postponement of trial.
- 4.84.110 Costs where tender is made.
- 4.84.120 Costs where deposit in court is made and rejected.
- 4.84.130 Costs in appeals from district courts.
- 4.84.140 Costs against guardian of infant plaintiff.
- 4.84.150 Costs against fiduciaries.
- 4.84.160 Costs against assignee.
- 4.84.170 Costs against state or county.
- 4.84.185 Prevailing party to receive expenses for opposing frivolous action or defense.
- 4.84.190 Costs in proceedings not specifically covered.
- 4.84.200 Retaxation of costs.
- 4.84.210 Security for costs.
- 4.84.220 Bond in lieu of separate security.
- 4.84.230 Dismissal for failure to give security.
- 4.84.240 Judgment on cost bond.
- 4.84.250 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Allowed to prevailing party.
- 4.84.260 Attorneys' fees as costs in damage actions of ten thousand dollars or less--When plaintiff deemed prevailing party.
- 4.84.270 Attorneys' fees as costs in damage actions of ten thousand dollars or less--When defendant deemed prevailing party.
- 4.84.280 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Offers of settlement in determining.
- 4.84.290 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Prevailing party on appeal.
- 4.84.300 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Application.
- 4.84.320 Attorneys' fees in actions for injuries resulting from the rendering of medical and other health care.
- 4.84.330 Actions on contract or lease which provides that attorney's fees and costs incurred to enforce provisions be awarded to one of parties--Prevailing party entitled to attorney's fees--Waiver prohibited.
- 4.84.340 Judicial review of agency action--Definitions.
- 4.84.350 Judicial review of agency action--Award of fees and expenses.
- 4.84.360 Judicial review of agency action--Payment of fees and expenses--Report to office of financial management.
- 4.84.370 Appeal of land use decisions--Fees and costs.

Notes:

Deposit of jury fee taxable as costs: RCW 4.44.110.

RCW 4.84.010 Costs allowed to prevailing party--Defined--Compensation of attorneys.

The measure and mode of compensation of attorneys and counselors, shall be left to the

agreement, expressed or implied, of the parties, but there shall be allowed to the prevailing party upon the judgment certain sums by way of indemnity for the prevailing party's expenses in the action, which allowances are termed costs, including, in addition to costs otherwise authorized by law, the following expenses:

(1) Filing fees;

(2) Fees for the service of process by a public officer, registered process server, or other means, as follows:

(a) When service is by a public officer, the recoverable cost is the fee authorized by law at the time of service.

(b) If service is by a process server registered pursuant to chapter 18.180 RCW or a person exempt from registration, the recoverable cost is the amount reasonably incurred in effecting service;

(3) Fees for service by publication;

(4) Notary fees, but only to the extent the fees are for services that are expressly required by law and only to the extent they represent actual costs incurred by the prevailing party;

(5) Reasonable expenses, exclusive of attorneys' fees, incurred in obtaining reports and records, which are admitted into evidence at trial or in mandatory arbitration in superior or district court, including but not limited to medical records, tax records, personnel records, insurance reports, employment and wage records, police reports, school records, bank records, and legal files;

(6) Statutory attorney and witness fees; and

(7) To the extent that the court or arbitrator finds that it was necessary to achieve the successful result, the reasonable expense of the transcription of depositions used at trial or at the mandatory arbitration hearing: PROVIDED, That the expenses of depositions shall be allowed on a pro rata basis for those portions of the depositions introduced into evidence or used for purposes of impeachment.

[1993 c 48 § 1; 1984 c 258 § 92; 1983 1st ex.s. c 45 § 7; Code 1881 § 505; 1877 p 108 § 509; 1869 p 123 § 459; 1854 p 201 § 367; RRS § 474.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Attorney fee in appeals from board of industrial insurance appeals: RCW 51.52.130, 51.52.132.

RCW 4.84.020 Amount of contracted attorneys' fee to be fixed by court.

In all cases of foreclosure of mortgages and in all other cases in which attorneys' fees are allowed, the amount thereof shall be fixed by the court at such sum as the court shall deem reasonable, any stipulations in the note, mortgage or other instrument to the contrary notwithstanding; but in no case shall said fee be fixed above contract price stated in said note or contract.

[1895 c 48 § 1; 1891 c 44 § 1; 1888 p 9 § 1; 1885 p 176 § 1; RRS § 475.]

RCW 4.84.030 Prevailing party to recover costs.

In any action in the superior court of Washington the prevailing party shall be entitled to his or her costs and disbursements; but the plaintiff shall in no case be entitled to costs taxed as attorneys' fees in actions within the jurisdiction of the district court when commenced in the superior court.

[1987 c 202 § 121; 1890 p 337 § 1; 1883 p 42 § 1; Code 1881 §§ 506, 507; 1854 p 201 §§ 368, 369; RRS § 476.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 4.84.040 Limitation on costs in certain actions.

In an action for an assault and battery, or for false imprisonment, libel, slander, malicious prosecution, criminal conversation or seduction, if the plaintiff recover less than ten dollars, he shall be entitled to no more costs or disbursements than the damage recovered.

[Code 1881 § 508; 1877 p 108 § 512; 1869 p 123 § 460; 1854 p 202 § 370; RRS § 477.]

RCW 4.84.050 Limited to one of several actions.

When several actions are brought on one bond, undertaking, promissory note, bill of exchange, or other instrument in writing, or in any other case for the same cause of action against several parties, who might have been joined as defendants in the same action, no costs or disbursements shall be allowed to the plaintiff in more than one of such actions, which may be at his election, if the parties proceeded against in the other actions were, at the commencement of the previous action, openly within this state.

[Code 1881 § 509; 1877 p 108 § 513; 1869 p 123 § 461; 1854 p 202 § 371; RRS § 478.]

RCW 4.84.060 Costs to defendant.

In all cases where costs and disbursements are not allowed to the plaintiff, the defendant shall be entitled to have judgment in his favor for the same.

[Code 1881 § 510; 1877 p 109 § 514; 1869 p 123 § 462; 1854 p 202 § 372; RRS § 479.]

RCW 4.84.070 Costs to defendants defending separately.

In all actions where there are several defendants not united in interest, and making separate defenses by separate answers, and the plaintiff fails to recover judgment against all, the court may award costs to such defendants as recover judgments in their favor, or either of them.

[Code 1881 § 511; 1877 p 109 § 515; 1869 p 124 § 463; 1854 p 202 § 373; RRS § 480.]

RCW 4.84.080 Schedule of attorneys' fees.

When allowed to either party, costs to be called the attorney fee, shall be as follows:

(1) In all actions where judgment is rendered, one hundred twenty-five dollars.

(2) In all actions where judgment is rendered in the supreme court or the court of appeals, after argument, one hundred twenty-five dollars.

[1985 c 240 § 1; 1981 c 331 § 3; 1975-'76 2nd ex.s. c 30 § 2; Code 1881 § 512; 1877 p 108 § 516; 1869 p 124 § 464; 1854 p 202 § 374; RRS § 481.]

Notes:

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

Costs: RCW 4.84.190.

Transmission of record on change of venue--Costs, attorney's fees: RCW 4.12.090.

RCW 4.84.090 Cost bill--Witnesses to report attendance.

The prevailing party, in addition to allowance for costs, as provided in RCW 4.84.080, shall also be allowed for all necessary disbursements, including the fees of officers allowed by law, the fees of witnesses, the necessary expenses of taking depositions, by commission or otherwise, and the compensation of referees. The court shall allow the prevailing party all service of process charges in case such process was served by a person or persons not an officer or officers. Such service charge shall be the same as is now allowed or shall in the future be allowed as fee and mileage to an officer. The disbursements shall be stated in detail and verified by affidavit, and shall be served on the opposite party or his attorney, and filed with the clerk of the court, within ten days after the judgment: PROVIDED, The clerk of the court shall keep a record of all witnesses in attendance upon any civil action, for whom fees are to be claimed, with the number of days in attendance and their mileage, and no fees or mileage for any witness shall be taxed in the cost bill unless they shall have reported their attendance at the close of each day's session to the clerk in attendance at such trial.

[1949 c 146 § 1; 1905 c 16 § 1; Code 1881 § 513; 1877 p 109 § 517; 1869 p 124 § 465; 1854 p 202 § 375; Rem. Supp. 1949 § 482.]

Notes:

Witness fees and mileage: Chapter 2.40 RCW.

RCW 4.84.100 Costs on postponement of trial.

When an application shall be made to a court or referees to postpone a trial, the payment to the adverse party of a sum not exceeding ten dollars, besides the fees of witnesses, may be imposed as the condition of granting the postponement.

[Code 1881 § 515; 1877 p 109 § 519; 1854 p 203 § 377; RRS § 484.]

RCW 4.84.110 Costs where tender is made.

When in an action for the recovery of money, the defendant alleges in his answer, that, before the commencement of the action, he tendered to the plaintiff the full amount to which he is entitled, in such money as by agreement ought to be tendered, and thereupon brings into court, for the plaintiff, the amount tendered, and the allegation be found true, the plaintiff shall not recover costs, but shall pay them to the defendant.

[Code 1881 § 516; 1877 p 109 § 520; 1854 p 203 § 378; RRS § 485.]

RCW 4.84.120 Costs where deposit in court is made and rejected.

If the defendant in any action pending, shall at any time deposit with the clerk of the court, for the plaintiff, the amount which he admits to be due, together with all costs that have accrued, and notify the plaintiff thereof, and such plaintiff shall refuse to accept the same in discharge of the action, and shall not afterwards recover a larger amount than that deposited with the clerk, exclusive of interest and cost, he shall pay all costs that may accrue from the time such money was so deposited.

[Code 1881 § 517; 1877 p 110 § 521; 1854 p 203 § 379; RRS § 486.]

Notes:

Conflicting claims, deposit in court, costs: RCW 4.08.170.

RCW 4.84.130 Costs in appeals from district courts.

In all civil actions tried before the district court, in which an appeal shall be taken to the superior court, and the party appellant shall not recover a more favorable judgment in the superior court than before the district court, such appellant shall pay all costs.

[1987 c 202 § 122; Code 1881 § 518; 1877 p 110 § 522; 1854 p 203 § 380; RRS § 487.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

District court appeals: Chapter 12.36 RCW.

RCW 4.84.140 Costs against guardian of infant plaintiff.

When costs are adjudged against an infant plaintiff, the guardian or person by whom he appeared in the action shall be responsible therefor, and payment may be enforced by execution.

[Code 1881 § 519; 1877 p 110 § 523; 1854 p 203 § 381; RRS § 488.]

RCW 4.84.150 Costs against fiduciaries.

In [an] action prosecuted or defended by an executor, administrator, trustee of an express trust, or a person expressly authorized by statute, costs shall be recovered as in an action by or

against a person prosecuting in his own right, but such costs shall be chargeable only upon or collected of the estate of the party represented, unless the court shall direct the same to be paid by the plaintiff or defendant personally, for mismanagement or bad faith in such action or defense.

[Code 1881 § 520; 1877 p 110 § 524; 1854 p 203 § 382; RRS § 489.]

Notes:

Actions by and against personal representatives, etc.: Chapter 11.48 RCW.

RCW 4.84.160 Costs against assignee.

When the cause of action, after the commencement of the action, by assignment, or in any other manner, becomes the property of a person not a party thereto, and the prosecution or defense is thereafter continued, such person shall be liable for the costs in the same manner as if he were a party, and payment thereof may be enforced by execution.

[Code 1881 § 521; 1877 p 110 § 525; 1869 p 125 § 473; 1854 p 203 § 383; RRS § 490.]

RCW 4.84.170 Costs against state or county.

In all actions prosecuted in the name and for the use of the state, or in the name and for the use of any county, and in any action brought against the state or any county, and on all appeals to the supreme court or the court of appeals of the state in all actions brought by or against either the state or any county, the state or county shall be liable for costs in the same case and to the same extent as private parties.

[1971 c 81 § 22; 1959 c 62 § 1; Code 1881 § 522; 1877 p 110 § 526; 1854 p 203 § 384; RRS § 491.]

RCW 4.84.185 Prevailing party to receive expenses for opposing frivolous action or defense.

In any civil action, the court having jurisdiction may, upon written findings by the judge that the action, counterclaim, cross-claim, third party claim, or defense was frivolous and advanced without reasonable cause, require the nonprevailing party to pay the prevailing party the reasonable expenses, including fees of attorneys, incurred in opposing such action, counterclaim, cross-claim, third party claim, or defense. This determination shall be made upon motion by the prevailing party after a voluntary or involuntary order of dismissal, order on summary judgment, final judgment after trial, or other final order terminating the action as to the prevailing party. The judge shall consider all evidence presented at the time of the motion to determine whether the position of the nonprevailing party was frivolous and advanced without reasonable cause. In no event may such motion be filed more than thirty days after entry of the order.

The provisions of this section apply unless otherwise specifically provided by statute.

[1991 c 70 § 1; 1987 c 212 § 201; 1983 c 127 § 1.]

Notes:

Administrative law, frivolous petitions for judicial review: RCW 34.05.598.

RCW 4.84.190 Costs in proceedings not specifically covered.

In all actions and proceedings other than those mentioned in this chapter [and RCW 4.48.100], where no provision is made for the recovery of costs, they may be allowed or not, and if allowed may be apportioned between the parties, in the discretion of the court.

[Code 1881 § 525; 1877 p 111 § 529; 1854 p 204 § 387; RRS § 493.]

Notes:

Costs: RCW 4.84.080.

RCW 4.84.200 Retaxation of costs.

Any party aggrieved by the taxation of costs by the clerk of the court may, upon application, have the same retaxed by the court in which the action or proceeding is had.

[Code 1881 § 526; 1877 p 111 § 530; 1854 p 204 § 388; RRS § 494.]

RCW 4.84.210 Security for costs.

When a plaintiff in an action, or in a garnishment or other proceeding, resides out of the county, or is a foreign corporation, or begins such action or proceeding as the assignee of some other person or of a firm or corporation, as to all causes of action sued upon, security for the costs and charges which may be awarded against such plaintiff may be required by the defendant or garnishee defendant. When required, all proceedings in the action or proceeding shall be stayed until a bond, executed by two or more persons, or by a surety company authorized to do business in this state be filed with the clerk, conditioned that they will pay such costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the action or proceeding, not exceeding the sum of two hundred dollars. A new or additional bond may be ordered by the court or judge, upon proof that the original bond is insufficient security, and proceedings in the action or proceeding stayed until such new or additional bond be executed and filed. The plaintiff may deposit with the clerk the sum of two hundred dollars in lieu of a bond.

[1929 c 103 § 1; Code 1881 § 527; 1877 p 111 § 531; 1854 p 204 § 389; RRS § 495.]

RCW 4.84.220 Bond in lieu of separate security.

In lieu of separate security for each action or proceeding in any court, the plaintiff may cause to be executed and filed in the court a bond in the penal sum of two hundred dollars running to the state of Washington, with surety as in case of a separate bond, and conditioned for the payment of all judgments for costs which may thereafter be rendered against him in that court. Any defendant or garnishee who shall thereafter recover a judgment for costs in said court

against the principal on such bond shall likewise be entitled to judgment against the sureties. Such bond shall not be sufficient unless the penalty thereof is unimpaired by any outstanding obligation at the time of the commencement of the action.

[1929 c 103 § 2; RRS § 495-1.]

RCW 4.84.230 Dismissal for failure to give security.

After the lapse of ninety days from the service of notice that security is required or of an order for new or additional security, upon proof thereof, and that no undertaking as required has been filed, the court or judge may order the action to be dismissed.

[1933 c 14 § 1; RRS § 495-2.]

RCW 4.84.240 Judgment on cost bond.

Whenever any bond or undertaking for the payment of any costs to any party shall be filed in any action or other legal proceeding in any court in this state and judgment should be rendered for any such costs against the principal on any such bonds or against the party primarily liable therefor in whose behalf any such bond or undertaking has been filed, such judgment for costs shall be rendered against the principal on such bond or the party primarily liable therefor and at the same time also against his surety or sureties on any or all such bonds or undertakings filed in any such action or other legal proceeding.

[1909 c 173 § 1; RRS § 496.]

RCW 4.84.250 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Allowed to prevailing party.

Notwithstanding any other provisions of chapter 4.84 RCW and RCW 12.20.060, in any action for damages where the amount pleaded by the prevailing party as hereinafter defined, exclusive of costs, is seven thousand five hundred dollars or less, there shall be taxed and allowed to the prevailing party as a part of the costs of the action a reasonable amount to be fixed by the court as attorneys' fees. After July 1, 1985, the maximum amount of the pleading under this section shall be ten thousand dollars.

[1984 c 258 § 88; 1980 c 94 § 1; 1973 c 84 § 1.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Effective date--1980 c 94: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect May 1, 1980." [1980 c 94 § 6.]

RCW 4.84.260 Attorneys' fees as costs in damage actions of ten thousand dollars or

less--When plaintiff deemed prevailing party.

The plaintiff, or party seeking relief, shall be deemed the prevailing party within the meaning of RCW 4.84.250 when the recovery, exclusive of costs, is as much as or more than the amount offered in settlement by the plaintiff, or party seeking relief, as set forth in RCW 4.84.280.

[1973 c 84 § 2.]

RCW 4.84.270 Attorneys' fees as costs in damage actions of ten thousand dollars or less--When defendant deemed prevailing party.

The defendant, or party resisting relief, shall be deemed the prevailing party within the meaning of RCW 4.84.250, if the plaintiff, or party seeking relief in an action for damages where the amount pleaded, exclusive of costs, is equal to or less than the maximum allowed under RCW 4.84.250, recovers nothing, or if the recovery, exclusive of costs, is the same or less than the amount offered in settlement by the defendant, or the party resisting relief, as set forth in RCW 4.84.280.

[1980 c 94 § 2; 1973 c 84 § 3.]

Notes:

Effective date--1980 c 94: See note following RCW 4.84.250.

RCW 4.84.280 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Offers of settlement in determining.

Offers of settlement shall be served on the adverse party in the manner prescribed by applicable court rules at least ten days prior to trial. Offers of settlement shall not be served until thirty days after the completion of the service and filing of the summons and complaint. Offers of settlement shall not be filed or communicated to the trier of the fact until after judgment, at which time a copy of said offer of settlement shall be filed for the purposes of determining attorneys' fees as set forth in RCW 4.84.250.

[1983 c 282 § 1; 1980 c 94 § 3; 1973 c 84 § 4.]

Notes:

Effective date--1980 c 94: See note following RCW 4.84.250.

RCW 4.84.290 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Prevailing party on appeal.

If the case is appealed, the prevailing party on appeal shall be considered the prevailing party for the purpose of applying the provisions of RCW 4.84.250: PROVIDED, That if, on appeal, a retrial is ordered, the court ordering the retrial shall designate the prevailing party, if any, for the purpose of applying the provisions of RCW 4.84.250.

In addition, if the prevailing party on appeal would be entitled to attorneys' fees under the provisions of RCW 4.84.250, the court deciding the appeal shall allow to the prevailing party

such additional amount as the court shall adjudge reasonable as attorneys' fees for the appeal.

[1973 c 84 § 5.]

RCW 4.84.300 Attorneys' fees as costs in damage actions of ten thousand dollars or less--Application.

The provisions of RCW 4.84.250 through 4.84.290 shall apply regardless of whether the action is commenced in district court or superior court except as provided in RCW 4.84.280. This section shall not be construed as conferring jurisdiction on either court.

[1987 c 202 § 123; 1980 c 94 § 4; 1973 c 84 § 6.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Effective date--1980 c 94: See note following RCW 4.84.250.

RCW 4.84.320 Attorneys' fees in actions for injuries resulting from the rendering of medical and other health care.

See RCW 7.70.070.

RCW 4.84.330 Actions on contract or lease which provides that attorney's fees and costs incurred to enforce provisions be awarded to one of parties--Prevailing party entitled to attorney's fees--Waiver prohibited.

In any action on a contract or lease entered into after September 21, 1977, where such contract or lease specifically provides that attorney's fees and costs, which are incurred to enforce the provisions of such contract or lease, shall be awarded to one of the parties, the prevailing party, whether he is the party specified in the contract or lease or not, shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

Attorney's fees provided for by this section shall not be subject to waiver by the parties to any contract or lease which is entered into after September 21, 1977. Any provision in any such contract or lease which provides for a waiver of attorney's fees is void.

As used in this section "prevailing party" means the party in whose favor final judgment is rendered.

[1977 ex.s. c 203 § 1.]

RCW 4.84.340 Judicial review of agency action--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 4.84.340 through 4.84.360.

(1) "Agency" means any state board, commission, department, institution of higher education, or officer, authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the governor, or the attorney general except to

the extent otherwise required by law.

(2) "Agency action" means agency action as defined by chapter 34.05 RCW.

(3) "Fees and other expenses" includes the reasonable expenses of expert witnesses, the reasonable cost of a study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case, and reasonable attorneys' fees. Reasonable attorneys' fees shall be based on the prevailing market rates for the kind and quality of services furnished, except that (a) no expert witness shall be compensated at a rate in excess of the highest rates of compensation for expert witnesses paid by the state of Washington, and (b) attorneys' fees shall not be awarded in excess of one hundred fifty dollars per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

(4) "Judicial review" means a judicial review as defined by chapter 34.05 RCW.

(5) "Qualified party" means (a) an individual whose net worth did not exceed one million dollars at the time the initial petition for judicial review was filed or (b) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth did not exceed five million dollars at the time the initial petition for judicial review was filed, except that an organization described in section 501(c)(3) of the federal internal revenue code of 1954 as exempt from taxation under section 501(a) of the code and a cooperative association as defined in section 15(a) of the agricultural marketing act (12 U.S.C. 1141J(a)), may be a party regardless of the net worth of such organization or cooperative association.

[1995 c 403 § 902.]

Notes:

Findings--1995 c 403: "The legislature finds that certain individuals, smaller partnerships, smaller corporations, and other organizations may be deterred from seeking review of or defending against an unreasonable agency action because of the expense involved in securing the vindication of their rights in administrative proceedings. The legislature further finds that because of the greater resources and expertise of the state of Washington, individuals, smaller partnerships, smaller corporations, and other organizations are often deterred from seeking review of or defending against state agency actions because of the costs for attorneys, expert witnesses, and other costs. The legislature therefore adopts this equal access to justice act to ensure that these parties have a greater opportunity to defend themselves from inappropriate state agency actions and to protect their rights." [1995 c 403 § 901.]

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 4.84.350 Judicial review of agency action--Award of fees and expenses.

(1) Except as otherwise specifically provided by statute, a court shall award a qualified party that prevails in a judicial review of an agency action fees and other expenses, including reasonable attorneys' fees, unless the court finds that the agency action was substantially justified or that circumstances make an award unjust. A qualified party shall be considered to have prevailed if the qualified party obtained relief on a significant issue that achieves some benefit that the qualified party sought.

(2) The amount awarded a qualified party under subsection (1) of this section shall not

exceed twenty-five thousand dollars. Subsection (1) of this section shall not apply unless all parties challenging the agency action are qualified parties. If two or more qualified parties join in an action, the award in total shall not exceed twenty-five thousand dollars. The court, in its discretion, may reduce the amount to be awarded pursuant to subsection (1) of this section, or deny any award, to the extent that a qualified party during the course of the proceedings engaged in conduct that unduly or unreasonably protracted the final resolution of the matter in controversy.

[1995 c 403 § 903.]

Notes:

Findings--1995 c 403: See note following RCW 4.84.340.

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 4.84.360 Judicial review of agency action--Payment of fees and expenses--Report to office of financial management.

Fees and other expenses awarded under RCW 4.84.340 and 4.84.350 shall be paid by the agency over which the party prevails from operating funds appropriated to the agency within sixty days. Agencies paying fees and other expenses pursuant to RCW 4.84.340 and 4.84.350 shall report all payments to the office of financial management within five days of paying the fees and other expenses. Fees and other expenses awarded by the court shall be subject to the provisions of chapter 39.76 RCW and shall be deemed payable on the date the court announces the award.

[1995 c 403 § 904.]

Notes:

Findings--1995 c 403: See note following RCW 4.84.340.

Findings--Short title--Intent--1995 c 403: See note following RCW 34.05.328.

Part headings not law--Severability--1995 c 403: See RCW 43.05.903 and 43.05.904.

RCW 4.84.370 Appeal of land use decisions--Fees and costs.

(1) Notwithstanding any other provisions of this chapter, reasonable attorneys' fees and costs shall be awarded to the prevailing party or substantially prevailing party on appeal before the court of appeals or the supreme court of a decision by a county, city, or town to issue, condition, or deny a development permit involving a site-specific rezone, zoning, plat, conditional use, variance, shoreline permit, building permit, site plan, or similar land use approval or decision. The court shall award and determine the amount of reasonable attorneys' fees and costs under this section if:

(a) The prevailing party on appeal was the prevailing or substantially prevailing party before the county, city, or town, or in a decision involving a substantial development permit under chapter 90.58 RCW, the prevailing party on appeal was the prevailing party or the substantially prevailing party before the shoreline[s] hearings board; and

(b) The prevailing party on appeal was the prevailing party or substantially prevailing

party in all prior judicial proceedings.

(2) In addition to the prevailing party under subsection (1) of this section, the county, city, or town whose decision is on appeal is considered a prevailing party if its decision is upheld at superior court and on appeal.

[1995 c 347 § 718.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Chapter 4.88 RCW APPEALS

Sections

4.88.330 Indigent party--State payment of review costs.

Notes:

Rule-making power of

court of appeals: RCW 2.06.030, 2.06.040.

supreme court: RCW 2.04.180 through 2.04.210.

RCW 4.88.330 Indigent party--State payment of review costs.

When a party has been judicially determined to have a constitutional right to obtain a review and to be unable by reason of poverty to procure counsel to perfect the review all costs necessarily incident to the proper consideration of the review including preparation of the record, reasonable fees for court appointed counsel to be determined by the supreme court, and actual travel expenses of counsel for appearance in the supreme court or court of appeals, shall be paid by the state. Upon satisfaction of requirements established by supreme court rules and submission of appropriate vouchers to the clerk of the supreme court, payment shall be made from funds specifically appropriated by the legislature for that purpose.

[1975 1st ex.s. c 261 § 2. Prior: 1972 ex.s. c 111 § 2; 1970 ex.s. c 31 § 2; 1965 c 133 § 2. Formerly RCW 10.01.112.]

Notes:

Severability--1965 c 133: See note following RCW 2.32.240.

Transcript of testimony--Fee--Forma pauperis: RCW 2.32.240.

Chapter 4.92 RCW ACTIONS AND CLAIMS AGAINST STATE

Sections

4.92.005	"Volunteer"--Definition.
4.92.006	Definitions.
4.92.010	Where brought--Change of venue.
4.92.020	Service of summons and complaint.
4.92.030	Duties of attorney general--Procedure.
4.92.040	Judgments--Claims to legislature against state--Payment procedure--Inapplicability to judgments and claims against housing finance commission.
4.92.045	Interest on judgments against state.
4.92.050	Limitations.
4.92.060	Action against state officers, employees, volunteers, or foster parents--Request for defense.
4.92.070	Actions against state officers, employees, volunteers, or foster parents--Defense by attorney general--Legal expenses.
4.92.075	Action against state officers, employees, or volunteers--Judgment satisfied by state.
4.92.080	Bond not required of state.
4.92.090	Tortious conduct of state--Liability for damages.
4.92.100	Tortious conduct of state--Claims--Presentment and filing--Contents.
4.92.110	Tortious conduct of state--Presentment and filing of claim prerequisite to suit.
4.92.120	Tortious conduct of state--Assignment of claims.
4.92.130	Tortious conduct of state--Liability account--Purpose.
4.92.150	Compromise and settlement of claims by attorney general.
4.92.160	Payment of claims and judgments.
4.92.175	Action against state patrol officers in private law enforcement off-duty employment--Immunity of state--Notice to employer.
4.92.200	Actions against state on state warrant appearing to be redeemed--Claim required--Time limitation.
4.92.210	Risk management--Review of claims--Settlements.
4.92.220	General administration services account--Use.
4.92.230	Risk management--Advisory committee created--Duties.
4.92.240	Rules.
4.92.250	Risk management--Risk manager may delegate powers and duties.
4.92.260	Construction.
4.92.270	Risk management--Standard indemnification agreements.
4.92.280	Local government reimbursement claims.

Notes:

Actions against political subdivisions, municipal corporations and quasi municipal corporations: Chapter 4.96 RCW.

Claims, reports, etc., filing and receipt: RCW 1.12.070.

Hood Canal bridge, use for sport fishing purposes--Disclaimer of liability: RCW 47.56.366.

Liability coverage of university personnel and students: RCW 28B.20.250 through 28B.20.255.

RCW 4.92.005 "Volunteer"--Definition.

For the purposes of RCW 4.92.060, 4.92.070, 4.92.130, *4.92.140, and 4.92.150, volunteer is defined in RCW 51.12.035.

[1985 c 217 § 6.]

Notes:

***Reviser's note:** RCW 4.92.140 was repealed by 1989 c 419 § 18, effective July 1, 1989.

RCW 4.92.006 Definitions.

As used in this chapter:

(1) "Department" means the department of general administration.

(2) "Risk manager" means the person supervising the office of risk management in the department of general administration.

[1989 c 419 § 2.]

Notes:

Intent--1989 c 419: "In recent years the state of Washington has experienced significant increases in public liability claims. It is the intent of the legislature to reduce tort claim costs by restructuring Washington state's risk management program to place more accountability in state agencies, to establish an actuarially sound funding mechanism for paying legitimate claims, when they occur, and to establish an effective safety and loss control program." [1989 c 419 § 1.]

Effective date--1989 c 419: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 419 § 19.]

RCW 4.92.010 Where brought--Change of venue.

Any person or corporation having any claim against the state of Washington shall have a right of action against the state in the superior court.

The venue for such actions shall be as follows:

(1) The county of the residence or principal place of business of one or more of the plaintiffs;

(2) The county where the cause of action arose;

(3) The county in which the real property that is the subject of the action is situated;

(4) The county where the action may be properly commenced by reason of the joinder of an additional defendant; or

(5) Thurston county.

Actions shall be subject to change of venue in accordance with statute, rules of court, and the common law as the same now exist or may hereafter be amended, adopted, or altered.

Actions shall be tried in the county in which they have been commenced in the absence of a reasonable motion by or in behalf of the state to change the venue of the action.

[1986 c 126 § 1; 1973 c 44 § 1; 1963 c 159 § 1; 1927 c 216 § 1; 1895 c 95 § 1; RRS § 886.]

Notes:

Severability--1963 c 159: "If any provision of this act, or its application to any persons or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1963 c 159 § 12.]

Venue: Chapter 4.12 RCW.

RCW 4.92.020 Service of summons and complaint.

Service of summons and complaint in such actions shall be served in the manner prescribed by law upon the attorney general, or by leaving the summons and complaint in the office of the attorney general with an assistant attorney general.

[1986 c 126 § 2; 1927 c 216 § 2; 1895 c 95 § 2; RRS § 887.]

RCW 4.92.030 Duties of attorney general--Procedure.

The attorney general or an assistant attorney general shall appear and act as counsel for the state. The action shall proceed in all respects as other actions. Appellate review may be sought as in other actions or proceedings, but in case review is sought by the state, no bond shall be required of the appellant.

[1988 c 202 § 3; 1986 c 126 § 3; 1971 c 81 § 24; 1895 c 95 § 3; RRS § 888.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 4.92.040 Judgments--Claims to legislature against state--Payment procedure--Inapplicability to judgments and claims against housing finance commission.

(1) No execution shall issue against the state on any judgment.

(2) Whenever a final judgment against the state is obtained in an action on a claim arising out of tortious conduct, the claim shall be paid from the liability account.

(3) Whenever a final judgment against the state shall have been obtained in any other action, the clerk of the court shall make and furnish to the risk management office a duly certified copy of such judgment; the risk management office shall thereupon audit the amount of damages and costs therein awarded, and the same shall be paid from appropriations specifically provided for such purposes by law.

(4) Final judgments for which there are no provisions in state law for payment shall be transmitted by the risk management office to the senate and house of representatives committees on ways and means as follows:

(a) On the first day of each session of the legislature, the risk management office shall transmit judgments received and audited since the adjournment of the previous session of the legislature.

(b) During each session of legislature, the risk management office shall transmit judgments immediately upon completion of audit.

(5) All claims, other than judgments, made to the legislature against the state of Washington for money or property, shall be accompanied by a statement of the facts on which such claim is based and such evidence as the claimant intends to offer in support of the claim and shall be filed with the risk management office, which shall retain the same as a record. All claims of two thousand dollars or less shall be approved or rejected by the risk management office, and

if approved shall be paid from appropriations specifically provided for such purpose by law. Such decision, if adverse to the claimant in whole or part, shall not preclude the claimant from seeking relief from the legislature. If the claimant accepts any part of his or her claim which is approved for payment by the risk management office, such acceptance shall constitute a waiver and release of the state from any further claims relating to the damage or injury asserted in the claim so accepted. The risk management office shall submit to the house and senate committees on ways and means, at the beginning of each regular session, a comprehensive list of all claims paid pursuant to this subsection during the preceding year. For all claims not approved by the risk management office, the risk management office shall recommend to the legislature whether such claims should be approved or rejected. Recommendations shall be submitted to the senate and house of representatives committees on ways and means not later than the thirtieth day of each regular session of the legislature. Claims which cannot be processed for timely submission of recommendations shall be held for submission during the following regular session of the legislature. The recommendations shall include, but not be limited to:

(a) A summary of the facts alleged in the claim, and a statement as to whether these facts can be verified by the risk management office;

(b) An estimate by the risk management office of the value of the loss or damage which was alleged to have occurred;

(c) An analysis of the legal liability, if any, of the state for the alleged loss or damage; and

(d) A summary of equitable or public policy arguments which might be helpful in resolving the claim.

(5) The legislative committees to whom such claims are referred shall make a transcript, recording, or statement of the substance of the evidence given in support of such a claim. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law.

(6) Subsections (3) through (5) of this section do not apply to judgments or claims against the state housing finance commission created under chapter 43.180 RCW.

[1999 c 163 § 3; 1986 c 126 § 4; 1983 c 161 § 28; 1979 ex.s. c 167 § 1; 1979 c 151 § 2; 1977 ex.s. c 144 § 1; 1963 c 159 § 6; 1895 c 95 § 4; RRS § 889.]

Notes:

Effective date--1999 c 163: See note following RCW 4.92.130.

Severability--Effective dates--1983 c 161: See RCW 43.180.903 and 43.180.904.

RCW 4.92.045 Interest on judgments against state.

See RCW 4.56.115.

RCW 4.92.050 Limitations.

All provisions of law relating to the limitations of personal actions shall apply to claims against the state, but the computation of time thereunder shall not begin until RCW 4.92.010

through 4.92.050 shall have become a law.

[1895 c 95 § 5; RRS § 890.]

RCW 4.92.060 Action against state officers, employees, volunteers, or foster parents--Request for defense.

Whenever an action or proceeding for damages shall be instituted against any state officer, including state elected officials, employee, volunteer, or foster parent licensed in accordance with chapter 74.15 RCW, arising from acts or omissions while performing, or in good faith purporting to perform, official duties, or, in the case of a foster parent, arising from the good faith provision of foster care services, such officer, employee, volunteer, or foster parent may request the attorney general to authorize the defense of said action or proceeding at the expense of the state.

[1989 c 403 § 2; 1986 c 126 § 5; 1985 c 217 § 1; 1975 1st ex.s. c 126 § 1; 1975 c 40 § 1; 1921 c 79 § 1; RRS § 890-1.]

Notes:

Findings--1989 c 403: "The legislature finds and declares that foster parents are a valuable resource providing an important service to the citizens of Washington. The legislature further recognizes that the current insurance crisis has adversely affected some foster-family homes in several ways: (1) In some locales, foster parents are unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child or the child's parents or legal guardian. In addition, the monthly payment made to foster-family homes is not sufficient to cover the cost of obtaining this extended coverage and there is no mechanism in place by which foster parents can recapture this cost; (2) foster parents' personal resources are at risk. Therefore, the legislature is providing relief to address these problems." [1989 c 403 § 1.]

RCW 4.92.070 Actions against state officers, employees, volunteers, or foster parents--Defense by attorney general--Legal expenses.

If the attorney general shall find that said officer, employee, or volunteer's acts or omissions were, or were purported to be in good faith, within the scope of that person's official duties, or, in the case of a foster parent, that the occurrence arose from the good faith provision of foster care services, said request shall be granted, in which event the necessary expenses of the defense of said action or proceeding relating to a state officer, employee, or volunteer shall be paid as provided in RCW 4.92.130. In the case of a foster parent, necessary expenses of the defense shall be paid from the appropriations made for the support of the department to which such foster parent is attached. In such cases the attorney general shall appear and defend such officer, employee, volunteer, or foster parent, who shall assist and cooperate in the defense of such suit. However, the attorney general may not represent or provide private representation for a foster parent in an action or proceeding brought by the department of social and health services against that foster parent.

[1999 c 163 § 5; 1989 c 403 § 3; 1986 c 126 § 6; 1985 c 217 § 2; 1975 1st ex.s. c 126 § 2; 1975 c 40 § 2; 1921 c 79 § 2; RRS § 890-2.]

Notes:

Effective date--1999 c 163: See note following RCW 4.92.130.

Findings--1989 c 403: See note following RCW 4.92.060.

RCW 4.92.075 Action against state officers, employees, or volunteers--Judgment satisfied by state.

When a state officer, employee, or volunteer has been represented by the attorney general pursuant to RCW 4.92.070, and the body presiding over the action or proceeding has found that the officer, employee, or volunteer was acting within the scope of his or her official duties, and a judgment has been entered against the officer, employee, or volunteer pursuant to chapter 4.92 RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the judgment creditor shall seek satisfaction only from the state, and the judgment shall not become a lien upon any property of such officer, employee, or volunteer.

[1989 c 413 § 2.]

RCW 4.92.080 Bond not required of state.

No bond shall be required of the state of Washington for any purpose in any case in any of the courts of the state of Washington and the state of Washington shall be, on proper showing, entitled to any orders, injunctions and writs of whatever nature without bond notwithstanding the provisions of any existing statute requiring that bonds be furnished by private parties.

[1935 c 122 § 1; RRS § 390-3.]

RCW 4.92.090 Tortious conduct of state--Liability for damages.

The state of Washington, whether acting in its governmental or proprietary capacity, shall be liable for damages arising out of its tortious conduct to the same extent as if it were a private person or corporation.

[1963 c 159 § 2; 1961 c 136 § 1.]

RCW 4.92.100 Tortious conduct of state--Claims--Presentment and filing--Contents.

All claims against the state for damages arising out of tortious conduct shall be presented to and filed with the risk management office. All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf

of the claimant by any relative, attorney, or agent representing the claimant.

With respect to the content of such claims this section shall be liberally construed so that substantial compliance will be deemed satisfactory.

[1986 c 126 § 7; 1979 c 151 § 3; 1977 ex.s. c 144 § 2; 1967 c 164 § 2; 1963 c 159 § 3.]

Notes:

Purpose--Severability--1967 c 164: See notes following RCW 4.96.010.
Puget Sound ferry and toll bridge system, claims against: RCW 47.60.250.

RCW 4.92.110 Tortious conduct of state--Presentment and filing of claim prerequisite to suit.

No action shall be commenced against the state for damages arising out of tortious conduct until sixty days have elapsed after the claim is presented to and filed with the risk management office. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty-day period.

[1989 c 419 § 14; 1986 c 126 § 8; 1979 c 151 § 4; 1977 ex.s. c 144 § 3; 1963 c 159 § 4.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.120 Tortious conduct of state--Assignment of claims.

Claims against the state arising out of tortious conduct may be assigned voluntarily, involuntarily, and by operation of law to the same extent as like claims against private persons may be so assigned.

[1963 c 159 § 5.]

RCW 4.92.130 Tortious conduct of state--Liability account--Purpose.

A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, and volunteers and all related legal defense costs.

(1) The purpose of the liability account is to: (a) Expeditiously pay legal liabilities and defense costs of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages and legal defense costs exclusive of agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account, except for defense costs, unless all proceeds available to the claimant from any valid and collectible liability insurance shall have

been exhausted and unless:

(a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(b) The claim has been approved for payment.

(4) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(5) Annual premium levels shall be determined by the risk manager, with the consultation and advice of the risk management advisory committee and concurrence from the office of financial management. An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(6) Disbursements for claims from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(7) The director of the office of financial management may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(8) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the office of risk management. If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the office of risk management in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount will be prorated back to the appropriate funds.

[1999 c 163 § 1; 1991 sp.s. c 13 § 92; 1989 c 419 § 4; 1985 c 217 § 3; 1975 1st ex.s. c 126 § 3; 1969 c 140 § 1; 1963 c 159 § 7.]

Notes:

Transfer of funds--Fund abolished--1999 c 163: "Moneys in the tort claims revolving fund shall be deposited in the liability account on July 1, 1999, to be used for payment of settlements, judgments, and legal defense costs as provided in RCW 4.92.130." [1999 c 163 § 2.]

Effective date--1999 c 163: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 c 163 § 10.]

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Transfer of funds--Fund abolished--1989 c 419: "Moneys in the tort claims revolving fund shall be deposited in the liability account to be used for payment of liabilities incurred before July 1, 1989. The tort claim revolving fund is abolished." [1989 c 419 § 13.]

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

Severability--1969 c 140: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 140 § 5.]

Actions against regents, trustees, etc., of institutions of higher education or educational boards, payments of obligations from liability account: RCW 28B.10.842.

Department of general administration to conduct actuarial studies: RCW 43.19.19369.

RCW 4.92.150 Compromise and settlement of claims by attorney general.

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers, employees, or volunteers arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or against a foster parent that the attorney general is defending pursuant to RCW 4.92.070, or upon petition by the state, the attorney general, with the prior approval of the risk management office and with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer, employee, volunteer, or foster parent.

[1989 c 403 § 4. Prior: 1985 c 217 § 5; 1985 c 188 § 9; 1979 ex.s. c 144 § 2; 1975 1st ex.s. c 126 § 5; 1963 c 159 § 9.]

Notes:

Findings--1989 c 403: See note following RCW 4.92.060.

RCW 4.92.160 Payment of claims and judgments.

Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the risk management office, and that office shall authorize and direct the payment of moneys only from the liability account whenever:

(1) The head or governing body of any agency or department of state or the designee of any such agency certifies to the risk management office that a claim has been settled; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the state.

[1999 c 163 § 4; 1991 c 187 § 3; 1986 c 126 § 9; 1979 ex.s. c 144 § 3; 1979 c 151 § 5; 1975 1st ex.s. c 126 § 6; 1969 c 140 § 2; 1963 c 159 § 10.]

Notes:

Effective date--1999 c 163: See note following RCW 4.92.130.

Intent--1991 c 187: "It is the intent of the legislature that the tort claims revolving fund created under section 1 of this act have [has] the same purpose, use, and application as the tort claims revolving fund abolished effective July 1, 1989, by the legislature in chapter 419, Laws of 1989." [1991 c 187 § 2.]

Severability--1969 c 140: See note following RCW 4.92.130.

Duty of clerk to forward copy of judgment: RCW 4.92.040.

**RCW 4.92.175 Action against state patrol officers in private law enforcement
off-duty employment--Immunity of state--Notice to employer.**

(1) The state of Washington is not liable for tortious conduct by Washington state patrol officers that occurs while such officers are engaged in private law enforcement off-duty

employment.

(2) Upon petition of the state any suit, for which immunity is granted to the state under subsection (1) of this section, shall be dismissed.

(3) Washington state patrol officers engaged in private law enforcement off-duty employment shall notify, in writing, prior to such employment, anyone who employs Washington state patrol officers in private off-duty employment of the specific provisions of subsections (1) and (2) of this section.

[1997 c 375 § 2.]

RCW 4.92.200 Actions against state on state warrant appearing to be redeemed--Claim required--Time limitation.

No action shall be commenced against the state on account of any state warrant appearing to have been redeemed unless a claim has been presented and filed with the state treasurer within six years of the date of issuance of such warrant. The requirements of this section shall not extend or modify the period of limitations otherwise applicable within which an action must be commenced, but such period shall begin and shall continue to run as if no claim were required.

[1975 c 48 § 1.]

Notes:

State warrants: RCW 43.08.061 through 43.08.080.

RCW 4.92.210 Risk management--Review of claims--Settlements.

(1) All liability claims arising out of tortious conduct or under 42 U.S.C. Sec. 1981 et seq. that the state of Washington or any of its officers, employees, or volunteers would be liable for shall be filed with the office of risk management, department of general administration, unless specifically delegated to other state agencies under state statute.

(2) A centralized claim tracking system shall be maintained to provide agencies with accurate and timely data on the status of liability claims. Information in this claim file, other than the claim itself, shall be privileged and confidential.

(3) Standardized procedures shall be established for filing, reporting, processing, and adjusting claims, which includes the use of qualified claims management personnel.

(4) All claims will be reviewed by the office of risk management to determine an initial valuation, to delegate to the appropriate office to investigate, negotiate, compromise, and settle the claim, or to retain that responsibility on behalf of and with the assistance of the affected state agency.

(5) All claims that result in a lawsuit will be forwarded to the attorney general's office. Thereafter the attorney general and the office of risk management shall collaborate in the investigation, denial, or settlement of the claim.

(6) Reserves shall be established for recognizing financial liability and monitoring effectiveness. The valuation of specific claims against the state shall be privileged and

confidential.

(7) All settlements shall be approved by the responsible agencies, or their designees, prior to settlement.

[1989 c 419 § 3.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.220 General administration services account--Use.

(1) The general administration services account is to be used for the payment of costs related to:

(a) The appropriated administration of liability, property, and vehicle claims, including investigation, claim processing, negotiation, and settlement, and other expenses relating to settlements and judgments against the state not otherwise budgeted; and

(b) The nonappropriated pass-through cost associated with the purchase of liability and property insurance, including catastrophic insurance, subject to policy conditions and limitations determined by the risk manager.

(2) The general administration services account's appropriation for risk management shall be financed through a combination of direct appropriations and assessments to state agencies.

[1998 c 105 § 2; 1995 c 137 § 1; 1991 sp.s. c 13 § 91; 1989 c 419 § 5.]

Notes:

Effective date--1998 c 105: See note following RCW 43.19.025.

Effective dates--Severability--1991 sp.s. c 13: See notes following RCW 18.08.240.

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.230 Risk management--Advisory committee created--Duties.

(1) The director of the department of general administration shall establish an ongoing risk management advisory committee. Members of the committee may include but shall not be limited to representatives of state agencies, institutions of higher education, local government, or the private sector.

(2) The director of the department of general administration shall serve as chair. The committee shall meet upon call of the chairperson and shall adopt rules for the conduct of its business.

(3) The risk management advisory committee will provide guidance in:

(a) Determining appropriate roles, responsibilities of the office of risk management, and policies regarding state-wide risk management;

(b) Establishing premiums or other cost allocation systems;

(c) Determining appropriate programs and coverages for self-insurance versus insurance;

(d) Developing risk retention pools; and

(e) Preparing recommendations for containment of risk exposures.

[1989 c 419 § 7.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.240 Rules.

The director of general administration has the power to adopt rules necessary to carry out the intent of this chapter.

[1989 c 419 § 8.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.250 Risk management--Risk manager may delegate powers and duties.

The risk manager may delegate to a state agency the authority to carry out any powers or duties of the risk manager under this chapter related to claims administration and purchase of insurance for the purpose of protecting any classes of officers, employees, or for other persons performing services for the state. Such delegation shall be made only upon a determination by the risk manager that another agency has sufficient resources to carry out the functions delegated.

[1989 c 419 § 9.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.260 Construction.

Nothing in this chapter shall be construed as amending, repealing, or otherwise affecting RCW 28B.20.250 through 28B.20.255.

[1989 c 419 § 10.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.270 Risk management--Standard indemnification agreements.

The risk manager shall develop procedures for standard indemnification agreements for state agencies to use whenever the agency agrees to indemnify, or be indemnified by, any person or party. The risk manager shall also develop guidelines for the use of indemnification agreements by state agencies. On request of the risk manager, an agency shall forward to the risk management office for review and approval any contract or agreement containing an indemnification agreement.

[1989 c 419 § 15.]

Notes:

Intent--Effective date--1989 c 419: See notes following RCW 4.92.006.

RCW 4.92.280 Local government reimbursement claims.

If chapter 217, Laws of 1998 mandates an increased level of service by local governments, the local government may, under RCW 43.135.060 and chapter 4.92 RCW, submit claims for reimbursement by the legislature. The claims shall be subject to verification by the office of financial management.

[1998 c 217 § 4.]

Chapter 4.96 RCW
ACTIONS AGAINST POLITICAL SUBDIVISIONS, MUNICIPAL AND
QUASI-MUNICIPAL CORPORATIONS

Sections

4.96.010	Tortious conduct of local governmental entities--Liability for damages.
4.96.020	Tortious conduct of local governmental entities--Claims--Presentment and filing--Contents.
4.96.030	Interest on judgments against political subdivisions, municipal corporations or quasi-municipal corporations.
4.96.041	Action or proceeding against officer, employee, or volunteer of local governmental entity--Payment of damages and expenses of defense.
4.96.050	Bond not required.

Notes:

Claims, reports, etc., filing and receipt: RCW 1.12.070.

Liability of public officials and governing body members: RCW 4.24.470.

RCW 4.96.010 Tortious conduct of local governmental entities--Liability for damages.

(1) All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages. The laws specifying the content for such claims shall be liberally construed so that substantial compliance therewith will be deemed satisfactory.

(2) Unless the context clearly requires otherwise, for the purposes of this chapter, "local

governmental entity" means a county, city, town, special district, municipal corporation, or quasi-municipal corporation.

(3) For the purposes of this chapter, "volunteer" is defined according to RCW 51.12.035.

[1993 c 449 § 2; 1967 c 164 § 1.]

Notes:

Purpose--1993 c 449: "This act is designed to provide a single, uniform procedure for bringing a claim for damages against a local governmental entity. The existing procedures, contained in chapter 36.45 RCW, counties, chapter 35.31 RCW, cities and towns, chapter 35A.31 RCW, optional municipal code, and chapter 4.96 RCW, other political subdivisions, municipal corporations, and quasi-municipal corporations, are revised and consolidated into chapter 4.96 RCW." [1993 c 449 § 1.]

Severability--1993 c 449: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 449 § 15.]

Purpose--1967 c 164: "It is the purpose of this act to extend the doctrine established in chapter 136, Laws of 1961, as amended, to all political subdivisions, municipal corporations and quasi municipal corporations of the state." [1967 c 164 § 17.]

Severability--1967 c 164: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 164 § 18.]

RCW 4.96.020 Tortious conduct of local governmental entities--Claims--Presentment and filing--Contents.

(1) The provisions of this section apply to claims for damages against all local governmental entities.

(2) All claims for damages against any such entity for damages shall be presented to and filed with the governing body thereof within the applicable period of limitations within which an action must be commenced.

(3) All claims for damages arising out of tortious conduct must locate and describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim in the time prescribed or if the claimant is a minor, or is a nonresident of the state absent therefrom during the time within which the claim is required to be filed, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.

(4) No action shall be commenced against any local governmental entity for damages arising out of tortious conduct until sixty days have elapsed after the claim has first been presented to and filed with the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty-day period.

[1993 c 449 § 3; 1967 c 164 § 4.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.

RCW 4.96.030 Interest on judgments against political subdivisions, municipal corporations or quasi-municipal corporations.

See RCW 4.56.115.

RCW 4.96.041 Action or proceeding against officer, employee, or volunteer of local governmental entity--Payment of damages and expenses of defense.

(1) Whenever an action or proceeding for damages is brought against any past or present officer, employee, or volunteer of a local governmental entity of this state, arising from acts or omissions while performing or in good faith purporting to perform his or her official duties, such officer, employee, or volunteer may request the local governmental entity to authorize the defense of the action or proceeding at the expense of the local governmental entity.

(2) If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

(3) The necessary expenses of defending an elective officer of the local governmental entity in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the local governmental entity if the officer requests such defense and approval is granted by both the legislative authority of the local governmental entity and the attorney representing the local governmental entity. The expenses paid by the local governmental entity may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

(4) When an officer, employee, or volunteer of the local governmental entity has been represented at the expense of the local governmental entity under subsection (1) of this section and the court hearing the action has found that the officer, employee, or volunteer was acting within the scope of his or her official duties, and a judgment has been entered against the officer, employee, or volunteer under chapter 4.96 RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the judgment creditor shall seek satisfaction for nonpunitive damages only from the local governmental entity, and judgment for nonpunitive damages shall not become a lien upon any property of such officer, employee, or volunteer. The legislative authority of a local governmental entity may, pursuant to a procedure created by ordinance or resolution, agree to pay

an award for punitive damages.

[1993 c 449 § 4; 1989 c 250 § 1; 1979 ex.s. c 72 § 1. Formerly RCW 36.16.134.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.

RCW 4.96.050 Bond not required.

No bond is required of any local governmental entity for any purpose in any case in any of the courts of the state of Washington and all local governmental entities shall be, on proper showing, entitled to any orders, injunctions, and writs of whatever nature without bond, notwithstanding the provisions of any existing statute requiring that bonds be furnished by private parties.

[1993 c 449 § 5.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.

**Title 5 RCW
EVIDENCE**

Chapters

- 5.24 Uniform judicial notice of foreign laws act.**
- 5.28 Oaths and affirmations.**
- 5.40 Proof--General provisions.**
- 5.44 Proof--Public documents.**
- 5.45 Uniform business records as evidence act.**
- 5.46 Uniform photographic copies of business and public records as evidence act.**
- 5.48 Proof--Replacement of lost records.**
- 5.52 Telegraphic communications.**
- 5.56 Witnesses--Compelling attendance.**
- 5.60 Witnesses--Competency.**
- 5.62 Witnesses--Registered nurses.**
- 5.64 Admissibility--Furnishing, offering, or promising to pay medical expenses.**

Notes:

Rules of court: See *Rules of Evidence (ER)*.

City codes as evidence: RCW 35.21.550.

Corporate seals, effect of absence from instrument: RCW 64.04.105.

Deposition, definitions: RCW 9A.72.010.

District courts, witnesses and depositions: Chapter 12.16 RCW.

Domestic relations, spouse as witness: RCW 26.20.071.

Method for recording of instruments: RCW 65.04.030, 65.04.040.

Microfilming of records to provide continuity of civil government: Chapter 40.10 RCW.

Order for examination of judgment debtor: RCW 6.32.010.

Records of medical, dental, pharmaceutical, or hospital review boards, immunity from process: RCW 4.24.250.

Superior court records, destruction, reproduction: RCW 36.23.065 through 36.23.070.

Chapter 5.24 RCW

UNIFORM JUDICIAL NOTICE OF FOREIGN LAWS ACT

Sections

5.24.010	Judicial notice of Constitution and laws.
5.24.020	Manner of obtaining information.
5.24.030	Determination by court--Review.
5.24.040	Necessity of pleading foreign laws.
5.24.050	Jurisdictions excepted.
5.24.060	Construction of chapter.
5.24.070	Short title.

Notes:

Rules of court: *Cf. CR 9(k).*

City or town ordinances, evidence: RCW 5.44.080.

Foreign statutes as evidence: RCW 5.44.050.

Uniform enforcement of foreign judgments act: Chapter 6.36 RCW.

RCW 5.24.010 Judicial notice of Constitution and laws.

Every court of this state shall take judicial notice of the Constitution, common law, civil law, and statutes of every state, territory and other jurisdiction of the United States.

[1941 c 82 § 1; Rem. Supp. 1941 § 1278.]

RCW 5.24.020 Manner of obtaining information.

The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

[1941 c 82 § 2; Rem. Supp. 1941 § 1279.]

RCW 5.24.030 Determination by court--Review.

The determination of such laws shall be made by the court and not by the jury and shall be reviewable.

[1941 c 82 § 3; Rem. Supp. 1941 § 1280.]

RCW 5.24.040 Necessity of pleading foreign laws.

This chapter shall not be construed to relieve any party of the duty of hereafter pleading such laws where required under the law and practice of this state.

[1981 c 331 § 14; 1941 c 82 § 4; Rem. Supp. 1941 § 1281.]

Notes:

Court Congestion Reduction Act of 1981--Purpose--Severability--1981 c 331: See notes following RCW 2.32.070.

RCW 5.24.050 Jurisdictions excepted.

The law of any jurisdiction other than a state, territory or other jurisdiction of the United States shall be an issue for the court, but shall not be subject to the foregoing provisions concerning judicial notice.

[1941 c 82 § 5; Rem. Supp. 1941 § 1282.]

RCW 5.24.060 Construction of chapter.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[1941 c 82 § 6; Rem. Supp. 1941 § 1283.]

RCW 5.24.070 Short title.

This chapter may be cited as the "Uniform Judicial Notice of Foreign Laws Act."

[1941 c 82 § 7; Rem. Supp. 1941 § 1284.]

**Chapter 5.28 RCW
OATHS AND AFFIRMATIONS**

Sections

- | | |
|----------|--|
| 5.28.010 | Who may administer. |
| 5.28.020 | How administered. |
| 5.28.030 | Form may be varied. |
| 5.28.040 | Form may be adapted to religious belief. |
| 5.28.050 | Form of affirmation. |
| 5.28.060 | Affirmation equivalent to oath. |

Notes:

Rules of court: Cf. ER 603; CR 43(d).

Oaths and mode of administering: State Constitution Art. 1 § 6.

RCW 5.28.010 Who may administer.

Every court, judge, clerk of a court, or notary public, is authorized to take testimony in any action, suit or proceeding, and such other persons in particular cases as authorized by law. Every such court or officer is authorized to collect fees established under RCW 36.18.020 and 36.18.012 through 36.18.018 and to administer oaths and affirmations generally and to every such other person in such particular case as authorized.

[1995 c 292 § 1; 1987 c 202 § 124; 2 H. C. §1693; 1869 p 378 § 1; RRS § 1264.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

*Oath of witness in superior court to be administered by judge: **Rules of court:** Cf. CR 43(d).*

Powers of courts, judicial officers to administer oaths: RCW 2.28.010, 2.28.060.

RCW 5.28.020 How administered.

An oath may be administered as follows: The person who swears holds up his hand, while the person administering the oath thus addresses him: "You do solemnly swear that the evidence you shall give in the issue (or matter) now pending between and shall be the truth, the whole truth, and nothing but the truth, so help you God." If the oath be administered to any other than a witness giving testimony, the form may be changed to: "You do solemnly swear you will true answers make to such questions as you may be asked," etc.

[2 H. C. §1694; 1869 p 378 § 2; RRS § 1265.]

RCW 5.28.030 Form may be varied.

Whenever the court or officer before which a person is offered as a witness is satisfied that he has a peculiar mode of swearing connected with or in addition to the usual form of administration, which, in witness' opinion, is more solemn or obligatory, the court or officer may, in its discretion, adopt that mode.

[2 H. C. §1695; 1869 p 379 § 3; RRS § 1266.]

RCW 5.28.040 Form may be adapted to religious belief.

When a person is sworn who believes in any other than the Christian religion, he may be sworn according to the peculiar ceremonies of his religion, if there be any such.

[2 H. C. §1696; 1869 p 379 § 4; RRS § 1267.]

RCW 5.28.050 Form of affirmation.

Any person who has conscientious scruples against taking an oath, may make his solemn affirmation, by assenting, when addressed, in the following manner: "You do solemnly affirm

that," etc., as in RCW 5.28.020.

[2 H. C. §1697; 1869 p 379 § 5; RRS § 1268.]

RCW 5.28.060 Affirmation equivalent to oath.

Whenever an oath is required, an affirmation, as prescribed in RCW 5.28.050 is to be deemed equivalent thereto, and a false affirmation is to be deemed perjury, equally with a false oath.

[2 H. C. §1698; 1869 p 379 § 6; RRS § 1269.]

Notes:

Perjury: Chapter 9A.72 RCW.

**Chapter 5.40 RCW
PROOF--GENERAL PROVISIONS**

Sections

5.40.010	Pleadings do not constitute proof.
5.40.020	Written finding of presumed death as prima facie evidence.
5.40.030	Proof of missing in action, capture by enemy, etc.
5.40.040	Proof of authenticity of signature to report or of certification.
5.40.050	Breach of duty--Evidence of negligence--Negligence per se.
5.40.060	Defense to personal injury or wrongful death action--Intoxicating liquor or any drug.

Notes:

Public documents, records and publications: Title 40 RCW.

Stolen property as evidence: RCW 9.54.130.

Tampering with physical evidence: RCW 9A.72.150.

RCW 5.40.010 Pleadings do not constitute proof.

Pleadings sworn to by either party in any case shall not, on the trial, be deemed proof of the facts alleged therein, nor require other or greater proof on the part of the adverse party.

[Code 1881 § 741; 1877 p 151 § 746; 1854 p 219 § 484; RRS § 283.]

RCW 5.40.020 Written finding of presumed death as prima facie evidence.

A written finding of presumed death, made by the Secretary of War, the Secretary of the Navy, or other officer or employee of the United States authorized to make such finding, pursuant to the federal missing persons act (56 Stat. 143, 1092, and P.L. 408, Ch. 371, 2d Sess. 78th Cong.; U.S.C. App. Supp. 1001-17), as now or hereafter amended, or a duly certified copy of such finding, shall be received in any court, office or other place in this state as prima facie

evidence of the death of the person therein found to be dead, and the date, circumstances and place of his disappearance.

[1945 c 101 § 1; Rem. Supp. 1945 § 1257-1.]

Notes:

Severability--1945 c 101: "If any provision of this act or the application thereof to any person or circumstance be held invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable." [1945 c 101 § 4.] This applies to RCW 5.40.020 through 5.40.040.

RCW 5.40.030 Proof of missing in action, capture by enemy, etc.

An official written report or record, or duly certified copy thereof, that a person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy, or is dead, or is alive, made by any officer or employee of the United States authorized by the act referred to in RCW 5.40.020 or by any other law of the United States to make same, shall be received in any court, office or other place in this state as prima facie evidence that such person is missing, missing in action, interned in a neutral country, or beleaguered, besieged or captured by an enemy, or is dead, or is alive, as the case may be.

[1945 c 101 § 2; Rem. Supp. 1945 § 1257-2.]

RCW 5.40.040 Proof of authenticity of signature to report or of certification.

For the purposes of RCW 5.40.020 and 5.40.030 any finding, report or record, or duly certified copy thereof, purporting to have been signed by such an officer or employee of the United States as is described in said sections, shall prima facie be deemed to have been signed and issued by such an officer or employee pursuant to law, and the person signing same shall prima facie be deemed to have acted within the scope of his authority. If a copy purports to have been certified by a person authorized by law to certify the same, such certified copy shall be prima facie evidence of his authority so to certify.

[1945 c 101 § 3; Rem. Supp. 1945 § 1257-3.]

RCW 5.40.050 Breach of duty--Evidence of negligence--Negligence per se.

A breach of a duty imposed by statute, ordinance, or administrative rule shall not be considered negligence per se, but may be considered by the trier of fact as evidence of negligence; however, any breach of duty as provided by statute, ordinance, or administrative rule relating to electrical fire safety, the use of smoke alarms, or driving while under the influence of intoxicating liquor or any drug, shall be considered negligence per se.

[1986 c 305 § 901.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 5.40.060 Defense to personal injury or wrongful death action--Intoxicating liquor or any drug.

(1) Except as provided in subsection (2) of this section, it is a complete defense to an action for damages for personal injury or wrongful death that the person injured or killed was under the influence of intoxicating liquor or any drug at the time of the occurrence causing the injury or death and that such condition was a proximate cause of the injury or death and the trier of fact finds such person to have been more than fifty percent at fault. The standard for determining whether a person was under the influence of intoxicating liquor or drugs shall be the same standard established for criminal convictions under RCW 46.61.502, and evidence that a person was under the influence of intoxicating liquor or drugs under the standard established by RCW 46.61.502 shall be conclusive proof that such person was under the influence of intoxicating liquor or drugs.

(2) In an action for damages for personal injury or wrongful death that is brought against the driver of a motor vehicle who was under the influence of intoxicating liquor or any drug at the time of the occurrence causing the injury or death and whose condition was a proximate cause of the injury or death, subsection (1) of this section does not create a defense against the action notwithstanding that the person injured or killed was also under the influence so long as such person's condition was not a proximate cause of the occurrence causing the injury or death.

[1994 c 275 § 30; 1987 c 212 § 1001; 1986 c 305 § 902.]

Notes:

Retroactive application--1994 c 275 § 30: "Section 30 of this act is remedial in nature and shall apply retroactively." [1994 c 275 § 31.]

Short title--Effective date--1994 c 275: See notes following RCW 46.04.015.

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

**Chapter 5.44 RCW
PROOF--PUBLIC DOCUMENTS**

Sections

5.44.010	Court records and proceedings--When admissible.
5.44.020	Foreign judgments for debt--Faith to be accorded.
5.44.030	Defenses available in suit on foreign judgment.
5.44.040	Certified copies of public records as evidence.
5.44.050	Foreign statutes as evidence.
5.44.060	Certified copies of recorded instruments as evidence.
5.44.070	Certified copies of instruments, or transcripts of county commissioners' proceedings.
5.44.080	City or town ordinances as evidence.
5.44.090	Copy of instrument restoring civil rights as evidence.
5.44.130	Seal, how affixed.
5.44.140	Proceedings for determination of family relationships--Presumption.

Notes:

Rules of court: Cf. ER 803; ER 901; ER 902; ER 1005; CR 44.

RCW 5.44.010 Court records and proceedings--When admissible.

The records and proceedings of any court of the United States, or any state or territory, shall be admissible in evidence in all cases in this state when duly certified by the attestation of the clerk, prothonotary or other officer having charge of the records of such court, with the seal of such court annexed.

[1997 c 358 § 7; Code 1881 § 430; 1877 p 94 § 432; 1869 p 115 § 426; 1854 p 195 § 334; RRS § 1254.]

Notes:

Rules of court: Cf. CR 44(a)(1).

RCW 5.44.020 Foreign judgments for debt--Faith to be accorded.

Judgment for debt rendered in any other state or any territory against any person or persons residents of this state at the time of the rendition of such judgment, shall not be of any higher character as evidence of indebtedness than the original claim or demand upon which such judgment is rendered, unless such judgment shall be rendered upon personal service of summons, notice or other due process against the defendant therein.

[1891 c 31 § 1; Code 1881 § 739; 1877 p 150 § 744; 1869 p 171 § 681; 1866 p 88 § 1; RRS § 1255.]

Notes:

Rules of court: Cf. CR 44(a)(2).

Uniform enforcement of foreign judgments act: Chapter 6.36 RCW.

RCW 5.44.030 Defenses available in suit on foreign judgment.

The same defense to suits on judgments rendered without such personal service may be made by the judgment debtor, which might have been set up in the original proceeding.

[Code 1881 § 740; 1877 p 150 § 745; 1869 p 171 § 682; 1866 p 88 § 2; RRS § 1256.]

RCW 5.44.040 Certified copies of public records as evidence.

Copies of all records and documents on record or on file in the offices of the various departments of the United States and of this state or any other state or territory of the United States, when duly certified by the respective officers having by law the custody thereof, under their respective seals where such officers have official seals, shall be admitted in evidence in the courts of this state.

[1991 c 59 § 1; 1891 c 19 § 16; Code 1881 § 432; 1854 p 195 § 336; RRS § 1257.]

Notes:

Rules of court: Cf. ER 803; CR 44(a)(1).

RCW 5.44.050 Foreign statutes as evidence.

Printed copies of the statute laws of any state, territory, or foreign government, if purporting to have been published under the authority of the respective governments, or if commonly admitted and read as evidence in their courts, shall be admitted in all courts in this state, and on all other occasions as presumptive evidence of such laws.

[Code 1881 § 435; 1877 p 95 § 437; 1869 p 116 § 431; 1854 p 196 § 339; RRS § 1259.]

Notes:

Uniform judicial notice of foreign laws act: Chapter 5.24 RCW.

RCW 5.44.060 Certified copies of recorded instruments as evidence.

Whenever any deed, conveyance, bond, mortgage or other writing, shall have been recorded or filed in pursuance of law, copies of record of such deed, conveyance, bond or other writing, duly certified by the officer having the lawful custody thereof, with the seal of the office annexed, if there be such seal, if there be no such seal, then with the official certificate of such officer, shall be received in evidence to all intents and purposes as the originals themselves.

[Code 1881 § 431; 1877 p 95 § 433; 1869 p 115 § 427; 1854 p 195 § 335; RRS § 1260.]

Notes:

Deeds as evidence: RCW 84.64.180, 84.64.190.

Instruments to be recorded or filed: RCW 65.04.030.

Record of will as evidence: RCW 11.20.060.

RCW 5.44.070 Certified copies of instruments, or transcripts of county commissioners' proceedings.

Copies of all deeds or other instruments of writing, maps, documents and papers which by law are to be filed or recorded in the office of said county auditor, and all transcripts or exemplifications of the records of the proceedings of the board of county commissioners certified by said auditor under official seal, shall be admitted as prima facie evidence in all the courts of this state.

[Code 1881 § 2737; 1869 p 315 § 27; RRS § 10612.]

Notes:

Certified copy of plat as evidence: RCW 58.10.020.

Legislative authority proceedings to be published: RCW 36.22.020.

RCW 5.44.080 City or town ordinances as evidence.

All ordinances passed by the legislative body of any city or town shall be recorded in a book to be kept for that purpose by the city or town clerk, and when so recorded the record thereof so made shall be received in any court of the state as prima facie evidence of the due passage of such ordinance as recorded. When the ordinances of any city or town are printed by authority of such municipal corporation, the printed copies thereof shall be received as prima facie evidence that such ordinances as printed and published were duly passed.

[1955 c 6 § 1; Code 1881 § 2062; RRS § 1260 1/2.]

RCW 5.44.090 Copy of instrument restoring civil rights as evidence.

The secretary of state and the clerk of the superior court, shall, upon demand and the payment of the fee required by law, issue a certified copy of any such instrument restoring civil rights filed in their respective offices, and every such certified copy shall be received in evidence as proof of the fact therein stated, in any court and by all election officers.

[1931 c 19 § 4; 1929 c 26 § 5; RRS § 10253.]

Notes:

Restoration of civil rights: Chapter 9.96 RCW.

RCW 5.44.130 Seal, how affixed.

A seal of court or public office, when required to any writ, process, or proceeding to authenticate a copy of any record or document, may be affixed by making an impression directly on the paper which shall be as valid as if made upon a wafer or on wax.

[Code 1881 § 434; 1877 p 95 § 436; 1869 p 116 § 430; 1854 p 196 § 338; RRS § 1258.]

Notes:

Private seals abolished: RCW 64.04.090.

Seals of courts and municipalities: State Constitution Art. 27 § 9.

Superior court seal: RCW 2.08.050.

Supreme court seal: Rules of court: SAR 1.

Telegraphic message, description of seal: RCW 5.52.060.

RCW 5.44.140 Proceedings for determination of family relationships--Presumption.

In any proceeding regarding the determination of a family relationship, including but not limited to the parent and child relationship and the marriage relationship, a determination of family relationships regarding any person or persons who immigrated to the United States from a foreign country which was made or accepted by the United States immigration and naturalization service at the time of that person or persons' entry into the United States creates a rebuttable presumption that the determination is valid and that the family relationship under foreign law is as made or accepted at the time of entry. Except as provided in RCW 26.26.040 (1)(f) and (2), the presumption may be overcome by a preponderance of evidence showing that a living person

other than the person named by the United States immigration and naturalization service is in the relationship in question.

[1990 c 175 § 1.]

Chapter 5.45 RCW

UNIFORM BUSINESS RECORDS AS EVIDENCE ACT

Sections

5.45.010	"Business" defined.
5.45.020	Business records as evidence.
5.45.900	Construction--1947 c 53.
5.45.910	Short title.
5.45.920	Repeal of inconsistent provisions.

Notes:

Rules of court: *ER 803.*

RCW 5.45.010 "Business" defined.

The term "business" shall include every kind of business, profession, occupation, calling or operation of institutions, whether carried on for profit or not.

[1947 c 53 § 1; Rem. Supp. 1947 § 1263-1. Formerly RCW 5.44.100.]

RCW 5.45.020 Business records as evidence.

A record of an act, condition or event, shall in so far as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

[1947 c 53 § 2; Rem. Supp. 1947 § 1263-2. Formerly RCW 5.44.110.]

RCW 5.45.900 Construction--1947 c 53.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[1947 c 53 § 3; Rem. Supp. 1947 § 1263-3. Formerly RCW 5.44.120.]

RCW 5.45.910 Short title.

This chapter may be cited as The Uniform Business Records as Evidence Act.

[1947 c 53 § 4; Rem. Supp. 1947 § 1263-4.]

RCW 5.45.920 Repeal of inconsistent provisions.

All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed.

[1947 c 53 § 5; Rem. Supp. 1947 § 1263-5.]

Chapter 5.46 RCW
UNIFORM PHOTOGRAPHIC COPIES OF BUSINESS AND PUBLIC RECORDS AS
EVIDENCE ACT

Sections

5.46.010	Copies of business and public records as evidence.
5.46.900	Construction--1953 c 273.
5.46.910	Short title.
5.46.920	Repeal of inconsistent provisions.

RCW 5.46.010 Copies of business and public records as evidence.

If any business, institution, member of a profession or calling or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, microcard, miniature photographic, optical imaging, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless the same is an asset or is representative of title to an asset held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile, does not preclude admission of the original.

[1994 c 19 § 1; 1959 c 125 § 1; 1953 c 273 § 1. Formerly RCW 5.44.125.]

Notes:

Photostatic or photographic copies of public or business records admissible in evidence: RCW 40.20.030.

RCW 5.46.900 Construction--1953 c 273.

This chapter shall be so interpreted and construed as to effectuate its general purpose of making uniform the law of those states which enact it.

[1953 c 273 § 2.]

RCW 5.46.910 Short title.

This chapter may be cited as the "Uniform Photographic Copies of Business and Public Records as Evidence Act."

[1953 c 273 § 3.]

RCW 5.46.920 Repeal of inconsistent provisions.

All acts or parts of acts which are inconsistent with the provisions of this act are repealed.

[1953 c 273 § 4.]

**Chapter 5.48 RCW
PROOF--REPLACEMENT OF LOST RECORDS**

Sections

5.48.010	Substitution of copy authorized.
5.48.020	Methods to replace lost court records.
5.48.030	Action to replace--Procedure.
5.48.040	Hearing on application--Evidence.
5.48.050	Time for appeal extended.
5.48.051	Costs to be taxed.
5.48.060	Replacement of lost or destroyed probate records.
5.48.070	Costs--Payment of.

Notes:

Records and exhibits of superior court, destruction, reproduction: RCW 36.23.065, 36.23.067, 36.23.070.

RCW 5.48.010 Substitution of copy authorized.

Whenever a pleading, process, return, verdict, bill of exceptions, order, entry, stipulation or other act, file or proceeding in any action or proceeding pending in any court of this state shall have been lost or destroyed by fire or otherwise, or is withheld by any person, such court may, upon the application of any party to such action or proceeding, order a copy or substantial copy thereof to be substituted.

[1890 p 337 § 1; RRS § 1270.]

RCW 5.48.020 Methods to replace lost court records.

Whenever the record required by law of the proceedings, judgment or decree in any action or other proceeding of any court in this state in which a final judgment has been rendered, or any part thereof, is lost or destroyed by fire or otherwise, such court may, upon the application of any party interested therein, grant an order authorizing such record or parts thereof to be supplied or replaced--

(1) by a certified copy of such original record, or part thereof, when the same can be obtained;

(2) by a duly certified copy of the record in the supreme court or court of appeals of such original record of any action or proceeding that may have been removed to the supreme court or court of appeals and remains recorded or filed in said courts;

(3) by the original pleadings, entries, papers and files in such action or proceeding when the same can be obtained;

(4) by an agreement in writing signed by all the parties to such action or proceeding, their representatives or attorneys, that a substituted copy of such original record is substantially correct.

[1971 c 81 § 25; 1890 p 338 § 2; RRS § 1271.]

RCW 5.48.030 Action to replace--Procedure.

Whenever the record required by law, or any part thereof, of the proceedings or judgment or decree in any action or other proceeding of any court in this state in which the final judgment has been rendered, is lost or destroyed by fire or otherwise, and such loss cannot be supplied or replaced as provided in RCW 5.48.020, any person or party interested therein may make a written application to the court to which said record belongs, setting forth the substance of the record so lost or destroyed, which application shall be verified in the manner provided for the verification of pleadings in a civil action, and thereupon summons shall issue and actual service, or service by publication, shall be made upon all persons interested in or affected by said original judgment or final entry in the manner provided by law for the commencement of civil actions, provided the parties may waive the issuing or service of summons and enter their appearance to such application; and upon the hearing of such application without further pleadings, if the court finds that such record has been lost or destroyed and that it is enabled by the evidence produced to find the substance or effect thereof material to the preservation of the rights of the parties thereto, it shall make an order allowing a record, which record shall recite the substance and effect of said lost or destroyed record, or part thereof, and the same shall thereupon be recorded in said court, and shall have the same effect as the original record would have if the same had not been lost or destroyed, so far as it concerns the rights of the parties so making the application, or persons or parties so served with summons, or entering their appearance, or persons claiming under them by a title acquired subsequently to the filing of the application.

[1890 p 338 § 3; RRS § 1272.]

RCW 5.48.040 Hearing on application--Evidence.

Upon the hearing of the application provided in RCW 5.48.030, the court may admit in evidence oral testimony and any complete or partial abstract of such record, docket entries or indices, and any other written evidence of the contents or effect of such records and published reports concerning such actions or proceedings, when the court is of opinion that such abstracts, writings and publications were fairly and honestly made before the loss of such records occurred.

[1890 p 339 § 4; RRS § 1273.]

RCW 5.48.050 Time for appeal extended.

Whenever a lost or destroyed judgment or order is one to which either party has a right to a proceeding in error or of appeal, the time intervening between the filing of the application mentioned in RCW 5.48.030 and the final order of the court thereon shall be excluded in computing the time within which such proceeding or appeal may be taken as provided by law.

[1890 p 339 § 5; RRS § 1274.]

Notes:

Rules of court: Cf. RAP 5.2, 18.22.

RCW 5.48.051 Costs to be taxed.

The costs to be taxed, upon an application to restore a lost or destroyed record, shall be the same as are provided for like service in civil actions, and may be adjudged against either or any party to such proceeding or application, or may, in the discretion of the court, be apportioned between such parties.

[1890 p 339 § 6; RRS § 1275. Formerly RCW 5.48.070, part.]

RCW 5.48.060 Replacement of lost or destroyed probate records.

In case of the loss or destruction by fire or otherwise of the records, or any part thereof, of any probate court or superior court having probate jurisdiction, the judge of any such court may proceed, upon its own motion, or upon application in writing of any party in interest, to restore the records, papers, and proceedings of either of said courts relating to the estates of deceased persons, including recorded wills, wills probated, or filed for probate in such courts, all marriage records and all other records and proceedings, and for the purpose of restoring said records, wills, papers or proceedings, or any part thereof, may cause citations or other process to be issued to any and all parties to be designated by him, and may compel the attendance in court of any and all witnesses whose testimony may be necessary to the establishment of any such record or part thereof, and the production of any and all written or documentary evidence which may be by him

deemed necessary in determining the true import and effect of the original records, will, paper, or other document belonging to the files of said courts; and may make such orders and decrees establishing such original record, will, paper, document or proceeding, or the substance thereof, as to him shall seem just and proper.

[1957 c 9 § 5; 1890 p 340 § 7; RRS § 1276.]

Notes:

Reviser's note: Jurisdiction in probate matters now vested in superior courts, see state Constitution Art. 4 § 6 (Amendment 28) and Art. 27 § 10.

RCW 5.48.070 Costs--Payment of.

The costs incurred in the probate and superior courts in proceedings under RCW 5.48.051 and 5.48.060 shall be paid by the party or parties interested in such proceedings, or in whose behalf such proceedings are instituted.

[1890 p 340 § 8; RRS § 1277. FORMER PART OF SECTION: 1890 p 339 § 6; RRS § 1275, now codified as RCW 5.48.051.]

Notes:

Reviser's note: See note following RCW 5.48.060.

**Chapter 5.52 RCW
TELEGRAPHIC COMMUNICATIONS**

Sections

5.52.010	Deemed communications in writing.
5.52.020	Notice by telegraph deemed actual notice.
5.52.030	Instrument transmitted by telegraph--Effect.
5.52.040	Bills and notes drawn by telegraph--Effect.
5.52.050	Telegraphic copies as evidence.
5.52.060	Seal and revenue stamp, how described.
5.52.070	"Telegraphic copy" or "telegraphic duplicate" defined.

Notes:

Rules of court: Cf. CR 9(h).

Arrest by telegraph--Validity of telegraphic copy: RCW 10.31.060.

Divulging telegraph message: RCW 9.73.010.

False message as forgery: RCW 9A.60.020.

Interference with communication or its facilities: RCW 9A.48.070, 9A.48.080.

Tampering with telegraph message: RCW 9A.48.070, 9A.48.080.

Telecommunications companies: Chapter 80.36 RCW; state Constitution Art. 12 § 19.

RCW 5.52.010 Deemed communications in writing.

Contracts made by telegraph shall be deemed to be contracts in writing; and all communications sent by telegraph and signed by the person or persons sending the same, or by

his or their authority, shall be held and deemed to be communications in writing.

[Code 1881 § 2352; 1865 p 74 § 11; RRS § 11345.]

RCW 5.52.020 Notice by telegraph deemed actual notice.

Whenever any notice, information or intelligence, written or otherwise, is required to be given, the same may be given by telegraph: PROVIDED, That the dispatch containing the same be delivered to the person entitled thereto, or to his agent or attorney. Notice by telegraph shall be deemed actual notice.

[Code 1881 § 2353; 1865 p 74 § 12; RRS § 11346.]

RCW 5.52.030 Instrument transmitted by telegraph--Effect.

Any power of attorney, or other instrument in writing, duly proved or acknowledged, and certified so as to be entitled to record may, together with the certificate of its proof or acknowledgment, be sent by telegraph, and telegraphic copy, or duplicate thereof, shall, prima facie, have the same force and effect, in all respects, and may be admitted to record and recorded in the same manner and with like effect as the original.

[Code 1881 § 2354; 1865 p 74 § 13; RRS § 11347.]

RCW 5.52.040 Bills and notes drawn by telegraph--Effect.

Checks, due bills, promissory notes, bills of exchange and all orders or agreements for the payment or delivery of money, or other thing of value, may be made or drawn by telegraph, and when so made or drawn, shall have the same force and effect to charge the maker, drawer, indorser or acceptor thereof, and shall create the same rights and equities in favor of the payee, drawer [drawee], indorser [indorsee], acceptor, holder or bearer thereof, and shall be entitled to the same days of grace as if duly made or drawn and delivered in writing; but it shall not be lawful for any person other than the person or drawer thereof, to cause any such instrument to be sent by telegraph, so as to charge any person thereby, except as in RCW 5.52.050 otherwise provided. Whenever the genuineness or execution of any such instrument received by telegraph shall be denied on oath, by or on behalf of the person sought to be charged thereby, it shall be incumbent upon the party claiming under or alleging the same, to prove the existence and execution of the original writing from which the telegraph copy or duplicate was transmitted. The original message shall in all cases be preserved in the telegraph office from which the same is sent.

[Code 1881 § 2355; 1865 p 74 § 14; RRS § 11348.]

RCW 5.52.050 Telegraphic copies as evidence.

Except as hereinbefore otherwise provided, any instrument in writing, duly certified,

under his hand and official seal, by a notary public, commissioner of deeds, or clerk of a court of record, to be genuine, within the personal knowledge of such officer, may, together with such certificate, be sent by telegraph and the telegraphic copy thereof shall, prima facie, only have the same force, effect and validity, in all respects whatsoever as the original, and the burden of proof shall rest with the party denying the genuineness, or due execution of the original.

[Code 1881 § 2356; 1865 p 75 § 15; RRS § 11349.]

RCW 5.52.060 Seal and revenue stamp, how described.

Whenever any document to be sent by telegraph bears a seal, either private or official, it shall not be necessary for the operator in sending the same, to telegraph a description of the seal, or any words or device thereon, but the same may be expressed in the telegraphic copy by the letters "L.S.," or by the word "seal," and whenever any document bears a revenue stamp, it shall be sufficient to express the same in the telegraphic copy, by the word "stamp," without any other or further description thereof.

[Code 1881 § 2359; 1865 p 76 § 18; RRS § 11350.]

Notes:

Seal, how affixed: RCW 5.44.130.

RCW 5.52.070 "Telegraphic copy" or "telegraphic duplicate" defined.

The term "telegraphic copy," or "telegraphic duplicate," whenever used in this chapter, shall be construed to mean any copy of a message, made or prepared for delivery at the office to which said message may have been sent by telegraph.

[Code 1881 § 2362; 1865 p 77 § 21; RRS § 11351.]

**Chapter 5.56 RCW
WITNESSES--COMPELLING ATTENDANCE**

Sections

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| 5.56.010 | When witnesses must attend--Fees and allowances. |
| 5.56.050 | Person in court required to testify. |
| 5.56.060 | Result of failure to attend. |
| 5.56.061 | Failure to attend considered contempt of court. |
| 5.56.070 | Attachment of witness. |
| 5.56.080 | To whom attachment directed--Execution. |
| 5.56.090 | Testimony of prisoner, how obtained. |
| 5.56.100 | Affidavit to procure order. |

Notes:

Tampering with witness: RCW 9A.72.120.

RCW 5.56.010 When witnesses must attend--Fees and allowances.

Any person may be compelled to attend as a witness before any court of record, judge, commissioner, or referee, in any civil action or proceeding in this state. No such person shall be compelled to attend as a witness in any civil action or proceeding unless the fees be paid or tendered him which are allowed by law for one day's attendance as a witness and for traveling to and returning from the place where he is required to attend, together with any allowance for meals and lodging theretofore fixed as specified herein: PROVIDED, That such fees be demanded by any witness residing within the same county where such court of record, judge, commissioner, or referee is located, or within twenty miles of the place where such court is located, at the time of service of the subpoena: PROVIDED FURTHER, That a party desiring the attendance of a witness residing outside of the county in which such action or proceeding is pending, or more than twenty miles of the place where such court is located, shall apply ex parte to such court, or to the judge, commissioner, referee or clerk thereof, who, if such application be granted and a subpoena issued, shall fix without notice an allowance for meals and lodging, if any to be allowed, together with necessary travel expenses, and the amounts so fixed shall be endorsed upon the subpoena and tendered to such witness at the time of the service of the subpoena: PROVIDED FURTHER, That the court shall fix and allow at or after trial such additional amounts for meals, lodging and travel as it may deem reasonable for the attendance of such witness.

[1963 c 19 § 1; 1891 c 19 § 2; Code 1881 § 393; 1877 p 87 § 395; 1869 p 104 § 388; 1863 p 156 § 69; 1854 p 187 § 295; RRS § 1215.]

Notes:

Rules of court: Cf. CR 4(f).

Arbitration, compelling attendance of witnesses: RCW 7.04.110.

District court, attachment, damages for nonappearance: RCW 12.16.030, 12.16.050.

Power to compel attendance of persons to testify: RCW 2.28.010, 2.28.020, 2.28.060, 2.28.070.

Salaried public officers shall not receive additional compensation as witness on behalf of employer, and in certain other cases: RCW 42.16.020.

Witness fees and mileage: Chapter 2.40 RCW.

RCW 5.56.050 Person in court required to testify.

A person present in court or before a judicial officer, may be required to testify in the same manner as if he were in attendance upon a subpoena issued by such court or officer.

[Code 1881 § 397; 1877 p 88 § 399; 1869 p 106 § 392; 1854 p 188 § 299; RRS § 1219.]

RCW 5.56.060 Result of failure to attend.

If any person duly served with a subpoena and obliged to attend as a witness, shall fail to

do so, without any reasonable excuse, he shall be liable to the aggrieved party for all damages occasioned by such failure, to be recovered in a civil action.

[Code 1881 § 398; 1877 p 88 § 400; 1869 p 106 § 393; 1854 p 188 § 300; RRS § 1220, part. FORMER PART OF SECTION: Code 1881 § 399; 1877 p 88 § 401; 1869 p 106 § 394; 1854 p 188 § 301; RRS § 1220, part, now codified as RCW 5.56.061.]

Notes:

Contempts: Chapter 7.21 RCW.

District court, damages for nonappearance: RCW 12.16.050.

RCW 5.56.061 Failure to attend considered contempt of court.

A failure to attend as required by the subpoena, shall also be considered a contempt of court as provided in chapter 7.21 RCW.

[1989 c 373 § 8; Code 1881 § 399; 1877 p 88 § 401; 1869 p 106 § 394; 1854 p 188 § 301; RRS § 1220, part. Formerly RCW 5.56.060, part.]

Notes:

Rules of court: Cf. CR 45(f).

Severability--1989 c 373: See RCW 7.21.900.

Criminal contempt: RCW 9.92.040.

Power of courts and judicial officers to punish for contempt: RCW 2.28.020, 2.28.070.

RCW 5.56.070 Attachment of witness.

The court, judge, or other officer, in such case, may issue an attachment to bring such witness before them to answer for contempt, and also testify as witness in the cause in which he or she was subpoenaed.

[1987 c 202 § 125; Code 1881 § 400; 1877 p 88 § 402; 1869 p 106 § 395; 1854 p 188 § 302; RRS § 1221.]

Notes:

Rules of court: Cf. CR 45(f).

Intent--1987 c 202: See note following RCW 2.04.190.

District court, attachment for nonappearance: RCW 12.16.030.

RCW 5.56.080 To whom attachment directed--Execution.

Such attachment may be directed to the sheriff or any deputy of any county in which the witness may be found, and shall be executed in the same manner as a warrant; and the fees of the officer for issuing and serving the same shall be paid by the person against whom the same was issued, unless he or she shows reasonable cause, to the satisfaction of the judge, for his or her omission to attend; in which case the party requiring such attachment shall pay all such costs.

[1987 c 202 § 126; 1891 c 19 § 3; RRS § 1222.]

Notes:

Rules of court: Cf. CR 45(f).

Reviser's note: Preliminary language of 1891 c 19 § 3 reads as follows: "The following section is enacted to follow section 400 of the said Code of 1881 [RCW 5.56.070], as that section shall be numbered in the code of procedure of this state:".

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 5.56.090 Testimony of prisoner, how obtained.

If the witness be a prisoner confined in a jail or prison within this state, an order for his examination in prison, upon deposition, or for his temporary removal and production before a court or officer, for the purpose of being orally examined, may be issued.

[Code 1881 § 401; 1877 p 88 § 403; 1869 p 106 § 396; 1854 p 189 § 303; RRS § 1223.]

RCW 5.56.100 Affidavit to procure order.

Such order can only be made upon affidavit, showing the nature of the action or proceeding, the testimony expected from the witness, and its materiality.

[Code 1881 § 402; 1877 p 88 § 404; 1869 p 106 § 397; 1854 p 189 § 304; RRS § 1224.]

**Chapter 5.60 RCW
WITNESSES--COMPETENCY**

Sections

- 5.60.020 Who may testify.
- 5.60.030 Not excluded on grounds of interest--Exception--Transaction with person since deceased.
- 5.60.050 Who are incompetent.
- 5.60.060 Who are disqualified--Privileged communications.
- 5.60.070 Mediation--Disclosure--Testimony.
- 5.60.072 Mediation by agency--Privilege and confidentiality.

Notes:

Attorney as witness: **Rules of court:** CR 43(g); CPR 5 (DR 5-102).

Witnesses, competency: **Rules of court:** ER 601.

RCW 5.60.020 Who may testify.

Every person of sound mind and discretion, except as hereinafter provided, may be a witness in any action, or proceeding.

[1986 c 195 § 1; Code 1881 § 388; 1877 p 85 § 390; 1869 p 103 § 383; 1854 p 186 § 289; RRS § 1210.]

RCW 5.60.030 Not excluded on grounds of interest--Exception--Transaction with

person since deceased.

No person offered as a witness shall be excluded from giving evidence by reason of his or her interest in the event of the action, as a party thereto or otherwise, but such interest may be shown to affect his or her credibility: PROVIDED, HOWEVER, That in an action or proceeding where the adverse party sues or defends as executor, administrator or legal representative of any deceased person, or as deriving right or title by, through or from any deceased person, or as the guardian or limited guardian of the estate or person of any incompetent or disabled person, or of any minor under the age of fourteen years, then a party in interest or to the record, shall not be admitted to testify in his or her own behalf as to any transaction had by him or her with, or any statement made to him or her, or in his or her presence, by any such deceased, incompetent or disabled person, or by any such minor under the age of fourteen years: PROVIDED FURTHER, That this exclusion shall not apply to parties of record who sue or defend in a representative or fiduciary capacity, and have no other or further interest in the action.

[1977 ex.s. c 80 § 3; 1927 c 84 § 1; Code 1881 § 389; 1877 p 85 § 391; 1873 p 106 § 382; 1869 p 183 § 384; 1867 p 88 § 1; 1854 p 186 § 290; RRS § 1211.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 5.60.050 Who are incompetent.

The following persons shall not be competent to testify:

- (1) Those who are of unsound mind, or intoxicated at the time of their production for examination, and
- (2) Those who appear incapable of receiving just impressions of the facts, respecting which they are examined, or of relating them truly.

[1986 c 195 § 2; Code 1881 § 391; 1877 p 86 § 393; 1869 p 103 § 386; 1863 p 154 § 33; 1854 p 186 § 293; RRS § 1213.]

RCW 5.60.060 Who are disqualified--Privileged communications.

(1) A husband shall not be examined for or against his wife, without the consent of the wife, nor a wife for or against her husband without the consent of the husband; nor can either during marriage or afterward, be without the consent of the other, examined as to any communication made by one to the other during marriage. But this exception shall not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other, nor to a criminal action or proceeding against a spouse if the marriage occurred subsequent to the filing of formal charges against the defendant, nor to a criminal action or proceeding for a crime committed by said husband or wife against any child of whom said husband or wife is the parent or guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW: PROVIDED, That the spouse of a person sought to be detained under chapter 70.96A or 71.05 RCW may not be compelled to testify and shall be so informed by the court

prior to being called as a witness.

(2)(a) An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.

(b) A parent or guardian of a minor child arrested on a criminal charge may not be examined as to a communication between the child and his or her attorney if the communication was made in the presence of the parent or guardian. This privilege does not extend to communications made prior to the arrest.

(3) A member of the clergy or a priest shall not, without the consent of a person making the confession, be examined as to any confession made to him or her in his or her professional character, in the course of discipline enjoined by the church to which he or she belongs.

(4) Subject to the limitations under RCW 70.96A.140 or 71.05.250, a physician or surgeon or osteopathic physician or surgeon or podiatric physician or surgeon shall not, without the consent of his or her patient, be examined in a civil action as to any information acquired in attending such patient, which was necessary to enable him or her to prescribe or act for the patient, except as follows:

(a) In any judicial proceedings regarding a child's injury, neglect, or sexual abuse or the cause thereof; and

(b) Ninety days after filing an action for personal injuries or wrongful death, the claimant shall be deemed to waive the physician-patient privilege. Waiver of the physician-patient privilege for any one physician or condition constitutes a waiver of the privilege as to all physicians or conditions, subject to such limitations as a court may impose pursuant to court rules.

(5) A public officer shall not be examined as a witness as to communications made to him or her in official confidence, when the public interest would suffer by the disclosure.

(6)(a) A peer support group counselor shall not, without consent of the law enforcement officer making the communication, be compelled to testify about any communication made to the counselor by the officer while receiving counseling. The counselor must be designated as such by the sheriff, police chief, or chief of the Washington state patrol, prior to the incident that results in counseling. The privilege only applies when the communication was made to the counselor while acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a witness, or a party to the incident which prompted the delivery of peer support group counseling services to the law enforcement officer.

(b) For purposes of this section, "peer support group counselor" means a:

(i) Law enforcement officer, or civilian employee of a law enforcement agency, who has received training to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved while acting in his or her official capacity; or

(ii) Nonemployee counselor who has been designated by the sheriff, police chief, or chief of the Washington state patrol to provide emotional and moral support and counseling to an officer who needs those services as a result of an incident in which the officer was involved

while acting in his or her official capacity.

(7) A sexual assault advocate may not, without the consent of the victim, be examined as to any communication made by the victim to the sexual assault advocate.

(a) For purposes of this section, "sexual assault advocate" means the employee or volunteer from a rape crisis center, victim assistance unit, program, or association, that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault, who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings.

(b) A sexual assault advocate may disclose a confidential communication without the consent of the victim if failure to disclose is likely to result in a clear, imminent risk of serious physical injury or death of the victim or another person. Any sexual assault advocate participating in good faith in the disclosing of records and communications under this section shall have immunity from any liability, civil, criminal, or otherwise, that might result from the action. In any proceeding, civil or criminal, arising out of a disclosure under this section, the good faith of the sexual assault advocate who disclosed the confidential communication shall be presumed.

[1998 c 72 § 1; 1997 c 338 § 1; 1996 c 156 § 1; 1995 c 240 § 1; 1989 c 271 § 301. Prior: 1989 c 10 § 1; 1987 c 439 § 11; 1987 c 212 § 1501; 1986 c 305 § 101; 1982 c 56 § 1; 1979 ex.s. c 215 § 2; 1965 c 13 § 7; Code 1881 § 392; 1879 p 118 § 1; 1877 p 86 § 394; 1873 p 107 § 385; 1869 p 104 § 387; 1854 p 187 § 294; RRS § 1214. Cf. 1886 p 73 § 1.]

Notes:

Rules of court: Cf. CR 43(g).

Severability--1997 c 338: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 338 § 74.]

Effective dates--1997 c 338: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997, except sections 10, 12, 18, 24 through 26, 30, 38, and 59 of this act which take effect July 1, 1998." [1997 c 338 § 75.]

Finding--Evaluation--Report--1997 c 338: See note following RCW 13.40.0357.

Severability--1989 c 271: See note following RCW 9.94A.310.

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

Severability--1982 c 56: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 56 § 2.]

Nonsupport or family desertion, spouse as witness: RCW 26.20.071.

Optometrist--Client, privileged communications: RCW 18.53.200.

Psychologist--Client, privileged communications: RCW 18.83.110.

Report of abuse of children: Chapter 26.44 RCW.

RCW 5.60.070 Mediation--Disclosure--Testimony.

(1) If there is a court order to mediate, a written agreement between the parties to mediate, or if mediation is mandated under RCW 7.70.100, then any communication made or materials submitted in, or in connection with, the mediation proceeding, whether made or submitted to or by the mediator, a mediation organization, a party, or any person present, are privileged and confidential and are not subject to disclosure in any judicial or administrative proceeding except:

- (a) When all parties to the mediation agree, in writing, to disclosure;
- (b) When the written materials or tangible evidence are otherwise subject to discovery, and were not prepared specifically for use in and actually used in the mediation proceeding;
- (c) When a written agreement to mediate permits disclosure;
- (d) When disclosure is mandated by statute;
- (e) When the written materials consist of a written settlement agreement or other agreement signed by the parties resulting from a mediation proceeding;
- (f) When those communications or written materials pertain solely to administrative matters incidental to the mediation proceeding, including the agreement to mediate; or
- (g) In a subsequent action between the mediator and a party to the mediation arising out of the mediation.

(2) When there is a court order, a written agreement to mediate, or when mediation is mandated under RCW 7.70.100, as described in subsection (1) of this section, the mediator or a representative of a mediation organization shall not testify in any judicial or administrative proceeding unless:

- (a) All parties to the mediation and the mediator agree in writing; or
- (b) In an action described in subsection (1)(g) of this section.

[1993 c 492 § 422; 1991 c 321 § 1.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.20.050.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability--1991 c 321: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 321 § 3.]

RCW 5.60.072 Mediation by agency--Privilege and confidentiality.

Notwithstanding the provisions of RCW 5.60.070, when any party participates in mediation conducted by a state or federal agency under the provisions of a collective bargaining law or similar statute, the agency's rules govern questions of privilege and confidentiality.

[1991 c 321 § 2.]

Notes:

Severability--1991 c 321: See note following RCW 5.60.070.

Chapter 5.62 RCW
WITNESSES--REGISTERED NURSES

Sections

5.62.010	Definitions.
5.62.020	Registered nurse--Privileged communications--Exceptions.
5.62.030	Nurse-patient privilege subject to limitations and exemptions of physician-patient privilege.

RCW 5.62.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Registered nurse" means a registered nurse or advanced nurse practitioner licensed under chapter 18.79 RCW.

(2) "Protocol" means a regimen to be carried out by a registered nurse and prescribed by a licensed physician under chapter 18.71 RCW, or a licensed osteopathic physician under chapter 18.57 RCW, which is consistent with chapter 18.79 RCW and the rules adopted under that chapter.

(3) "Primary care" means screening, assessment, diagnosis, and treatment for the purpose of promotion of health and detection of disease or injury, as authorized by chapter 18.79 RCW and the rules adopted under that chapter.

[1994 sp.s. c 9 § 703; 1987 c 198 § 1; 1985 c 447 § 1.]

Notes:

Severability--Headings and captions not law--Effective date--1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 5.62.020 Registered nurse--Privileged communications--Exceptions.

No registered nurse providing primary care or practicing under protocols, whether or not the physical presence or direct supervision of a physician is required, may be examined in a civil or criminal action as to any information acquired in attending a patient in the registered nurse's professional capacity, if the information was necessary to enable the registered nurse to act in that capacity for the patient, unless:

(1) The patient consents to disclosure or, in the event of death or disability of the patient, his or her personal representative, heir, beneficiary, or devisee consents to disclosure; or

(2) The information relates to the contemplation or execution of a crime in the future, or relates to the neglect or the sexual or physical abuse of a child, or of a vulnerable adult as defined in RCW 74.34.020, or to a person subject to proceedings under chapter 70.96A, 71.05, or 71.34 RCW.

[1989 c 271 § 302; 1986 c 212 § 1; 1985 c 447 § 2.]

Notes:

Severability--1989 c 271: See note following RCW 9.94A.310.

RCW 5.62.030 Nurse-patient privilege subject to limitations and exemptions of physician-patient privilege.

Notwithstanding anything to the contrary in this chapter, the privilege created in this chapter is subject to the same limitations and exemptions contained in RCW 26.26.120, 26.44.060(3), and 51.04.050 as those limitations and exemptions relate to the physician/patient privilege of RCW 5.60.060.

[1986 c 212 § 2; 1985 c 447 § 3.]

Chapter 5.64 RCW

ADMISSIBILITY--FURNISHING, OFFERING, OR PROMISING TO PAY MEDICAL EXPENSES

RCW

5.64.010 Personal injury action for negligence of person licensed to provide health care or related services--Evidence of furnishing or offering to pay expenses inadmissible to prove liability.

RCW 5.64.010 Personal injury action for negligence of person licensed to provide health care or related services--Evidence of furnishing or offering to pay expenses inadmissible to prove liability.

In any civil action for personal injuries which is based upon alleged professional negligence and which is against:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a physician, osteopathic physician, dentist, nurse, optometrist, *podiatrist, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his estate or personal representative;

(2) An employee or agent of a person described in subsection (1) of this section, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subsection (1) of this section, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his employment, including, in the event such officer,

director, employee, or agent is deceased, his estate or personal representative; evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

[1975-'76 2nd ex.s. c 56 § 3.]

Notes:

Rules of court: *Cf. ER 409.*

***Reviser's note:** The term "podiatrist" was changed to "podiatric physician and surgeon" by 1990 c 147.
Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

**Title 6 RCW
ENFORCEMENT OF JUDGMENTS**

Chapters

- 6.01 General provisions.**
- 6.13 Homesteads.**
- 6.15 Personal property exemptions.**
- 6.17 Executions.**
- 6.19 Adverse claims to property levied on.**
- 6.21 Sales under execution.**
- 6.23 Redemption.**
- 6.25 Attachment.**
- 6.26 Prejudgment garnishment.**
- 6.27 Garnishment.**
- 6.28 Commissioners to convey real estate.**
- 6.32 Proceedings supplemental to execution.**
- 6.36 Uniform enforcement of foreign judgments act.**
- 6.40 Uniform foreign money-judgments recognition act.**
- 6.44 Uniform foreign-money claims act.**

Notes:

Alien property custodian: RCW 4.28.330.

Husband and wife, property: Chapter 26.16 RCW.

Private property, when may be taken for public debt: State Constitution Art. 11 § 13.

Railroads, personalty may be taken: State Constitution Art. 12 § 17.

Receivers: Chapter 7.60 RCW; Rules of court: CR 66.

Support of dependent children--Alternative method--1971 act: Chapter 74.20A RCW.

**Chapter 6.01 RCW
GENERAL PROVISIONS**

Sections

6.01.010	Application of chapters in Title 6 RCW to superior courts and district courts--Definitions.
6.01.020	Entry of judgment--Superior court--District court--Small claims.
6.01.030	Direction of writ when sheriff a party.
6.01.040	Execution against several persons--Contribution--Repayment.
6.01.050	Writ of attachment or execution against debtor in bankruptcy.
6.01.060	"Certified mail" defined.

RCW 6.01.010 Application of chapters in Title 6 RCW to superior courts and district courts--Definitions.

Except as otherwise expressly provided, the provisions of this chapter and of chapters 6.13, 6.15, 6.17, 6.19, 6.21, 6.25, 6.26, and 6.27 RCW and chapter 6.32 RCW apply to both the superior courts and district courts of this state. If proceedings are before a district court, acts to be performed by the clerk may be performed by a district court judge if there is no clerk. As used in this title, "sheriff" includes deputies, and "execution docket" refers also to the docket of a district court.

[1987 c 442 § 101.]

RCW 6.01.020 Entry of judgment--Superior court--District court--Small claims.

For purposes of this title and RCW 4.56.190 and 4.56.210, a judgment of a superior court is entered when it is delivered to the clerk's office for filing. A judgment of a district court of this state is entered on the date of the entry of the judgment in the docket of the court. A judgment of a small claims department of a district court of this state is entered on the date of the entry in the docket of that department.

[1987 c 442 § 102.]

Notes:

Rules of court: Cf. CR 58(b).

RCW 6.01.030 Direction of writ when sheriff a party.

If the sheriff is a party or otherwise interested in an action in which a writ of execution, attachment, or replevin is to be served, the writ shall be directed to the coroner of the county, or the officer exercising the powers and performing the duties of coroner if there is no coroner, and the person to whom the writ is thus directed shall perform the duties of the sheriff.

[1987 c 442 § 103.]

RCW 6.01.040 Execution against several persons--Contribution--Repayment.

(1) When property liable to an execution against several persons is sold on execution, if

more than a due proportion of the judgment is levied upon the property of one person, or one of them pays without a sale more than his or her due proportion, that person may compel contribution from the others. When a judgment against several persons is upon an obligation or contract of one of them as security for another, if the surety pays the full amount or any part of the judgment, either by sale of the surety's property or before sale, the surety may compel repayment from the principal.

(2) In either case covered by subsection (1) of this section, the person or surety so paying shall be entitled to the benefit of the judgment to enforce contribution or repayment, if within thirty days after the payment, notice of the payment and claim to contribution or repayment is filed with the clerk of the court where the judgment was rendered.

(3) Upon filing such notice, the clerk shall make an entry thereof in the docket where the judgment is entered.

[1987 c 442 § 104.]

RCW 6.01.050 Writ of attachment or execution against debtor in bankruptcy.

If, before levying under a writ of attachment or execution, a sheriff receives notice that the defendant has become a debtor in a bankruptcy case, the sheriff shall immediately give written notice of that fact to the plaintiff's attorney of record, if any, otherwise to the plaintiff, and shall not be bound to levy under the writ. If, after levying on property under a writ of attachment or execution, a sheriff receives such notice, the sheriff shall give written notice of the attachment or execution, describing the property seized, to the trustee in the bankruptcy case if there is one, otherwise to the bankruptcy court, with a copy to the plaintiff's attorney of record, if any, otherwise to the plaintiff, and shall transfer the property to the trustee on demand or as the bankruptcy court otherwise directs. If no demand is made on the sheriff for surrender of the property and the sheriff thereafter receives notice of the closing of the bankruptcy case, the sheriff shall give written notice by first class mail to the plaintiff's attorney of record, if any, otherwise to the plaintiff, requiring that the plaintiff release the property or obtain a renewal of the writ from the court, and, if the plaintiff fails to release the property or to apply for a renewal within fourteen days after the mailing of the sheriff's notice, the sheriff shall release the property to the defendant.

[1988 c 231 § 2.]

Notes:

Severability--1988 c 231: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 231 § 38.]

RCW 6.01.060 "Certified mail" defined.

The term "certified mail," as used in this title, includes, for mailings to a foreign country, any form of mail that requires or permits a return receipt.

[1988 c 231 § 1.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

**Chapter 6.13 RCW
HOMESTEADS**

Sections

6.13.010	Homestead, what constitutes--"Owner," "net value" defined.
6.13.020	Homestead--What may constitute.
6.13.030	Homestead exemption limited.
6.13.040	Automatic homestead exemption--Conditions--Declaration of homestead--Declaration of abandonment.
6.13.050	Homestead presumed abandoned, when--Declaration of nonabandonment.
6.13.060	Conveyance or encumbrance by husband and wife.
6.13.070	Homestead exempt from execution, when--Presumed valid.
6.13.080	Homestead exemption, when not available.
6.13.090	Judgment against homestead owner--Lien on excess value of homestead property.
6.13.100	Execution against homestead--Application for appointment of appraiser.
6.13.110	Application under RCW 6.13.100 must be made by verified petition--Contents.
6.13.120	Notice.
6.13.130	Hearing--Appointment of appraiser.
6.13.140	Appraiser--Oath--Duties.
6.13.150	Division of homestead.
6.13.160	Sale, if not divisible.
6.13.170	Application of proceeds.
6.13.180	Money from sale protected.
6.13.190	Appraiser--Compensation.
6.13.200	Costs.
6.13.210	Alienation in case of incompetency or disability of one spouse.
6.13.220	Notice of application for order.
6.13.230	Petition.
6.13.240	Order--Effect.

Notes:

Lien for assessments in favor of condominium association: RCW 64.34.364(2).

RCW 6.13.010 Homestead, what constitutes--"Owner," "net value" defined.

(1) The homestead consists of real or personal property that the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land owned with the intention of placing a house or mobile home thereon and

residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter, the term "owner" includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

(3) As used in this chapter, the term "net value" means market value less all liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon.

[1999 c 403 § 1; 1993 c 200 § 1; 1987 c 442 § 201; 1981 c 329 § 7; 1945 c 196 § 1; 1931 c 88 § 1; 1927 c 193 § 1; 1895 c 64 § 1; Rem. Supp. 1945 § 528. Formerly RCW 6.12.010.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.020 Homestead--What may constitute.

If the owner is married, the homestead may consist of the community or jointly owned property of the spouses or the separate property of either spouse: PROVIDED, That the same premises may not be claimed separately by the husband and wife with the effect of increasing the net value of the homestead available to the marital community beyond the amount specified in RCW 6.13.030 as now or hereafter amended. When the owner is not married, the homestead may consist of any of his or her property.

[1987 c 442 § 202; 1981 c 329 § 8; 1977 ex.s. c 98 § 1; 1973 1st ex.s. c 154 § 6; 1895 c 64 § 2; RRS § 530. Formerly RCW 6.12.020.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 6.13.030 Homestead exemption limited.

A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of forty thousand dollars in the case of lands, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption.

[1999 c 403 § 4; 1993 c 200 § 2; 1991 c 123 § 2; 1987 c 442 § 203; 1983 1st ex.s. c 45 § 4; 1981 c 329 § 10; 1977 ex.s. c 98 § 3; 1971 ex.s. c 12 § 1; 1955 c 29 § 1; 1945 c 196 § 3; 1895 c 64 § 24; Rem. Supp. 1945 § 552. Formerly

RCW 6.12.050.]

Notes:

Purpose--1991 c 123: "The legislature recognizes that retired persons generally are financially dependent on fixed pension or retirement benefits and passive income from investment property. Because of this dependency, retired persons are more vulnerable than others to inflation and depletion of their assets. It is the purpose of this act to increase the protection of income of retired persons residing in the state of Washington from collection of income taxes imposed by other states." [1991 c 123 § 1.]

Severability--1981 c 329: See note following RCW 6.21.020.

Severability--1971 ex.s. c 12: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 12 § 5.]

RCW 6.13.040 Automatic homestead exemption--Conditions--Declaration of homestead--Declaration of abandonment.

(1) Property described in RCW 6.13.010 constitutes a homestead and is automatically protected by the exemption described in RCW 6.13.070 from and after the time the real or personal property is occupied as a principal residence by the owner or, if the homestead is unimproved or improved land that is not yet occupied as a homestead, from and after the declaration or declarations required by the following subsections are filed for record or, if the homestead is a mobile home not yet occupied as a homestead and located on land not owned by the owner of the mobile home, from and after delivery of a declaration as prescribed in RCW 6.15.060(3)(c) or, if the homestead is any other personal property, from and after the delivery of a declaration as prescribed in RCW 6.15.060(3)(d).

(2) An owner who selects a homestead from unimproved or improved land that is not yet occupied as a homestead must execute a declaration of homestead and file the same for record in the office of the recording officer in the county in which the land is located. However, if the owner also owns another parcel of property on which the owner presently resides or in which the owner claims a homestead, the owner must also execute a declaration of abandonment of homestead on that other property and file the same for record with the recording officer in the county in which the land is located.

(3) The declaration of homestead must contain:

(a) A statement that the person making it is residing on the premises or intends to reside thereon and claims them as a homestead;

(b) A legal description of the premises; and

(c) An estimate of their actual cash value.

(4) The declaration of abandonment must contain:

(a) A statement that premises occupied as a residence or claimed as a homestead no longer constitute the owner's homestead;

(b) A legal description of the premises; and

(c) A statement of the date of abandonment.

(5) The declaration of homestead and declaration of abandonment of homestead must be acknowledged in the same manner as a grant of real property is acknowledged.

[1993 c 200 § 3; 1987 c 442 § 204; 1981 c 329 § 9. Formerly RCW 6.12.045.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.050 Homestead presumed abandoned, when--Declaration of nonabandonment.

A homestead is presumed abandoned if the owner vacates the property for a continuous period of at least six months. However, if an owner is going to be absent from the homestead for more than six months but does not intend to abandon the homestead, and has no other principal residence, the owner may execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of nonabandonment of homestead and file the declaration for record in the office of the recording officer of the county in which the property is situated.

The declaration of nonabandonment of homestead must contain:

- (1) A statement that the owner claims the property as a homestead, that the owner intends to occupy the property in the future, and that the owner claims no other property as a homestead;
- (2) A statement of where the owner will be residing while absent from the homestead property, the estimated duration of the owner's absence, and the reason for the absence; and
- (3) A legal description of the homestead property.

[1987 c 442 § 205; 1981 c 329 § 14; 1895 c 64 § 7; RRS § 535. Formerly RCW 6.12.120.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.060 Conveyance or encumbrance by husband and wife.

The homestead of a married person cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both husband and wife, except that a husband or a wife or both jointly may make and execute powers of attorney for the conveyance or encumbrance of the homestead.

[1987 c 442 § 206; 1983 c 251 § 1; 1895 c 64 § 6; RRS § 534. Formerly RCW 6.12.110.]

Notes:

Husband and wife, property: Chapter 26.16 RCW.

RCW 6.13.070 Homestead exempt from execution, when--Presumed valid.

(1) Except as provided in RCW 6.13.080, the homestead is exempt from attachment and from execution or forced sale for the debts of the owner up to the amount specified in RCW 6.13.030. The proceeds of the voluntary sale of the homestead in good faith for the purpose of acquiring a new homestead, and proceeds from insurance covering destruction of homestead

property held for use in restoring or replacing the homestead property, up to the amount specified in RCW 6.13.030, shall likewise be exempt for one year from receipt, and also such new homestead acquired with such proceeds.

(2) Every homestead created under this chapter is presumed to be valid to the extent of all the property claimed exempt, until the validity thereof is contested in a court of general jurisdiction in the county or district in which the homestead is situated.

[1987 c 442 § 207; 1981 c 329 § 13; 1945 c 196 § 2; 1927 c 193 § 2; 1895 c 64 § 4; Rem. Supp. 1945 § 532. Formerly RCW 6.12.090.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.080 Homestead exemption, when not available.

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, materialmen's or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured (a) by security agreements describing as collateral the property that is claimed as a homestead or (b) by mortgages or deeds of trust on the premises that have been executed and acknowledged by the husband and wife or by any unmarried claimant;

(3) On one spouse's or the community's debts existing at the time of that spouse's bankruptcy filing where (a) bankruptcy is filed by both spouses within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay spousal maintenance; or

(5) On debts secured by a condominium's or homeowner association's lien. In order for an association to be exempt under this provision, the association must have provided a homeowner with notice that nonpayment of the association's assessment may result in foreclosure of the association lien and that the homestead protection under this chapter shall not apply. An association has complied with this notice requirement by mailing the notice, by first class mail, to the address of the owner's lot or unit. The notice required in this subsection shall be given within thirty days from the date the association learns of a new owner, but in all cases the notice must be given prior to the initiation of a foreclosure. The phrase "learns of a new owner" in this subsection means actual knowledge of the identity of a homeowner acquiring title after June 9, 1988, and does not require that an association affirmatively ascertain the identity of a homeowner. Failure to give the notice specified in this subsection affects an association's lien only for debts accrued up to the time an association complies with the notice provisions under this subsection.

[1993 c 200 § 4. Prior: 1988 c 231 § 3; 1988 c 192 § 1; 1987 c 442 § 208; 1984 c 260 § 16; 1982 c 10 § 1; prior: 1981 c 304 § 17; 1981 c 149 § 1; 1909 c 44 § 1; 1895 c 64 § 5; RRS § 533. Formerly RCW 6.12.100.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Severability--1984 c 260: See RCW 26.18.900.

Severability--1982 c 10: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 10 § 19.]

Severability--1981 c 304: See note following RCW 26.16.030.

RCW 6.13.090 Judgment against homestead owner--Lien on excess value of homestead property.

A judgment against the owner of a homestead shall become a lien on the value of the homestead property in excess of the homestead exemption from the time the judgment creditor records the judgment with the recording officer of the county where the property is located. However, if a judgment of a district court of this state has been transferred to a superior court, the judgment becomes a lien from the time of recording with such recording officer a duly certified abstract of the record of such judgment as it appears in the office of the clerk in which the transfer was originally filed.

[1988 c 231 § 4; 1987 c 442 § 209; 1984 c 260 § 30. Formerly RCW 6.12.105.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Severability--1984 c 260: See RCW 26.18.900.

RCW 6.13.100 Execution against homestead--Application for appointment of appraiser.

When execution for the enforcement of a judgment obtained in a case not within the classes enumerated in RCW 6.13.080 is levied upon the homestead, the judgment creditor shall apply to the superior court of the county in which the homestead is situated for the appointment of a person to appraise the value thereof.

[1987 c 442 § 210; 1895 c 64 § 9; RRS § 537. Formerly RCW 6.12.140.]

RCW 6.13.110 Application under RCW 6.13.100 must be made by verified petition--Contents.

The application under RCW 6.13.100 must be made by filing a verified petition, showing:

- (1) The fact that an execution has been levied upon the homestead.
- (2) The name of the owner of the homestead property.
- (3) That the net value of the homestead exceeds the amount of the homestead exemption.

[1987 c 442 § 211; 1981 c 329 § 15; 1895 c 64 § 10; RRS § 538. Formerly RCW 6.12.150.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.120 Notice.

A copy of the petition, with a notice of the time and place of hearing, must be served upon the owner and the owner's attorney of record, if any, at least ten days before the hearing.

[1987 c 442 § 212; 1981 c 329 § 16; 1895 c 64 § 12; RRS § 540. Formerly RCW 6.12.170.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.130 Hearing--Appointment of appraiser.

At the hearing, the judge may, upon the proof of the service of a copy of the petition and notice and of the facts stated in the petition, appoint a disinterested qualified person of the county to appraise the value of the homestead.

[1987 c 442 § 213; 1984 c 118 § 1; 1895 c 64 § 13; RRS § 541. Formerly RCW 6.12.180.]

Notes:

Compensation of appraiser: RCW 6.13.190.

RCW 6.13.140 Appraiser--Oath--Duties.

The person appointed, before entering upon the performance of duties, must take an oath to faithfully perform the same. The appraiser must view the premises and appraise the market value thereof and, if the appraised value, less all liens and encumbrances, exceeds the homestead exemption, must determine whether the land claimed can be divided without material injury. Within fifteen days after appointment, the appraiser must make to the court a report in writing, which report must show the appraised value, less liens and encumbrances, and, if necessary, the determination whether or not the land can be divided without material injury and without violation of any governmental restriction.

[1987 c 442 § 214; 1895 c 64 § 14; RRS § 542. Formerly RCW 6.12.190.]

RCW 6.13.150 Division of homestead.

If, from the report, it appears to the court that the value of the homestead, less liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon, exceeds the homestead exemption and the property can be divided without material injury and without violation of any governmental restriction, the court may, by an order, direct the appraiser to set off to the owner so much of the land, including the residence, as will

amount in net value to the homestead exemption, and the execution may be enforced against the remainder of the land.

[1999 c 403 § 2; 1987 c 442 § 215; 1981 c 329 § 17; 1895 c 64 § 17; RRS § 545. Formerly RCW 6.12.220.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.160 Sale, if not divisible.

If, from the report, it appears to the court that the appraised value of the homestead property, less liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon, exceeds the amount of the homestead exemption and the property is not divided, the court must make an order directing its sale under the execution. The order shall direct that at such sale no bid may be received unless it exceeds the amount of the homestead exemption.

[1999 c 403 § 3; 1987 c 442 § 216; 1981 c 329 § 18; 1895 c 64 § 18; RRS § 546. Formerly RCW 6.12.230.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.170 Application of proceeds.

If the sale is made, the proceeds must be applied in the following order: First, to the amount of the homestead exemption, to be paid to the judgment debtor; second, up to the amount of the execution, to be applied to the satisfaction of the execution; third, the balance to be paid to the judgment debtor.

[1987 c 442 § 217; 1981 c 329 § 19; 1895 c 64 § 20; RRS § 548. Formerly RCW 6.12.250.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.13.180 Money from sale protected.

The money paid to the owner is entitled to the same protection against legal process and the voluntary disposition of the husband or wife which the law gives to the homestead.

[1987 c 442 § 218; 1981 c 329 § 20; 1973 1st ex.s. c 154 § 10; 1895 c 64 § 21; RRS § 549. Formerly RCW 6.12.260.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 6.13.190 Appraiser--Compensation.

The court shall determine a reasonable compensation for the appraiser.

[1987 c 442 § 219; 1984 c 118 § 2; 1895 c 64 § 22; RRS § 550. Formerly RCW 6.12.270.]

RCW 6.13.200 Costs.

The execution creditor must pay the costs of these proceedings in the first instance; but in the cases provided for in RCW 6.13.150 and 6.13.160 the amount so paid must be added as costs on execution, and collected accordingly.

[1987 c 442 § 220; 1895 c 64 § 23; RRS § 551. Formerly RCW 6.12.280.]

RCW 6.13.210 Alienation in case of incompetency or disability of one spouse.

In case of a homestead, if either the husband or wife shall be or become incompetent or disabled to such a degree that he or she is unable to assist in the management of his or her interest in the marital property and no guardian has been appointed, upon application of the other spouse to the superior court of the county in which the homestead is situated, and upon due proof of such incompetency or disability in the severity required above, the court may make an order permitting the husband or wife applying to the court to sell and convey or mortgage such homestead.

[1987 c 442 § 221; 1977 ex.s. c 80 § 4; 1895 c 64 § 26; RRS § 554. Formerly RCW 6.12.300.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 6.13.220 Notice of application for order.

Notice of the application for such order shall be given by publication of the same in a newspaper published in the county in which such homestead is situated, if there be a newspaper published therein, once each week for three successive weeks prior to the hearing of such application, and a copy of such notice shall be served upon the alleged incompetent husband or wife personally, and upon the nearest relative of such incompetent or disabled husband or wife other than the applicant, resident in this state, at least three weeks prior to such application being heard, and in case there be no such relative known to the applicant, a copy of such notice shall be served upon the prosecuting attorney of the county in which such homestead is situated; and it is hereby made the duty of such prosecuting attorney, upon being served with a copy of such notice, to appear in court and see that such application is made in good faith, and that the proceedings thereon are fairly conducted.

[1987 c 442 § 222; 1977 ex.s. c 80 § 5; 1895 c 64 § 27; RRS § 555. Formerly RCW 6.12.310.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 6.13.230 Petition.

Thirty days before the hearing of any application under the provisions of this chapter, the applicant shall present and file in the court in which such application is to be heard a petition for the order mentioned, subscribed and sworn to by the applicant, setting forth the name and age of the alleged incompetent or disabled husband or wife; a description of the premises constituting the homestead; the value of the same; the county in which it is situated; such facts necessary to show that the nonpetitioning husband or wife is incompetent or disabled to the degree required under RCW 6.13.210; and such additional facts relating to the circumstances and necessities of the applicant and his or her family as he or she may rely upon in support of the petition.

[1987 c 442 § 223; 1977 ex.s. c 80 § 6; 1895 c 64 § 28; RRS § 556. Formerly RCW 6.12.320.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 6.13.240 Order--Effect.

If the court shall make the order provided for in RCW 6.13.210, the same shall be entered upon the minutes of the court, and thereafter any sale, conveyance, or mortgage made in pursuance of such order shall be as valid and effectual as if the property affected thereby was the absolute property of the person making such sale, conveyance, or mortgage in fee simple.

[1987 c 442 § 224; 1895 c 64 § 29; RRS § 557. Formerly RCW 6.12.330.]

**Chapter 6.15 RCW
PERSONAL PROPERTY EXEMPTIONS**

Sections

- | | |
|----------|---|
| 6.15.010 | Exempt property specified. |
| 6.15.020 | Pension money exempt--Exceptions--Transfer of spouse's interest in individual retirement account. |
| 6.15.025 | Exemption of pension or retirement plan benefits from execution for judgment for out-of-state income tax. |
| 6.15.030 | Insurance money on exempt property exempt. |
| 6.15.035 | Exemption of proceeds of life, disability insurance, and annuities. |
| 6.15.040 | Separate property of spouse exempt. |
| 6.15.050 | Exemptions under RCW 6.15.010--Limitations on exemptions generally. |
| 6.15.060 | Manner of claiming exemptions--Appraisal--Appraiser's fee. |
| 6.15.070 | Procedure if value of property claimed exempt exceeds exemptible value. |

Notes:

Exemptions from execution, etc., generally:

cemetery grounds: RCW 68.20.120 and 68.24.220.

child support obligations and earnings of nonobligated spouse: RCW 26.16.200.

crime victims' compensation: RCW 7.68.070 and 51.32.040.

earnings, amount of exempt from garnishment of employer: RCW 6.27.150.

homesteads: Chapter 6.13 RCW.

incompetents' property: RCW 11.92.060.

industrial insurance benefits: RCW 51.32.040.

insurance, proceeds of annuity, disability, life and group life: RCW 48.18.400 through 48.18.430.

property exempt from seizure: RCW 6.32.250.

public assistance, benefits, money of recipients in institutions: RCW 74.08.210, 74.13.070.

public retirement, insurance benefits

city employees, state-wide system: RCW 41.44.240.

first class cities, personnel and police: RCW 41.28.200, 41.20.180.

fraternal benefit society benefits: RCW 48.36A.180.

judges: RCW 2.10.180, 2.12.090.

law enforcement officers and fire fighters: RCW 41.26.053.

state employees: RCW 41.40.052.

teachers: RCW 41.32.055.

volunteer fire fighters: RCW 41.24.240.

Washington state patrol: RCW 43.43.310.

unemployment compensation benefits: RCW 50.40.020.

work release participants, earnings of: RCW 72.65.060.

RCW 6.15.010 Exempt property specified.

Except as provided in RCW 6.15.050, the following personal property shall be exempt from execution, attachment, and garnishment:

(1) All wearing apparel of every individual and family, but not to exceed one thousand dollars in value in furs, jewelry, and personal ornaments for any individual.

(2) All private libraries of every individual, but not to exceed fifteen hundred dollars in value, and all family pictures and keepsakes.

(3) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(a) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed two thousand seven hundred dollars in value, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

(b) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed one thousand dollars in value, of which not more than one hundred dollars in value may consist of cash, and of which not more than one hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities; and

(c) Two motor vehicles used for personal transportation, not to exceed two thousand five hundred dollars in aggregate value.

(4) To each qualified individual, one of the following exemptions:

(a) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed five thousand dollars in value;

(b) To a physician, surgeon, attorney, clergyman, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed five thousand

dollars in value;

(c) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed five thousand dollars in value.

For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

[1991 c 112 § 1; 1988 c 231 § 5; 1987 c 442 § 301; 1983 1st ex.s. c 45 § 8; 1979 ex.s. c 65 § 1; 1973 1st ex.s. c 154 § 13; 1965 c 89 § 1; 1886 p 96 § 1; Code 1881 § 347; 1879 p 157 § 1; 1877 p 73 § 351; 1869 p 87 § 343; 1854 p 178 § 253; RRS § 563. Formerly RCW 6.16.020.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 6.15.020 Pension money exempt--Exceptions--Transfer of spouse's interest in individual retirement account.

(1) It is the policy of the state of Washington to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled. For that purpose generally and pursuant to the authority granted to the state of Washington under 11 U.S.C. Sec. 522(b)(2), the exemptions in this section relating to retirement benefits are provided.

(2) Unless otherwise provided by federal law, any money received by any citizen of the state of Washington as a pension from the government of the United States, whether the same be in the actual possession of such person or be deposited or loaned, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her family any money exempted by this subsection, the same shall be exempt to the family as provided in this subsection. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent

jurisdiction that provides for maintenance or support. This subsection shall not prohibit actions against an employee benefit plan, or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is described in RCW 49.64.020, including any Keogh plan, whether funded by a trust or by an annuity contract, and in sections 401(a) or 403(a) of the internal revenue code of 1986, as amended; or that is a tax-sheltered annuity described in section 403(b) of such code or an individual retirement account described in section 408 of such code; or a Roth individual retirement account described in section 408A of such code; or a medical savings account described in section 220 of such code; or an education individual retirement account described in section 530 of such code; or a retirement bond described in section 409 of such code as in effect before January 1, 1984. The term "employee benefit plan" also means any rights accruing on account of money paid currently or in advance for purchase of tuition units under the advanced college tuition payment program in chapter 28B.95 RCW. The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Washington under chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.40 or 43.43 RCW or RCW 41.50.770, or by any agency or instrumentality of the government of the United States.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the trustee or custodian of the plan and the beneficiary, or the ability of the debtor to withdraw or borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in sections 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support.

(6) Unless contrary to applicable federal law, nothing contained in subsection (3), (4), or (5) of this section shall be construed as a termination or limitation of a spouse's community property interest in an individual retirement account held in the name of or on account of the other spouse, the account holder spouse. At the death of the nonaccount holder spouse, the nonaccount holder spouse may transfer or distribute the community property interest of the nonaccount holder spouse in the account holder spouse's individual retirement account to the nonaccount holder spouse's estate, testamentary trust, inter vivos trust, or other successor or successors pursuant to the last will of the nonaccount holder spouse or the law of intestate succession, and that distributee may, but shall not be required to, obtain an order of a court of competent jurisdiction, including a nonjudicial dispute resolution agreement entered into pursuant to *RCW 11.96.170 or other order entered under chapter 11.96A RCW, to confirm the

distribution. For purposes of subsection (3) of this section, the distributee of the nonaccount holder spouse's community property interest in an individual retirement account shall be considered a person entitled to the full protection of subsection (3) of this section. The nonaccount holder spouse's consent to a beneficiary designation by the account holder spouse with respect to an individual retirement account shall not, absent clear and convincing evidence to the contrary, be deemed a release, gift, relinquishment, termination, limitation, or transfer of the nonaccount holder spouse's community property interest in an individual retirement account. For purposes of this subsection, the term "nonaccount holder spouse" means the spouse of the person in whose name the individual retirement account is maintained. The term "individual retirement account" includes an individual retirement account and an individual retirement annuity both as described in section 408 of the internal revenue code of 1986, as amended, a Roth individual retirement account as described in section 408A of the internal revenue code of 1986, as amended, and an individual retirement bond as described in section 409 of the internal revenue code as in effect before January 1, 1984. As used in this subsection, an order of a court of competent jurisdiction includes an agreement, as that term is used under RCW 11.96A.220.

[1999 c 81 § 1; 1999 c 42 § 603; 1997 c 20 § 1; 1990 c 237 § 1; 1989 c 360 § 21; 1988 c 231 § 6. Prior: 1987 c 64 § 1; 1890 p 88 § 1; RRS § 566. Formerly RCW 6.16.030.]

Notes:

Reviser's note: *(1) RCW 11.96.170 was repealed by 1999 c 42 § 637, effective January 1, 2000.

(2) This section was amended by 1999 c 42 § 603 and by 1999 c 81 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings and captions not law--Effective date--1999 c 42: See RCW 11.96A.901 and 11.96A.902.

Severability--1990 c 237: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 237 § 2.]

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.15.025 Exemption of pension or retirement plan benefits from execution for judgment for out-of-state income tax.

Where a judgment is in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, all property in this state, real or personal, tangible or intangible, of a judgment debtor shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever, and when a debtor dies, or absconds, and leaves his or her spouse and dependents any property exempted by this section, the same shall be exempt to the surviving spouse and dependents.

[1991 c 123 § 3.]

Notes:

Purpose--1991 c 123: See note following RCW 6.13.030.

RCW 6.15.030 Insurance money on exempt property exempt.

If property, which by the laws of this state is exempt from execution, attachment, or garnishment, is insured and the same is lost, stolen, or destroyed, then the insurance money coming to or belonging to the person thus insured, to an amount equal to the exempt property thus destroyed, shall be exempt from execution, attachment, and garnishment.

[1987 c 442 § 303; 1895 c 76 § 1; RRS § 568. Formerly RCW 6.16.050.]

RCW 6.15.035 Exemption of proceeds of life, disability insurance, and annuities.

See RCW 48.18.400, 48.18.410, 48.18.420, and 48.18.430.

RCW 6.15.040 Separate property of spouse exempt.

All real and personal property belonging to any married person at the time of his or her marriage, and all which he or she may have acquired subsequently to such marriage, or to which he or she shall hereafter become entitled in his or her own right, and all his or her personal earnings, and all the issues, rents and profits of such real property, shall be exempt from execution, attachment, and garnishment upon any liability or judgment against the other spouse, so long as he or she or any minor heir of his or her body shall be living: PROVIDED, That the separate property of each spouse shall be liable for debts owing by him or her at the time of marriage.

[1987 c 442 § 304; 1973 1st ex.s. c 154 § 14; Code 1881 § 341; 1877 p 71 § 345; 1869 p 85 § 337; 1854 p 178 § 252; RRS § 570. Formerly RCW 6.16.070.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

Exemption of nonobligated spouse's earnings from satisfaction of other spouse's child support obligations: RCW 26.16.200.

RCW 6.15.050 Exemptions under RCW 6.15.010--Limitations on exemptions generally.

(1) Wages, salary, or other compensation regularly paid for personal services rendered by the debtor claiming the exemption shall not be claimed as exempt under RCW 6.15.010, but the same may be claimed as exempt in any bankruptcy or insolvency proceeding to the same extent as allowed under the statutes relating to garnishments.

(2) No property may be exempt under RCW 6.15.010 from execution, attachment, or garnishment issued upon a judgment for all or any part of the purchase price of the property.

(3) No property may be exempt under RCW 6.15.010 from legal process issued upon a judgment for any tax levied upon such property.

(4) Nothing in this chapter shall be so construed as to prevent a debtor from creating a

security interest in personal property which might be claimed as exempt, or the enforcement of such security interest against the property.

(5) Nothing in this chapter shall be construed to exempt personal property of a nonresident of this state or of an individual who has left or is about to leave this state with the intention to defraud his or her creditors.

(6) Personal property exemptions are waived by failure to claim them prior to sale of exemptible property under execution or, in a garnishment proceeding, within the time specified in RCW 6.27.160.

(7) Personal property exemptions may not be claimed by one spouse in a bankruptcy case that is not a joint case or a joint administration of the estate with the bankruptcy estate of the other spouse where (a) bankruptcy is filed by both spouses within a six-month period, and (b) one spouse exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d).

[1987 c 442 § 305; 1981 c 149 § 2; 1927 c 136 § 1; Code 1881 § 348; 1877 p 74 § 352; 1869 p 88 § 344; RRS § 571. Formerly RCW 6.16.080.]

RCW 6.15.060 Manner of claiming exemptions--Appraisement--Appraiser's fee.

(1) Except as provided in subsection (2) of this section, property claimed exempt under RCW 6.15.010 shall be selected by the individual entitled to the exemption, or by the husband or wife entitled to a community exemption, in the manner described in subsection (3) of this section.

(2) If, at the time of seizure under execution or attachment of property exemptible under *RCW 6.15.010(3) (a), (b), or (c), the individual or the husband or wife entitled to claim the exemption is not present, then the sheriff or deputy shall make a selection equal in value to the applicable exemptions and, if no appraisement is required and no objection is made by the creditor as permitted under subsection (4) of this section, the officer shall return the same as exempt by inventory. Any selection made as provided shall be prima facie evidence (a) that the property so selected is exempt from execution and attachment, and (b) that the property so selected is not in excess of the values specified for the exemptions.

(3)(a) A debtor who claims personal property as exempt against execution or attachment shall, at any time before sale, deliver to the officer making the levy a list by separate items of the property claimed as exempt, together with an itemized list of all the personal property owned or claimed by the debtor, including money, bonds, bills, notes, claims and demands, with the residence of the person indebted upon the said bonds, bills, notes, claims and demands, and shall verify such list by affidavit. The officer shall immediately advise the creditor, attorney, or agent of the exemption claim and, if no appraisement is required and no objection is made by the creditor as permitted under subsection (4) of this section, the officer shall return with the process the list of property claimed as exempt.

(b) A debtor who claims personal property exempt against garnishment shall proceed as provided in RCW 6.27.160.

(c) A debtor who claims as a homestead, under chapter 6.13 RCW, a mobile home that is not yet occupied as a homestead and that is located on land not owned by the debtor shall claim the homestead as against a specific levy by delivering to the sheriff who levied on the mobile home, before sale under the levy, a declaration of homestead that contains (i) a declaration that the debtor owns the mobile home, intends to reside therein, and claims it as a homestead, and (ii) a description of the mobile home, a statement where it is located or was located before the levy, and an estimate of its actual cash value.

(d) A debtor who claims as a homestead, under RCW 6.13.040, any other personal property, shall at any time before sale, deliver to the officer making the levy a notice of claim of homestead in a statement that sets forth the following: (i) The debtor owns the personal property; (ii) the debtor resides thereon as a homestead; (iii) the debtor's estimate of the fair market value of the property; and (iv) the debtor's description of the property in sufficient detail for the officer making the levy to identify the same.

(4)(a) Except as provided in (b) of this subsection, a creditor, or the agent or attorney of a creditor, who wishes to object to a claim of exemption shall proceed as provided in RCW 6.27.160 and shall give notice of the objection to the officer not later than seven days after the officer's giving notice of the exemption claim.

(b) A creditor, or the agent or attorney of the creditor, who wishes to object to a claim of exemption made to a levying officer, on the ground that the property claimed exceeds exemptible value, may demand appraisement. If the creditor, or the agent or attorney of the creditor, demands an appraisement, two disinterested persons shall be chosen to appraise the property, one by the debtor and the other by the creditor, agent or attorney, and these two, if they cannot agree, shall select a third; but if either party fails to choose an appraiser, or the two fail to select a third, or if one or more of the appraisers fail to act, the court shall appoint one or more as the circumstances require. The appraisers shall forthwith proceed to make a list by separate items, of the personal property selected by the debtor as exempt, which they shall decide as exempt, stating the value of each article, and annexing to the list their affidavit to the following effect: "We solemnly swear that to the best of our judgment the above is a fair cash valuation of the property therein described," which affidavit shall be signed by two appraisers at least, and be certified by the officer administering the oaths. The list shall be delivered to the officer holding the execution or attachment and be annexed to and made part of the return, and the property therein specified shall be exempt from levy and sale, but the other personal estate of the debtor shall remain subject to execution, attachment, or garnishment. Each appraiser shall be entitled to fifteen dollars or such larger fee as shall be fixed by the court, to be paid by the creditor if all the property claimed by the debtor shall be exempt; otherwise to be paid by the debtor.

(c) If, within seven days following the giving of notice to a creditor of an exemption claim, the officer has received no notice from the creditor of an objection to the claim or a demand for appraisement, the officer shall release the claimed property to the debtor.

[1993 c 200 § 5; 1988 c 231 § 7; 1987 c 442 § 306; 1973 1st ex.s. c 154 § 15; Code 1881 § 349; 1877 p 74 § 353; 1869 p 88 § 346; RRS § 572. Formerly RCW 6.16.090.]

Notes:

***Reviser's note:** RCW 6.15.010 was amended by 1991 c 112 § 1 changing subsection (3)(a), (b), and (c) to subsection (3)(a) and (b).

Severability--1988 c 231: See note following RCW 6.01.050.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 6.15.070 Procedure if value of property claimed exempt exceeds exemptible value.

If from an appraisal it appears that the value of the property claimed exempt, exclusive of liens and encumbrances, exceeds the exemptible value and the property is indivisible, the property shall be put up for sale on execution, but at the sale no bid may be received unless it exceeds the exempt value. The proceeds of a sale in excess of the exempt value shall be paid, first, to the debtor to the extent of the exempt amount; second, up to the amount of the execution, to the satisfaction of the execution; third, the balance to be paid to the debtor. A judgment creditor who is the successful bidder at the sale must pay the exempt amount in cash.

[1987 c 442 § 307.]

**Chapter 6.17 RCW
EXECUTIONS**

Sections

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RCW 6.17.010 Application of chapter to district courts.

Unless otherwise expressly provided, all provisions of this chapter governing execution against personal property apply to proceedings before district courts of this state, but the district courts shall not have power to issue writs of execution against real property or any interest in real property or against a vendor's interest in a real estate contract.

[1987 c 442 § 401.]

RCW 6.17.020 Execution authorized within ten years--Exceptions--Fee--Recoverable cost.

(1) Except as provided in subsections (2), (3), and (4) of this section, the party in whose favor a judgment of a court of record of this state or a district court of this state has been or may be rendered, or the assignee, may have an execution issued for the collection or enforcement of the judgment at any time within ten years from entry of the judgment.

(2) After July 23, 1989, a party who obtains a judgment or order of a court of record of any state, or an administrative order entered as defined in RCW 74.20A.020(6) for accrued child support, may have an execution issued upon that judgment or order at any time within ten years of the eighteenth birthday of the youngest child named in the order for whom support is ordered.

(3) After June 9, 1994, a party in whose favor a judgment has been rendered pursuant to subsection (1) or (4) of this section may, within ninety days before the expiration of the original ten-year period, apply to the court that rendered the judgment for an order granting an additional ten years during which an execution may be issued. The petitioner shall pay to the court a filing fee equal to the filing fee for filing the first or initial paper in a civil action in the court. When application is made to the court to grant an additional ten years, the application shall be accompanied by a current and updated judgment summary as outlined in RCW 4.64.030. The filing fee required under this subsection shall be included in the judgment summary and shall be a recoverable cost.

(4) A party who obtains a judgment or order for restitution, crime victims' assessment, or other court-ordered legal financial obligations pursuant to a criminal judgment and sentence may execute the judgment or order any time within ten years subsequent to the entry of the judgment and sentence or ten years following the offender's release from total confinement as provided in chapter 9.94A RCW. The clerk of superior court may seek extension under subsection (3) of this section for purposes of collection as allowed under RCW 36.18.190.

[1997 c 121 § 1; 1995 c 231 § 4; 1994 c 189 § 1; 1989 c 360 § 3; 1987 c 442 § 402; 1980 c 105 § 4; 1971 c 81 § 26; 1929 c 25 § 2; RRS § 510. Prior: 1888 p 94 § 1; Code 1881 § 325; 1877 p 67 § 328; 1869 p 79 § 320; 1854 p 175 § 242. Formerly RCW 6.04.010.]

Notes:

Rules of court: *Cf. CR 58(b), 62(a), and 69(a); JCR 54.*

Application--1980 c 105: See note following RCW 4.16.020.

Entry of judgment: *RCW 6.01.020.*

Execution on part of claim in receiver's action: RCW 7.60.050.

RCW 6.17.030 Execution in name of assignee or personal representative.

When a judgment recovered in any court of this state has been assigned, execution may issue in the name of the assignee after the assignment has been recorded in the execution docket by the clerk of the court in which the judgment was recovered. When the person in whose name execution might have issued has died, execution may issue in the name of the executor, administrator or legal representative of such deceased person after letters testamentary or of administration or other sufficient proof has been filed in the cause and recorded in the execution docket by the clerk of the court in which the judgment was entered.

[1987 c 442 § 403; 1957 c 8 § 2; 1929 c 25 § 7; RRS § 519. Prior: Code 1881 § 334; 1877 p 70 § 338; 1869 p 84 § 330. Formerly RCW 6.04.070.]

RCW 6.17.040 Stay of execution--Bond--Time periods.

In addition to any stay of execution provided by court rule, stay of execution shall be allowed on judgments of the courts of this state for the following periods upon the judgment debtor filing with the clerk of the court in which the judgment was entered a bond in double the amount of the judgment and costs, with surety to the satisfaction of the clerk, conditioned to pay the judgment, interests, costs, and increased costs, at the expiration of the stay period. If execution is issued before elapse of the stay period, the judgment debtor may nevertheless stay execution for the balance of the period by filing the required bond.

(1) In the supreme court and the court of appeals, the period of stay, measured from date of entry of judgment, shall be:

- (a) On all sums under five thousand dollars, thirty days;
- (b) On all sums over five and under fifteen thousand dollars, sixty days; and
- (c) On all sums over fifteen thousand dollars, ninety days.

(2) On judgments rendered in the superior court or a district court of this state, the period of stay shall be:

- (a) On all sums under three thousand dollars, two months;
- (b) On all sums over three thousand and under ten thousand dollars, five months; and
- (c) On all sums over ten thousand dollars, six months.

[1987 c 442 § 404.]

Notes:

Rules of court: *Cf. CR 62(a).*

RCW 6.17.050 Stay of execution--Judgment against surety on bond if not paid.

If execution of a judgment is stayed as permitted by RCW 6.17.040 and the judgment is not satisfied at expiration of the stay period, at any time thereafter the judgment creditor may,

upon motion supported by an affidavit that the judgment or any part of it is unpaid and stating how much still remains due, have judgment against the surety on the bond for the balance remaining due, and have an execution on the judgment against the surety, on which stay shall not be allowed.

[1987 c 442 § 405.]

RCW 6.17.060 Kinds of execution.

There shall be three kinds of executions: First, against the property of the judgment debtor; second, for the delivery of the possession of real or personal property or such delivery with damages for withholding the same; and third, commanding the enforcement of or obedience to any other order of the court. In all cases there shall be an order to collect the costs.

[1987 c 442 § 406; 1929 c 25 § 3; RRS § 511. Prior: Code 1881 § 327; 1877 p 68 § 331; 1854 p 176 § 244. Formerly RCW 6.04.020.]

RCW 6.17.070 Execution in particular cases.

When any judgment of a court of this state requires the payment of money or the delivery of real or personal property, it may be enforced by execution. When a judgment of a court of record requires the performance of any other act, a certified copy of the judgment may be served on the party against whom it is given or the person or officer who is required by the judgment or by law to obey the same, and a writ may be issued commanding the person or officer to obey or enforce the judgment. Refusal to do so may be punished by the court as for contempt.

[1987 c 442 § 407; 1957 c 8 § 1; 1929 c 25 § 1; RRS § 512. Prior: Code 1881 § 326; 1877 p 68 § 330; 1854 p 176 § 244. Formerly RCW 6.04.030.]

RCW 6.17.080 Enforcement of judgment against local governmental entity.

No execution may issue for collection of a judgment for the recovery of money or damages against a local governmental entity. Any such judgment may be enforced as follows:

(1) The judgment creditor may at any time when execution might issue on a like judgment against a private person, and after acknowledging satisfaction of the judgment as in ordinary cases, obtain from the clerk a certified transcript of the judgment. The clerk shall include in the transcript a copy of the memorandum of acknowledgment of satisfaction and the entry thereof as the basis for an order on the treasurer for payment. Unless the transcript contains such memorandum, no order upon the treasurer shall issue thereon.

(2) The judgment creditor shall present the certified transcript showing satisfaction of the judgment to the officer of the local governmental entity who is authorized to draw orders on its treasury.

(3) The officer shall draw an order on the treasurer for the amount of the judgment, in favor of the judgment creditor. The order shall be presented for payment and paid with like effect

and in like manner as other orders upon the treasurer. If the proper officer of the local governmental entity fails or refuses to draw the order for payment of the judgment as provided in this section, a writ of mandamus may be issued in the original case to compel performance of the duty.

(4) As used in this section, the term "local governmental entity" means a county, city, town, special district, municipal corporation, or quasi-municipal corporation.

[1993 c 449 § 6; 1987 c 442 § 408; Code 1881 § 664; 1877 p 137 § 667; 1869 p 154 § 604; RRS § 953. Formerly RCW 6.04.140.]

Notes:

Purpose--Severability--1993 c 449: See notes following RCW 4.96.010.

RCW 6.17.090 Property liable to execution.

All property, real and personal, of the judgment debtor that is not exempted by law is liable to execution.

[1987 c 442 § 409; 1929 c 25 § 6; RRS § 518. Prior: Code 1881 § 333; 1877 p 70 § 337; 1854 p 177 § 251. Formerly RCW 6.04.060.]

RCW 6.17.100 Affidavit of judgment creditor--Filing required before issuance of writ--Contents.

(1) Before a writ of execution may issue on any real property, the judgment creditor must file with the court an affidavit as described in subsection (4) of this section and must mail a copy of the affidavit to the judgment debtor at the debtor's last known address.

(2) If the affidavit attests that the premises are occupied or otherwise claimed as a homestead by the judgment debtor, the execution for the enforcement of a judgment obtained in a case not within the classes enumerated in RCW 6.13.080 must comply with RCW 6.13.100 through 6.13.170.

(3) The term "due diligence," as used in subsection (4) of this section, includes but is not limited to the creditor or the creditor's representative personally visiting the premises, contacting the occupants and inquiring about their relationship to the judgment debtor, contacting immediate neighbors of the premises, and searching the records of the auditor of the county in which the property is located to determine if a declaration of homestead or nonabandonment has been recorded by the judgment debtor. An examination of the debtor in supplemental proceedings on the points to be covered in the affidavit constitutes "due diligence."

(4) The affidavit required by this section shall include:

(a) A statement that the judgment creditor has exercised due diligence to ascertain whether the judgment debtor has sufficient nonexempt personal property to satisfy the judgment with interest and believes that there is not sufficient nonexempt personal property belonging to the judgment debtor to so satisfy the judgment. A list of personal property located shall be attached with an indication of any items that the judgment creditor believes to be exempt.

(b) A statement that the judgment creditor has exercised due diligence to ascertain whether the property is occupied or otherwise claimed by the judgment debtor as a homestead as defined in chapter 6.13 RCW.

(c) A statement based on belief whether the judgment debtor is currently occupying the property as the judgment debtor's principal residence and whether there is a declaration of homestead or nonabandonment of record. If the affidavit alleges that the property is not occupied or claimed as a homestead, the creditor must list the facts relied upon to reach that conclusion.

(d) If the judgment debtor is not occupying the property and there is no declaration of nonabandonment of record, a statement based on belief whether the judgment debtor has been absent for a period of at least six months, with facts relied upon to reach that conclusion, and, if known, the judgment debtor's current address.

[1988 c 231 § 8; 1987 c 442 § 410; 1981 c 329 § 4. Formerly RCW 6.04.035.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.17.110 Form and contents of writ.

(1) The writ of execution shall be issued in the name of the state of Washington, sealed with the seal of the court, and subscribed by the clerk of the court in which the judgment was entered or to which it has been transferred, and shall be directed to the sheriff of the county in which the property is situated. The writ shall intelligibly refer to the judgment, stating the court, the county where the judgment was rendered, the names of the parties, the amount of the judgment if it be for money, and the amount actually due thereon; and if the judgment has been recorded, the writ shall so indicate and shall state the recording number.

(2) Before an execution is delivered on a judgment of a district court of this state, the amount of the judgment, or damages and costs, and the fees due to each person separately shall be entered in the docket and on the back of the execution. In any proceeding to enforce a judgment certified to a district court from the small claims department under RCW 12.40.110, the execution shall include the amount of the judgment owed plus reasonable costs and reasonable attorneys' fees incurred by the judgment creditor in seeking enforcement of the judgment in district court.

(3) A writ shall require substantially as follows:

(a) If the execution is against the property of the judgment debtor, it shall require the officer to satisfy the judgment out of the personal property of the debtor unless an affidavit has been filed with the court pursuant to RCW 6.17.100, in which case it shall require that the judgment be satisfied out of the real property of the debtor.

(b) If the execution is against real or personal property in the hands of a personal representative, heir, devisee, legatee, tenant of real property, or trustee, it shall require the officer to satisfy the judgment out of such property.

(c) If the execution is for the delivery of real or personal property, it shall particularly

describe the property and state its value and require the officer to deliver possession of it to the party entitled thereto, and may, at the same time, require the officer to satisfy any charges, damages, or rents and profits recovered by the same judgment, out of the personal property of the party against whom it was rendered. If the property described in the execution cannot be delivered, and if sufficient personal property cannot be found to satisfy the judgment, it shall be satisfied out of the real property of the party against whom the judgment was rendered.

(d) If the execution is to enforce obedience to any order, it shall particularly command what is required to be done or to be omitted.

(e) If the nature of the case requires it, the execution may embrace two or more of the requirements of this section.

(f) In all cases the execution shall require the collection of all interest, costs, and increased costs thereon.

[1988 c 231 § 9; 1987 c 442 § 411; 1981 c 329 § 5; 1929 c 25 § 4; RRS § 513. Prior: Code 1881 § 324; 1877 p 68 § 332; 1869 p 81 § 324; 1854 p 176 § 246. Formerly RCW 6.04.040.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.17.120 Sheriff's duty on receiving writ--Order of executing writs.

The sheriff or other officer shall indorse upon the writ of execution in ink, the day, hour, and minute when the writ first came into his or her hands, and the execution shall be returned with a report of proceedings under the writ within sixty days after its date to the clerk who issued it. When there are several writs of execution or of execution and attachment against the same debtor, they shall be executed in the order in which they were received by the sheriff.

[1987 c 442 § 412; 1983 1st ex.s. c 45 § 1; 1929 c 25 § 5; RRS § 515. Prior: Code 1881 § 330; 1877 p 69 § 334; 1869 p 83 § 226; 1854 p 177 § 248. Formerly RCW 6.04.050.]

RCW 6.17.130 Sheriff's execution and service of writ--Sale date--Notice to judgment debtor.

When the writ of execution is against the property of the judgment debtor, the sheriff shall set the date of sale and serve on the debtor, in the same manner as service of a summons in a civil action, or cause to be transmitted by both regular mail and certified mail, return receipt requested, a copy of the writ, together with copies of RCW 6.13.010, 6.13.030, and 6.13.040 if real property is to be levied on, or copies of RCW 6.15.010 and 6.15.060 if personal property is to be levied on, and shall at the time of service, or with the mailing, notify the judgment debtor of the date of sale. If service on the judgment debtor must be effected by publication, only the following notice need be published under the caption of the case:

To, Judgment Debtor:

A writ of execution has been issued in the above-captioned case, directed to the sheriff of county, commanding the sheriff as follows:

"WHEREAS, . . . [Quoting body of writ of execution]."

The sale date has been set for YOU MAY HAVE A RIGHT TO EXEMPT PROPERTY from the sale under statutes of this state, including sections 6.13.010, 6.13.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

[1988 c 231 § 10; 1987 c 442 § 413; 1984 c 276 § 7; 1983 c 3 § 6; 1981 c 193 § 1; Code 1881 § 355; 1877 p 76 § 358; 1869 p 91 § 351; RRS § 578. Formerly RCW 6.04.100.]

Notes:

Rules of court: CR 4.

Severability--1988 c 231: See note following RCW 6.01.050.

Application--1984 c 276: See note following RCW 6.21.020.

RCW 6.17.140 Sheriff's execution of writ--Satisfaction of judgment--Proceeds to clerk.

The sheriff shall, at a time as near before or after service of the writ on, or mailing of the writ to, the judgment debtor as is possible, execute the writ as follows:

(1) If property has been attached, the sheriff shall indorse on the execution, and pay to the clerk forthwith, if he or she has not already done so, the amount of the proceeds of sales of perishable property or debts due the defendant previously received, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in custody, the sheriff shall sell the same, or sufficient thereof to satisfy the judgment. When property has been attached and it is probable that such property will not be sufficient to satisfy the judgment, the sheriff may, on instructions from the judgment creditor, levy on other property of the judgment debtor without delay.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached or the same has been discharged, the sheriff shall levy on the property of the judgment debtor, sufficient to satisfy the judgment, in the manner described in RCW 6.17.160.

(4) If, after the judgment is satisfied, any property remains in custody, the sheriff shall deliver it to the judgment debtor.

(5) Until a levy, personal property shall not be affected by the execution.

(6) When property has been sold or debts received on execution, the sheriff shall pay the proceeds to the clerk who issued the writ, for satisfaction of the judgment as commanded in the writ or for return of any excess proceeds to the judgment debtor. No sheriff or other officer may retain any moneys collected on execution more than twenty days before paying the same to the clerk of the court who issued the writ.

[1988 c 231 § 11; 1987 c 442 § 414.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.17.150 Clerk's duty on receipt of execution proceeds.

Upon receipt of proceeds from the sheriff on execution, the clerk shall notify the party to whom the same is payable, and pay over the amount to that party as required by law. If any proceeds remain after satisfaction of the judgment, the clerk shall pay the excess to the judgment debtor.

[1987 c 442 § 415.]

RCW 6.17.160 Sheriff's execution of writ--Manner of levy.

The sheriff to whom the writ is directed and delivered shall execute the same without delay as follows:

(1) Real property, including a vendee's interests under a real estate contract, shall be levied on by recording a copy of the writ, together with a description of the property attached, with the recording officer of the county in which the real estate is situated.

(2) Personal property, capable of manual delivery, shall be levied on by taking into custody.

(3) Shares of stock and other investment securities shall be levied on in accordance with the requirements of *RCW 62A.8-317.

(4) A fund in court shall be levied on by leaving a copy of the writ with the clerk of the court with notice in writing specifying the fund.

(5) A franchise granted by a public or quasi-public corporation shall be levied on by (a) serving a copy of the writ on, or mailing it to, the judgment debtor as required by RCW 6.17.130 and (b) filing a copy of the writ in the office of the auditor of the county in which the franchise was granted together with a notice in writing that the franchise has been levied on to be sold, specifying the time and place of sale, the name of the owner, the amount of the judgment for which the franchise is to be sold, and the name of the judgment creditor.

(6) A vendor's interest under a real estate contract shall be levied on by (a) recording a copy of the writ, with descriptions of the contract and of the real property covered by the contract, with the recording officer of the county in which the real estate is located and (b) serving a copy of the writ, with a copy of the descriptions, on, or mailing the same to, the judgment debtor and the vendee under the contract in the manner as described in RCW 6.17.130.

(7) Other intangible personal property may be levied on by serving a copy of the writ on, or mailing it to, the judgment debtor in the manner as required by RCW 6.17.130, together with a description of the property. If the property is a claim on which suit has been commenced, a copy of the writ and of the description shall also be filed with the clerk of the court in which the suit is pending.

[1988 c 231 § 12; 1987 c 442 § 416; 1927 c 100 § 1; 1886 p 42 § 13; RRS § 659. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.130.]

Notes:

***Reviser's note:** RCW 62A.8-317 was repealed by 1995 c 48 § 52.

Severability--1988 c 231: See note following RCW 6.01.050.

Sheriff's fees for service of process and other official services: RCW 36.18.040.

RCW 6.17.170 Levy on jointly owned real estate.

If a judgment debtor owns real estate jointly or in common with any other person, only the debtor's interest may be levied on and sold on execution, and the sheriff's notice of sale shall describe the extent of the debtor's interest to be sold as accurately as possible.

[1987 c 442 § 417.]

RCW 6.17.180 Levy on jointly owned personal property.

When a judgment debtor owns personal property jointly or in common with any other person, only the debtor's interest may be levied on and sold on execution, and the sheriff's notice of sale shall describe the extent of the debtor's interest as accurately as possible.

If the debtor's interest cannot be separately levied on, the sheriff shall take possession of the property unless the other person having an interest gives the sheriff a sufficient bond, with surety, conditioned to hold and manage the property according to law; and the sheriff shall then proceed to sell the interest of the defendant in such property. This section shall not be construed so as to deprive the joint or common owner of any interest in the property.

[1987 c 442 § 418; 1957 c 8 § 3; Code 1881 § 752; 1877 p 152 § 757; 1869 p 174 § 694; 1854 p 220 § 499; RRS § 580. Formerly RCW 6.04.120.]

RCW 6.17.190 Retention of property by judgment debtor--On bond or approval of judgment creditor.

(1) After levy of execution upon personal property, the sheriff may permit the judgment debtor to retain possession of the property or any part of it until the day of sale, upon the debtor executing a written bond to the sheriff with sufficient surety, in double the value of such property, to the effect that it shall be delivered to the sheriff at the time and place of sale, and for nondelivery thereof, an action may be maintained upon such bond by the sheriff or the judgment creditor, or the judgment creditor may, on motion supported by affidavit that the property has not been delivered and the judgment remains unpaid, stating the amount unpaid, have judgment against the surety on the bond for the balance remaining due.

(2) In the alternative, the sheriff may appoint the judgment debtor as an agent to keep the property, without bond, upon written approval by the judgment creditor.

[1988 c 231 § 13; 1987 c 442 § 419; Code 1881 § 358; 1877 p 77 § 361; 1869 p 92 § 354; 1854 p 182 § 268; RRS § 581. Formerly RCW 6.04.130.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Chapter 6.19 RCW
ADVERSE CLAIMS TO PROPERTY LEVIED ON

Sections

6.19.010	Definitions.
6.19.020	Application of chapter--Common law or other remedies not superseded.
6.19.030	Affidavit of adverse claimant--Bond--Hearing.
6.19.040	Justification of sureties.
6.19.050	Filing of affidavit by sheriff--Designation of parties--Trial.
6.19.060	Judgment--Costs.

RCW 6.19.010 Definitions.

The definitions in this section apply throughout this chapter.

(1) "Adverse claimant" means a person, other than the judgment debtor or defendant, who claims title or right to possession of property levied on.

(2) "Levying creditor" means the judgment creditor or plaintiff who obtained the writ of execution or attachment under which levy was made.

[1987 c 442 § 501.]

RCW 6.19.020 Application of chapter--Common law or other remedies not superseded.

An adverse claimant may assert a claim under the procedures provided in this chapter whether the levy was made under a writ of execution or of attachment and whether the writ was issued by a superior court or a district court of this state, but this chapter does not supersede common law or other remedies available to an adverse claimant before or after levy or sale.

[1987 c 442 § 502.]

RCW 6.19.030 Affidavit of adverse claimant--Bond--Hearing.

(1) An adverse claimant to property levied on may demand and receive the property from the sheriff who made the levy, upon making and delivering to the sheriff an affidavit that the property is owned by the claimant or that the claimant has a right to the immediate possession thereof, stating on oath the value thereof, and giving to the sheriff a bond, with sureties in double

the value of such property. The bond shall be conditioned that the claimant will appear in the court specified in RCW 6.19.050 after the bond is accepted by the sheriff, and make good the claim in the affidavit or will return the property or pay its value to the sheriff.

(2) Without giving a bond, an adverse claimant who delivers to the sheriff an affidavit as described in subsection (1) of this section may, on motion made within seven days after delivering the affidavit, appear in the court specified in RCW 6.19.050, with notice to the sheriff and to the attorney of record for the levying creditor, if any, otherwise to the levying creditor, and set a hearing at which the probable validity of the claim stated in the affidavit can be considered. If the court, after the hearing, finds that the claim is probably valid, it shall direct the sheriff to release the claimed property to the claimant; otherwise, the court shall direct the sheriff to continue to hold the property unless the claimant gives a bond as provided in subsection (1) of this section.

[1987 c 442 § 503; 1891 c 40 § 1; Code 1881 § 350; 1877 p 75 § 354; 1869 p 89 § 347; 1854 p 179 § 256; RRS § 573. Formerly RCW 6.20.010.]

RCW 6.19.040 Justification of sureties.

If the adverse claimant posts a bond and the sheriff requires it, the sureties shall justify as in other cases, and in case they do not so justify when required, the sheriff shall retain the property; if the sheriff does not require the sureties to justify, he or she shall stand good for their sufficiency. The sheriff shall date and indorse acceptance upon the bond.

[1987 c 442 § 504; 1957 c 8 § 5; Code 1881 § 351; 1877 p 75 § 354; 1869 p 89 § 347; 1854 p 179 § 256; RRS § 574. Formerly RCW 6.20.020.]

RCW 6.19.050 Filing of affidavit by sheriff--Designation of parties--Trial.

The sheriff shall immediately return the affidavit of an adverse claimant and the bond and justification, if any, to the office of the clerk of the court that issued the writ, unless the property was seized in another county, then to the clerk of the superior court of the county in which the property was seized or, if the levy was made under a writ of a district court of this state, then to a district court, to be selected by the sheriff, in the county in which the property was seized, and this case shall stand for trial in said court. The adverse claimant shall be the plaintiff, and the sheriff and the levying creditor shall be the defendants. The sheriff or levying creditor or both of them may respond to the affidavit, but no further pleadings are required, and any party may cause the matter to be noted for trial.

[1987 c 442 § 505; 1891 c 40 § 2; Code 1881 § 352; 1877 p 75 § 355; 1869 p 90 § 348; 1854 p 179 § 257; RRS § 575. Formerly RCW 6.20.030.]

RCW 6.19.060 Judgment--Costs.

If the claimant makes good on all or any part of the claim to title to the property or right

to possession, judgment shall be entered for the claimant to the extent the claim has been established. If the claimant has given a bond, the bond shall be canceled or, if the claimant makes good on only a portion of the claim, a like proportion of the bond shall be canceled. If the claimant has not given a bond and the sheriff has retained possession of the property, judgment shall be entered in favor of the claimant for return of the property or its value.

If the claimant does not maintain the claim, judgment shall be rendered against the claimant. If the claimant has retained possession of the property pending trial on the claim, the judgment shall be entered against the claimant and, if the claimant has given a bond, against the sureties for the return of the property or for the value of the property or of the portion of the property for which the claim is not maintained, or for such lesser amount as shall not exceed the amount due on the original execution or attachment.

When the judgment is in favor of the sheriff for the entire property, the claimant shall pay the costs; when the claimant recovers all the property, judgment shall be given in favor of the claimant for costs; when the claimant recovers a portion of the property only, the costs shall be apportioned. When the claimant prevails, the costs may be taxed against the levying creditor or, if the court finds that the sheriff attached or levied upon the property without the exercise of due caution, the court may require the sheriff to pay the costs or any portion thereof.

[1987 c 442 § 506; Code 1881 § 354; 1877 p 76 § 357; 1869 p 90 § 350; 1854 p 179 § 259; RRS § 577. Formerly RCW 6.20.050.]

Chapter 6.21 RCW SALES UNDER EXECUTION

Sections

6.21.010	Application of chapter to district courts.
6.21.020	Notice of sale--Personal property.
6.21.030	Notice of sale--Real property--Form for publication.
6.21.040	Notice of sale of real property--Form of notice to judgment debtor.
6.21.050	Time and place of sale--Postponements.
6.21.060	Amount of property to be sold--Officers and deputies may not purchase.
6.21.070	Manner of sale of personal property--Bill of sale--Sheriff's deed if real estate contract.
6.21.080	Redemption rights--Sale of short term leasehold and vendor's interest under real estate contract absolute.
6.21.090	Manner of selling real estate--Sale by lot, acre--Measurement.
6.21.100	Sale of real property to highest bidder--Sheriff's return and certificate of sale.
6.21.110	Confirmation of sale--Objections--Resale--Distribution of sale proceeds--Filing of certificate.
6.21.120	Sheriff's deed to real property sold.
6.21.130	Effect of reversal of judgment on sale of real property.

RCW 6.21.010 Application of chapter to district courts.

All the provisions of this chapter governing sales of personal property, except vendors'

interests under real estate contracts, shall apply to proceedings before district courts.

[1987 c 442 § 601.]

RCW 6.21.020 Notice of sale--Personal property.

Before the sale of personal property under execution, order of sale or decree, notice thereof shall be given as follows:

(1) The judgment creditor shall, not less than thirty days prior to the day of sale, cause a copy of the notice of sale to be transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor at the debtor's last known address, and by regular mail to the attorney of record for the judgment debtor, if any. The judgment creditor shall file an affidavit with the court showing compliance with the requirements of this subsection.

(2) The sheriff shall post typed or printed notice of the time and place of the sale in three public places in the county in which the sale is to take place, for a period of not less than four weeks prior to the day of sale.

[1988 c 231 § 14; 1987 c 442 § 602; 1984 c 276 § 1; 1981 c 329 § 1; 1935 c 35 § 1; RRS § 582. Prior: 1927 c 69 § 1; 1903 c 179 § 1; 1899 c 53 § 3; 1897 c 91 § 1. Formerly RCW 6.24.010.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Application--1984 c 276: "The 1984 amendments to RCW 6.04.100, 6.24.010, 6.24.015, 6.24.100, 6.24.140, 6.24.145, and 6.24.180 shall apply to all executions under chapter 6.24 RCW commenced after the effective date of this act [June 7, 1984]." [1984 c 276 § 8.]

Severability--1981 c 329: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 329 § 24.]

RCW 6.21.030 Notice of sale--Real property--Form for publication.

Before the sale of real property under execution, order of sale, or decree, notice of the sale shall be given as follows:

(1) The judgment creditor shall:

(a) Not less than thirty days prior to the date of sale, cause a copy of the notice in the form provided in RCW 6.21.040 to be (i) served on the judgment debtor or debtors and each of them in the same manner as a summons in a civil action, or (ii) transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor or debtors, and to each of them separately if there is more than one judgment debtor, at each judgment debtor's last known address; and

(b) Not less than thirty days prior to the date of sale, mail a copy of the notice of sale to the attorney of record for the judgment debtor, if any; and

(c) File an affidavit with the court that the judgment creditor has complied with the notice requirements of this section.

(2) The sheriff shall:

(a) For a period of not less than four weeks prior to the date of sale, post a notice in the form provided in RCW 6.21.040, particularly describing the property, in two public places in the county in which the property is located, one of which shall be at the courthouse door, where the property is to be sold, and in case of improved real estate, one of which shall be at the front door of the principal building constituting such improvement; and

(b) Publish a notice of the sale once a week, consecutively, for the same period, in any daily or weekly legal newspaper of general circulation published in the county in which the real property to be sold is situated, but if there is more than one legal newspaper published in the county, then the plaintiff or moving party in the action, suit, or proceeding has the exclusive right to designate in which of the qualified newspapers the notice shall be published, and if there is no qualified legal newspaper published in the county, then the notice shall be published in a qualified legal newspaper published in a contiguous county, as designated by the plaintiff or moving party. The published notice shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR COUNTY

Plaintiff,	}	CAUSE NO.
vs.	}	SHERIFF'S PUBLIC
		NOTICE OF SALE OF
Defendant.	}	REAL PROPERTY

TO: [Judgment Debtor]

The Superior Court of County has directed the undersigned Sheriff of County to sell the property described below to satisfy a judgment in the above-entitled action. If developed, the property address is:

The sale of the above-described property is to take place:

Time:

Date:

Place:

The judgment debtor can avoid the sale by paying the judgment amount of \$, together with interest, costs, and fees, before the sale date. For the exact amount, contact the sheriff at the address stated below:

. SHERIFF-DIRECTOR, COUNTY,

WASHINGTON.

By, Deputy
Address
City
Washington 9.
Phone (. . .)

[1987 c 442 § 603.]

RCW 6.21.040 Notice of sale of real property--Form of notice to judgment debtor.

The notice of sale shall be printed or typed and shall be in substantially the following form, except that if the sale is not pursuant to a judgment of foreclosure of a mortgage or a statutory lien, the notice shall also contain a statement that the sheriff has been informed that there is not sufficient personal property to satisfy the judgment and that if the judgment debtor or debtors do have sufficient personal property to satisfy the judgment, the judgment debtor or debtors should contact the sheriff's office immediately:

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR COUNTY

Plaintiff,	}	CAUSE NO.
vs.		SHERIFF'S NOTICE TO JUDGMENT DEBTOR OF
Defendant.		SALE OF REAL PROPERTY

TO: [Judgment Debtor]

The Superior Court of County has directed the undersigned Sheriff of County to sell the property described below to satisfy a judgment in the above-entitled action. The property to be sold is described on the reverse side of this notice. If developed, the property address is:

The sale of the above-described property is to take place:

Time:

Date:

Place:

The judgment debtor can avoid the sale by paying the

judgment amount of \$, together with interest, costs, and fees, before the sale date. For the exact amount, contact the sheriff at the address stated below:

This property is subject to: (check one)

- 1. No redemption rights after sale.
- 2. A redemption period of eight months which will expire at 4:30 p.m. on the day of, 19 . . .
- 3. A redemption period of one year which will expire at 4:30 p.m. on the day of, 19 . . .

The judgment debtor or debtors or any of them may redeem the above described property at any time up to the end of the redemption period by paying the amount bid at the sheriff's sale plus additional costs, taxes, assessments, certain other amounts, fees, and interest. If you are interested in redeeming the property contact the undersigned sheriff at the address stated below to determine the exact amount necessary to redeem.

IMPORTANT NOTICE: IF THE JUDGMENT DEBTOR OR DEBTORS DO NOT REDEEM THE PROPERTY BY 4:30 p.m. ON THE DAY OF, 19 . . . , THE END OF THE REDEMPTION PERIOD, THE PURCHASER AT THE SHERIFF'S SALE WILL BECOME THE OWNER AND MAY EVICT THE OCCUPANT FROM THE PROPERTY UNLESS THE OCCUPANT IS A TENANT HOLDING UNDER AN UNEXPIRED LEASE. IF THE PROPERTY TO BE SOLD IS OCCUPIED AS A PRINCIPAL RESIDENCE BY THE JUDGMENT DEBTOR OR DEBTORS AT THE TIME OF SALE, HE, SHE, THEY, OR ANY OF THEM MAY HAVE THE RIGHT TO RETAIN POSSESSION DURING THE REDEMPTION PERIOD, IF ANY, WITHOUT PAYMENT OF ANY RENT OR OCCUPANCY FEE. THE JUDGMENT DEBTOR MAY ALSO HAVE A RIGHT TO RETAIN POSSESSION DURING ANY REDEMPTION PERIOD IF THE PROPERTY IS USED FOR FARMING OR IF THE PROPERTY IS BEING SOLD UNDER A MORTGAGE THAT SO PROVIDES.

. SHERIFF-DIRECTOR, COUNTY,
WASHINGTON.

By, Deputy

Address

City

Washington 9

Phone (. . .)

[1987 c 442 § 604; 1984 c 276 § 2; 1981 c 329 § 2. Formerly RCW 6.24.015.]

Notes:

Application--1984 c 276: See note following RCW 6.21.020.

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.21.050 Time and place of sale--Postponements.

(1) All sales of property under execution, order of sale, or decree, shall be made by auction between nine o'clock in the morning and four o'clock in the afternoon. Sale of a public franchise under execution or order of sale on foreclosure must be made at the front door of the courthouse in the county in which the franchise was granted. Sales of real property shall be made at the courthouse door on Friday unless Friday is a legal holiday and then the sale shall be held on the next following regular business day.

(2) If at the time appointed for the sale the sheriff is prevented from attending at the place appointed or, being present, should deem it for the advantage of all concerned to postpone the sale for want of purchasers, or other sufficient cause, the sheriff may postpone the sale not exceeding one week next after the day appointed, and so from time to time for the like cause, giving notice of every adjournment by public proclamation made at the same time, and by posting written notices of such adjournment under the notices of sale originally posted. The sheriff for like causes may also adjourn the sale from time to time, not exceeding thirty days beyond the day at which the writ is made returnable, with the consent of the plaintiff indorsed upon the writ.

[1987 c 442 § 605; 1953 c 126 § 1; 1899 c 53 § 4; 1897 c 50 § 2; RRS § 583. Formerly RCW 6.24.020.]

RCW 6.21.060 Amount of property to be sold--Officers and deputies may not purchase.

After sufficient property has been sold to satisfy the execution, no more shall be sold. Neither the officer holding the execution nor his or her deputy shall become a purchaser or be interested in any purchase at the sale.

[1987 c 442 § 606.]

RCW 6.21.070 Manner of sale of personal property--Bill of sale--Sheriff's deed if real estate contract.

If the sale is of personal property capable of manual delivery, and not in the possession of a third person, it shall be within view of those who attend the sale and shall be sold in such parcels as are likely to bring the highest price; and upon receipt of the purchase money, the sheriff shall deliver the property to the purchaser and shall give a bill of sale containing an acknowledgment of the payment if the purchaser requests it. A vendor's interest under a real estate contract, including vendor's legal title to the real property, shall be treated as personal property for purposes of sale, but the sheriff shall give the purchaser both a bill of sale covering the vendor's interest under the contract and a sheriff's deed covering the vendor's legal title to the real property. In all other sales of personal property, the sheriff shall give the purchaser a bill of sale with an acknowledgment of payment. The sheriff shall return the proceeds with the execution to the clerk who issued the writ for payment as required by law.

[1987 c 442 § 607; Code 1881 § 362; 1877 p 78 § 365; 1869 p 94 § 358; 1854 p 183 § 270; RRS § 586. Formerly RCW 6.24.050.]

RCW 6.21.080 Redemption rights--Sale of short term leasehold and vendor's interest under real estate contract absolute.

A sale of a real property estate of less than a leasehold of two years unexpired term and a sale of a vendor's interest in real property being sold under a real estate contract shall be absolute. In all other cases, real property shall be sold subject to redemption, as provided in chapter 6.23 RCW.

[1987 c 442 § 608; 1899 c 53 § 5; RRS § 584. Formerly RCW 6.24.030.]

RCW 6.21.090 Manner of selling real estate--Sale by lot, acre--Measurement.

(1) The form and manner of selling real estate by execution shall be as follows: The sheriff shall proclaim aloud at the place of sale, in the hearing of all the bystanders: "I am about to sell the following tracts of real estate (here reading the description,) upon the following execution:" (here reading the execution). The sheriff shall also state the amount that is required upon the execution, which shall include damages, interests and costs up to the day of sale, and increased costs. The sheriff shall then offer the land for sale.

(2) If the sale is of real property consisting of several known lots or parcels, they shall be sold separately or otherwise as the sheriff deems likely to bring the highest price, except that if an interest in a portion of such real property is claimed by a third person who, by request directed to the sheriff in writing prior to the sale or orally or in writing at the sale before the bidding is begun, requests that it be sold separately, such portion shall be sold separately. Bids on all land

except town lots may be by the acre or by tract or parcel.

(3) If the land is sold by the acre and any fewer number of acres than the whole tract or parcel is sold, it shall be measured off to the purchaser in a square form, from the northeast corner of the tract or parcel, unless some person claiming an interest in the land, by request directed to the sheriff in writing prior to the sale or orally or in writing at the sale before the bidding is begun, requests that the land sold be taken from some other part or in some other form; in such case, if the request is reasonable, the officer making the sale shall sell accordingly.

(4) If an entire tract or parcel of land is sold by the acre, it shall not be measured but shall be deemed and taken to contain the number of acres named in the description, and be paid for accordingly; and if the number of acres is not contained in the description, the officer shall declare according to his or her judgment how many acres are contained therein, which shall be deemed and taken to be the true number of acres.

[1987 c 442 § 609; Code 1881 § 363; 1877 p 79 § 366; 1869 p 94 § 359; 1854 p 181 § 262; RRS § 587. Formerly RCW 6.24.060.]

RCW 6.21.100 Sale of real property to highest bidder--Sheriff's return and certificate of sale.

(1) The officer shall strike off the land to the highest bidder, who shall forthwith pay the money bid to the officer, who shall return the money with the execution and the report of proceedings on the execution to the clerk of the court from which the execution issued: PROVIDED, HOWEVER, That when final judgment shall have been entered in the supreme court or the court of appeals and the execution upon which sale has been made issued from said court, the return shall be made to the superior court in which the action was originally commenced, and the same proceedings shall be had as though execution had issued from that superior court.

(2) At the time of the sale, the sheriff shall prepare a certificate of the sale, containing a particular description of the property sold, the price bid for each distinct lot or parcel, and the whole price paid; and when subject to redemption, it shall be so stated. The matters contained in such certificate shall be substantially stated in the sheriff's return of proceedings upon the writ. Upon receipt of the purchase price, the sheriff shall give a copy of the certificate to the purchaser and the original certificate to the clerk of the court with the return on the execution to hold for delivery to the purchaser upon confirmation of the sale.

[1987 c 442 § 610; 1971 c 81 § 28; Code 1881 § 366; 1877 p 79 § 369; 1869 p 95 § 362; 1854 p 182 § 265; RRS § 590. Formerly RCW 6.24.090.]

RCW 6.21.110 Confirmation of sale--Objections--Resale--Distribution of sale proceeds--Filing of certificate.

(1) Upon the return of any sale of real estate, the clerk: (a) Shall enter the cause, on which the execution or order of sale issued, by its title, on the motion docket, and mark opposite

the same: "Sale of land for confirmation"; (b) shall mail notice of the filing of the return of sale to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them; (c) shall file proof of such mailing in the action; (d) shall apply the proceeds of the sale returned by the sheriff, or so much thereof as may be necessary, to satisfaction of the judgment, including interest as provided in the judgment, and shall pay any excess proceeds as provided in subsection (5) of this section by direction of court order; and (e) upon confirmation of the sale, shall deliver the original certificate of sale to the purchaser.

(2) The judgment creditor or successful purchaser at the sheriff's sale is entitled to an order confirming the sale at any time after twenty days have elapsed from the mailing of the notice of the filing of the sheriff's return, on motion with notice given to all parties who have entered a written notice of appearance in the action and who have not had an order of default entered against them, unless the judgment debtor, or in case of the judgment debtor's death, the representative, or any nondefaulting party to whom notice was sent shall file objections to confirmation with the clerk within twenty days after the mailing of the notice of the filing of such return.

(3) If objections to confirmation are filed, the court shall nevertheless allow the order confirming the sale, unless on the hearing of the motion, it shall satisfactorily appear that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case, the court shall disallow the motion and direct that the property be resold, in whole or in part, as the case may be, as upon an execution received as of that date.

(4) Upon a resale, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken, except for a greater amount. If on resale the property sells for a greater amount to any person other than the former purchaser, the clerk shall first repay to the former purchaser out of the proceeds of the resale the amount of the former purchaser's bid together with interest as is provided in the judgment.

(5) If, after the satisfaction of the judgment, there be any proceeds of the sale remaining, the clerk shall pay such proceeds to the judgment debtor, or the judgment debtor's representative, as the case may be, before the order is made upon the motion to confirm the sale only if the party files with the clerk a waiver of all objections made or to be made to the proceedings concerning the sale; otherwise the excess proceeds shall remain in the custody of the clerk until the sale of the property has been disposed of; but if the sale be confirmed, such excess proceeds shall be paid to the judgment debtor or representative as a matter of course.

(6) The purchaser shall file the original certificate of sale for record with the recording officer in the county in which the property is located.

[1994 c 185 § 3; 1987 c 442 § 611; 1984 c 276 § 3; 1981 c 329 § 3; 1899 c 53 § 6; RRS § 591. Prior: 1897 c 50 § 14; Code 1881 § 367; 1877 p 79 § 370; 1869 p 95 § 363; 1854 p 182 § 266. Formerly RCW 6.24.100.]

Notes:

Application--1984 c 276: See note following RCW 6.21.020.

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.21.120 Sheriff's deed to real property sold.

In all cases where real estate has been, or may hereafter be sold by virtue of an execution or other process, it shall be the duty of the sheriff or other officer making such sale to execute and deliver to the purchaser, or other person entitled to the same, a deed of conveyance of the real estate so sold. The deeds shall be issued upon request immediately after the confirmation of sale by the court in those instances where redemption rights have been precluded pursuant to RCW 61.12.093 et seq., or immediately after the time for redemption from such sale has expired in those instances in which there are redemption rights, as provided in RCW 6.23.060. In case the term of office of the sheriff or other officer making such sale shall have expired before a sufficient deed has been executed, then the successor in office of such sheriff shall, within the time specified in this section, execute and deliver to the purchaser or other person entitled to the same a deed of the premises so sold, and such deeds shall be as valid and effectual to convey to the grantee the lands or premises so sold, as if the deed had been made by the sheriff or other officer who made the sale.

[1987 c 442 § 612; 1965 c 80 § 5; 1899 c 53 § 16; RRS § 603. Prior: 1897 c 50 § 16. Formerly RCW 6.24.220.]

Notes:

Sheriff, successor to complete process: RCW 36.28.130.

RCW 6.21.130 Effect of reversal of judgment on sale of real property.

A purchaser of real property sold on execution, or a purchaser's successor in interest, who is evicted in consequence of the reversal of the judgment may recover from the plaintiff in the execution the price paid with interest and the costs and disbursements of the eviction suit.

[1987 c 442 § 613; Code 1881 § 368; 1877 p 80 § 371; 1869 p 96 § 364; RRS § 592. Formerly RCW 6.24.110.]

**Chapter 6.23 RCW
REDEMPTION**

Sections

6.23.010	Redemption from sale--Who may redeem--Terms include successors.
6.23.011	Voluntary relinquishment of ownership rights by mortgagor may result in loss of redemption rights.
6.23.020	Time for redemption from purchaser--Amount to be paid.
6.23.030	Notice to be given during redemption period--Effect of noncompliance--Form of notice and affidavit.
6.23.040	Time for redemption from redemptioner--Successive redemptions--Amount to be paid.
6.23.050	Purchaser or redemptioner to file statements of amounts paid.
6.23.060	Sheriff's deed--When issued.
6.23.070	Payment on successive redemptions.
6.23.080	Redemption procedure--Certificate to be recorded--Evidence of right to redeem.

- 6.23.090 Rents and profits during period of redemption--Accounting--Option for reimbursement or extension on agricultural property.
- 6.23.100 Restraining waste during redemption period.
- 6.23.110 Possession during period of redemption.
- 6.23.120 Listing of property for sale during redemption period--Acceptance of qualifying offer if property unredeemed and deed issued--Procedure--Disposition of proceeds.

RCW 6.23.010 Redemption from sale--Who may redeem--Terms include successors.

(1) Real property sold subject to redemption, as provided in RCW 6.21.080, or any part thereof separately sold, may be redeemed by the following persons, or their successors in interest:

(a) The judgment debtor, in the whole or any part of the property separately sold.

(b) A creditor having a lien by judgment, decree, deed of trust, or mortgage, on any portion of the property, or any portion of any part thereof, separately sold, subsequent in time to that on which the property was sold. The persons mentioned in this subsection are termed redemptioners.

(2) As used in this chapter, the terms "judgment debtor," "redemptioner," and "purchaser," refer also to their respective successors in interest.

[1987 c 442 § 701; 1899 c 53 § 7; RRS § 594. Prior: 1897 c 50 § 15. Formerly RCW 6.24.130.]

RCW 6.23.011 Voluntary relinquishment of ownership rights by mortgagor may result in loss of redemption rights.

See RCW 61.12.093 through 61.12.095.

RCW 6.23.020 Time for redemption from purchaser--Amount to be paid.

(1) Unless redemption rights have been precluded pursuant to RCW 61.12.093 et seq., the judgment debtor or any redemptioner may redeem the property from the purchaser at any time (a) within eight months after the date of the sale if the sale is pursuant to judgment and decree of foreclosure of any mortgage executed after June 30, 1961, which mortgage declares in its terms that the mortgaged property is not used principally for agricultural or farming purposes, and in which complaint the judgment creditor has expressly waived any right to a deficiency judgment, or (b) otherwise within one year after the date of the sale.

(2) The person who redeems from the purchaser must pay: (a) The amount of the bid, with interest thereon at the rate provided in the judgment to the time of redemption, together with (b) the amount of any assessment or taxes which the purchaser has paid thereon after purchase, and like interest on such amount from time of payment to time of redemption, together with (c) any sum paid by the purchaser on a prior lien or obligation secured by an interest in the property to the extent the payment was necessary for the protection of the interest of the judgment debtor or a redemptioner, and like interest upon every payment made from the date of payment to the time of redemption, and (d) if the redemption is by a redemptioner and if the purchaser is also a

creditor having a lien, by judgment, decree, deed of trust, or mortgage, prior to that of the redemptioner, other than the judgment under which such purchase was made, the redemptioner shall also pay the amount of such lien with like interest: PROVIDED, HOWEVER, That a purchaser who makes any payment as mentioned in (c) of this subsection shall submit to the sheriff the affidavit required by RCW 6.23.080, and any purchaser who pays any taxes or assessments or has or acquires any such lien as mentioned in (d) of this subsection must file the statement required in RCW 6.23.050 and provide evidence of the lien as required by RCW 6.23.080.

[1987 c 442 § 702; 1984 c 276 § 4; 1965 c 80 § 4; 1961 c 196 § 1; 1899 c 53 § 8; RRS § 595. Formerly RCW 6.24.140.]

Notes:

Application--1984 c 276: See note following RCW 6.21.020.

RCW 6.23.030 Notice to be given during redemption period--Effect of noncompliance--Form of notice and affidavit.

(1) If the property is subject to a homestead as provided in chapter 6.13 RCW, the purchaser, or the redemptioner if the property has been redeemed, shall send a notice, in the form prescribed in subsection (3) of this section, at least forty but not more than sixty days before the expiration of the judgment debtor's redemption period both by regular mail and by certified mail, return receipt requested, to the judgment debtor or debtors and to each of them separately, if there is more than one judgment debtor, at their last known address or addresses and to "occupant" at the property address. The party who sends the notice shall file a copy of the notice with an affidavit of mailing with the clerk of the court and deliver or mail a copy to the sheriff.

(2) Failure to comply with this section extends the judgment debtor's redemption period six months. If the redemption period is extended, no further notice need be sent. Time for redemption by redemptioners shall not be extended.

(3) The notice and affidavit of mailing required by subsection (1) of this section shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR COUNTY

Plaintiff,	}	CAUSE NO.
vs.	}	NOTICE OF EXPIRATION OF
		REDEMPTION PERIOD
Defendant.	}	

TO: [Judgment Debtor]

THIS IS AN IMPORTANT NOTICE AFFECTING

YOUR RIGHT TO RETAIN YOUR PROPERTY.

NOTICE IS HEREBY GIVEN that the period for redemption of the following described real property ("the property") is expiring. The property is situated in the County of, State of Washington, to wit:

. [legal description] and commonly known as, which was sold by, County Sheriff, in, County, Washington on the day of, 19, under and by virtue of a writ of execution and order of sale issued by the court in the above-entitled action.

THE REDEMPTION PERIOD FOR THE PROPERTY IS MONTHS. THE REDEMPTION PERIOD COMMENCED ON, 19, AND WILL EXPIRE AT 4:30 p.m. ON, 19

If you intend to redeem the property described above you must give written notice of your intention to the County Sheriff on or before, 19

Following is an itemized account of the amount required to redeem the property to date:

Item	Amount
Purchase price paid at sale	\$
Interest from date of sale to date of this notice at percent per annum	\$
Real estate taxes plus interest	\$
Assessments plus interest	\$
Liens or other costs paid by purchaser or purchaser's successor during redemption period plus interest	\$
Lien of redemptioner	\$
TOTAL REQUIRED TO REDEEM AS OF THE DATE OF THIS NOTICE	\$

You may redeem the property by 4:30 p.m. on or before the day of, 19, by paying the amount

set forth above and such other amounts as may be required by law. Payment must be in the full amount and in cash, certified check, or cashier's check. Because such other amounts as may be required by law to redeem may include presently unknown expenditures required to operate, preserve, protect, or insure the property, or the amount to comply with state or local laws, or the amounts of prior liens, with interest, held by the purchaser or a redemptioner, it will be necessary for you to contact the County Sheriff at the address stated below prior to the time you tender the redemption amount so that you may be informed exactly how much you will have to pay to redeem the property.

. SHERIFF-DIRECTOR, COUNTY,
WASHINGTON.

By, Deputy
Address
City
Washington 9
Phone (. . .)

IF YOU FAIL TO REDEEM THE PROPERTY BY 4:30 p.m. ON OR BEFORE THE DAY OF, 19, THE DATE UPON WHICH THE REDEMPTION PERIOD WILL EXPIRE, THE PURCHASER OR THE PURCHASER'S SUCCESSOR WILL BE ENTITLED TO POSSESSION OF THE PROPERTY AND MAY BRING AN ACTION TO EVICT YOU FROM POSSESSION OF THE PROPERTY.

DATED THIS DAY OF, 19

[Purchaser]
By
[Purchaser's attorney]
Attorneys for

STATE OF WASHINGTON)
 |

COUNTY OF }
 } ss.

The undersigned being first duly sworn on oath states:
That on this day affiant deposited in the mails of the United States of America a properly stamped and addressed envelope directed to the judgment debtor at the address stated on the face of this document and to "occupant" at the property address, both by certified mail, return receipt requested, and by first class mail, all of the mailings containing a copy of the document to which this affidavit is attached.

SIGNED AND SWORN TO BEFORE ME THIS
DAY OF, 19, BY (name of person making statement)

.
Title
My appointment expires
., 19

[1987 c 442 § 703; 1984 c 276 § 5; 1981 c 329 § 6. Formerly RCW 6.24.145.]

Notes:

Application--1984 c 276: See note following RCW 6.21.020.

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.23.040 Time for redemption from redemptioner--Successive redemptions--Amount to be paid.

(1) If property is redeemed from the purchaser by a redemptioner, as provided in RCW 6.23.020, another redemptioner may, within sixty days after the first redemption, redeem it from the first redemptioner. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty days after the last redemption, and such sixty-day redemption periods may extend beyond the period prescribed in RCW 6.23.020 for redemption from the purchaser.

(2) The judgment debtor may also redeem from a redemptioner, but in all cases the judgment debtor shall have the entire redemption period prescribed by RCW 6.23.020, but no longer unless the time is extended under RCW 6.23.030 or 6.23.090. If the judgment debtor redeems, the effect of the sale is terminated and the estate of the debtor is restored.

(3) A redemptioner may redeem under this section by paying the sum paid on the last previous redemption with interest at the rate of eight percent per annum, and the amount of any assessments or taxes which the last previous redemptioner paid on the property after redeeming, with like interest, and the amount of any liens by judgment, decree, deed of trust, or mortgage, other than the judgment under which the property was sold, held by the last redemptioner, prior to his own, with interest. A judgment debtor who redeems from a redemptioner under this section must make the same payments as are required to effect a redemption by a redemptioner, including any lien by judgment, decree, deed of trust, or mortgage, other than the judgment under which the property was sold, held by the redemptioner. A redemptioner who pays any taxes or assessments, or has or acquires any such lien as herein mentioned, must file a statement as required under RCW 6.23.050.

[1987 c 442 § 704; 1899 c 53 § 9; RRS § 596. Formerly RCW 6.24.150.]

RCW 6.23.050 Purchaser or redemptioner to file statements of amounts paid.

A purchaser or redemptioner who pays any taxes or assessments or has or acquires a lien on the property by judgment, decree, deed of trust, or mortgage prior to that of a prospective redemptioner must file a statement thereof, for recording, with the recording officer of the county in which the property is situated before the property has been redeemed from him or her. Otherwise, the property may be redeemed without paying such tax, assessment, or lien, but if actual notice of such payments or liens has been given to the person who redeems, failure to file the statement shall not affect the right to payment from that person absent that person's demonstration of prejudice resulting from the failure to file the statement.

[1987 c 442 § 705.]

RCW 6.23.060 Sheriff's deed--When issued.

If no redemption is made within the redemption period prescribed by RCW 6.23.020 or within any extension of that period under any other provision of this chapter, the purchaser is entitled to a sheriff's deed; or, if so redeemed, whenever sixty days have elapsed and no other redemption has been made or notice given operating to extend the period for re-redemption, and the time for redemption by the judgment debtor has expired, the last redemptioner is entitled to receive a sheriff's deed as provided in RCW 6.21.120.

[1987 c 442 § 706; 1961 c 196 § 2; 1899 c 53 § 10; RRS § 597. Prior: 1897 c 50 § 16. Formerly RCW 6.24.160.]

RCW 6.23.070 Payment on successive redemptions.

When two or more persons apply to the sheriff to redeem at the same time, the sheriff shall allow the person having the prior lien to redeem first, and so on. The sheriff shall immediately pay the money over to the person from whom the property is redeemed, if that person is present at time of redemption; or if not, at any time thereafter when demanded. When a

sheriff wrongfully refuses to allow any person to redeem, the right to redeem shall not be prejudiced by such refusal, and the sheriff may be required, by order of the court, to allow such redemption.

[1987 c 442 § 707; 1899 c 53 § 11; RRS § 598. Formerly RCW 6.24.170.]

RCW 6.23.080 Redemption procedure--Certificate to be recorded--Evidence of right to redeem.

(1) The person seeking to redeem shall give the sheriff at least five days' written notice of intention to apply to the sheriff for that purpose. It shall be the duty of the sheriff to notify the purchaser or redemptioner, as the case may be, or the purchaser's or redemptioner's attorney, of the receipt of such notice, if such person is within such county. At the time specified in such notice, the person seeking to redeem may do so by paying to the sheriff the sum required. The sheriff shall give the person redeeming a certificate stating the sum paid on redemption, from whom redeemed, the date thereof and a description of the property redeemed. A certificate of redemption must be filed and recorded in the office of the recording officer of the county in which the property is situated, and the recording officer must note the record thereof in the margin of the record of the certificate of sale.

(2) A person seeking to redeem shall submit to the sheriff the evidence of the right to redeem, as follows:

(a) A lien creditor shall submit a copy of the docket of the judgment or decree under which the right to redeem is claimed, certified by the clerk of the court where such judgment or decree is docketed; or the holder of a mortgage or deed of trust shall submit the certificate of the record thereof together with an affidavit, verified by the holder or agent, showing the amount then actually due thereon.

(b) An assignee shall submit a copy of any assignment necessary to establish the claim, verified by the affidavit of the assignee or agent, showing the amount then actually due on the judgment, decree, deed of trust, or mortgage.

(3) If the redemptioner or purchaser has a lien prior to that of the lien creditor seeking to redeem, such redemptioner or purchaser shall submit to the sheriff the same kind of evidence thereof as is required from a person seeking to redeem under subsection (2) of this section, and the amount due thereon, or the same may be disregarded.

(4) A purchaser who has paid a sum on a prior lien or obligation secured by an interest in the property shall submit to the sheriff an affidavit, verified by the purchaser or an agent, showing the amount paid on the prior lien or obligation, or the prior lien or obligation may be disregarded.

[1987 c 442 § 708; 1984 c 276 § 6; 1899 c 53 § 12; RRS § 599. Formerly RCW 6.24.180.]

Notes:

Application--1984 c 276: See note following RCW 6.21.020.

RCW 6.23.090 Rents and profits during period of redemption--Accounting--Option

for reimbursement or extension on agricultural property.

(1) Except as provided in subsection (3) of this section and in RCW 6.23.110, the purchaser, from the time of the sale until the redemption, and the redemptioner from the time of the redemption until another redemption, is entitled to receive from the tenant in possession the rents of the property sold or the value of the use and occupation thereof. But when any rents or profits have been received from the property by such purchaser or redemptioner, preceding the redemption thereof from him or her, the amount of such rents and profits, over and above the expenses paid for operating, caring for, protecting and insuring the property, shall be a credit upon the redemption money to be paid.

(2) If a redemptioner or other person entitled to redeem, before the expiration of the time allowed for such redemption, files with the sheriff a demand in writing for a written and verified statement of the amounts of rents and profits thus received and expenses paid and incurred, the period for redemption is extended five days after such a sworn statement is given by the person receiving such rents and profits, or by his or her agent, to the person making the demand, or to the sheriff. It shall be the duty of the sheriff to serve a copy of such demand upon the person receiving such rents and profits, his or her agent or his or her attorney, if service can be made in the county where the property is situate. If such person shall, for a period of ten days after such demand has been given to the sheriff, fail or refuse to give such statement, the redemptioner or other person entitled to redeem who made the demand may bring an action within sixty days after making such demand, but not later, in any court of competent jurisdiction, to compel an accounting and disclosure of such rents, profits and expenses, and until fifteen days from and after the final determination of such action the right of redemption is extended to such redemptioner or other person entitled to redeem who made the demand. If a sworn statement is given by the purchaser or other person receiving such rents and profits, and the redemptioner or other person entitled to redeem who made the demand, desires to contest the correctness of the statement, he or she must first redeem in accordance with such sworn statement, and if he or she desires to bring an action for an accounting thereafter he or she may do so within thirty days after such redemption, but not later.

(3) If such property is farming or agricultural property and is in possession of any purchaser or any previous redemptioner and is redeemed after the first day of April and before the first day of December, and the purchaser or previous redemptioner or the tenant of either has performed any work in preparing such property for crops or has planted crops, such purchaser or previous redemptioner shall have the option to demand reimbursement for such work and labor or to retain possession of such property until the first day of December following, and the new redemptioner shall be entitled to collect the reasonable rental value thereof during such farming year, unless such reasonable rental shall have been collected by such purchaser or previous redemptioner and accounted for to the new redemptioner.

[1987 c 442 § 709; 1899 c 53 § 13; RRS § 600. Formerly RCW 6.24.190.]

RCW 6.23.100 Restraining waste during redemption period.

Until the expiration of the time allowed for redemption, the court may restrain the commission of waste on the property. But it is not waste for the person in possession of the property at the time of the sale or entitled to possession afterwards during the period allowed for redemption to continue to use it in the same manner in which it was previously used, or to use it in the ordinary course of husbandry, or to make the necessary repairs of buildings thereon, or to use wood or timber on the property therefor, or for the repairs of fences, or for fuel in his or her family while occupying the property.

[1987 c 442 § 710; 1899 c 53 § 14; RRS § 601. Formerly RCW 6.24.200.]

RCW 6.23.110 Possession during period of redemption.

(1) Except as provided in this section and RCW 6.23.090, the purchaser from the day of sale until a resale or redemption, and the redemptioner from the day of redemption until another redemption, shall be entitled to the possession of the property purchased or redeemed, unless the same be in the possession of a tenant holding under an unexpired lease, and in such case shall be entitled to receive from such tenant the rents or the value of the use and occupation thereof during the period of redemption.

(2) If a mortgage contains a stipulation that in case of foreclosure the mortgagor may remain in possession of the mortgaged premises after sale and until the period of redemption has expired, the court shall make its decree to that effect and the mortgagor shall have such right.

(3) As to any land so sold which is at the time of the sale used for farming purposes, or which is a part of a farm used, at the time of sale, for farming purposes, the judgment debtor shall be entitled to retain possession thereof during the period of redemption and the purchaser or his successor in interest shall, if the judgment debtor does not redeem, have a lien upon the crops raised or harvested thereon during said period of redemption, for interest on the purchase price at the rate of six percent per annum during said period of redemption and for taxes becoming delinquent during the period of redemption together with interest thereon.

(4) In case of any homestead as defined in chapter 6.13 RCW and occupied for that purpose at the time of sale, the judgment debtor shall have the right to retain possession thereof during the period of redemption without accounting for issues or for value of occupation.

[1987 c 442 § 711; 1981 c 329 § 21; 1961 c 196 § 3; 1957 c 8 § 6; 1939 c 94 § 1; 1927 c 93 § 1; 1899 c 53 § 15; RRS § 602. Formerly RCW 6.24.210.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

RCW 6.23.120 Listing of property for sale during redemption period--Acceptance of qualifying offer if property unredeemed and deed issued--Procedure--Disposition of proceeds.

(1) Except as provided in subsection (4) of this section, during the period of redemption for any property that a person would be entitled to claim as a homestead, any licensed real estate

broker within the county in which the property is located may nonexclusively list the property for sale whether or not there is a listing contract. If the property is not redeemed by the judgment debtor and a sheriff's deed is issued under RCW 6.21.120, then the property owner shall accept the highest current qualifying offer upon tender of full cash payment within two banking days after notice of the pending acceptance is received by the offeror. If timely tender is not made, such offer shall no longer be deemed to be current and the opportunity shall pass to the next highest current qualifying offer, if any. Notice of pending acceptance shall be given for the first highest current qualifying offer within five days after delivery of the sheriff's deed under RCW 6.21.120 and for each subsequent highest current qualifying offer within five days after the offer becoming the highest current qualifying offer. An offer is qualifying if the offer is made during the redemption period through a licensed real estate broker listing the property and is at least equal to the sum of: (a) One hundred twenty percent greater than the redemption amount determined under RCW 6.23.020 and (b) the normal commission of the real estate broker or agent handling the offer.

(2) The proceeds shall be divided at the time of closing with: (a) One hundred twenty percent of the redemption amount determined under RCW 6.23.020 paid to the property owner, (b) the real estate broker's or agent's normal commission paid, and (c) any excess paid to the judgment debtor.

(3) Notice, tender, payment, and closing shall be made through the real estate broker or agent handling the offer.

(4) This section shall not apply to mortgage or deed of trust foreclosures under chapter 61.12 or 61.24 RCW.

[1987 c 442 § 712; 1981 c 329 § 23. Formerly RCW 6.24.230.]

Notes:

Severability--1981 c 329: See note following RCW 6.21.020.

Chapter 6.25 RCW ATTACHMENT

Sections	
6.25.010	Application of chapter to district courts.
6.25.020	Time for granting.
6.25.030	Issuance of writ--Grounds.
6.25.040	Grounds if debt not due.
6.25.050	Procedure when debt not due.
6.25.060	Application for writ--Affidavit.
6.25.070	Issuance of writ--Notice--Hearing--Issuance without notice--Forms for notice.
6.25.080	Issuance of writ--Attachment bond.
6.25.090	Bond--Additional security.
6.25.100	Action on bond--Damages and attorney's fees.
6.25.110	Contents of writ--Levy of attachment.
6.25.120	Writs to different counties--Successive writs.

6.25.130	Writ--Notation of time received--Order of execution.
6.25.140	Manner of levy.
6.25.150	Property may be followed to adjoining county.
6.25.160	Sheriff's inventory--Return.
6.25.170	Examination of defendant as to property.
6.25.180	Motion to discharge attachment--Affidavits in opposition--Discharge.
6.25.190	Discharge of attachment--Bond--Judgment on bond.
6.25.200	Appointment of receiver for property.
6.25.220	Sale of property before judgment.
6.25.230	Custody of property or proceeds.
6.25.240	Subjection of attached property to judgment.
6.25.250	Procedure when attached property insufficient.
6.25.260	Procedure where execution unsatisfied.
6.25.270	Procedure when judgment is for defendant.
6.25.280	Chapter to be liberally construed--Amendments.

RCW 6.25.010 Application of chapter to district courts.

Unless otherwise expressly provided, all the provisions of this chapter governing attachment of personal property apply to proceedings before district courts of this state, but the district courts shall not have power to issue writs of attachment against real property or any interest in real property or against vendors' interests under real estate contracts.

[1987 c 442 § 801.]

RCW 6.25.020 Time for granting.

The plaintiff at the time of commencing an action, or at any time afterward before judgment, may have the property of the defendant, or that of any one or more of several defendants, attached in the manner prescribed in this chapter, as security for the satisfaction of such judgment as the plaintiff may recover.

[1987 c 442 § 802; 1886 p 39 § 1; RRS § 647. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.010.]

Notes:

Rules of court: *Cf. CR 64.*

RCW 6.25.030 Issuance of writ--Grounds.

The writ of attachment may be issued by the court in which the action is pending on one or more of the following grounds:

- (1) That the defendant is a foreign corporation; or
- (2) That the defendant is not a resident of this state; or
- (3) That the defendant conceals himself so that the ordinary process of law cannot be served upon him; or

(4) That the defendant has absconded or absented himself from his usual place of abode in this state, so that the ordinary process of law cannot be served upon him; or

(5) That the defendant has removed or is about to remove any of his property from this state, with intent to delay or defraud his creditors; or

(6) That the defendant has assigned, secreted, or disposed of, or is about to assign, secrete, or dispose of, any of his property, with intent to delay or defraud his creditors; or

(7) That the defendant is about to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors; or

(8) That the defendant has been guilty of a fraud in contracting the debt or incurring the obligation for which the action is brought; or

(9) That the damages for which the action is brought are for injuries arising from the commission of some felony, gross misdemeanor, or misdemeanor; or

(10) That the object for which the action is brought is to recover on a contract, express or implied.

[1987 c 442 § 803; 1973 1st ex.s. c 154 § 16; 1923 c 159 § 1; 1886 p 39 § 2; RRS § 648. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.020.]

Notes:

Rules of court: *CR 64.*

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 6.25.040 Grounds if debt not due.

An action may be commenced and the property of a debtor may be attached previous to the time when the debt becomes due, when nothing but time is wanting to fix an absolute indebtedness, and when the complaint and the affidavit allege, in addition to that fact, one or more of the following grounds:

(1) That the defendant is about to dispose or has disposed of his property in whole or in part with intent to defraud his creditors; or

(2) That the defendant is about to remove from the state and refuses to make any arrangements for securing the payment of the debt when it falls due, and the contemplated removal was not known to the plaintiff at the time the debt was contracted; or

(3) That the debt was incurred for property obtained under false pretenses.

[1987 c 442 § 804; 1886 p 39 § 3; RRS § 649. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.030.]

Notes:

Rules of court: *Cf. CR 64.*

RCW 6.25.050 Procedure when debt not due.

If the debt or demand for which the attachment is sued out is not due at the time of the

commencement of the action, the defendant is not required to file any pleadings until the maturity of such debt or demand, but the defendant may, in his or her discretion, do so, and go to trial as early as the cause is reached. No final judgment shall be rendered in such action until the debt or demand upon which it is based becomes due, unless the defendant consents by filing pleadings or otherwise. However, property of a perishable nature may be sold as provided in RCW 6.25.220.

[1987 c 442 § 805; 1886 p 40 § 4; RRS § 650. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.040.]

RCW 6.25.060 Application for writ--Affidavit.

(1) The plaintiff or someone on plaintiff's behalf shall apply for a writ of attachment by affidavit, alleging that the attachment is not sought and the action is not prosecuted to hinder, delay, or defraud any creditor of the defendant and also alleging that affiant has reason to believe and does believe the following, together with specific facts on which affiant's belief in the allegations is based: (a) That the defendant is indebted to the plaintiff (specifying the nature of the claim and the amount of such indebtedness over and above all just credits and offsets), and (b) that one or more of the grounds stated in RCW 6.25.030 for issuance of a writ of attachment exists.

(2) If the action is based on a debt not due, the ground alleged under subsection (1)(b) of this section must be one stated in RCW 6.25.040 for attachment on a debt not due, and affiant shall also allege reason to believe and belief that nothing but time is wanting to fix an absolute indebtedness due from defendant, together with specific facts on which the affiant's belief in the allegations is based.

[1987 c 442 § 806.]

RCW 6.25.070 Issuance of writ--Notice--Hearing--Issuance without notice--Forms for notice.

(1) Except as provided in subsection (2) of this section, the court shall issue a writ of attachment only after prior notice to defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to defendant and an opportunity for a prior hearing only if:

(a)(i) The attachment is to be levied only on real property, or (ii) if it is to be levied on personal property, the ground alleged for issuance of attachment is one appearing in RCW 6.25.030 (5) through (7) or in RCW 6.25.040(1) or, if attachment is necessary for the court to obtain jurisdiction of the action, the ground alleged is one appearing in RCW 6.25.030 (1) through (4); and

(b) The court finds, on the basis of specific facts alleged in the affidavit, after an ex parte

hearing, that there is probable cause to believe the allegations of plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to defendant, after seizure of property under the writ the defendant shall be entitled to prompt notice of the seizure and of a right to an early hearing, if requested, at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for attachment exists. Such notice shall be given in the manner prescribed in subsections (4) and (5) of this section.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice shall be served in the same manner as a summons in a civil action and shall be served together with: (a) A copy of the plaintiff's affidavit and a copy of the writ if already issued; (b) if the defendant is an individual, copies of homestead statutes, RCW 6.13.010, 6.13.030, and 6.13.040, if real property is to be attached, or copies of exemption statutes, RCW 6.15.010 and 6.15.060, if personal property is to be attached; and (c) if the plaintiff has proceeded under subsection (2) of this section, a copy of a "Notice of Right to Hearing" in substantially the following form:

NOTICE OF RIGHT TO HEARING

In a lawsuit against you, a Washington court has issued or will issue a Writ of Attachment against your property. Under the writ a sheriff or sheriff's deputy has or will put a lien against your real estate or has seized or will seize other property of yours to hold until the court decides the lawsuit.

Delivery of this notice of your rights is required by law.

YOU HAVE THE RIGHT TO A PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have a right to request the hearing. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that the claim stated in the lawsuit is probably valid, or else your property will be released.

If the defendant is an individual, the following paragraph shall be added to the notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED if it is exempt property as described in the copies of statutes included with this notice and if you claim your exemptions in the way described in the statutes.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To Defendant:

A writ of attachment has been issued in the above-captioned case, directed to the Sheriff of County, commanding the Sheriff as follows:

"WHEREAS, . . . [Quoting body of writ of attachment]"

YOU HAVE A RIGHT TO ASK FOR A HEARING. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for attachment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the attachment will be discharged.

If the defendant is an individual, the following paragraph shall be added to the published notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE YOUR PROPERTY RELEASED if it is exempt property as described in Washington exemption statutes, including sections 6.13.010, 6.13.030, 6.13.040, 6.15.010, and 6.15.060 of the Revised Code of Washington, in the manner described in those statutes.

[1988 c 231 § 15; 1987 c 442 § 807.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.25.080 Issuance of writ--Attachment bond.

(1) Except as provided in subsection (2) of this section, before the writ of attachment shall issue, the plaintiff, or someone in the plaintiff's behalf, shall execute and file with the clerk a surety bond or undertaking in the sum in no case less than three thousand dollars, in the superior court, nor less than five hundred dollars in the district court, and double the amount for which plaintiff demands judgment, or such other amount as the court shall fix, conditional that the plaintiff will prosecute the action without delay and will pay all costs that may be adjudged to the defendant, and all damages that the defendant may sustain by reason of the writ of attachment or of additional writs issued as permitted under RCW 6.25.120, not exceeding the amount specified in such bond or undertaking, as the penalty thereof, should the same be wrongfully, oppressively or maliciously sued out.

(2) If it is desired to attach real estate only, and such fact is stated in the affidavit for attachment, and the ground of attachment is that the defendant is a foreign corporation or is not a resident of the state, or conceals himself or herself or has absconded or is absent from his or her usual place of abode so that the ordinary process of law cannot be served upon him or her, the writ of attachment shall issue without bond or undertaking by or on behalf of the plaintiff.

(3) If the plaintiff sues on an assigned claim and the plaintiff's immediate or any other assignor thereof retains or has any interest in the claim, then the plaintiff and every assignor who retains or has any interest therein shall be jointly and severally liable for all costs that may be

adjudged to the defendant and for all damages that the defendant may sustain by reason of the attachment, should the same be wrongfully, oppressively or maliciously sued out.

[1988 c 231 § 16. Prior: 1987 c 442 § 808; 1987 c 202 § 128; 1957 c 51 § 1; 1903 c 41 § 1; 1886 p 40 § 6; RRS § 652; prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.060.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Intent--1987 c 202: See note following RCW 2.04.190.

Corporate surety--Insurance: Chapter 48.28 RCW.

Court may fix amount of bond in civil actions: RCW 4.44.470.

RCW 6.25.090 Bond--Additional security.

The defendant may, at any time before judgment, move the court or judge for additional security on the part of the plaintiff, or for security if none was required under RCW 6.25.080, and if, on such motion, the court or judge is satisfied that security or additional security should be required or that the surety in the plaintiff's bond has removed from this state or is not sufficient, the attachment may be vacated, and restitution directed of any property taken under it, unless in a reasonable time, to be fixed by the court or judge, further security is given by the plaintiff in form as provided in RCW 6.25.080.

[1987 c 442 § 809; 1886 p 40 § 7; RRS § 653. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.070.]

RCW 6.25.100 Action on bond--Damages and attorney's fees.

In an action on such bond, if it is shown that the attachment was wrongfully sued out, the defendant may recover the actual damages sustained and reasonable attorney's fees to be fixed by the court. If it is shown that such attachment was sued out maliciously, the defendant may recover exemplary damages, and the defendant need not wait until the principal suit is determined before suing on the bond.

[1987 c 442 § 810; 1886 p 41 § 8; RRS § 654. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.080.]

RCW 6.25.110 Contents of writ--Levy of attachment.

The writ of attachment shall be directed to the sheriff of any county in which property of the defendant may be, and shall require the sheriff to attach and safely keep the property of such defendant within the county, to the requisite amount, which shall be stated in conformity with the affidavit. The sheriff shall in all cases attach the amount of property directed, if sufficient property not exempted from execution be found in the county, giving that in which the defendant has a legal and unquestionable title a preference over that in which title is doubtful or only equitable, and the sheriff shall as nearly as the circumstances of the case will permit, levy upon

property fifty percent greater in valuation than the amount that the plaintiff in the affidavit claims to be due. When property is seized on attachment, the court may allow to the officer having charge thereof such compensation for the trouble and expenses in keeping the same as shall be reasonable and just.

[1987 c 442 § 811; 1886 p 41 § 9; RRS § 655. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.090.]

RCW 6.25.120 Writs to different counties--Successive writs.

If issuance of a writ of attachment has been ordered by the court in a case, other writs of attachment may be issued in the same case from the court to different counties, and several may, at the option of the plaintiff, be issued at the same time, or in succession and subsequently, until sufficient property has been attached; but only those executed shall be taxed in the costs, unless otherwise ordered by the court, and if more property is attached in the aggregate than the plaintiff is entitled to have held, the surplus must be abandoned and the plaintiff pay all costs incurred in relation to such surplus. After the first writ has issued, it shall not be necessary for the plaintiff to file any further affidavit or bond unless the court otherwise directs, but the plaintiff shall be entitled to as many writs as may be necessary to secure the amount claimed.

[1988 c 231 § 17; 1987 c 442 § 812; 1886 p 41 § 10; RRS § 656. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.100.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.25.130 Writ--Notation of time received--Order of execution.

The sheriff or other officer shall indorse upon the writ of attachment in ink the day, hour, and minute when the writ first came into the officer's hands. Where there are several attachments against the same defendant, they shall be executed in the order in which they were received by the sheriff.

[1987 c 442 § 813; 1886 p 41 § 11; RRS § 657. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.110.]

Notes:

Rules of court: Cf. CR 64.

RCW 6.25.140 Manner of levy.

The sheriff shall levy on property to be attached in the same manner as provided for execution in RCW 6.17.160, 6.17.170, and 6.17.180.

[1987 c 442 § 814.]

RCW 6.25.150 Property may be followed to adjoining county.

If, after an attachment has been placed in the hands of the sheriff, any property of the defendant is moved from the county, the sheriff may pursue and attach the property in an adjoining county within twenty-four hours after removal.

[1987 c 442 § 815; 1886 p 42 § 12; RRS § 658. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.120.]

RCW 6.25.160 Sheriff's inventory--Return.

The sheriff shall make a full inventory of the property attached and return the inventory with the writ of attachment within twenty days of receipt of the writ, with a return of the proceedings indorsed on or attached to the writ. If the writ was issued at the same time as the summons, the sheriff shall return the writ with the summons.

[1987 c 442 § 816; 1927 c 100 § 2; 1886 p 43 § 21; RRS § 666. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.200.]

RCW 6.25.170 Examination of defendant as to property.

Whenever it appears by the affidavit of the plaintiff that the plaintiff has probable cause to believe that a ground for attachment exists and it appears by the plaintiff's affidavit or by the return of the attachment that no property is known to the plaintiff or officer on which the attachment can be executed, or not enough to satisfy the plaintiff's claim, and it being shown to the court or judge by affidavit that the defendant has property within the state not exempted, the defendant may be required by such court or judge to attend before the court or judge or referee appointed by the court or judge and give information on oath respecting the property.

[1987 c 442 § 817; 1886 p 42 § 14; RRS § 660. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.140.]

RCW 6.25.180 Motion to discharge attachment--Affidavits in opposition--Discharge.

(1) The defendant may at any time, after appearing in the action and before giving bond as provided in RCW 6.25.190, apply on motion, upon reasonable notice to the plaintiff, to the court in which the action is brought or to the judge thereof, that the writ of attachment be discharged on the ground that it was improperly or irregularly issued.

(2) If the motion is made on affidavits on the part of the defendant, the plaintiff may oppose the same by affidavits in addition to those on which the attachment was issued or by other evidence, unless otherwise ordered by the court.

(3) If upon application it satisfactorily appears that the writ of attachment was improperly or irregularly issued, it must be discharged.

(4) Whenever an order has been made discharging or releasing an attachment upon real

property, a certified copy of such order may be recorded with the recording officer of the county in which the writ of attachment has been recorded.

[1987 c 442 § 818; 1927 c 131 § 1; 1886 p 45 § 31; RRS § 673. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.270.]

Notes:

Rules of court: CR 7(b), 64.

RCW 6.25.190 Discharge of attachment--Bond--Judgment on bond.

If the defendant, at any time before judgment, causes a bond to be executed to the plaintiff with sufficient sureties, to be approved by the officer having the attachment or after the return thereof by the clerk, conditional on the performance of the judgment of the court, the attachment shall be discharged and restitution made of property taken or proceeds thereof. The execution of such bond shall be deemed an appearance of such defendant to the action. The bond shall be part of the record and, if judgment goes against the defendant, the judgment shall be entered against the defendant and the sureties.

[1987 c 442 § 819; 1886 p 45 § 29; RRS § 671. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.250.]

RCW 6.25.200 Appointment of receiver for property.

The court before whom the action is pending may at any time appoint a receiver to take possession of property attached under the provisions of this chapter and to collect, manage, and control the property and pay over the proceeds according to the nature of the property and the exigency of the case.

[1987 c 442 § 820; 1957 c 9 § 9; 1886 p 42 § 15; RRS § 661. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.150.]

RCW 6.25.220 Sale of property before judgment.

If any property attached be perishable or in danger of serious and immediate waste or decay, the sheriff shall sell the same in the manner in which such property is sold on execution. Whenever it shall be made to appear satisfactorily to the court or judge that the interest of the parties to the action will be subserved by a sale of any attached property, the court or judge may order such property to be sold in the same manner as like property is sold under execution. Such order shall be made only upon notice to the adverse party or that party's attorney in case such party shall have been personally served with a summons in the action.

[1987 c 442 § 822; 1957 c 51 § 2; 1886 p 42 § 16; RRS § 662. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW

7.12.160.]

RCW 6.25.230 Custody of property or proceeds.

All moneys received by the sheriff under the provisions of this chapter shall be paid to the clerk of the court that issued the writ, to be held to be applied to any judgment that may be recovered in the action, and all other attached property shall be retained by the sheriff to be applied to any judgment that may be recovered in the action.

[1987 c 442 § 823; 1886 p 43 § 17; RRS § 663. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.170.]

RCW 6.25.240 Subjection of attached property to judgment.

If judgment is recovered by the plaintiff, it shall be paid out of any proceeds held by the clerk of the court and out of the property retained by the sheriff if it is sufficient for that purpose as follows:

(1) By applying on the execution issued on said judgment the proceeds of all sales of perishable or other property sold, or so much as shall be necessary to satisfy the judgment.

(2) If any balance remains due, the sheriff shall sell under the execution so much of the personal property attached as may be necessary to satisfy the balance and, if there is not sufficient personal property to satisfy the balance, the sheriff shall sell so much of any real property attached as is necessary to satisfy the judgment.

Notice of sale shall be given and sale conducted as in other cases of sales on execution.

[1987 c 442 § 824; 1957 c 51 § 4; 1886 p 44 § 25; RRS § 667. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.210.]

RCW 6.25.250 Procedure when attached property insufficient.

If, after the proceeds of all the property attached have been applied to the payment of the judgment, any balance remains due, the sheriff shall proceed as upon an execution in other cases. Whenever the judgment has been paid, the sheriff, upon reasonable demand, shall deliver to the defendant the attached property remaining and the clerk shall pay to the defendant any remaining proceeds of the property attached that have not been applied on the judgment.

[1987 c 442 § 825; 1957 c 51 § 5; 1886 p 44 § 26; RRS § 668. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.220.]

RCW 6.25.260 Procedure where execution unsatisfied.

If the execution is returned unsatisfied, in whole or in part, the plaintiff may proceed as in other cases upon the return of an execution.

[1987 c 442 § 826; 1886 p 45 § 27; RRS § 669. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.230.]

RCW 6.25.270 Procedure when judgment is for defendant.

If the defendant recovers judgment against the plaintiff, all the proceeds of sales and money collected by the sheriff and deposited with the clerk and all the property attached and retained by the sheriff shall be delivered to the defendant or the defendant's agent. The order of attachment shall be discharged and the property released therefrom.

[1987 c 442 § 827; 1886 p 45 § 28; RRS § 670. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.240.]

RCW 6.25.280 Chapter to be liberally construed--Amendments.

This chapter shall be liberally construed, and the plaintiff, at any time when objection is made thereto, shall be permitted to amend any defect in the complaint, affidavit, bond, writ or other proceeding, and no attachment shall be quashed or dismissed, or the property attached released, if the defect in any of the proceedings has been or can be amended so as to show that a legal cause for the attachment existed at the time it was issued, and the court shall give the plaintiff a reasonable time to perfect such defective proceedings.

[1987 c 442 § 828; 1886 p 46 § 35; RRS § 677. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.310.]

**Chapter 6.26 RCW
PREJUDGMENT GARNISHMENT**

Sections

6.26.010	Prejudgment writs of garnishment--Grounds.
6.26.020	Issuance of writ--Bond--Fee.
6.26.025	Writs of garnishment to different garnishees.
6.26.030	Action on bond for wrongful garnishment--Damages and attorney's fees.
6.26.040	Action against plaintiff for wrongful garnishment--Damages and attorney's fees.
6.26.050	Application for prejudgment writ of garnishment--Affidavit.
6.26.060	Issuance of writ--Notice--Hearing--Issuance without prior notice--Forms for notice.
6.26.070	Application of chapter 6.27 RCW to prejudgment garnishments.

Notes:

Rules of court: CR 64.

RCW 6.26.010 Prejudgment writs of garnishment--Grounds.

Except as limited by RCW 6.27.040, relating to the state and other public entities, and

RCW 6.27.330, relating to continuing liens on earnings, the plaintiff at the time of commencing an action, or at any time thereafter before judgment in an action, may obtain a prejudgment writ of garnishment from a superior or district court of this state before which the action is pending on the following grounds:

(1) If the writ is issued for a purpose other than garnishing a defendant's earnings as defined in RCW 6.27.010, (a) on the ground that an attachment has been issued in accordance with chapter 6.25 RCW, (b) on the ground that the plaintiff sues on a debt that is due and owing and unpaid, or (c) on one or more of the grounds for issuance of attachment stated in RCW 6.25.030 or 6.25.040; or

(2) If the writ is directed to an employer for the purpose of garnishing earnings of a defendant, on the grounds that the defendant:

(a) Is not a resident of this state, or is about to move from this state; or

(b) Has concealed himself or herself, absconded, or absented himself or herself so that ordinary process of law cannot be served on him or her; or

(c) Has removed or is about to remove any of his or her property from this state, with intent to delay or defraud his or her creditors.

[1988 c 231 § 18; 1987 c 442 § 901.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.26.020 Issuance of writ--Bond--Fee.

In all cases of garnishment before judgment, before the writ shall issue, the plaintiff shall pay the fee described in RCW 6.27.060 and shall execute and file with the clerk a bond with sufficient sureties, to be approved by the clerk of the court issuing the writ, payable to the defendant in the suit, in double the amount of the debt claimed therein, or such other amount as the court shall fix, conditioned that the plaintiff will prosecute the suit without delay and pay all damages and costs that may be adjudged against him or her for wrongfully suing out such garnishment.

[1988 c 231 § 19; 1987 c 442 § 902; 1969 ex.s. c 264 § 3. Formerly RCW 7.33.030.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.26.025 Writs of garnishment to different garnishees.

If issuance of a writ of garnishment or of a writ of attachment has been ordered by the court in a case, other writs of garnishment to different garnishees may be issued in the same case under the circumstances and restrictions stated in RCW 6.25.120 for issuance of successive writs of attachment.

[1988 c 231 § 21.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.26.030 Action on bond for wrongful garnishment--Damages and attorney's fees.

In an action on the bond under RCW 6.26.020, if it is shown that the garnishment was wrongfully sued out, the defendant may recover the actual damages sustained and reasonable attorney's fees to be fixed by the court. If it is shown that such garnishment was sued out maliciously, the defendant may also recover exemplary damages, and the defendant need not wait until the principal suit is determined before suing on the bond by counterclaim in the original action or in a separate action.

[1987 c 442 § 903.]

RCW 6.26.040 Action against plaintiff for wrongful garnishment--Damages and attorney's fees.

In all actions in which a prejudgment writ of garnishment has been issued by a court and served upon a garnishee, in the event judgment is not entered for the plaintiff on the claim sued upon by plaintiff, and the claim has not voluntarily been settled or otherwise satisfied, the defendant shall have an action for damages against the plaintiff. The defendant's action for damages may be brought by way of a counterclaim in the original action or in a separate action and, in the action the trier of fact, in addition to other actual damages sustained by the defendant, may award the defendant reasonable attorney's fees.

[1987 c 442 § 904; 1970 ex.s. c 61 § 4; 1969 ex.s. c 264 § 34. Formerly RCW 7.33.340.]

RCW 6.26.050 Application for prejudgment writ of garnishment--Affidavit.

The plaintiff or someone on the plaintiff's behalf shall apply for a prejudgment writ of garnishment by affidavit, alleging that the garnishment is not sought and the action is not prosecuted to hinder, delay, or defraud any creditor of the defendant and also alleging that the affiant has reason to believe and does believe the following, together with specific facts on which the affiant's belief in the allegations is based: (1) That the defendant is indebted to the plaintiff (specifying the nature of the claim and the amount of such indebtedness over and above all just credits and offsets); (2) that one or more of the grounds for prejudgment garnishment established in RCW 6.26.010 exists; (3) that the plaintiff has reason to believe, and does believe, that the garnishee, stating the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or that the garnishee has possession or control of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law; (4) whether or not the garnishee is the employer of the defendant; and (5) if the action is based on a debt not

due, that nothing but time is wanting to fix an absolute indebtedness due from the defendant.

[1987 c 442 § 905.]

RCW 6.26.060 Issuance of writ--Notice--Hearing--Issuance without prior notice--Forms for notice.

(1) When application is made for a prejudgment writ of garnishment, the court shall issue the writ in substantially the form prescribed in RCW 6.27.070 and 6.27.100 directing that the garnishee withhold an amount as prescribed in RCW 6.27.090, but, except as provided in subsection (2) of this section, the court shall issue the writ only after prior notice to the defendant, given in the manner prescribed in subsections (4) and (5) of this section, with an opportunity for a prior hearing at which the plaintiff shall establish the probable validity of the plaintiff's claim and that there is probable cause to believe that the alleged ground for garnishment exists.

(2) Subject to subsection (3) of this section, the court shall issue the writ without prior notice to the defendant and without an opportunity for a prior hearing only if:

(a) A ground alleged in the plaintiff's affidavit is: (i) A ground appearing in RCW 6.26.010(2)(c) if the writ is to be directed to an employer for the purpose of garnishing the defendant's earnings; or (ii) a ground appearing in RCW 6.25.030 (5) through (7) or in RCW 6.25.040(1) of the attachment chapter; or (iii) if garnishment is necessary to permit the court to acquire jurisdiction over the action, the ground alleged is one appearing in RCW 6.25.030 (1) through (4) or in RCW 6.26.010(2) (a) or (b); and

(b) The court finds on the basis of specific facts, after an ex parte hearing, that there is probable cause to believe the allegations of the plaintiff's affidavit.

(3) If a writ is issued under subsection (2) of this section without prior notice to the defendant, after service of the writ on the garnishee, the defendant shall be entitled to prompt notice of the garnishment and a right to an early hearing, if requested, at which the plaintiff shall establish the probable validity of the claim sued on and that there is probable cause to believe that the alleged ground for garnishment exists.

(4) When notice and a hearing are required under this section, notice may be given by a show cause order stating the date, time, and place of the hearing. Notice required under this section shall be jurisdictional and, except as provided for published notice in subsection (5) of this section, notice required under this section shall be served in the same manner as a summons in a civil action and shall be served together with (a) a copy of plaintiff's affidavit and a copy of the writ if already issued, and (b) a copy of the following "Notice of Right to a Hearing" in substantially the following form or, if defendant is an individual, a copy of the claim form and the "Notice of Garnishment and of Your Rights" prescribed by RCW 6.27.140, in which the following notice is substituted for the first paragraph of said Notice:

NOTICE OF RIGHT TO HEARING

A writ of garnishment has been or will be issued by a Washington court and has been or will be served on the garnishee defendant. It will require the garnishee defendant to withhold payment of money that may be due to you and to withhold other property of yours that the garnishee may hold or control until a lawsuit in which you are a defendant has been decided by the court. Service of this notice of your rights is required by law.

YOU HAVE A RIGHT TO A PROMPT HEARING. If notice of a hearing date and time is not served with this notice, you have the right to request the hearing. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the statements in the enclosed affidavit are true and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

(5) If service of notice on the defendant must be effected by publication, only the following notice need be published under the caption of the case:

To, Defendant:

A writ of prejudgment garnishment has been issued in the above captioned case, directed to as Garnishee Defendant, commanding the Garnishee to withhold amounts due you or to withhold any of your property in the Garnishee's possession or control for application to any judgment that may be entered for plaintiff in the case.

YOU HAVE A RIGHT TO ASK FOR A HEARING. At the hearing, the plaintiff must give evidence that there is probable cause to believe that the ground for garnishment alleged in an affidavit filed with the court exists and also that the claim stated in the lawsuit is probably valid, or else the garnishment will be released.

If the defendant is an individual, the following paragraph shall be added to the published notice:

YOU MAY ALSO HAVE A RIGHT TO HAVE THE GARNISHMENT RELEASED if amounts or property withheld are exempt under federal or state statutes, for example, bank accounts in which benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, United States pension, Unemployment Compensation, or Veterans' benefits have been deposited or certain personal property described in section 6.15.010 of the Revised Code of Washington.

[1997 c 59 § 1; 1988 c 231 § 20; 1987 c 442 § 906.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.26.070 Application of chapter 6.27 RCW to prejudgment garnishments.

Except as otherwise provided, the provisions of chapter 6.27 RCW governing garnishments apply to prejudgment garnishments.

[1987 c 442 § 907.]

**Chapter 6.27 RCW
GARNISHMENT**

Sections

6.27.005	Legislative intent.
6.27.010	Definitions.
6.27.020	Grounds for issuance of writ--Time of issuance of prejudgment writs.
6.27.030	Application of chapter to district courts.
6.27.040	State and municipal corporations subject to garnishment--Service of writ.
6.27.050	Garnishment of money held by officer--Of judgment debtor--Of personal representative.
6.27.060	Application for writ--Affidavit--Fee.
6.27.070	Issuance of writ--Form--Dating--Attestation.
6.27.080	Writ directed to financial institution--Form and service.
6.27.090	Amount garnishee required to hold.
6.27.095	Garnishee's processing fees.
6.27.100	Form of writ.
6.27.110	Service of writ generally--Forms--Requirements for financial institution--Return.
6.27.120	Effect of service of writ.
6.27.130	Mailing of writ and judgment or affidavit to judgment debtor--Mailing of notice and claim form if judgment debtor is an individual--Service--Return.
6.27.140	Form of returns under RCW 6.27.130.
6.27.150	Exemption of earnings--Amount.
6.27.160	Claiming exemptions--Form--Hearing--Attorney's fees--Costs--Release of funds or property.
6.27.170	Garnished employee not to be discharged--Exception.
6.27.175	Employee separated from employment due to wage garnishment not disqualified for unemployment compensation.
6.27.180	Bond to discharge writ.
6.27.190	Answer of garnishee--Contents--Forms.
6.27.200	Default judgment--Reduction upon motion of garnishee--Attorney's fees.
6.27.210	Answer of garnishee may be controverted by plaintiff or defendant.
6.27.220	Controversion--Procedure.
6.27.230	Controversion--Costs and attorney's fees.
6.27.240	Discharge of garnishee.
6.27.250	Judgment against garnishee--Procedure if debt not mature.
6.27.260	Execution on judgment against garnishee.
6.27.265	Form for judgment against garnishee.
6.27.270	Decree directing garnishee to deliver up effects--Disposition.

6.27.280	Procedure upon failure of garnishee to deliver.
6.27.290	Similarity of names--Procedure.
6.27.300	Garnishee protected against claim of defendant.
6.27.310	Dismissal of writ after one year--Notice--Exception.
6.27.320	Dismissal of garnishment upon satisfaction of judgment from other source--Duty of plaintiff--Procedure--Penalty--Costs.
6.27.330	Continuing lien on earnings--Authorized.
6.27.340	Continuing lien on earnings--Captions--Additions to writ and answer forms.
6.27.350	Continuing lien on earnings--When lien becomes effective--Termination--Second answer.
6.27.360	Continuing lien on earnings--Priorities--Exceptions.
6.27.370	Notice to federal government as garnishee defendant--Deposit, payment, and endorsement of funds received by the clerk--Fees as recoverable cost.

Notes:

Rules of court: CR 64.

RCW 6.27.005 Legislative intent.

The legislature recognizes that a garnishee has no responsibility for the situation leading to the garnishment of a debtor's wages, funds, or other property, but that the garnishment process is necessary for the enforcement of obligations debtors otherwise fail to honor, and that garnishment procedures benefit the state and the business community as creditors. The state should take whatever measures that are reasonably necessary to reduce or offset the administrative burden on the garnishee consistent with the goal of effectively enforcing the debtor's unpaid obligations.

[2000 c 72 § 1; 1998 c 227 § 1; 1997 c 296 § 1.]

RCW 6.27.010 Definitions.

(1) As used in this chapter, the term "earnings" means compensation paid or payable to an individual for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(2) As used in this chapter, the term "disposable earnings" means that part of earnings remaining after the deduction from those earnings of any amounts required by law to be withheld.

[1987 c 442 § 1001.]

RCW 6.27.020 Grounds for issuance of writ--Time of issuance of prejudgment writs.

(1) The clerks of the superior courts and district courts of this state may issue writs of garnishment returnable to their respective courts for the benefit of a judgment creditor who has a judgment wholly or partially unsatisfied in the court from which the garnishment is sought.

(2) Except as otherwise provided in RCW 6.27.040 and 6.27.330, the superior courts and

district courts of this state may issue prejudgment writs of garnishment to a plaintiff at the time of commencement of an action or at any time afterward, subject to the requirements of chapter 6.26 RCW.

[1987 c 442 § 1002; 1969 ex.s. c 264 § 1. Formerly RCW 7.33.010.]

Notes:

Rules of court: *Cf. CR 64.*

RCW 6.27.030 Application of chapter to district courts.

All the provisions of this chapter shall apply to proceedings before district courts of this state.

[1987 c 442 § 1003; 1969 ex.s. c 264 § 2. Formerly RCW 7.33.020.]

RCW 6.27.040 State and municipal corporations subject to garnishment--Service of writ.

The state of Washington, all counties, cities, towns, school districts and other municipal corporations shall be subject to garnishment after judgment has been entered in the principal action, but not before, in the superior and district courts, in the same manner and with the same effect, as provided in the case of other garnishees.

The venue of any such garnishment proceeding shall be the same as for the original action, and the writ shall be issued by the clerk of the court having jurisdiction of such original action.

The writ of garnishment shall be served in the same manner and upon the same officer as is required for service of summons upon the commencement of a civil action against the state, county, city, town, school district, or other municipal corporation, as the case may be.

[1987 c 442 § 1004; 1987 c 202 § 134; 1969 ex.s. c 264 § 6. Formerly RCW 7.33.060.]

Notes:

Reviser's note: This section, previously codified as RCW 7.33.060, was amended by 1987 c 202 § 134 and by 1987 c 442 § 1004, each without reference to the other. Chapter 442 also directed that RCW 7.33.060 be recodified. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 6.27.050 Garnishment of money held by officer--Of judgment debtor--Of personal representative.

A sheriff or other peace officer who holds money of the defendant is subject to garnishment, excepting only for money or property taken from a person arrested by such officer, at the time of the arrest. A judgment debtor of the defendant is subject to garnishment when the judgment has not been previously assigned on the record or by writing filed in the office of the

clerk of the court that entered the judgment and minuted by the clerk as an assignment in the execution docket. An executor or administrator is subject to garnishment for money due from the decedent to the defendant.

[1987 c 442 § 1005; 1927 c 101 § 1; 1886 p 43 § 19; RRS § 664. Prior: Code 1881 §§ 174-192; 1877 pp 35-40; 1873 pp 43-50; 1871 pp 9, 10; 1869 pp 41-47; 1863 pp 112-120; 1860 pp 30-36; 1854 pp 155-162. Formerly RCW 7.12.180.]

RCW 6.27.060 Application for writ--Affidavit--Fee.

The judgment creditor as the plaintiff or someone in the judgment creditor's behalf shall apply for a writ of garnishment by affidavit, stating the following facts: (1) The plaintiff has a judgment wholly or partially unsatisfied in the court from which the writ is sought; (2) the amount alleged to be due under that judgment; (3) the plaintiff has reason to believe, and does believe that the garnishee, stating the garnishee's name and residence or place of business, is indebted to the defendant in amounts exceeding those exempted from garnishment by any state or federal law, or that the garnishee has possession or control of personal property or effects belonging to the defendant which are not exempted from garnishment by any state or federal law; and (4) whether or not the garnishee is the employer of the judgment debtor.

The judgment creditor shall pay to the clerk of the superior court the fee provided by RCW 36.18.020, or to the clerk of the district court the fee of two dollars.

[1988 c 231 § 22. Prior: 1987 c 442 § 1006; 1987 c 202 § 133; 1981 c 193 § 3; 1977 ex.s. c 55 § 1; 1969 ex.s. c 264 § 4. Formerly RCW 7.33.040.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 6.27.070 Issuance of writ--Form--Dating--Attestation.

When application for a writ of garnishment is made by a judgment creditor and the requirements of RCW 6.27.060 have been complied with, the clerk shall docket the case in the names of the judgment creditor as plaintiff, the judgment debtor as defendant, and the garnishee as garnishee defendant, and shall immediately issue and deliver a writ of garnishment to the judgment creditor in the form prescribed in RCW 6.27.100, directed to the garnishee, commanding the garnishee to answer said writ on forms served with the writ and complying with RCW 6.27.190 within twenty days after the service of the writ upon the garnishee.

The writ of garnishment shall be dated and attested as in the form prescribed in RCW 6.27.100. The name and office address of the plaintiff's attorney shall be indorsed thereon or, in case the plaintiff has no attorney, the name and address of the plaintiff shall be indorsed thereon. The address of the clerk's office shall appear at the bottom of the writ.

[1987 c 442 § 1007; 1970 ex.s. c 61 § 1. Prior: 1969 ex.s. c 264 § 5. Formerly RCW 7.33.050.]

RCW 6.27.080 Writ directed to financial institution--Form and service.

(1) A writ of garnishment directed to a bank, savings and loan association, or credit union that maintains branch offices shall identify either a particular branch of the financial institution or the financial institution as the garnishee defendant. The head office of a financial institution shall be considered a separate branch for purposes of this section. The statement required by subsection (2) of this section may be incorporated in the writ or served separately.

(2) Service shall be as required by RCW 6.27.110 (1) and (3) and shall be by certified mail, return receipt requested, directed to or by personal service, in the same manner as a summons in a civil action is served, on the manager, cashier, or assistant cashier of the financial institution, except that, if the financial institution, and not a branch, is named as garnishee defendant, service shall be either on the head office or on the place designated by the financial institution for receipt of service of process. There shall be served with the writ, as part of the service, a statement in writing signed by the plaintiff or plaintiff's attorney, stating (a) the defendant's place of residence and business, occupation, trade, or profession, or (b) the defendant's federal tax identification number, or (c) the defendant's account number, if such information is not incorporated in the writ. If the statement is not served with the writ and such information is not included in the writ, the service shall be deemed incomplete and the garnishee shall not be held liable for funds owing to the defendant or property of the defendant in the possession of or under the control of the garnishee defendant that it fails to discover.

(3) A writ naming the financial institution as the garnishee defendant shall be effective only to attach deposits of the defendant in the financial institution and compensation payable for personal services due the defendant from the financial institution. A writ naming a branch as garnishee defendant shall be effective only to attach the deposits, accounts, credits, or other personal property of the defendant (excluding compensation payable for personal services) in the possession or control of the particular branch to which the writ is directed and on which service is made.

A writ of garnishment is effective against property in the possession or control of a financial institution only if the writ of garnishment is directed to and names a branch as garnishee defendant.

[1988 c 231 § 23; 1987 c 442 § 1008.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.090 Amount garnishee required to hold.

(1) The writ of garnishment shall set forth in the first paragraph the amount that garnishee is required to hold, which shall be an amount determined as follows: (a)(i) If after judgment, the amount of the judgment remaining unsatisfied on the clerk of the court's execution docket, if any, plus interest to the date of garnishment, as provided in RCW 4.56.110, plus taxable costs and attorney's fees, or (ii) if before judgment, the amount prayed for in the complaint plus estimated

original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, in the envelopes provided.

If, at the time this writ was served, you owed the defendant any earnings (that is, wages, salary, commission, bonus, or other compensation for personal services or any periodic payments pursuant to a pension or retirement program), the defendant is entitled to receive amounts that are exempt from garnishment under federal and state law. You must pay the exempt amounts to the defendant on the day you would customarily pay the compensation or other periodic payment. As more fully explained in the answer, the basic exempt amount is the greater of seventy-five percent of disposable earnings or a minimum amount determined by reference to the employee's pay period, to be calculated as provided in the answer. However, if this writ carries a statement in the heading that "This garnishment is based on a judgment or court order for child support," the basic exempt amount is forty percent of disposable earnings.

IF THIS IS A WRIT FOR A CONTINUING LIEN ON EARNINGS, YOU MAY DEDUCT A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER WITHHOLDING UNDER THIS WRIT. THE PROCESSING FEE MAY NOT EXCEED TWENTY DOLLARS FOR THE FIRST ANSWER AND TEN DOLLARS AT THE TIME YOU SUBMIT THE SECOND ANSWER.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED

THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable, Judge of the above-entitled Court, and the seal thereof, this day of, 20. . .

[Seal]

.....
Attorney for Clerk of the
Plaintiff (or Court
Plaintiff, if no
attorney)

.....
Address By
.....
Address"

[2000 c 72 § 3; 1998 c 227 § 3; 1997 c 296 § 2; 1988 c 231 § 25; 1987 c 442 § 1010; 1981 c 193 § 4; 1969 ex.s. c 264 § 11. Formerly RCW 7.33.110.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.110 Service of writ generally--Forms--Requirements for financial institution--Return.

(1) Service of the writ of garnishment on the garnishee is invalid unless the writ is served together with: (a) Four answer forms as prescribed in RCW 6.27.190; (b) three stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if the plaintiff has no attorney), and the defendant; and (c) check or money order made payable to the garnishee in the amount of twenty dollars for the answer fee if the writ of garnishment is not a writ for a continuing lien on earnings.

(2) Except as provided in RCW 6.27.080 for service on a bank, savings and loan association, or credit union, the writ of garnishment shall be mailed to the garnishee by certified mail, return receipt requested, addressed in the same manner as a summons in a civil action, and will be binding upon the garnishee on the day set forth on the return receipt. In the alternative,

the writ shall be served by the sheriff of the county in which the garnishee lives or has its place of business or by any person qualified to serve process in the same manner as a summons in a civil action is served.

(3) If a writ of garnishment is served by a sheriff, the sheriff shall file with the clerk of the court that issued the writ a signed return showing the time, place, and manner of service and that the writ was accompanied by answer forms, addressed envelopes, and check or money order if required by this section, and noting thereon fees for making the service. If service is made by any person other than a sheriff, such person shall file an affidavit including the same information and showing qualifications to make such service. If a writ of garnishment is served by mail, the person making the mailing shall file an affidavit showing the time, place, and manner of mailing and that the writ was accompanied by answer forms and addressed envelopes, and check or money order if required by this section, and shall attach the return receipt to the affidavit.

[1998 c 227 § 4; 1997 c 296 § 4; 1988 c 231 § 26; 1987 c 442 § 1011; 1981 c 193 § 5; 1971 ex.s. c 292 § 8; 1970 ex.s. c 61 § 11; 1969 ex.s. c 264 § 13. Formerly RCW 7.33.130.]

Notes:

Rules of court: *Cf. SPR 91.04W(a), (b), and (e).*

Severability--1988 c 231: See note following RCW 6.01.050.

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.

RCW 6.27.120 Effect of service of writ.

(1) From and after the service of a writ of garnishment, it shall not be lawful, except as provided in this chapter or as directed by the court, for the garnishee to pay any debt owing to the defendant at the time of such service, or to deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects belonging to the defendant in the garnishee's possession or under the garnishee's control at the time of such service; and any such payment, delivery, sale or transfer shall be void and of no effect as to so much of said debt, personal property or effects as may be necessary to satisfy the plaintiff's demand.

(2) This section shall have no effect as to any portion of a debt that is exempt from garnishment.

(3) The garnishee shall incur no liability for releasing funds or property in excess of the amount stated in the writ of garnishment if the garnishee continues to hold an amount equal to the amount stated in the writ of garnishment.

[1987 c 442 § 1012; 1969 ex.s. c 264 § 14. Formerly RCW 7.33.140.]

RCW 6.27.130 Mailing of writ and judgment or affidavit to judgment debtor--Mailing of notice and claim form if judgment debtor is an individual--Service--Return.

(1) When a writ is issued under a judgment, on or before the date of service of the writ on the garnishee, the judgment creditor shall mail or cause to be mailed to the judgment debtor, by

certified mail, addressed to the last known post office address of the judgment debtor, (a) a copy of the writ and a copy of the judgment or, if it is a district court judgment, a copy of the judgment creditor's affidavit submitted in application for the writ, and (b) if the judgment debtor is an individual, the notice and claim form prescribed in RCW 6.27.140. In the alternative, on or before the day of the service of the writ on the garnishee or within two days thereafter, the stated documents shall be served on the judgment debtor in the same manner as is required for personal service of summons upon a party to an action.

(2) The requirements of this section shall not be jurisdictional, but (a) no disbursement order or judgment against the garnishee defendant shall be entered unless there is on file the return or affidavit of service or mailing required by subsection (3) of this section, and (b) if the copies of the writ and judgment or affidavit, and the notice and claim form if the defendant is an individual, are not mailed or served as herein provided, or if any irregularity appears with respect to the mailing or service, the court, in its discretion, on motion of the judgment debtor promptly made and supported by affidavit showing that the judgment debtor has suffered substantial injury from the plaintiff's failure to mail or otherwise to serve such copies, may set aside the garnishment and award to the judgment debtor an amount equal to the damages suffered because of such failure.

(3) If the service on the judgment debtor is made by a sheriff, the sheriff shall file with the clerk of the court that issued the writ a signed return showing the time, place, and manner of service and that the copy of the writ was accompanied by a copy of a judgment or affidavit, and by a notice and claim form if required by this section, and shall note thereon fees for making such service. If service is made by any person other than a sheriff, such person shall file an affidavit including the same information and showing qualifications to make such service. If service on the judgment debtor is made by mail, the person making the mailing shall file an affidavit including the same information as required for return on service and, in addition, showing the address of the mailing and attaching the return receipt or the mailing should it be returned to the sender as undeliverable.

[1988 c 231 § 27; 1987 c 442 § 1013; 1969 ex.s. c 264 § 32. Formerly RCW 7.33.320.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.140 Form of returns under RCW 6.27.130.

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

NOTICE OF GARNISHMENT
AND OF YOUR RIGHTS

A Writ of Garnishment issued by a Washington court has been or will be served

on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse or dependent child, you are entitled to claim an additional ten percent as exempt.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts up to five hundred dollars of property of your choice (including up to one hundred dollars in cash or in a bank account) and certain property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor
or plaintiff before mailing.]

.....
Name of Court

..... No

Plaintiff,
vs.

..... EXEMPTION CLAIM
Defendant,

.....
Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines.
2. Make two copies of the completed form. Deliver the original form by first class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS)

AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

The account contains payments from:

- Temporary assistance for needy families, SSI, or other public assistance. I receive \$ monthly.
- Social Security. I receive \$ monthly.
- Veterans' Benefits. I receive \$ monthly.
- U.S. Government Pension. I receive \$ monthly.
- Unemployment Compensation. I receive \$ monthly.
- Child support. I receive \$ monthly.
- Other. Explain
.....
.....

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- No money other than from above payments are in the account.
- Moneys in addition to the above payments have been deposited in the account. Explain
.....
.....

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- I claim maximum exemption.
- I am supporting another child or other children.
- I am supporting a husband or a wife.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

Name and address of employer who is paying the benefits:
.....

29 of the United States Code in effect at the time the earnings are payable; or

(b) Seventy-five percent of the disposable earnings of the defendant.

(2) In the case of a garnishment based on a judgment or other court order for child support or court order for spousal maintenance, other than a mandatory wage assignment order pursuant to chapter 26.18 RCW, or a mandatory assignment of retirement benefits pursuant to chapter 41.50 RCW, the exemption shall be fifty percent of the disposable earnings of the defendant if the individual is supporting a spouse or dependent child (other than a spouse or child on whose behalf the garnishment is brought), or forty percent of the disposable earnings of the defendant if the individual is not supporting such a spouse or dependent child.

(3) The exemptions stated in this section shall apply whether such earnings are paid, or are to be paid, weekly, monthly, or at other intervals, and whether earnings are due the defendant for one week, a portion thereof, or for a longer period.

(4) Unless directed otherwise by the court, the garnishee shall determine and deduct exempt amounts under this section as directed in the writ of garnishment and answer, and shall pay these amounts to the defendant.

(5) No money due or earned as earnings as defined in RCW 6.27.010 shall be exempt from garnishment under the provisions of RCW 6.15.010, as now or hereafter amended.

[1991 c 365 § 26; 1987 c 442 § 1015; 1981 c 193 § 6; 1971 c 6 § 1; 1970 ex.s. c 61 § 3; 1969 ex.s. c 264 § 28. Formerly RCW 7.33.280.]

Notes:

Severability--1991 c 365: See note following RCW 41.50.500.

RCW 6.27.160 Claiming exemptions--Form--Hearing--Attorney's fees--Costs--Release of funds or property.

(1) A defendant may claim exemptions from garnishment in the manner specified by the statute that creates the exemption or by delivering to or mailing by first class mail to the clerk of the court out of which the writ was issued a declaration in substantially the following form or in the form set forth in RCW 6.27.140 and mailing a copy of the form by first class mail to the plaintiff or plaintiff's attorney at the address shown on the writ of garnishment, all not later than twenty-eight days after the date stated on the writ except that the time shall be extended to allow a declaration mailed or delivered to the clerk within twenty-one days after service of the writ on the garnishee if service on the garnishee is delayed more than seven days after the date of the writ.

[NAME OF COURT]

..... No.
Plaintiff

.....

Defendant

..... CLAIM OF EXEMPTION

Garnishee

I/We claim the following described property or money as exempt from execution:

.....
.....
.....

I/We believe the property is exempt because:

.....
.....
.....

Print name

Print name of spouse,
if married

.....
Signature

.....
Signature

.....
Address

.....
Address

.....
Telephone number

.....
Telephone number

(2) A plaintiff who wishes to object to an exemption claim must, not later than seven days after receipt of the claim, cause to be delivered or mailed to the defendant by first class mail, to the address shown on the exemption claim, a declaration by self, attorney, or agent, alleging the facts on which the objection is based, together with notice of date, time, and place of a hearing on the objection, which hearing the plaintiff must cause to be noted for a hearing date not later than fourteen days after the receipt of the claim. After a hearing on an objection to an exemption claim, the court shall award costs to the prevailing party and may also award an attorney's fee to the prevailing party if the court concludes that the exemption claim or the objection to the claim was not made in good faith.

(3) If the plaintiff elects not to object to the claim of exemption, the plaintiff shall, not later than ten days after receipt of the claim, obtain from the court and deliver to the garnishee an

order directing the garnishee to release such part of the debt, property, or effects as is covered by the exemption claim. If the plaintiff fails to obtain and deliver the order as required or otherwise to effect release of the exempt funds or property, the defendant shall be entitled to recover fifty dollars from the plaintiff, in addition to actual damages suffered by the defendant from the failure to release the exempt property.

[1988 c 231 § 28; 1987 c 442 § 1016.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.170 Garnished employee not to be discharged--Exception.

No employer shall discharge an employee for the reason that a creditor of the employee has subjected or attempted to subject unpaid earnings of the employee to a writ of garnishment directed to the employer: PROVIDED, HOWEVER, That this provision shall not apply if garnishments on three or more separate indebtednesses are served upon the employer within any period of twelve consecutive months.

[1987 c 442 § 1017; 1969 ex.s. c 264 § 16. Formerly RCW 7.33.160.]

RCW 6.27.175 Employee separated from employment due to wage garnishment not disqualified for unemployment compensation.

See RCW 50.20.045.

RCW 6.27.180 Bond to discharge writ.

If the defendant in the principal action causes a bond to be executed to the plaintiff with sufficient sureties, to be approved by the officer having the writ of garnishment or by the clerk of the court out of which the writ was issued, conditioned that the defendant will perform the judgment of the court, the writ of garnishment shall, upon the filing of said bond with the clerk, be immediately discharged, and all proceedings under the writ shall be vacated: PROVIDED, That the garnishee shall not be thereby deprived from recovering any costs in said proceeding, to which the garnishee would otherwise be entitled under this chapter. The bond shall be part of the record and, if judgment is against the defendant, it shall be entered against defendant and the sureties.

[1988 c 231 § 29; 1987 c 442 § 1018; 1969 ex.s. c 264 § 17. Formerly RCW 7.33.170.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.190 Answer of garnishee--Contents--Forms.

The answer of the garnishee shall be signed by the garnishee or attorney or if the

garnishee is a corporation, by an officer, attorney or duly authorized agent of the garnishee, under penalty of perjury, and the original delivered, either personally or by mail, to the clerk of the court that issued the writ, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant. The answer shall be made on a form substantially as appears in this section, served on the garnishee with the writ, with minimum exemption amounts for the different pay periods filled in by the plaintiff before service of the answer forms: PROVIDED, That, if the garnishment is for a continuing lien, the answer forms shall be as prescribed in RCW 6.27.340 and 6.27.350: AND PROVIDED FURTHER, That if the writ is not directed to an employer for the purpose of garnishing the defendant's wages, paragraphs relating to the earnings exemptions may be omitted.

IN THE COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF

..... NO.
Plaintiff
vs.
..... ANSWER
Defendant TO WRIT OF
..... GARNISHMENT
.....
Garnishee Defendant

On the date the writ of garnishment was issued by the court as indicated by the date appearing on the last page of the writ, defendant (check one) . . . was . . . was not employed by garnishee; defendant (check one) . . . did . . . did not maintain a financial account with garnishee; and garnishee (check one) . . . did . . . did not have possession of or control over any funds, personal property, or effects of defendant.

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant \$ (On the reverse side of this answer form, or on an attached page, give an explanation of the dollar amount stated, or give reasons why there is uncertainty about your answer.)

If the above amount or any part of it is for personal earnings (that is, compensation payable for personal services, whether called wages, salary, commission, bonus, or otherwise, and including periodic payments pursuant to a pension or retirement program): Garnishee has deducted from this amount \$ which is the exemption to which the defendant is entitled, leaving \$ that garnishee holds under the writ. The exempt amount is calculated as follows:

Total compensation due defendant \$
LESS deductions for social security and

withholding taxes and any other deduction required by law (list separately and identify)	\$
Disposable earnings	\$

If the title of this writ indicates that this is a garnishment under a child support judgment, enter forty percent of disposable earnings: \$ This amount is exempt and must be paid to the defendant at the regular pay time after deducting any processing fee you may charge.

If this is not a garnishment for child support, enter seventy-five percent of disposable earnings: \$ From the listing in the following paragraph, choose the amount for the relevant pay period and enter that amount: \$ (If amounts for more than one pay period are due, multiply the preceding amount by the number of pay periods and/or fraction of pay period for which amounts are due and enter that amount: \$) The greater of the amounts entered in this paragraph is the exempt amount and must be paid to the defendant at the regular pay time after deducting any processing fee you may charge.

Minimum exempt amounts for different pay periods: Weekly \$; Biweekly \$; Semimonthly \$; Monthly \$

List all of the personal property or effects of defendant in the garnishee's possession or control when the writ was served. (Use the reverse side of this answer form or attach a schedule if necessary.)

An attorney may answer for the garnishee.

Under penalty of perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

.....
Signature of Garnishee Defendant	Date

.....
Signature of person answering for garnishee	Connection with garnishee

.....

 Address of Garnishee

[2000 c 72 § 4; 1997 c 296 § 5; 1988 c 231 § 30; 1987 c 442 § 1019; 1969 ex.s. c 264 § 15. Formerly RCW 7.33.150.]

Notes:

Rules of court: *Cf. SPR 91.04W(c).*

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.200 Default judgment--Reduction upon motion of garnishee--Attorney's fees.

If the garnishee fails to answer the writ within the time prescribed in the writ, after the time to answer the writ has expired and after required returns or affidavits have been filed, showing service on the garnishee and service on or mailing to the defendant, it shall be lawful for the court to render judgment by default against such garnishee, after providing a notice to the garnishee by personal service or first class mail deposited in the mail at least ten calendar days prior to entry of the judgment, for the full amount claimed by the plaintiff against the defendant, or in case the plaintiff has a judgment against the defendant, for the full amount of the plaintiff's unpaid judgment against the defendant with all accruing interest and costs as prescribed in RCW 6.27.090: PROVIDED, That upon motion by the garnishee at any time within seven days following service on, or mailing to, the garnishee of a copy of a writ of execution or a writ of garnishment under such judgment, the judgment against the garnishee shall be reduced to the amount of any nonexempt funds or property which was actually in the possession of the garnishee at the time the writ was served, plus the cumulative amount of the nonexempt earnings subject to the lien provided for in RCW 6.27.350, or the sum of one hundred dollars, whichever is more, but in no event to exceed the full amount claimed by the plaintiff or the amount of the unpaid judgment against the principal defendant plus all accruing interest and costs and attorney's fees as prescribed in RCW 6.27.090, and in addition the plaintiff shall be entitled to a reasonable attorney's fee for the plaintiff's response to the garnishee's motion to reduce said judgment against the garnishee under this proviso and the court may allow additional attorney's fees for other actions taken because of the garnishee's failure to answer.

[1997 c 296 § 6; 1988 c 231 § 31; 1987 c 442 § 1020; 1970 ex.s. c 61 § 10; 1969 ex.s. c 264 § 19. Formerly RCW 7.33.190.]

Notes:

Rules of court: *CR 55, JCR 55.*

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.210 Answer of garnishee may be controverted by plaintiff or defendant.

If the garnishee files an answer, either the plaintiff or the defendant, if not satisfied with the answer of the garnishee, may controvert within twenty days after the filing of the answer, by filing an affidavit in writing signed by the controverting party or attorney or agent, stating that the affiant has good reason to believe and does believe that the answer of the garnishee is incorrect, stating in what particulars the affiant believes the same is incorrect. Copies of the affidavit shall be served on or mailed by first class mail to the garnishee at the address indicated on the answer

or, if no address is indicated, at the address to or at which the writ was mailed or served, and to the other party, at the address shown on the writ if the defendant controverts, or at the address to or at which the copy of the writ of garnishment was mailed or served on the defendant if the plaintiff controverts, unless otherwise directed in writing by the defendant or defendant's attorney.

[1987 c 442 § 1021; 1969 ex.s. c 264 § 24. Formerly RCW 7.33.240.]

RCW 6.27.220 Controversion--Procedure.

If the answer of the garnishee is controverted, as provided in RCW 6.27.210, the garnishee may respond by affidavit of the garnishee, the garnishee's attorney or agent, within twenty days of the filing of the controverting affidavit, with copies served on or mailed by first class mail to the plaintiff at the address shown on the writ and to the defendant as provided in RCW 6.27.210. Upon the expiration of the time for garnishee's response, the matter may be noted by any party for hearing before a commissioner or presiding judge for a determination whether an issue is presented that requires a trial. If a trial is required, it shall be noted as in other cases, but no pleadings shall be necessary on such issue other than the affidavit of the plaintiff, the answer of the garnishee and the reply of the plaintiff or defendant controverting such answer, unless otherwise ordered by the court.

[1987 c 442 § 1022; 1969 ex.s. c 264 § 26. Formerly RCW 7.33.260.]

RCW 6.27.230 Controversion--Costs and attorney's fees.

Where the answer is controverted, the costs of the proceeding, including a reasonable compensation for attorney's fees, shall be awarded to the prevailing party: PROVIDED, That no costs or attorney's fees in such contest shall be taxable to the defendant in the event of a controversion by the plaintiff.

[1987 c 442 § 1023; 1969 ex.s. c 264 § 29. Formerly RCW 7.33.290.]

RCW 6.27.240 Discharge of garnishee.

If it appears from the answer of the garnishee that the garnishee was not indebted to the defendant when the writ of garnishment was served, and that the garnishee did not have possession or control of any personal property or effects of the defendant, and if an affidavit controverting the answer of the garnishee is not filed within twenty days of the filing of the answer, as provided in this chapter, the garnishee shall stand discharged without further action by the court or the garnishee and shall have no further liability.

[1987 c 442 § 1024; 1969 ex.s. c 264 § 18. Formerly RCW 7.33.180.]

RCW 6.27.250 Judgment against garnishee--Procedure if debt not mature.

(1)(a) If it appears from the answer of the garnishee or if it is otherwise made to appear that the garnishee was indebted to the defendant in any amount, not exempt, when the writ of garnishment was served, and if the required return or affidavit showing service on or mailing to the defendant is on file, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due to the defendant from the garnishee, unless such amount exceeds the amount of the plaintiff's claim or judgment against the defendant with accruing interest and costs and attorney's fees as prescribed in RCW 6.27.090, in which case it shall be for the amount of such claim or judgment, with said interest, costs, and fees. In the case of a superior court garnishment, the court shall order the garnishee to pay to the plaintiff through the registry of the court the amount of the judgment against the garnishee, the clerk of the court shall note receipt of any such payment, and the clerk of the court shall disburse the payment to the plaintiff. In the case of a district court garnishment, the court shall order the garnishee to pay the judgment amount directly to the plaintiff. In either case, the court shall inform the garnishee that failure to pay the amount may result in execution of the judgment, including garnishment.

(b) If, prior to judgment, the garnishee tenders to the plaintiff or to the court any amounts due, such tender will support judgment against the garnishee in the amount so tendered, subject to any exemption claimed within the time required in RCW 6.27.160 after the amounts are tendered, and subject to any controversion filed within the time required in RCW 6.27.210 after the amounts are tendered. Any amounts tendered to the court by or on behalf of the garnishee or the defendant prior to judgment shall be disbursed to the party entitled to same upon entry of judgment or order, and any amounts so tendered after entry of judgment or order shall be disbursed upon receipt to the party entitled to same.

(2) If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the hearing or trial on controversion or by stipulation of the parties that the garnishee is indebted to the principal defendant in any sum, but that such indebtedness is not matured and is not due and payable, and if the required return or affidavit showing service on or mailing to the defendant is on file, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, the date when such payment is to be made to be specified in the order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found due. In case the garnishee pays the sum at the time specified in the order, the payment shall operate as a discharge, otherwise judgment shall be entered against the garnishee for the amount of such indebtedness, which judgment shall have the same force and effect, and be enforced in the same manner as other judgments entered against garnishees as provided in this chapter: PROVIDED, That if judgment is rendered in favor of the principal defendant, or if any judgment rendered against the principal defendant is satisfied prior to the date of payment specified in an order of payment entered under this subsection, the garnishee shall not be required to make the payment, nor shall any judgment in such case be entered against the garnishee.

(3) The court shall, upon request of the plaintiff at the time judgment is rendered against the garnishee or within one year thereafter, or within one year after service of the writ on the garnishee if no judgment is taken against the garnishee, render judgment against the defendant

for recoverable garnishment costs and attorney fees. However, if it appears from the answer of garnishee or otherwise that, at the time the writ was issued, the garnishee held no funds, personal property, or effects of the defendant and, in the case of a garnishment on earnings, the defendant was not employed by the garnishee, or, in the case of a writ directed to a financial institution, the defendant maintained no account therein, then the plaintiff may not be awarded judgment against the defendant for such costs or attorney fees.

[2000 c 72 § 5; 1988 c 231 § 32; 1987 c 442 § 1025; 1969 ex.s. c 264 § 20. Formerly RCW 7.33.200.]

Notes:

Rules of court: Cf. *SPR 91.04W(d)*.

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.260 Execution on judgment against garnishee.

Execution may be issued on the judgment against the garnishee in the same manner as upon any other judgment. The amount made upon any such execution shall be paid by the officer executing it to the clerk of the court from which the execution was issued; and, in cases where judgment has been rendered against the defendant, the amount made on the execution shall be applied to the satisfaction of the judgment, interest and costs against the defendant. In case judgment has not been rendered against the defendant at the time execution issued against the garnishee is returned, any amount made on the execution shall be paid to the clerk of the court from which the execution issued, who shall retain the same until judgment is rendered in the action between the plaintiff and defendant. In case judgment is rendered in favor of the plaintiff, the amount made on the execution against the garnishee shall be applied to the satisfaction of such judgment and the surplus, if any, shall be paid to the defendant. In case judgment is rendered in favor of the defendant, the amount made on the execution against the garnishee shall be paid to the defendant.

[1987 c 442 § 1026; 1969 ex.s. c 264 § 21. Formerly RCW 7.33.210.]

RCW 6.27.265 Form for judgment against garnishee.

The judgment on garnishee's answer or tendered funds, and for costs against defendant, and the order to pay funds shall be substantially in the following form:

IN THE COURT OF THE STATE OF
WASHINGTON IN AND FOR THE COUNTY OF

..... NO.

Plaintiff

vs.

JUDGMENT AND ORDER
TO PAY

(Clerk's Action Required)

.....

Defendant

.....

Garnishee

Judgment Summary

Judgment Creditor	
Garnishment Judgment Debtor	
Garnishment Judgment Amount	
Costs Judgment Debtor	
Costs Judgment Amount	
Judgments to bear interest at	%
Attorney for Judgment Creditor	

IT APPEARING THAT garnishee was indebted to defendant in the nonexempt amount of \$; that at the time the writ of garnishment was issued defendant was employed by or maintained a financial institution account with garnishee, or garnishee had in its possession or control funds, personal property, or effects of defendant; and that plaintiff has incurred recoverable costs and attorney fees of \$; now, therefore, it is hereby

ORDERED, ADJUDGED, AND DECREED that plaintiff is awarded judgment against garnishee in the amount of \$; that plaintiff is awarded judgment against defendant in the amount of \$ for recoverable costs; that, if this is a superior court order, garnishee shall pay its judgment amount to plaintiff through the registry of the court, and the clerk of the court shall note receipt thereof and forthwith disburse such payment to plaintiff; that, if this is a district court order, garnishee shall pay its judgment amount to plaintiff directly or through plaintiff's attorney, and if any payment is received by the clerk of the court, the clerk shall forthwith disburse such payment to plaintiff. Garnishee is advised that the failure to pay its judgment amount may result in execution of the judgment, including garnishment.

DONE IN OPEN COURT this day of , 20. .

.....
Judge/Court Commissioner

Presented by:

.....
Attorney for Plaintiff

[2000 c 72 § 6.]

RCW 6.27.270 Decree directing garnishee to deliver up effects--Disposition.

If it appears from the garnishee's answer or otherwise that the garnishee had possession or control, when the writ was served, of any personal property or effects of the defendant liable to execution, and if the required return or affidavit showing service on or mailing to the defendant is on file, the court shall render a decree requiring the garnishee to deliver up to the sheriff on demand, and after making arrangements with the sheriff as to time and place of delivery, such personal property or effects or so much of them as may be necessary to satisfy the plaintiff's claim. If a judgment has been rendered in favor of the plaintiff against the defendant, such personal property or effects may be sold in the same manner as any other property is sold upon an execution issued on said judgment. If judgment has not been rendered in the principal action, the sheriff shall retain possession of the personal property or effects until the rendition of judgment therein, and, if judgment is thereafter rendered in favor of the plaintiff, said personal property or effects, or sufficient of them to satisfy such judgment, may be sold in the same manner as other property is sold on execution, by virtue of an execution issued on the judgment in the principal action. If judgment is rendered in the action against the plaintiff and in favor of the defendant, such effects and personal property shall be returned to the defendant by the sheriff: PROVIDED, HOWEVER, That if such effects or personal property are of a perishable nature, or the interests of the parties will be subserved by making a sale thereof before judgment, the court may order a sale thereof by the sheriff in the same manner as sales upon execution are made, and the proceeds of such sale shall be paid to the clerk of the court that issued the writ, and the same disposition shall be made of the proceeds at the termination of the action as would have been made of the personal property or effects under the provisions of this section in case the sale had not been made.

[1988 c 231 § 33; 1987 c 442 § 1027; 1969 ex.s. c 264 § 22. Formerly RCW 7.33.220.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.280 Procedure upon failure of garnishee to deliver.

If the garnishee, adjudged to have effects or personal property of the defendant in possession or under control as provided in RCW 6.27.270, fails or refuses to deliver them to the sheriff on such demand, the officer shall immediately make return of such failure or refusal, whereupon, on motion of the plaintiff, the garnishee shall be cited to show cause why he or she should not be found in contempt of court for such failure or refusal, and should the garnishee fail to show some good and sufficient excuse for such failure and refusal, he or she shall be fined for such contempt and imprisoned until he or she shall deliver such personal property or effects.

[1987 c 442 § 1028; 1969 ex.s. c 264 § 23. Formerly RCW 7.33.230.]

RCW 6.27.290 Similarity of names--Procedure.

(1) If the garnishee in the answer states that the garnishee at the time of the service of the writ was indebted to or had possession or control of personal property or effects belonging to a person with a name the same as or similar to the name of the defendant, and stating the place of business or residence of said person, and that the garnishee does not know whether or not such person is the same person as the defendant, and prays the court to determine whether or not the person is the same person as the defendant, the court, before rendering judgment against the garnishee defendant as hereinbefore provided, shall conduct a hearing to take proof as to the identity of said persons.

(2) Before the hearing on the question of identity, the plaintiff shall cause the court to issue a citation directed to the person identified in the garnishee's answer, commanding that person to appear before the court from which the citation is issued within ten days after the service of the same, and to answer on oath whether or not he or she is the same person as the defendant in said action. The citation shall be dated and attested in the same manner as a writ of garnishment and be delivered to the plaintiff or the plaintiff's attorney and shall be served in the same manner as a summons in a civil action is served.

(3) If the court finds after hearing that the persons are not the same, the garnishee shall be discharged and shall recover costs against the plaintiff. If the court finds that the persons are the same, it shall make the same kind of judgment as in other cases in which the garnishee is held upon the garnishee's answer, including provision for garnishee's costs.

(4) If the court finds after the hearing that the defendant or judgment debtor is the same person as the person identified in the garnishee's answer, it shall be sufficient answer to any claim of said person against the garnishee founded on any indebtedness of the garnishee or on the possession or control by the garnishee of any personal property or effects for the garnishee to show that the indebtedness was paid or the personal property or effects were delivered under the judgment of the court in accordance with the provisions in this chapter.

[1987 c 442 § 1029; 1969 ex.s. c 264 § 33. Formerly RCW 7.33.330.]

RCW 6.27.300 Garnishee protected against claim of defendant.

It shall be a sufficient answer to any claim of the defendant against the garnishee founded on any indebtedness of the garnishee or on the possession or control by the garnishee of any personal property or effects, for the garnishee to show that such indebtedness was paid or such personal property or effects were delivered under the judgment of the court in accordance with this chapter.

[1987 c 442 § 1030; 1969 ex.s. c 264 § 30. Formerly RCW 7.33.300.]

RCW 6.27.310 Dismissal of writ after one year--Notice--Exception.

In all cases where it shall appear from the answer of the garnishee that the garnishee was indebted to the defendant when the writ of garnishment was served, no controversion is pending, there has been no discharge or judgment against the garnishee entered, and one year has passed since the filing of the answer of the garnishee, the court, after ten days' notice in writing to the plaintiff, shall enter an order dismissing the writ of garnishment and discharging the garnishee: PROVIDED, That this provision shall have no effect if the cause of action between plaintiff and defendant is pending on the trial calendar, or if any party files an affidavit that the action is still pending.

[1987 c 442 § 1031; 1969 ex.s. c 264 § 27. Formerly RCW 7.33.270.]

RCW 6.27.320 Dismissal of garnishment upon satisfaction of judgment from other source--Duty of plaintiff--Procedure--Penalty--Costs.

In any case where garnishee has answered that it is holding funds or property belonging to defendant and plaintiff shall obtain satisfaction of the judgment and payment of recoverable garnishment costs and attorney fees from a source other than the garnishment, upon written demand of the defendant or the garnishee, it shall be the duty of plaintiff to obtain an order dismissing the garnishment and to serve it upon the garnishee within twenty days after the demand or the satisfaction of judgment and payment of costs and fees, whichever shall be later. In the event of the failure of plaintiff to obtain and serve such an order, if garnishee continues to hold such funds or property, defendant shall be entitled to move for dismissal of the garnishment and shall further be entitled to a judgment against plaintiff of one hundred dollars plus defendant's costs and damages. Dismissal may be on ex parte motion of the plaintiff.

[2000 c 72 § 7; 1969 ex.s. c 264 § 31. Formerly RCW 7.33.310.]

RCW 6.27.330 Continuing lien on earnings--Authorized.

A judgment creditor may obtain a continuing lien on earnings by a garnishment pursuant to RCW 6.27.340, 6.27.350, 6.27.360, and *7.33.390.

[1987 c 442 § 1032; 1970 ex.s. c 61 § 5. Formerly RCW 7.33.350.]

Notes:

*Reviser's note: RCW 7.33.390 was repealed by 1987 c 442. Language substantially similar to RCW 7.33.390 was added to RCW 6.27.350.

RCW 6.27.340 Continuing lien on earnings--Captions--Additions to writ and answer forms.

(1) Service of a writ for a continuing lien shall comply fully with RCW 6.27.110.

(2) The caption of the writ shall be marked "CONTINUING LIEN ON EARNINGS" and the following additional paragraph shall be included in the writ form prescribed in RCW 6.27.100:

"THIS IS A WRIT FOR A CONTINUING LIEN. THE GARNISHEE SHALL HOLD the nonexempt portion of the defendant's earnings due at the time of service of this writ and shall also hold the defendant's nonexempt earnings that accrue through the last payroll period ending on or before SIXTY days after the date of service of this writ. HOWEVER, IF THE GARNISHEE IS PRESENTLY HOLDING THE NONEXEMPT PORTION OF THE DEFENDANT'S EARNINGS UNDER A PREVIOUSLY SERVED WRIT FOR A CONTINUING LIEN, THE GARNISHEE SHALL HOLD UNDER THIS WRIT only the defendant's nonexempt earnings that accrue from the date the previously served writ or writs terminate and through the last payroll period ending on or before sixty days after the date of termination of the previous writ or writs. IN EITHER CASE, THE GARNISHEE SHALL STOP WITHHOLDING WHEN THE SUM WITHHELD EQUALS THE AMOUNT STATED IN THIS WRIT OF GARNISHMENT."

(3) The answer forms served on an employer with the writ shall include in the caption, "ANSWER TO WRIT OF GARNISHMENT FOR CONTINUING LIEN ON EARNINGS," and the following paragraph shall be added as the first paragraph of the answer form prescribed in RCW 6.27.190:

"If you are withholding the defendant's nonexempt earnings under a previously served writ for a continuing lien, answer only this portion of this form and mail or deliver the forms as directed in the writ. Withhold from the defendant's future nonexempt earnings as directed in the writ, and a second set of answer forms will be forwarded to you later.

ANSWER: I am presently holding the defendant's nonexempt earnings under a previous writ served on that will terminate not later than, 19 . . .

.....

If you are NOT withholding the defendant's earnings under a previously served writ for a continuing lien, answer the following portion of this form and mail or deliver the forms as directed in the writ. A second set of answer forms will be forwarded to you later for subsequently withheld earnings."

(4) In the event plaintiff fails to comply with this section, employer may elect to treat the garnishment as one not creating a continuing lien.

[1988 c 231 § 34; 1987 c 442 § 1033; 1970 ex.s. c 61 § 6. Formerly RCW 7.33.360.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.350 Continuing lien on earnings--When lien becomes effective--Termination--Second answer.

(1) Where the garnishee's answer to a garnishment for a continuing lien reflects that the defendant is employed by the garnishee, the judgment or balance due thereon as reflected on the writ of garnishment shall become a lien on earnings due at the time of the effective date of the writ, as defined in this subsection, to the extent that they are not exempt from garnishment, and such lien shall continue as to subsequent nonexempt earnings until the total subject to the lien equals the amount stated on the writ of garnishment or until the expiration of the employer's payroll period ending on or before sixty days after the effective date of the writ, whichever occurs first, except that such lien on subsequent earnings shall terminate sooner if the employment relationship is terminated or if the underlying judgment is vacated, modified, or satisfied in full or if the writ is dismissed. The "effective date" of a writ is the date of service of the writ if there is no previously served writ; otherwise, it is the date of termination of a previously served writ or writs.

(2) At the time of the expected termination of the lien, the plaintiff shall mail to the garnishee three additional stamped envelopes addressed as provided in RCW 6.27.110, and four additional copies of the answer form prescribed in RCW 6.27.190, (a) with a statement in substantially the following form added as the first paragraph: "ANSWER THE SECOND PART OF THIS FORM WITH RESPECT TO THE TOTAL AMOUNT OF EARNINGS WITHHELD UNDER THIS GARNISHMENT, INCLUDING THE AMOUNT, IF ANY, STATED IN YOUR FIRST ANSWER, AND WITHIN TWENTY DAYS AFTER YOU RECEIVE THESE FORMS, MAIL OR DELIVER THEM AS DIRECTED IN THE WRIT" and (b) with the following lines substituted for the first sentence of the form prescribed in RCW 6.27.190:

Amount due and owing stated in first answer	\$. . .
Amount accrued since first answer	\$. . .

(3) Within twenty days of receipt of the second answer form the garnishee shall file a second answer, in the form as provided in subsection (2) of this section, stating the total amount

held subject to the garnishment.

[1997 c 296 § 7; 1988 c 231 § 35; 1987 c 442 § 1034; 1970 ex.s. c 61 § 7. Formerly RCW 7.33.370.]

Notes:

Severability--1988 c 231: See note following RCW 6.01.050.

RCW 6.27.360 Continuing lien on earnings--Priorities--Exceptions.

(1) Except as provided in subsection (2) of this section, a lien obtained under RCW 6.27.350 shall have priority over any subsequent garnishment lien or wage assignment except that service of a writ shall not be effective to create a continuing lien with such priority if a writ in the same case is pending at the time of the service of the new writ.

(2) A lien obtained under RCW 6.27.350 shall not have priority over a notice of payroll deduction issued under RCW 26.23.060 or a wage assignment or other garnishment for child support issued under chapters 26.18 and 74.20A RCW. Should nonexempt wages remain after deduction of all amounts owing under a notice of payroll deduction, wage assignment, or garnishment for child support, the garnishee shall withhold the remaining nonexempt wages under the lien obtained under RCW 6.27.350.

[1997 c 296 § 8; 1989 c 360 § 20; 1987 c 442 § 1035; 1970 ex.s. c 61 § 8. Formerly RCW 7.33.380.]

RCW 6.27.370 Notice to federal government as garnishee defendant--Deposit, payment, and endorsement of funds received by the clerk--Fees as recoverable cost.

(1) Whenever the federal government is named as a garnishee defendant, the clerk of the court shall, upon submitting a notice in the appropriate form by the plaintiff, issue a notice which directs the garnishee defendant to disburse any nonexempt earnings to the court in accordance with the garnishee defendant's normal pay and disbursement cycle.

(2) Funds received by the clerk from a garnishee defendant may be deposited into the registry of the court or, in the case of negotiable instruments, may be retained in the court file. Upon presentation of an order directing the clerk to disburse the funds received, the clerk shall pay or endorse the funds over to the party entitled to receive the funds. Except for good cause shown, the funds shall not be paid or endorsed to the plaintiff prior to the expiration of any minimum statutory period allowed to the defendant for filing an exemption claim.

(3) The plaintiff shall, in the same manner permitted for service of the writ of garnishment, provide to the garnishee defendant a copy of the notice issued by the clerk and an envelope addressed to the court, and shall supply to the garnished party a copy of the notice.

(4) Any answer or processing fees charged by the garnishee defendant to the plaintiff under federal law shall be a recoverable cost under RCW 6.27.090.

(5) The notice to the federal government garnishee shall be in substantially the following form:

IN THE COURT OF THE STATE OF

WASHINGTON

IN AND FOR COUNTY

....., NO
Plaintiff, NOTICE TO FEDERAL
vs. GOVERNMENT GARNISHEE
DEFENDANT

.....,
Defendant,

.....,
Garnishee Defendant.

TO: THE GOVERNMENT OF THE UNITED STATES
AND ANY DEPARTMENT, AGENCY, OR DIVISION
THEREOF

You have been named as the garnishee defendant in the
above-entitled cause. A Writ of Garnishment accompanies this
Notice. The Writ of Garnishment directs you to hold the
nonexempt earnings of the named defendant, but does not
instruct you to disburse the funds you hold.

BY THIS NOTICE THE COURT DIRECTS YOU TO
WITHHOLD ALL NONEXEMPT EARNINGS AND
DISBURSE THEM IN ACCORDANCE WITH YOUR
NORMAL PAY AND DISBURSEMENT CYCLE, TO THE
FOLLOWING:

..... County Court Clerk
Cause No
.....
(Address)

PLEASE REFERENCE THE DEFENDANT EMPLOYEE'S
NAME AND THE ABOVE CAUSE NUMBER ON ALL
DISBURSEMENTS.

The enclosed Writ also directs you to respond to the Writ

within twenty (20) days, but you are allowed thirty (30) days to respond under federal law.

DATED this day of, 19 . . .

.....
Clerk of the Court

[1997 c 296 § 9.]

Chapter 6.28 RCW
COMMISSIONERS TO CONVEY REAL ESTATE

Sections

- | | |
|----------|---|
| 6.28.010 | Court may appoint, when. |
| 6.28.020 | Contents of deed. |
| 6.28.030 | Effect of conveyance pursuant to judgment. |
| 6.28.040 | Effect of conveyance pursuant to order of sale. |
| 6.28.050 | Approval of court necessary. |
| 6.28.060 | Execution of conveyance. |
| 6.28.070 | Recording. |
| 6.28.080 | Compelling performance. |

Notes:

Rules of court: *Cf. CR 70.*

RCW 6.28.010 Court may appoint, when.

The several superior courts may, whenever it is necessary, appoint a commissioner to convey real estate:

(1) When by a judgment in an action, a party is ordered to convey real property to another, or any interest therein.

(2) When real property, or any interest therein, has been sold under a special order of the court and the purchase money paid therefor.

[Code 1881 § 528; 1877 p 111 § 532; 1854 p 205 § 390; RRS § 605.]

RCW 6.28.020 Contents of deed.

The deed of the commissioner shall so refer to the judgment authorizing the conveyance, that the same may be readily found, but need not recite the record in the case generally.

[Code 1881 § 529; 1877 p 112 § 533; 1854 p 205 § 391; RRS § 606.]

RCW 6.28.030 Effect of conveyance pursuant to judgment.

A conveyance made in pursuance of a judgment shall pass to the grantee the title of the parties ordered to convey the land.

[Code 1881 § 530; 1877 p 112 § 534; 1854 p 205 § 392; RRS § 607.]

RCW 6.28.040 Effect of conveyance pursuant to order of sale.

A conveyance made in pursuance of a sale ordered by the court, shall pass to the grantee the title of all the parties to the action or proceeding.

[Code 1881 § 531; 1877 p 112 § 535; 1854 p 205 § 393; RRS § 608.]

RCW 6.28.050 Approval of court necessary.

A conveyance by a commissioner shall not pass any right until it has been examined and approved by the court, which approval shall be indorsed on the conveyance and recorded with it.

[Code 1881 § 532; 1877 p 112 § 536; 1854 p 205 § 394; RRS § 609.]

RCW 6.28.060 Execution of conveyance.

It shall be sufficient for the conveyance to be signed by the commissioner only, without affixing the name of the parties whose title is conveyed, but the names of the parties shall be recited in the body of the conveyance.

[Code 1881 § 533; 1877 p 112 § 537; 1854 p 205 § 395; RRS § 610.]

RCW 6.28.070 Recording.

The conveyance shall be recorded in the office in which by law it should have been recorded had it been made by the parties whose title is conveyed by it.

[Code 1881 § 534; 1877 p 112 § 538; 1854 p 205 § 396; RRS § 611.]

RCW 6.28.080 Compelling performance.

In case of a judgment to compel a party to execute a conveyance of real estate, the court may enforce the judgment by attachment or sequestration, or appoint a commissioner to make the conveyance.

[Code 1881 § 535; 1877 p 112 § 539; 1854 p 205 § 397; RRS § 612.]

PROCEEDINGS SUPPLEMENTAL TO EXECUTION

Sections

- 6.32.010 Order for examination of judgment debtor--Plaintiff entitled to costs--Additional fees if debtor fails to answer or appear.
- 6.32.015 Order to require judgment debtor to answer interrogatories.
- 6.32.020 Warrant, how vacated.
- 6.32.030 Third parties may be brought in for examination.
- 6.32.040 Before whom examined.
- 6.32.050 Procedure on examination.
- 6.32.060 Referee's oath.
- 6.32.070 Order authorizing payment by debtor of judgment debtor.
- 6.32.080 Order requiring delivery of money or property to sheriff.
- 6.32.085 Order charging partnership interest or directing sale.
- 6.32.090 Powers of sheriff.
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- 6.32.110 Disposition of balance after judgment satisfied.
- 6.32.120 Transfer of property may be enjoined.
- 6.32.130 Service of orders.
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- 6.32.160 Costs to judgment creditor.
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- 6.32.270 Adjudication of title to property--Jury trial.
- 6.32.280 Fee of referee.
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- 6.32.300 Effect on pending supplemental proceedings.
- 6.32.310 Only one receiver may be appointed--Extending receivership.
- 6.32.320 Order, where to be filed.
- 6.32.330 Property vested in receiver.
- 6.32.340 Receiver's title extends back by relation.
- 6.32.350 Book of orders to be kept by clerk.

Notes:

Rules of court: *Cf. CR 69(b).*

RCW 6.32.010 Order for examination of judgment debtor--Plaintiff entitled to costs--Additional fees if debtor fails to answer or appear.

At any time within ten years after entry of a judgment for the sum of twenty-five dollars

or over, unless the time is extended in accordance with RCW 6.17.020(3), upon application by the judgment creditor such court or judge may, by an order, require the judgment debtor to appear at a specified time and place before the judge granting the order, or a referee appointed by the judge, to answer concerning the same; and the judge to whom application is made under this chapter may, if it is made to appear to him or her by the affidavit of the judgment creditor, his or her agent or attorney that there is danger of the debtor absconding, order the sheriff to arrest the debtor and bring him or her before the judge granting the order. Upon being brought before the judge, he or she may be ordered to enter into a bond, with sufficient sureties, that he or she will attend from time to time before the judge or referee, as shall be directed, during the pendency of the proceedings and until the final termination thereof. If the judgment debtor or other persons against whom the special proceedings are instituted has been served with these proceedings, the plaintiff shall be entitled to costs of service, notary fees, and an appearance fee of twenty-five dollars. If the judgment debtor or other persons fail to answer or appear, the plaintiff shall additionally be entitled to reasonable attorney fees. If a plaintiff institutes special proceedings and fails to appear, a judgment debtor or other person against whom the proceeding was instituted who appears is entitled to an appearance fee of twenty-five dollars and reasonable attorney fees.

[1994 c 189 § 4; 1985 c 215 § 1; 1983 1st ex.s. c 45 § 6; 1980 c 105 § 5; 1971 ex.s. c 211 § 1; 1957 c 8 § 7; 1899 c 93 § 1; 1893 c 133 § 1; RRS § 613.]

Notes:

Application--1980 c 105: See note following RCW 4.16.020.

RCW 6.32.015 Order to require judgment debtor to answer interrogatories.

At any time within ten years after entry of a judgment for a sum of twenty-five dollars or over, unless the time is extended in accordance with RCW 6.17.020(3), upon application by the judgment creditor such court or judge may, by order served on the judgment debtor, require such debtor to answer written interrogatories, under oath, in such form as may be approved by the court. No such creditor shall be required to proceed under this section nor shall he or she waive his or her rights to proceed under RCW 6.32.010 by proceeding under this section.

[1994 c 189 § 5; 1980 c 105 § 6; 1971 ex.s. c 211 § 2.]

Notes:

Application--1980 c 105: See note following RCW 4.16.020.

RCW 6.32.020 Warrant, how vacated.

A warrant issued as prescribed in RCW 6.32.010 may be vacated or modified by the judge making the same, or by the court out of which the execution was issued, upon giving three days' notice to the opposite party.

[1893 c 133 § 2; RRS § 614.]

RCW 6.32.030 Third parties may be brought in for examination.

Any person may be made a party to a supplemental proceeding by service of a like order in like manner as that required to be served upon the judgment debtor, and upon proof by affidavit or otherwise, to the satisfaction of the judge, that execution has been issued and return made thereon wholly or partially unsatisfied, and also that any person or corporation has personal property of the judgment debtor of the value of twenty-five dollars or over, or is indebted to him in said amount, or is holding the title to real estate for the judgment debtor, or has knowledge concerning the property interests of the judgment debtor, the judge may make an order requiring such person or corporation, or an officer thereof, to appear at a specified time and place before him, or a referee appointed by him, and answer concerning the same.

[1923 c 160 § 1; 1893 c 133 § 3; RRS § 615.]

RCW 6.32.040 Before whom examined.

An order requiring a person to attend and be examined, made pursuant to any provision of this chapter, must require him so to attend and be examined either before the judge to whom the order is returnable or before a referee designated therein. Where the examination is taken before a referee, he must certify to the judge to whom the order is returnable all of the evidence and other proceedings taken before him.

[1893 c 133 § 4; RRS § 616.]

RCW 6.32.050 Procedure on examination.

Upon an examination made under this chapter, the answer of the party or witness examined must be under oath. A corporation must attend by and answer under the oath of an officer thereof, and the judge may, in his discretion, specify the officer. Either party may be examined as a witness in his own behalf, and may produce and examine other witnesses as upon the trial of an action. The judge or referee may adjourn any proceedings under this chapter, from time to time, as he thinks proper.

[1893 c 133 § 5; RRS § 617.]

RCW 6.32.060 Referee's oath.

Unless the parties expressly waive the referee's oath, a referee appointed as prescribed in this chapter must, before entering upon an examination or taking testimony, subscribe and take an oath that he will faithfully and fairly discharge his duty upon the reference, and make a just and true report according to the best of his understanding. The oath must be returned to the judge with the report of the testimony.

[1893 c 133 § 6; RRS § 618.]

RCW 6.32.070 Order authorizing payment by debtor of judgment debtor.

At any time after the commencement of a special proceeding authorized by this chapter, and before the appointment of a receiver therein, or the extension of a receivership thereto, the judge by whom the order or warrant was granted or to whom it is made returnable, may in his discretion upon proof by affidavit to his satisfaction that a person or corporation is indebted to the judgment debtor, and upon such notice given to such person or corporation as he deems just, or without notice make an order permitting the person or corporation to pay the sheriff designated in the order a sum on account of the alleged indebtedness not exceeding the sum which will satisfy the execution. A payment thus made is to the extent thereof a discharge of the indebtedness except as against a transferee from the judgment debtor in good faith, and for a valuable consideration, of whose rights the person or corporation had actual or constructive notice when the payment was made.

[1893 c 133 § 7; RRS § 619.]

RCW 6.32.080 Order requiring delivery of money or property to sheriff.

Where it appears from the examination or testimony taken in the special proceedings authorized by this chapter that the judgment debtor has in his possession or under his control money or other personal property belonging to him, or that one or more articles of personal property capable of manual delivery, his right to the possession whereof is not substantially disputed, are in the possession or under the control of another person, the judge by whom the order or warrant was granted, or to whom it is returnable, may in his discretion, and upon such notice given to such persons as he deems just, or without notice, make an order directing the judgment debtor, or other person, immediately to pay the money or deliver the articles of personal property to a sheriff designated in the order, unless a receiver has been appointed or a receivership has been extended to the special proceedings, and in that case to the receiver.

[1893 c 133 § 8; RRS § 620.]

RCW 6.32.085 Order charging partnership interest or directing sale.

If it appears from the examination or testimony taken in the special proceedings authorized by this chapter that the judgment debtor owns an interest in a partnership, the judge who granted the order or warrant or to whom it is returnable may in his or her discretion, upon such notice to other partners as the judge deems just, and to the extent permitted by Title 25 RCW, (1) enter an order charging the partnership interest with payment of the judgment, directing that all or any part of distributions or other amounts becoming due to the judgment debtor, other than earnings as defined in RCW 6.27.010, be paid to a receiver if one has been appointed, otherwise to the clerk of the court that entered the judgment, for application to payment of the judgment in the same manner as proceeds from sale on execution and, in aid of the charging order, the court may make such other orders as a case requires, or (2) enter an order

directing sale of the partnership interest in the same manner as personal property is sold on execution.

[1987 c 442 § 1114.]

RCW 6.32.090 Powers of sheriff.

If the sheriff to whom money is paid or other property is delivered, pursuant to an order made as prescribed in RCW 6.32.080, does not then hold an execution upon the judgment against the property of the judgment debtor, he has the same rights and power, and is subject to the same duties and liabilities with respect to the money or property, as if the money had been collected or the property had been levied upon by him by virtue of such an execution, except as provided in RCW 6.32.100.

[1893 c 133 § 9; RRS § 621.]

RCW 6.32.100 How money or property applied by sheriff.

After a receiver has been appointed or a receivership has been extended to the special proceedings, the judge must, by order, direct the sheriff to pay the money, or the proceeds of the property, deducting his fees, to the receiver; or if the case so requires to deliver to the receiver the property in his hands. But if it appears to the satisfaction of the judge that an order appointing a receiver or extending a receivership is not necessary, he may, by an order reciting that fact, direct the sheriff to apply the money so paid, or the proceeds of the property so delivered, upon an execution in favor of the judgment creditor issued either before or after the payment or delivery to the sheriff.

[1893 c 133 § 10; RRS § 622.]

RCW 6.32.110 Disposition of balance after judgment satisfied.

Where money is paid or property is delivered as prescribed in RCW 6.32.070, 6.32.080, 6.32.090 and 6.32.100 and afterwards the special proceeding is discontinued or dismissed, or the judgment is satisfied without resorting to the money or property, or a balance of the money or of the proceeds of the property, or a part of the property remains in the sheriff's or receiver's hands after satisfying the judgment and the costs and expenses of the special proceeding, the judge must make an order directing the sheriff or receiver to pay the money or deliver the property so remaining in his hands to the debtor, or to such other person as appears to be entitled thereto, upon payment of his fees and all other sums legally chargeable against the same.

[1893 c 133 § 11; RRS § 623.]

RCW 6.32.120 Transfer of property may be enjoined.

The judge by whom the order or warrant was granted or to whom it is returnable may

make an injunction order restraining any person or corporation, whether a party or not a party to the special proceeding, from making or suffering any transfer or other disposition of or interference with the property of the judgment debtor or the property or debt concerning which any person is required to attend and be examined, until further direction in the premises. Such an injunction may be made simultaneously with the order or warrant by which the special proceeding is instituted, and upon the same papers or afterwards, upon an affidavit showing sufficient grounds therefor. The judge or court may, as a condition of granting an application to vacate or modify the injunction order require the applicant to give security in such sum and in such manner as justice requires.

[1893 c 133 § 12; RRS § 624.]

RCW 6.32.130 Service of orders.

An injunction order or an order requiring a person to attend and be examined made as prescribed in this chapter must be served by delivering to the person to be served a certified copy of the original order and a copy of the affidavit on which it was made. In the case of an order requiring a person to attend and be examined and not imposing injunctive restraints, a noncertified copy may be served if the noncertified copy bears a stamp or notation indicating the name of the judge or commissioner who signed the original order, and a stamp or notation indicating the original order has been filed with the court.

Service upon a corporation is sufficient if made upon an officer, to whom a copy of a summons must be delivered. Where an order is personally served upon a corporation, unless the officer to be served is specially designated in the order, the order may be served upon any person upon whom a summons can be served.

[1995 c 73 § 1; 1925 ex.s. c 38 § 1; 1893 c 133 § 13; RRS § 625.]

RCW 6.32.140 Service of warrant.

The sheriff, when he arrests a judgment debtor by virtue of a warrant issued as prescribed in this chapter, must deliver to him a copy of the warrant and of the affidavit upon which it was granted.

[1893 c 133 § 14; RRS § 626.]

RCW 6.32.150 Discontinuance or dismissal of proceedings.

A special proceeding instituted as prescribed in this chapter may be discontinued at any time upon such terms as justice requires, by an order of the judge made upon the application of the judgment creditor. Where the judgment creditor unreasonably delays or neglects to proceed, or where it appears that his judgment has been satisfied, his proceedings may be dismissed upon like terms by a like order made upon the application of the judgment debtor, or of plaintiff in a judgment creditor's action against the debtor, or of a judgment creditor who has instituted either

of the special proceedings authorized by this chapter. Where an order appointing a receiver or extending a receivership has been made in the course of the special proceeding, notice of the application for an order specified in this section must be given in such manner as the judge deems proper, to all persons interested in the receivership as far as they can conveniently be ascertained.

[1893 c 133 § 15; RRS § 627.]

RCW 6.32.160 Costs to judgment creditor.

The judge may make an order allowing to the judgment creditor a fixed sum as costs, consisting of his witness fees and referee's fees and other disbursements, and of a sum in addition thereto not exceeding twenty-five dollars, and directing the payment thereof out of any money which has come or may come to the hands of the receiver or of the sheriff within a time specified in the order.

[1893 c 133 § 16; RRS § 628.]

RCW 6.32.170 Costs to judgment debtor, when.

Where the judgment debtor or other person against whom the special proceeding is instituted has been examined, and property applicable to the payment of the judgment has not been discovered, the judge may make an order allowing him a sum, not to exceed twenty-five dollars, as costs, provided that any such sum so allowed the judgment debtor, shall be set off against the amount due the judgment creditor on his judgment.

[1923 c 160 § 2; 1893 c 133 § 17; RRS § 629.]

RCW 6.32.180 Disobedience of order punishable as contempt.

A person who refuses, or without sufficient excuse neglects, to obey an order of a judge or referee made pursuant to any of the provisions of this chapter, and duly served upon him, or an oral direction given directly to him by a judge or referee in the course of the special proceeding, or to attend before a judge or referee according to the command of a subpoena duly served upon him, may be punished by the judge of the court out of which the execution issued, as for contempt.

[1893 c 133 § 18; RRS § 630.]

RCW 6.32.190 Attendance of judgment debtor.

A judgment debtor who resides or does business in the state cannot be compelled to attend pursuant to an order made under the provisions of this chapter at a place without the county where his residence or place of business is situated. Where the judgment debtor to be examined under this chapter is a corporation the court may cause such corporation to appear and

be examined by making like order or orders as are prescribed in this chapter, directed to any officer or officers thereof.

[1893 c 133 § 19; RRS § 631.]

RCW 6.32.200 Party or witness not excused from answering.

A party or witness examined in a special proceeding authorized by this chapter is not excused from answering a question on the ground that his examination will tend to convict him of a commission of a fraud, or to prove that he has been a party to or privy to or knowing of a conveyance, assignment, transfer or other disposition of property for any purpose; or that he or another person claims to be entitled as against the judgment creditor or receiver appointed or to be appointed in the special proceeding to hold property derived from or through the judgment debtor, or to be discharged from the payment of a debt which was due to the judgment debtor or to a person in his behalf. But an answer cannot be used as evidence against the person so answering in a criminal action or criminal proceeding.

[1893 c 133 § 20; RRS § 632.]

RCW 6.32.210 Proceedings in case of joint debtors.

When, in proceedings under this chapter, personal service of the summons in the action was not made on all of the defendants, a debt due to, or other personal property owned by, one or more of the defendants not summoned jointly with the defendants summoned, or with any of them, may be reached by proceedings under this chapter.

[1893 c 133 § 21; RRS § 633.]

RCW 6.32.220 Continuances.

A special proceeding under this chapter instituted before one judge may be continued from time to time before another judge of the same court with like effect as if it had been instituted or commenced before the judge who last heard the same.

[1893 c 133 § 22; RRS § 634.]

RCW 6.32.240 Proceedings, before whom instituted.

Special proceedings under this chapter may be instituted and prosecuted before the superior or district court of the county in which the judgment was entered or any judge thereof, or before the superior or district court of any county to the sheriff of which an execution has been issued or in which a transcript of said judgment has been filed in the office of the clerk of said court or before any judge thereof.

[1981 c 193 § 2; 1899 c 93 § 2; 1893 c 133 § 24; RRS § 636.]

RCW 6.32.250 Property exempt from seizure.

This chapter does not authorize the seizure of, or other interference with, (1) any property which is expressly exempt by law from levy and sale by virtue of an execution, attachment, or garnishment; or (2) any money, thing in action or other property held in trust for a judgment debtor where the trust has been created by, or the fund so held in trust has proceeded from, a person other than the judgment debtor; or (3) the earnings of the judgment debtor for personal services to the extent they would be exempt against garnishment of the employer under RCW 6.27.150.

[1987 c 442 § 1115; 1893 c 133 § 25; RRS § 637.]

RCW 6.32.260 Proceedings to be heard without jury.

Proceedings under this chapter are special proceedings, and shall be heard by the judge or referee before whom the same are returnable without a jury, except as provided in RCW 6.32.270.

[1923 c 160 § 3; 1893 c 133 § 26; RRS § 638.]

RCW 6.32.270 Adjudication of title to property--Jury trial.

In any supplemental proceeding, where it appears to the court that a judgment debtor may have an interest in or title to any real property, and such interest or title is disclaimed by the judgment debtor or disputed by another person, or it appears that the judgment debtor may own or have a right of possession to any personal property, and such ownership or right of possession is substantially disputed by another person, the court may, if the person or persons claiming adversely be a party to the proceeding, adjudicate the respective interests of the parties in such real or personal property, and may determine such property to be wholly or in part the property of the judgment debtor. If the person claiming adversely to the judgment debtor be not a party to the proceeding, the court shall by show cause order or otherwise cause such person to be brought in and made a party thereto, and shall set such proceeding for hearing on the first open date in the trial calendar. Any person so made a party, or any party to the original proceeding, may have such issue determined by a jury upon demand therefor and payment of a jury fee as in other civil actions: PROVIDED, That such person would be entitled to a jury trial if the matter was adjudicated in a separate action.

[1923 c 160 § 4; RRS § 638-1.]

RCW 6.32.280 Fee of referee.

The fees of referees appointed in proceedings under this chapter shall be five dollars per day.

[1893 c 133 § 27; RRS § 639.]

RCW 6.32.290 Appointment of receiver--Notice.

At any time after making an order requiring the judgment debtor or any other person to attend and be examined, or the issuing of a warrant, as prescribed in this chapter, the judge to whom the order or warrant is returnable, or the court out of which the order was issued, may make an order appointing a receiver of the property of the judgment debtor. At least two days' notice of the application for the order appointing a receiver must be given personally to the judgment debtor, unless the judge or court is satisfied that he cannot, with reasonable diligence, be found within the state, in which case the order must recite that fact and may dispense with the notice, or may direct notice to be given in any manner which the judge thinks proper. But where the order to attend and be examined or the warrant has been served upon the judgment debtor, a receiver may be appointed upon the return day thereof, or at the close of the examination, without further notice to him.

[1893 c 133 § 28; RRS § 640.]

Notes:

Rules of court: CR 66.

RCW 6.32.300 Effect on pending supplemental proceedings.

The judge must ascertain, if practicable, by the oath of the judgment debtor or otherwise, whether any other special proceeding authorized by this chapter is pending against the judgment debtor, or if a receiver has been appointed or application has been made for the appointment of a receiver of the property of the judgment debtor in any other action by a judgment creditor. If either is pending, and a receiver has not been appointed therein, notice of the application for the appointment of a receiver, and of all of the subsequent proceedings respecting the receivership, must be given in such manner as the judge directs to the judgment creditor prosecuting it.

[1893 c 133 § 29; RRS § 641.]

RCW 6.32.310 Only one receiver may be appointed--Extending receivership.

Only one receiver of the property of the judgment debtor shall be appointed. Where a receiver thereof has already been appointed the judge, instead of making the order prescribed in RCW 6.32.300, must make an order extending the receivership to the special proceedings before him. Such an order gives to the judgment creditor the same rights as if a receiver was appointed upon his application, including the right to apply to the court to control, direct or remove the receiver, or to subordinate the proceedings in or by which the receiver was appointed to those taken under his judgment.

[1893 c 133 § 30; RRS § 642.]

RCW 6.32.320 Order, where to be filed.

An order appointing a receiver or extending a receivership must be filed in the office of the county clerk wherein the judgment roll in the action is filed; or if the special proceeding is founded upon an execution issued out of a court other than that in which the judgment was rendered, in the office of the clerk of the county wherein the transcript of the judgment is filed.

[1893 c 133 § 31; RRS § 643.]

RCW 6.32.330 Property vested in receiver.

The property of the judgment debtor is vested in a receiver, who has duly qualified, from the time of filing the order appointing him or extending his receivership, as the case may be, subject to the following exceptions:

(1) Real property is vested in the receiver only from the time when the order, or a certified copy thereof, as the case may be, is filed with the auditor of the county where it is situated.

(2) When the judgment debtor, at the time when the order is filed, resides in another county of the state, his personal property is vested in the receiver only from the time when a copy of the order, certified by the auditor in whose office it is recorded, is filed with the auditor of the county where he resides.

[1893 c 133 § 32; RRS § 644.]

RCW 6.32.340 Receiver's title extends back by relation.

Where the receiver's title to personal property has become vested, as prescribed in RCW 6.32.330, it also extends back by relation, for the benefit of the judgment creditor, in whose behalf the special proceeding was instituted as follows:

(1) When an order requiring the judgment debtor to attend and be examined, or a warrant requiring the sheriff to arrest him and bring him before the judge, has been served, before the appointment of the receiver, or the extension of the receivership, the receiver's title extends back so as to include the personal property of the judgment debtor at the time of the service of the order or warrant.

(2) Where an order or warrant has not been served as specified in the foregoing subdivision, but an order has been made requiring a person to attend and be examined concerning property belonging or a debt due to the judgment debtor, the receiver's title extends to the personal property belonging to the judgment debtor, which was in the hands or under the control of the person or corporation thus required to attend at the time of the service of the order, and to a debt then due to him from that person or corporation.

(3) In every other case where notice of application for the appointment of a receiver was given to the judgment debtor, the receiver's title extends to the personal property of the judgment debtor at the time when the notice was served, either personally or by complying with the

requirements of an order prescribing a substitute for personal service.

(4) Where the case is within two or more of the foregoing subdivisions of this section, the rule most favorable to the judgment creditor must be adopted. But this section does not affect the title of a purchaser in good faith without notice, and for a valuable consideration; or the payment of a debt in good faith and without notice.

[1893 c 133 § 33; RRS § 645.]

RCW 6.32.350 Book of orders to be kept by clerk.

Each county clerk must keep in his office a book indexed to the names of the judgment debtors, styled "book of orders appointing receivers of judgment debtors." A county clerk in whose office an order or a certified copy of an order is filed, as prescribed in this chapter, must immediately note thereupon the time of filing it, and as soon as practicable, must record it in the book so kept by him. He must also, upon request, furnish forthwith to any party or person interested, one or more certified copies thereof. For each omission to comply with any provision of this section, a county clerk forfeits to the party aggrieved two hundred and fifty dollars, in addition to all damages sustained by reason of the omission.

[1893 c 133 § 34; RRS § 646.]

**Chapter 6.36 RCW
UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT**

Sections

6.36.010	Definitions.
6.36.025	Filing of foreign judgment--Authorized--Effect.
6.36.035	Affidavit of last address of judgment debtor, creditor--Filing--Notice of filing of judgment--Contents--Effect.
6.36.045	Effect of appeal from or stay of execution of foreign judgment--Grounds for stay of enforcement.
6.36.130	Sale under levy.
6.36.140	Interest and costs.
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6.36.900	Construction--1953 c 191.
6.36.910	Short title.

Notes:

Rules of court: Cf. CR 69(a).

Foreign judgments for debt, faith accorded: RCW 5.44.020.

Uniform judicial notice of foreign laws act: Chapter 5.24 RCW.

RCW 6.36.010 Definitions.

As used in this chapter: (1) "Foreign judgment" means any judgment, decree or order of a court of the United States or of any state or territory which is entitled to full faith and credit in this state.

(2) "Register" means to file a foreign judgment in a court of this state.

(3) "Levy" means to take control of or create a lien upon property under any judicial writ or process whereby satisfaction of a judgment may be enforced against such property.

(4) "Judgment debtor" means the party against whom a foreign judgment has been rendered.

[1953 c 191 § 1.]

RCW 6.36.025 Filing of foreign judgment--Authorized--Effect.

(1) A copy of any foreign judgment authenticated in accordance with the act of congress or the statutes of this state may be filed in the office of the clerk of any superior court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the superior court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, set-offs, counterclaims, cross-complaints, and proceedings for reopening, vacating, or staying as a judgment of a superior court of this state and may be enforced or satisfied in like manner.

(2) Alternatively, a copy of any foreign judgment (a) authenticated in accordance with the act of congress or the statutes of this state, and (b) within the civil jurisdiction and venue of the district court as provided in RCW 3.66.020, 3.66.030, and 3.66.040, may be filed in the office of the clerk of any district court of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, set-offs, counterclaims, cross-complaints, and proceedings for reopening, vacating, or staying as a judgment of a district court of this state, and may be enforced or satisfied in like manner.

[1994 c 185 § 6; 1977 ex.s. c 45 § 1.]

RCW 6.36.035 Affidavit of last address of judgment debtor, creditor--Filing--Notice of filing of judgment--Contents--Effect.

(1) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor's lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor.

(2) Promptly upon the filing of the foreign judgment and the affidavit, the judgment creditor shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer if any in this state. In addition, the judgment creditor shall file proof of mailing with the clerk.

(3)(a) No execution or other process for enforcement of a foreign judgment filed in the

office of the clerk of a superior court shall be allowed until ten days after the proof of mailing has been filed with the clerk by the judgment creditor.

(b) No execution or other process for enforcement of a foreign judgment filed in the office of the clerk of a district court shall be allowed until fourteen days after the proof of mailing has been filed with the clerk by the judgment creditor.

[1997 c 358 § 1; 1994 c 185 § 7; 1979 c 97 § 1; 1977 ex.s. c 45 § 2.]

RCW 6.36.045 Effect of appeal from or stay of execution of foreign judgment--Grounds for stay of enforcement.

(1)(a) If the judgment debtor shows the superior court of any county that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the superior court of any county any ground upon which enforcement of a judgment of a superior court of any county of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

(2)(a) If the judgment debtor shows the district court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the district court any ground upon which enforcement of a judgment of a district court of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

[1994 c 185 § 8; 1977 ex.s. c 45 § 3.]

RCW 6.36.130 Sale under levy.

Sale under the levy may be held at any time after final judgment, either personal or QUASI IN REM, but not earlier except as otherwise provided by law for sale under levy on perishable goods. Sale and distribution of the proceeds shall be made in accordance with the law of this state.

[1953 c 191 § 13.]

RCW 6.36.140 Interest and costs.

When a registered foreign judgment becomes a final judgment of this state, the court shall include as part of the judgment interest payable on the foreign judgment under the law of the state in which it was rendered, and the cost of obtaining the authenticated copy of the original judgment. The court shall include as part of its judgment court costs incidental to the proceeding in accordance with the law of this state.

[1953 c 191 § 14.]

RCW 6.36.150 Satisfaction of judgment.

Satisfaction, either partial or complete, of the original judgment or of a judgment entered thereupon in any other state shall operate to the same extent as satisfaction of the judgment in this state, except as to costs authorized by RCW 6.36.140.

[1953 c 191 § 15.]

RCW 6.36.160 Optional procedure.

The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this chapter remains unimpaired.

[1953 c 191 § 16.]

RCW 6.36.900 Construction--1953 c 191.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[1953 c 191 § 17.]

RCW 6.36.910 Short title.

This chapter may be cited as the "Uniform Enforcement of Foreign Judgments Act."

[1953 c 191 § 18.]

**Chapter 6.40 RCW
UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT**

Sections	
6.40.010	Definitions.
6.40.020	Applicability.
6.40.030	Recognition and enforcement.
6.40.040	Grounds for nonrecognition.

6.40.050	Personal jurisdiction.
6.40.060	Stay in case of appeal.
6.40.070	Saving clause.
6.40.900	Uniformity of interpretation.
6.40.905	Short title.
6.40.910	Application to judgments in effect on effective date.
6.40.915	Section headings.

RCW 6.40.010 Definitions.

As used in this chapter:

(1) "Foreign state" means any governmental unit other than the United States, or any state, district, commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands;

(2) "Foreign judgment" means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.

[1975 1st ex.s. c 240 § 1.]

RCW 6.40.020 Applicability.

This chapter applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending or it is subject to appeal.

[1975 1st ex.s. c 240 § 2.]

RCW 6.40.030 Recognition and enforcement.

Except as provided in RCW 6.40.040, a foreign judgment meeting the requirements of RCW 6.40.020 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

[1975 1st ex.s. c 240 § 3.]

RCW 6.40.040 Grounds for nonrecognition.

- (1) A foreign judgment is not conclusive if
- (a) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
 - (b) the foreign court did not have personal jurisdiction over the defendant; or
 - (c) the foreign court did not have jurisdiction over the subject matter.
- (2) A foreign judgment need not be recognized if

- (a) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;
 - (b) the judgment was obtained by fraud;
 - (c) the claim for relief on which the judgment is based is repugnant to the public policy of this state;
 - (d) the judgment conflicts with another final and conclusive judgment;
 - (e) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court;
- or
- (f) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

[1975 1st ex.s. c 240 § 4.]

RCW 6.40.050 Personal jurisdiction.

- (1) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if
- (a) the defendant was served personally in the foreign state;
 - (b) the defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;
 - (c) the defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
 - (d) the defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;
 - (e) the defendant had a business office in the foreign state and the proceedings in the foreign court involved a claim for relief arising out of business done by the defendant through that office in the foreign state; or
 - (f) the defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a claim for relief arising out of such operation.
- (2) The courts of this state may recognize other bases of jurisdiction.

[1975 1st ex.s. c 240 § 5.]

RCW 6.40.060 Stay in case of appeal.

If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

[1975 1st ex.s. c 240 § 6.]

RCW 6.40.070 Saving clause.

This chapter does not prevent the recognition of a foreign judgment in situations not covered by this chapter.

[1975 1st ex.s. c 240 § 7.]

RCW 6.40.900 Uniformity of interpretation.

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[1975 1st ex.s. c 240 § 8.]

RCW 6.40.905 Short title.

This chapter may be cited as the Uniform Foreign Money-Judgments Recognition Act.

[1975 1st ex.s. c 240 § 9.]

RCW 6.40.910 Application to judgments in effect on effective date.

This chapter shall apply to all foreign judgments in effect on the date this chapter becomes effective as well as all judgments rendered after such date.

[1975 1st ex.s. c 240 § 10.]

Notes:

Effective date--1975 1st ex.s. c 240: September 8, 1975, see preface to 1975 session laws.

RCW 6.40.915 Section headings.

Section headings as used in this act shall not constitute part of the law.

[1975 1st ex.s. c 240 § 12.]

**Chapter 6.44 RCW
UNIFORM FOREIGN-MONEY CLAIMS ACT**

Sections

6.44.010	Definitions.
6.44.020	Scope.
6.44.030	Variation by agreement.
6.44.040	Determining money of the claim.
6.44.050	Determining amount of the money of certain contract claims.
6.44.060	Asserting and defending foreign-money claim.
6.44.070	Judgments and awards on foreign-money claims--Times of money conversion--Form of judgment.

6.44.080	Conversions of foreign money in distribution proceeding.
6.44.090	Prejudgment and judgment interest.
6.44.100	Enforcement of foreign judgments.
6.44.110	Determining United States dollar value of foreign-money claims for limited purposes.
6.44.120	Effect of currency revalorization.
6.44.130	Supplementary general principles of law.
6.44.140	Uniformity of application and construction.
6.44.901	Short title.
6.44.902	Effective date--1991 c 153.
6.44.903	Severability--1991 c 153.
6.44.904	Prospective application.

RCW 6.44.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day next preceding the date on which money, in accordance with this chapter, is:

(a) Paid to a claimant in an action or distribution proceeding;

(b) Paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(c) Used to recoup, set off, or counterclaim in different moneys in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims is asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay, or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to RCW 6.44.040.

(9) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding two days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

[1991 c 153 § 1.]

RCW 6.44.020 Scope.

(1) This chapter applies only to a foreign-money claim in an action or distribution proceeding.

(2) This chapter applies to foreign-money issues even if other law under the conflict of laws rules of this state applies to other issues in the action or distribution proceeding.

[1991 c 153 § 2.]

RCW 6.44.030 Variation by agreement.

(1) The effect of this chapter may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different moneys for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

[1991 c 153 § 3.]

RCW 6.44.040 Determining money of the claim.

(1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(a) Regularly used between the parties as a matter of usage or course of dealing;

(b) Used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) In which the loss was ultimately felt or will be incurred by the party claimant.

[1991 c 153 § 4.]

RCW 6.44.050 Determining amount of the money of certain contract claims.

(1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding thirty days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

[1991 c 153 § 5.]

RCW 6.44.060 Asserting and defending foreign-money claim.

(1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, set-off, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

[1991 c 153 § 6.]

RCW 6.44.070 Judgments and awards on foreign-money claims--Times of money conversion--Form of judgment.

(1) Except as provided in subsection (3) of this section, a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date at a bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.

(4) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by

the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(5) A judgment or award made in an action or distribution proceeding on both (a) a defense, set-off, recoupment, or counterclaim, and (b) the adverse party's claim, must be netted by converting the money of the smaller into the money of the larger, and by subtracting the smaller from the larger, and specify the rates of exchange used.

(6) A judgment substantially in the following form complies with subsection (1) of this section:

IT IS ADJUDGED AND ORDERED, that defendant (insert name) pay to plaintiff (insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate--see RCW 6.44.090) percent a year or, at the option of the judgment debtor, the number of United States dollars which will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the close of business on the banking day next before the day of payment, together with assessed costs of (insert amount) United States dollars.

(7) If a contract claim is of the type covered by RCW 6.44.050 (a) or (b) [(1) or (2)], the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars which will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(8) A judgment must be filed or docketed and indexed in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment.

[1991 c 153 § 7.]

RCW 6.44.080 Conversions of foreign money in distribution proceeding.

The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

[1991 c 153 § 8.]

RCW 6.44.090 Prejudgment and judgment interest.

(1) With respect to a foreign-money claim, recovery of prejudgment or preaward interest and the rate of interest to be applied in the action or distribution proceeding, except as provided in subsection (2) of this section, are matters of the substantive law governing the right to recovery under the conflict of laws rules of this state.

(2) The court or arbitrator shall increase or decrease the amount of prejudgment or preaward interest otherwise payable in a judgment or award in foreign money to the extent

required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment, or conduct by a party or its attorney causing undue delay or expense.

(3) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state.

[1991 c 153 § 9.]

RCW 6.44.100 Enforcement of foreign judgments.

(1) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in RCW 6.44.070, whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(2) A foreign judgment may be filed or docketed in accordance with any rule or statute of this state providing a procedure for its recognition and enforcement.

(3) A satisfaction or partial payment made upon the foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(4) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this state in United States dollars only.

[1991 c 153 § 10.]

RCW 6.44.110 Determining United States dollar value of foreign-money claims for limited purposes.

(1) Computations under this section are for the limited purposes of this section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(2) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking, must be ascertained as provided in subsections (3) and (4) of this section.

(3) A party seeking process, costs, bond, or other undertaking under subsection (2) of this section, shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of business on the banking day next preceding the filing of a request or application for the issuance of process or for the determination of costs, or an application for a bond or other court-required undertaking.

(4) A party seeking the process, costs, bond, or other undertaking under subsection (2) of this section shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained,

and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

[1991 c 153 § 11.]

RCW 6.44.120 Effect of currency revalorization.

(1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under subsection (1) of this section occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a like conversion of the former money.

[1991 c 153 § 12.]

RCW 6.44.130 Supplementary general principles of law.

Unless displaced by particular provisions of this chapter, the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

[1991 c 153 § 13.]

RCW 6.44.140 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

[1991 c 153 § 14.]

RCW 6.44.901 Short title.

This chapter may be cited as the uniform foreign-money claims act.

[1991 c 153 § 15.]

RCW 6.44.902 Effective date--1991 c 153.

This chapter shall take effect January 1, 1992.

[1991 c 153 § 16.]

RCW 6.44.903 Severability--1991 c 153.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1991 c 153 § 17.]

RCW 6.44.904 Prospective application.

This chapter applies prospectively only and not retroactively. It applies only to causes of action which are commenced on or after January 1, 1992.

[1991 c 153 § 18.]

**Title 7 RCW
SPECIAL PROCEEDINGS AND ACTIONS**

Chapters

- 7.04 Arbitration.**
- 7.06 Mandatory arbitration of civil actions.**
- 7.08 Assignment for benefit of creditors.**
- 7.16 Certiorari, mandamus, and prohibition.**
- 7.21 Contempt of court.**
- 7.24 Uniform declaratory judgments act.**
- 7.25 Declaratory judgments of local bond issues.**
- 7.28 Ejectment, quieting title.**
- 7.36 Habeas corpus.**
- 7.40 Injunctions.**
- 7.42 Injunctions--Obscene materials.**
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- 7.44 Ne exeat.**
- 7.48 Nuisances.**
- 7.48A Moral nuisances.**
- 7.52 Partition.**
- 7.56 Quo warranto.**
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- 7.64 Replevin.**
- 7.68 Victims of crimes--Compensation, assistance.**
- 7.69 Crime victims, survivors, and witnesses.**
- 7.69A Child victims and witnesses.**
- 7.70 Actions for injuries resulting from health care.**

- 7.71 Health care peer review.**
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- 7.80 Civil infractions.**
- 7.84 Natural resource infractions.**
- 7.88 Confidentiality of financial institution compliance review information.**

Notes:

Abortion clinics, interference with: Chapter 9A.50 RCW.

Adoption: Chapter 26.33 RCW.

Animals, trespass: Chapter 16.04 RCW.

Arbitration, labor disputes: Chapter 49.08 RCW.

Boundaries

action to establish and mark: Chapter 58.04 RCW.

counties: Chapter 36.05 RCW.

Certiorari: State Constitution Art. 4 §§ 4, 6 (Amendment 28).

Civil rights, law against discrimination: Chapter 49.60 RCW.

Claims against

cities and towns: Chapters 35.23, 35.31 RCW.

counties: Chapter 36.45 RCW.

state: Chapter 4.92 RCW.

Corporations, dissolution: Chapter 23B.14 RCW.

Dissolution, legal separation: Chapter 26.09 RCW.

District courts: Titles 3, 12 RCW.

Eminent domain: Title 8 RCW; State Constitution Art. 1 § 16 (Amendment 9); Art. 12 § 10.

Escheats: Chapter 11.08 RCW.

Executions

generally: Chapter 6.17 RCW.

sales, redemptions: Chapters 6.21, 6.23 RCW.

supplemental proceedings: Chapter 6.32 RCW.

Families, abandonment or nonsupport: Chapter 26.20 RCW.

Family court: Chapter 26.12 RCW.

Forcible and unlawful detainer: Chapter 59.12 RCW.

Forcible entry: Chapter 59.12 RCW.

Foreclosure of

chattel mortgages: Chapter 62A.9A RCW.

real estate mortgages: Chapter 61.12 RCW.

Garnishment: Chapters 6.26, 6.27 RCW.

Habeas corpus: State Constitution Art. 1 § 13; Art. 4 §§ 4, 6 (Amendment 28).

Harassment: Chapter 10.14 RCW.

Health care facilities, interference with: Chapter 9A.50 RCW.

Homesteads: Chapter 6.13 RCW.

Imprisonment for debt: State Constitution Art. 1 § 17.

Injunction: State Constitution Art. 4 § 6 (Amendment 28).

Injunctions, labor disputes: Chapter 49.32 RCW.

Judgments, enforcement: Title 6 RCW.

Justice (district) courts: State Constitution Art. 4 §§ 6, 10 (Amendment 28).

Juveniles, courts and offenders: Title 13 RCW.

Lakes, outflow regulation: Chapter 90.24 RCW.

Land titles

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Legal notices, publication: Chapter 65.16 RCW.

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provision as to foreclosure of various: Title 60 RCW.

Liquor

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search and seizure: Chapter 66.32 RCW.

Mandamus: State Constitution Art. 4 §§ 4, 6 (Amendment 28).

Medical facilities, interference with: Chapter 9A.50 RCW.

Mentally ill, proceedings as to: Chapter 71.05 RCW.

Military, tribunals, trials, etc.: Title 38 RCW.

Name, change of--Fees: RCW 4.24.130.

Nonparental actions for child custody: Chapter 26.10 RCW.

Parentage, Uniform Act: Chapter 26.26 RCW.

Probate: Title 11 RCW.

Prohibition: State Constitution Art. 4 §§ 4, 6 (Amendment 28).

Property

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lost and found: Chapter 63.21 RCW.

unclaimed, uniform act: Chapter 63.29 RCW.

unclaimed in city police's hands: Chapter 63.32 RCW.

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Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.

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Real property, conveyances: Title 64 RCW.

Records, lost: Chapter 5.48 RCW.

Rent, actions to collect forty dollars a month or less: Chapter 59.08 RCW.

Replevin, district courts: Chapter 12.28 RCW.

Rights of accused: State Constitution Art. 1 § 22 (Amendment 10).

Sexual psychopaths: Chapter 71.06 RCW.

Small claims courts: Chapter 12.40 RCW.

Subpoenas: Chapter 5.56 RCW.

Subversive activities: Chapter 9.81 RCW.

Superior court: State Constitution Art. 4 §§ 3(a) (Amendment 25), 6, 10 (Amendment 28).

Support: Chapter 26.21 RCW.

Support of dependent children--Alternative method--1971 act: Chapter 74.20A RCW.

Supreme court: State Constitution Art. 4 § 3(a) (Amendment 25).

Television, subscription services, unlawful sale or theft, civil cause of action: RCW 9A.56.250.

Tree spiking, action for damages: RCW 9.91.155.

Trial by jury: State Constitution Art. 1 § 21.

Unemployment compensation, review, etc.: Chapter 50.32 RCW.

Unlawful entry and detainer: Chapter 59.16 RCW.

Veterans--Uniform guardianship act: Chapter 73.36 RCW.

Warehouseman's lien: Chapter 62A.7 RCW.

Waste and trespass: Chapter 64.12 RCW.

Water rights, determination: RCW 90.03.110 through 90.03.240.

Waters, public ground, regulation of: Chapter 90.44 RCW.

Workers' compensation cases: Title 51 RCW.

Chapter 7.04 RCW ARBITRATION

Sections

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Notes:

Arbitration of labor disputes: Chapter 49.08 RCW.

RCW 7.04.010 Arbitration authorized.

Two or more parties may agree in writing to submit to arbitration, in conformity with the provisions of this chapter, any controversy which may be the subject of an action existing between them at the time of the agreement to submit, or they may include in a written agreement a provision to settle by arbitration any controversy thereafter arising between them out of or in relation to such agreement. Such agreement shall be valid, enforceable and irrevocable save upon such grounds as exist in law or equity for the revocation of any agreement.

The provisions of this chapter shall not apply to any arbitration agreement between employers and employees or between employers and associations of employees, and as to any such agreement the parties thereto may provide for any method and procedure for the settlement of existing or future disputes and controversies, and such procedure shall be valid, enforceable and irrevocable save upon such grounds as exist in law or equity for the revocation of any agreement.

[1947 c 209 § 1; 1943 c 138 § 1; Rem. Supp. 1947 § 430-1.]

Notes:

Saving--1943 c 138: "Sections 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, and 274 of the Code of 1881 (sections 420 to 430, both inclusive, Remington's Revised Statutes; sections 7339 to 7349, both inclusive, Pierce's Code) are hereby repealed: PROVIDED, HOWEVER, That arbitration proceedings pending upon the effective date of this act may be carried through to final judgment under the provisions of said sections, which are hereby continued in effect for such purposes only." [1943 c 138 § 23.] This applies to RCW 7.04.010 through 7.04.170 and 7.04.180 through 7.04.220.

RCW 7.04.020 Applications in writing--How heard--Jurisdiction.

Any application made under authority of this chapter shall be made in writing and heard in a summary way in the manner and upon the notice provided by law or rules of court for the making and hearing of motions or petitions, except as otherwise herein expressly provided.

Jurisdiction under this chapter is specifically conferred on the district and superior courts of the state, subject to jurisdictional limitations.

[1982 c 122 § 1; 1943 c 138 § 2; Rem. Supp. 1943 § 430-2.]

RCW 7.04.030 Stay of action pending arbitration.

If any action for legal or equitable relief or other proceedings be brought by any party to a written agreement to arbitrate, the court in which such action or proceeding is pending, upon being satisfied that any issue involved in such action or proceeding is referable to arbitration under such agreement, shall, on motion of any party to the arbitration agreement, stay the action or proceeding until an arbitration has been had in accordance with the agreement.

[1943 c 138 § 3; Rem. Supp. 1943 § 430-3.]

RCW 7.04.040 Motion to compel arbitration--Notice and hearing--Motion for stay.

(1) A party to a written agreement for arbitration claiming the neglect or refusal of another to proceed with an arbitration thereunder may make application to the court for an order directing the parties to proceed with the arbitration in accordance with their agreement. Eight days notice in writing of such application shall be served upon the party alleged to be in default. Service thereof shall be made in the manner provided by law for service of a summons in a civil action in the court specified in RCW 7.04.020. If the court is satisfied after hearing the parties that no substantial issue exists as to the existence or validity of the agreement to arbitrate or the

failure to comply therewith, the court shall make an order directing the parties to proceed to arbitrate in accordance with the terms of the agreement.

(2) If the court shall find that a substantial issue is raised as to the existence or validity of the arbitration agreement or the failure to comply therewith, the court shall proceed immediately to the trial of such issue. If upon such trial the court finds that no written agreement providing for arbitration was made or that there is no default in proceeding thereunder, the motion to compel arbitration shall be denied.

(3) Either party shall have the right to demand the immediate trial by jury of any such issue concerning the validity or existence of the arbitration agreement or the failure to comply therewith. Such demand shall be made before the return day of the motion to compel arbitration under this section, or if no such motion was made, the demand shall be made in the application for a stay of the arbitration, as provided under subsection (4)(a) hereunder.

(4) In order to raise an issue as to the existence or validity of the arbitration agreement or the failure to comply therewith, a party must set forth evidentiary facts raising such issue and must either (a) make a motion for a stay of the arbitration. If a notice of intention to arbitrate has been served as provided in RCW 7.04.060, notice of the motion for the stay must be served within twenty days after service of said notice. Any issue regarding the validity or existence of the agreement or failure to comply therewith shall be tried in the same manner as provided in subsections (2) and (3) hereunder; or (b) by contesting a motion to compel arbitration as provided under subsection (1) of this section.

[1943 c 138 § 4; Rem. Supp. 1943 § 430-4.]

RCW 7.04.050 Appointment of arbitrators by court.

Upon the application of any party to the arbitration agreement, and upon notice to the other parties thereto, the court shall appoint an arbitrator, or arbitrators, in any of the following cases:

(1) When the arbitration agreement does not prescribe a method for the appointment of arbitrators.

(2) When the arbitration agreement does prescribe a method for the appointment of arbitrators, and the arbitrators, or any of them, have not been appointed and the time within which they should have been appointed has expired.

(3) When any arbitrator fails or is otherwise unable to act, and his successor has not been duly appointed.

(4) In any of the foregoing cases where the arbitration agreement is silent as to the number of arbitrators, three arbitrators shall be appointed by the court.

Arbitrators appointed by the court shall have the same power as though their appointment had been made in accordance with the agreement to arbitrate.

[1943 c 138 § 5; Rem. Supp. 1943 § 430-5.]

RCW 7.04.060 Notice of intention to arbitrate--Contents.

When the controversy arises from a written agreement containing a provision to settle by arbitration a controversy thereafter arising between the parties out of or in relation to such agreement, the party demanding arbitration shall serve upon the other party, personally or by registered mail, a written notice of his intention to arbitrate. Such notice must state in substance that unless within twenty days after its service, the party served therewith shall serve a notice of motion to stay the arbitration, he shall thereafter be barred from putting in issue the existence or validity of the agreement or the failure to comply therewith.

[1943 c 138 § 6; Rem. Supp. 1943 § 430-6.]

RCW 7.04.070 Hearing by arbitrators.

The arbitrators shall appoint a time and place for the hearing and notify the parties thereof, and may adjourn the hearing from time to time as may be necessary, and, on application of either party, and for good cause, may postpone the hearing to a time not extending beyond the date fixed for making the award.

All the arbitrators shall meet and act together during the hearing but a majority of them may determine any question and render a final award. The court shall have power to direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

[1943 c 138 § 7; Rem. Supp. 1943 § 430-7.]

RCW 7.04.080 Failure of party to appear no bar to hearing and determination.

If any party neglects to appear before the arbitrators after reasonable notice of the time and place of hearing, the arbitrators may nevertheless proceed to hear and determine the controversy upon the evidence which is produced before them.

[1943 c 138 § 8; Rem. Supp. 1943 § 430-8.]

RCW 7.04.090 Time of making award--Extension--Failure to make award when required.

If the time within which the award shall be made is not fixed in the arbitration agreement, the award shall be made within thirty days from the closing of the proceeding, unless the parties, in writing, extend the time in which that award may be made. If the arbitrator fails to make an award when required, the court, upon motion and hearing, shall order the arbitrator to enter an award within the time fixed by the court, and may impose sanctions or terms deemed reasonable by the court. Failure to make an award within the time required shall not divest the arbitrators of jurisdiction to make an award or to correct or modify an award as provided in RCW 7.04.175.

[1985 c 265 § 1; 1943 c 138 § 9; Rem. Supp. 1943 § 430-9.]

RCW 7.04.100 Representation by attorney.

Any party shall have the right to be represented by an attorney at law in any arbitration proceeding or any hearing before the arbitrators.

[1943 c 138 § 10; Rem. Supp. 1943 § 430-10.]

RCW 7.04.110 Witnesses--Compelling attendance.

The arbitrators, or a majority of them, may require any person to attend as a witness, and to bring with him any book, record, document or other evidence. The fees for such attendance shall be the same as the fees of witnesses in the superior court. Each arbitrator shall have the power to administer oaths.

Subpoenae shall issue and be signed by the arbitrators, or any one of them, and shall be directed to the person and shall be served in the same manner as subpoenae to testify before a court of record in this state. If any person so summoned to testify shall refuse or neglect to obey such subpoenae, upon petition authorized by the arbitrators or a majority of them, the court may compel the attendance of such person before the said arbitrator or arbitrators, or punish said person for contempt in the same manner now provided for the attendance of witnesses or the punishment of them in the courts of this state.

[1943 c 138 § 11; Rem. Supp. 1943 § 430-11.]

Notes:

Witnesses, compelling attendance: Chapter 5.56 RCW.

RCW 7.04.120 Depositions.

Depositions may be taken with or without a commission in the same manner and upon the same grounds as provided by law for the taking of depositions in suits pending in the courts of record in this state.

[1943 c 138 § 12; Rem. Supp. 1943 § 430-12.]

Notes:

Depositions: Rules of court: Cf. CR 28-CR 32; see also Title 5 RCW.

RCW 7.04.130 Order to preserve property or secure satisfaction of award.

At any time before final determination of the arbitration the court may upon application of a party to the agreement to arbitrate make such order or decree or take such proceeding as it may deem necessary for the preservation of the property or for securing satisfaction of the award.

[1943 c 138 § 13; Rem. Supp. 1943 § 430-13.]

RCW 7.04.140 Form of award--Copies to parties.

The award shall be in writing and signed by the arbitrators or by a majority of them. The arbitrators shall promptly upon its rendition deliver a true copy of the award to each of the parties or their attorneys.

[1943 c 138 § 14; Rem. Supp. 1943 § 430-14.]

RCW 7.04.150 Confirmation of award by court.

At any time within one year after the award is made, unless the parties shall extend the time in writing, any party to the arbitration may apply to the court for an order confirming the award, and the court shall grant such an order unless the award is beyond the jurisdiction of the court, or is vacated, modified, or corrected, as provided in RCW 7.04.160 and 7.04.170. Notice in writing of the motion must be served upon the adverse party, or his attorney, five days before the hearing thereof. The validity of an award, otherwise valid, shall not be affected by the fact that no motion is made to confirm it.

[1982 c 122 § 2; 1943 c 138 § 15; Rem. Supp. 1943 § 430-15.]

RCW 7.04.160 Vacation of award--Rehearing.

In any of the following cases the court shall after notice and hearing make an order vacating the award, upon the application of any party to the arbitration:

- (1) Where the award was procured by corruption, fraud or other undue means.
- (2) Where there was evident partiality or corruption in the arbitrators or any of them.
- (3) Where the arbitrators were guilty of misconduct, in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence, pertinent and material to the controversy; or of any other misbehavior, by which the rights of any party have been prejudiced.
- (4) Where the arbitrators exceeded their powers, or so imperfectly executed them that a final and definite award upon the subject matter submitted was not made.
- (5) If there was no valid submission or arbitration agreement and the proceeding was instituted without either serving a notice of intention to arbitrate, as provided in RCW 7.04.060, or without serving a motion to compel arbitration, as provided in RCW 7.04.040(1).

An award shall not be vacated upon any of the grounds set forth under subdivisions (1) to (4), inclusive, unless the court is satisfied that substantial rights of the parties were prejudiced thereby.

Where an award is vacated, the court may, in its discretion, direct a rehearing either before the same arbitrators or before new arbitrators to be chosen in the manner provided in the agreement for the selection of the original arbitrators and any provision limiting the time in which the arbitrators may make a decision shall be deemed applicable to the new arbitration and to commence from the date of the court's order.

[1943 c 138 § 16; Rem. Supp. 1943 § 430-16.]

RCW 7.04.170 Modification or correction of award by court.

In any of the following cases, the court shall, after notice and hearing, make an order modifying or correcting the award, upon the application of any party to the arbitration:

(1) Where there was an evident miscalculation of figures, or an evident mistake in the description of any person, thing or property, referred to in the award.

(2) Where the arbitrators have awarded upon a matter not submitted to them.

(3) Where the award is imperfect in a matter of form, not affecting the merits of the controversy. The order must modify and correct the award, as to effect the intent thereof.

[1943 c 138 § 17; Rem. Supp. 1943 § 430-17.]

RCW 7.04.175 Modification or correction of award by arbitrators.

On application of a party or, if an application to the court is pending under RCW 7.04.150, 7.04.160, or 7.04.170, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in RCW 7.04.170 (1) and (3). The application shall be made, in writing, within ten days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that objections, if any, must be served within ten days from the notice. The arbitrators shall rule on the application within twenty days after such application is made. Any award so modified or corrected is subject to the provisions of RCW 7.04.150, 7.04.160, and 7.04.170 and is to be considered the award in the case for purposes of this chapter, said award being effective on the date the corrections or modifications are made. If corrections or modifications are denied, then the award shall be effective as of the date the award was originally made.

[1985 c 265 § 2.]

RCW 7.04.180 Notice of motion to vacate, modify, or correct award--Stay.

Notice of a motion to vacate, modify or correct an award shall be served upon the adverse party, or his attorney, within three months after a copy of the award is delivered to the party or his attorney. Such motion shall be made in the manner prescribed by law for the service of notice of a motion in an action. For the purposes of the motion any judge who might make an order to stay the proceedings, in an action brought in the same court, may make an order to be served with the notice of motion, staying the proceedings of the adverse party to enforce the award.

[1943 c 138 § 18; Rem. Supp. 1943 § 430-18.]

RCW 7.04.190 Judgment--Costs.

Upon the granting of an order, confirming, modifying, correcting or vacating an award, judgment or decree shall be entered in conformity therewith. Costs of the application and of the

proceedings subsequent thereto, not exceeding twenty-five dollars and disbursements, may be awarded by the court in its discretion.

[1943 c 138 § 19; Rem. Supp. 1943 § 430-19.]

RCW 7.04.200 Judgment roll--Docketing.

Immediately after entering judgment, the clerk must attach together and file the following papers, which constitute the judgment roll:

(1) The agreement; the selection or appointment, if any, of an additional arbitrator, or umpire; and each written extension of the time, if any, within which to make the award.

(2) The award.

(3) Each notice, affidavit or other paper used upon an application to confirm, modify or correct the award, and a copy of each order of the court upon such an application.

(4) A copy of the judgment.

The judgment may be docketed as if it was rendered in an action.

[1943 c 138 § 20; Rem. Supp. 1943 § 430-20.]

RCW 7.04.210 Effect of judgment.

The judgment so entered has the same force and effect, in all respects as, and is subject to all the provisions of law relating to, a judgment in an action; and it may be enforced as if it had been rendered in an action in the court in which it is entered.

[1943 c 138 § 21; Rem. Supp. 1943 § 430-21.]

RCW 7.04.220 Appeal.

An appeal may be taken from any final order made in a proceeding under this chapter, or from a judgment entered upon an award, as from an order or judgment in any civil action.

[1943 c 138 § 22; Rem. Supp. 1943 § 430-22.]

**Chapter 7.06 RCW
MANDATORY ARBITRATION OF CIVIL ACTIONS**

Sections

- 7.06.010 Authorization.
- 7.06.020 Actions subject to mandatory arbitration--Court may authorize mandatory arbitration of maintenance and child support.
- 7.06.030 Implementation by supreme court rules.
- 7.06.040 Qualifications, appointment and compensation of arbitrators.
- 7.06.050 Decision and award--Appeals--Trial--Judgment.
- 7.06.060 Costs and attorney's fees.

7.06.070	Right to trial by jury.
7.06.900	Severability--1979 c 103.
7.06.910	Effective date--1979 c 103.

Notes:

Rules of court: See *Superior Court Mandatory Arbitration Rules (MAR)*.

RCW 7.06.010 Authorization.

In counties with a population of seventy thousand or more, the superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize mandatory arbitration of civil actions under this chapter. In all other counties, the superior court of the county, by a majority vote of the judges thereof, may authorize mandatory arbitration of civil actions under this chapter.

[1991 c 363 § 7; 1984 c 258 § 511; 1979 c 103 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.06.020 Actions subject to mandatory arbitration--Court may authorize mandatory arbitration of maintenance and child support.

(1) All civil actions, except for appeals from municipal or district courts, which are at issue in the superior court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of fifteen thousand dollars, or if approved by the superior court of a county by two-thirds or greater vote of the judges thereof, up to thirty-five thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration.

(2) If approved by majority vote of the superior court judges of a county which has authorized arbitration, all civil actions which are at issue in the superior court in which the sole relief sought is the establishment, termination or modification of maintenance or child support payments are subject to mandatory arbitration. The arbitrability of any such action shall not be affected by the amount or number of payments involved.

[1987 c 212 § 101; 1987 c 202 § 127; 1985 c 265 § 3; 1982 c 188 § 1; 1979 c 103 § 2.]

Notes:

Rules of court: *MAR 1.2.*

Reviser's note: This section was amended by 1987 c 202 § 127 and by 1987 c 212 § 101, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date--1987 c 212 §§ 101 and 102: "Sections 101 and 102 of this act shall take effect July 1, 1988." [1987 c 212 § 1902.]

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 7.06.030 Implementation by supreme court rules.

The supreme court shall by rule adopt procedures to implement mandatory arbitration of civil actions under this chapter.

[1979 c 103 § 3.]

RCW 7.06.040 Qualifications, appointment and compensation of arbitrators.

The appointment of arbitrators shall be prescribed by rules adopted by the supreme court. An arbitrator must be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge. The parties may stipulate to a nonlawyer arbitrator. The supreme court may prescribe by rule additional qualifications of arbitrators.

Arbitrators shall be compensated in the same amount and manner as judges pro tempore of the superior court.

[1987 c 212 § 102; 1979 c 103 § 4.]

Notes:

Effective date--1987 c 212 §§ 101 and 102: See note following RCW 7.06.020.

RCW 7.06.050 Decision and award--Appeals--Trial--Judgment.

Following a hearing as prescribed by court rule, the arbitrator shall file his decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after such filing, any aggrieved party may file with the clerk a written notice of appeal and request for a trial de novo in the superior court on all issues of law and fact. Such trial de novo shall thereupon be held, including a right to jury, if demanded.

If no appeal has been filed at the expiration of twenty days following filing of the arbitrator's decision and award, a judgment shall be entered and may be presented to the court by any party, on notice, which judgment when entered shall have the same force and effect as judgments in civil actions.

[1982 c 188 § 2; 1979 c 103 § 5.]

RCW 7.06.060 Costs and attorney's fees.

The supreme court may by rule provide for costs and reasonable attorney's fees that may be assessed against a party appealing from the award who fails to improve his position on the trial de novo.

[1979 c 103 § 6.]

RCW 7.06.070 Right to trial by jury.

No provision of this chapter may be construed to abridge the right to trial by jury.

[1979 c 103 § 7.]

RCW 7.06.900 Severability--1979 c 103.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1979 c 103 § 9.]

RCW 7.06.910 Effective date--1979 c 103.

This act shall take effect July 1, 1980.

[1979 c 103 § 10.]

**Chapter 7.08 RCW
ASSIGNMENT FOR BENEFIT OF CREDITORS**

Sections

7.08.010	Assignment must be for benefit of all creditors.
7.08.020	Assent of creditors presumed.
7.08.030	Assignment--Procedure--Creditor's selection of new assignee.
7.08.050	Inventory by assignee--Bond.
7.08.060	Notice to creditors.
7.08.070	List of creditors' claims.
7.08.080	Exceptions to claims.
7.08.090	Dividends--Final account--Compensation.
7.08.100	Assignee subject to court's control.
7.08.110	Assignment not void, when.
7.08.120	Additional inventory.
7.08.130	Procedure on claims not due--Limitation on presentment of claims.
7.08.140	Authority of assignee to dispose of assets.
7.08.150	Procedure when assignee dies, fails to act, misapplies estate, or if bond insufficient.
7.08.170	Discharge of assignor.
7.08.180	Sheriff disqualified from acting.
7.08.190	Right of assignor to exemption.
7.08.200	Exemption, how claimed--Objections.

Notes:

Fraud in assignment for benefit of creditors: RCW 9.45.100.

RCW 7.08.010 Assignment must be for benefit of all creditors.

No general assignment of property by an insolvent, or in contemplation of insolvency, for

the benefit of creditors, shall be valid unless it be made for the benefit of all his creditors in proportion to the amount of their respective claims; and after the payment of the costs and disbursements thereof, including the attorney fees allowed by law in case of judgment, out of the estate of the insolvent, such claim or claims shall be deemed as presented, and shall share pro rata with other claims as hereinafter provided.

[1893 c 100 § 1; 1890 p 83 § 1; RRS § 1086.]

RCW 7.08.020 Assent of creditors presumed.

In case of an assignment for the benefit of all the creditors of the assignor, the assent of the creditors shall be presumed.

[1890 p 83 § 2; RRS § 1087.]

RCW 7.08.030 Assignment--Procedure--Creditor's selection of new assignee.

The debtor shall annex to such assignment an inventory, under oath, of all his estate, real and personal, according to the best of his knowledge, and also a list of his creditors, with their post office address and a list of the amount of their respective demands, but such inventory shall not be conclusive as to the amount of the debtor's estate. Every assignment shall be in writing, and duly acknowledged in the same manner as conveyances of real estate, and recorded in the record of deeds of the county where the person making the same resides, or where the business in respect to which the same is made has been carried on.

Upon the application of two or more creditors of said debtor therefor, by petition to the judge of the superior court of the county in which such assignment is or should be recorded, at any time within thirty days from the making or recording of such assignment, it shall be the duty of said superior judge to direct the clerk of said superior court to order a meeting of the creditors of said debtors, to choose an assignee of the estate of said debtor in lieu of the assignee named by the debtor in his assignment; and thereupon the clerk of said court shall forthwith give notice to all the creditors of said debtor to meet at his office at a time stated, not to exceed fifteen days from the date of such notice, to select one or more assignees in the place of the assignee named by the debtor in his assignment. Such creditors may appear in person or by proxy, and a majority in number and value of said creditors attending such meeting shall select one or more assignees; and in the event that no one shall receive a majority vote of said creditors who represent at least one-half in amount of all claims represented at such meeting, then, and in that event, said clerk shall certify that fact to the judge of the superior court aforesaid, and thereupon said superior judge shall select and appoint an assignee.

When such assignee shall have been selected by such creditors, or appointed by the superior judge as herein provided, then the assignee named in the debtor's assignment shall forthwith make to the assignee elected by the creditors or appointed by the superior judge, an assignment and conveyance of all the estate, real and personal, that has been assigned or conveyed to him by said debtor; and such assignee so elected by the creditors or appointed by the

superior judge, upon giving the bond required of an assignee by RCW 7.08.010 through 7.08.170, shall possess all the powers, and be subject to all the duties imposed by RCW 7.08.010 through 7.08.170, as fully to all intents and purposes as though named in the debtor's assignment.

From the time of the pending of an application to elect an assignee by the creditors, and until the time shall be terminated by an election or appointment as herein provided, no property of the debtor, except perishable property, shall be sold or disposed of by any assignee; but the same shall be safely and securely kept until the election or appointment of an assignee as herein provided. No creditor shall be entitled to vote at any such meeting called for the purpose of electing an assignee, until he shall have presented to the clerk of the superior court, who shall preside at such meeting, a verified statement of his claim against the debtor.

[1890 p 83 § 3; RRS § 1088. Formerly RCW 7.08.030 and 7.08.040.]

RCW 7.08.050 Inventory by assignee--Bond.

The assignee shall also forthwith file with the clerk of the superior court of the county where such assignment will be recorded, a true and full inventory and valuation of said estate, under oath, as far as the same has come to his knowledge, and shall then and there enter into bonds to the state of Washington, for the use of the creditors, in double the amount of the inventory and valuation, with two or more sufficient sureties, to be approved by said clerk, for the faithful performance of said trust; and the assignee may thereupon proceed to perform any duties necessary to carry into effect the intention of said assignment.

[1890 p 85 § 4; RRS § 1089.]

RCW 7.08.060 Notice to creditors.

The assignee shall forthwith give notice of such assignment, by publication in some newspaper in the county, if any, and if none, then in the nearest county thereto, which publication shall be continued at least six weeks; and shall forthwith send a notice by mail to each creditor of whom he shall be informed, directed to their usual place of residence, and notifying the creditors to present their claims, under oath, to him within three months thereafter.

[1890 p 85 § 5; RRS § 1090.]

RCW 7.08.070 List of creditors' claims.

At the expiration of three months from the time of first publishing notice, the assignee shall report and file with the clerk of the court a true and full list, under oath, of all such creditors of the assignor as shall have claims to be such, with a statement of their claims, and also an affidavit of publication or notice, and a list of the creditors, with their places of residence, to whom notice has been sent by mail, and the date of mailing, duly verified.

[1890 p 85 § 6; RRS § 1091.]

RCW 7.08.080 Exceptions to claims.

Any person interested may appear within three months after filing such report and file with said clerk any exceptions to the claim or demand of any creditor, and the clerk shall forthwith cause notice thereof to be given to the creditor, which shall be served and returned as in case of summons, and the said court shall proceed to hear proof of the parties in the premises, and shall render such judgment therein as shall be just, and may allow a trial by jury thereon.

[1957 c 9 § 7; 1890 p 85 § 7; RRS § 1092.]

RCW 7.08.090 Dividends--Final account--Compensation.

If no exception be made to the claim of any creditor, or if the same has been adjudicated, the court shall order the assignee to make from time to time fair and equal dividends among the creditors of the assets in his hands, in proportion to their claims, and as soon as may be to render a final account of said trust to said court, which may allow such commissions to said assignee in the final settlement as may be considered right and just, not exceeding, however, the fees and compensation allowed by law to administrators and executors.

[1893 c 26 § 1; 1890 p 86 § 8; RRS § 1093.]

RCW 7.08.100 Assignee subject to court's control.

The assignee shall at all times be subject to the order of the court or judge, and the said court or judge may, by citation and attachment, compel the assignee from time to time to file reports of his proceedings, and of the situation and condition of the trust, and to proceed in the faithful execution of the duties required by RCW 7.08.010 through 7.08.170.

[1890 p 86 § 9; RRS § 1094.]

RCW 7.08.110 Assignment not void, when.

No assignment shall be declared fraudulent or void for want of any list or inventory as provided in RCW 7.08.010 through 7.08.170. The court or judge may, upon application of the assignee, or any creditor, compel the appearance in person of the debtor before such court or judge to answer under oath such matters as may then and there be inquired of him; and such debtor may then and there be fully examined under oath as to the amount and situation of his estate, and the names of the creditors, and amounts due to each, with their places of residence, and the court may compel the delivery to the assignee of any property or estate embraced in the assignment.

[1957 c 9 § 8; 1890 p 86 § 10; RRS § 1095.]

RCW 7.08.120 Additional inventory.

The assignee shall, from time to time, file with the clerk of the court an inventory and valuation of any additional property which may come into his hands under such assignment, after the filing of the first inventory, and the clerk may thereupon require him to give additional security.

[1890 p 86 § 11; RRS § 1096.]

RCW 7.08.130 Procedure on claims not due--Limitation on presentment of claims.

Any creditor may claim debts to become due, as well as debts due, but on debts not due, a reasonable abatement shall be made when the same are not drawing interest; and all creditors who shall not exhibit their claims within the term of three months from the publication of notice as aforesaid shall not participate in the dividends until after payment in full of all claims presented within said term and allowed by the court.

[1890 p 86 § 12; RRS § 1097.]

RCW 7.08.140 Authority of assignee to dispose of assets.

Any assignee as aforesaid shall have as full power and authority to dispose of all estate, real and personal, assigned, as the debtor had at the time of assignment, and to sue for and recover, in the name of such assignee, everything belonging or appertaining to said estate, and generally to do whatever the debtor might have done in the premises; but no sale of real estate belonging to said trust shall be made without notice published, as in case of sale of real estate on execution, unless the court shall order and direct otherwise.

[1890 p 87 § 13; RRS § 1098.]

RCW 7.08.150 Procedure when assignee dies, fails to act, misapplies estate, or if bond insufficient.

In case any assignee shall die before closing of his trust, or in case any assignee shall fail or neglect, for the period of thirty days after the making of any assignment, to file an inventory and valuation, and give bonds as required by RCW 7.08.010 through 7.08.170, the superior court, or judge thereof, of the county where such assignment may be recorded, on the application of any person interested, shall appoint some person to execute the trust embraced in such assignment; and such person, on giving the bond, with sureties, as required of the assignee, shall possess all the powers conferred on such assignee and shall be subject to all the duties hereby imposed, as fully as though named in the assignment; and in case any surety shall be discovered insufficient, or on complaint before the court or judge it should be made to appear that any assignee is guilty of wasting or misapplying the trust estate, said court or judge may direct and require additional security, and may remove such assignee, and may appoint others instead, and such person so appointed, on giving bond, shall have full power to execute such duties, and to demand and sue for all estate in the hands of the person removed, and to demand and recover the amount and

value of all moneys and property or estate so wasted and misapplied, which he may neglect or refuse to make satisfaction for, from such person and his sureties.

[1890 p 87 § 14; RRS § 1099. Formerly RCW 7.08.150 and 7.08.160.]

RCW 7.08.170 Discharge of assignor.

Whenever it shall appear to the satisfaction of the court or judge thereof when the assignment is pending upon the final reports of the assignee chosen by the creditors or otherwise that the assignor has been guilty of no fraud in making an assignment or concealment or diversion of the property or any part thereof, in order to keep the same beyond the reach of creditors, and has acted justly and fairly in all respects; that the estate has been made to realize the fullest amount possible and that the expenses of the assignment have been paid, the judge of the court having jurisdiction of the matter shall, upon the allowance of the final account of the assignee, make an order discharging the assignor or assignors as the case may be from any further liability on account of any indebtedness existing prior to the making of such assignment, and thereafter such assignor shall be freed from any liability on account of any unsatisfied portion of the indebtedness existing prior to the making of the assignment.

[1895 c 151 § 1; 1890 p 88 § 15; RRS § 1100.]

RCW 7.08.180 Sheriff disqualified from acting.

That it shall be unlawful for the judge of any court of record or the creditors of an insolvent debtor to appoint the sheriff of the county receiver or assignee in any case of insolvency or assignment.

[1893 c 137 § 1; RRS § 1101.]

RCW 7.08.190 Right of assignor to exemption.

That hereafter any person making a general assignment for the benefit of creditors, under any statute of this state, shall have the right to claim, and have set aside to him, as exempt from the operation of such assignment, all real and personal property which is, at the time of such assignment, exempt from levy by execution or attachment, under the laws of this state.

[1897 c 6 § 1; RRS § 1102.]

RCW 7.08.200 Exemption, how claimed--Objections.

That such assignor shall, if he desires to claim the benefit of this section and RCW 7.08.190, state in such assignment, or in the inventory annexed thereto, what property he claims as exempt, giving a description thereof sufficient for identification. Any creditor of such assignor who believes any of the property so claimed as exempt is not so in fact shall have the right to make objection to such exemption claim at any time prior to the expiration of the time for

presentment of claims against such assignor to his assignee. Such objection shall be made by delivering to the assignor and the assignee, and filing with the clerk of the court having jurisdiction of the assignment, a notice in writing, clearly pointing out the part or parts of such exemption claim objected to, and the ground of such objection. When the time above provided for the service and filing of objections has expired, the assignor, upon application to said court, shall have a right to the summary hearing of the said objections, and at such hearing the court shall determine and adjudge to the assignor his lawful exemptions. If any part of the exemptions claimed by the assignor shall be denied, the court shall direct the assignee to pay, out of the funds in his hands, the costs of the hearing, if any, as a part of the expenses of the assignment proceedings. The court may, at its discretion, if it find any claim made for exemption to be fraudulent and made in bad faith, deny such exemption. If no objection to the said exemption claim is served and filed prior to the expiration of the time for presentment of claims to the assignee, the assignor shall be entitled as of course to an order setting aside to him the exemptions claimed by him as aforesaid, and it shall be the duty of the assignee forthwith to deliver the same to him.

[1897 c 6 § 2; RRS § 1103.]

**Chapter 7.16 RCW
CERTIORARI, MANDAMUS, AND PROHIBITION**

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Notes:

Rules of court: *Writ procedure superseded by RAP 2.1; special proceeding RAP 16.1 through 16.17. Camping resorts, writ of mandamus authorized: RCW 19.105.470.*

RCW 7.16.010 Parties, how designated.

The party prosecuting a special proceeding may be known as the plaintiff and the adverse party as the defendant.

[1895 c 65 § 1; RRS § 999.]

RCW 7.16.020 Judgment, motion, and order defined.

A judgment in a special proceeding is the final determination of the rights of the parties therein. The definitions of a motion and an order in a civil action are applicable to similar acts in a special proceeding.

[1895 c 65 § 2; RRS § 1000.]

CERTIORARI

RCW 7.16.030 Certiorari defined.

The writ of certiorari may be denominated the writ of review.

[1895 c 65 § 3; RRS § 1001.]

RCW 7.16.040 Grounds for granting writ.

A writ of review shall be granted by any court, except a municipal or district court, when an inferior tribunal, board or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board or officer, or one acting illegally, or to correct any erroneous or void proceeding, or a proceeding not according to the course of the common law, and there is no appeal, nor in the judgment of the court, any plain, speedy and adequate remedy at law.

[1987 c 202 § 130; 1895 c 65 § 4; RRS § 1002.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 7.16.050 Application for writ--Notice.

The application must be made on affidavit by the party beneficially interested, and the court may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed, or may grant the writ without notice.

[1895 c 65 § 5; RRS § 1003.]

RCW 7.16.060 Writ, to whom directed.

The writ may be directed to the inferior tribunal, board or officer, or to any other person having the custody of the record or proceedings to be certified. When directed to a tribunal the clerk, if there be one, must return the writ with the transcript required.

[1895 c 65 § 6; RRS § 1004.]

RCW 7.16.070 Contents of writ.

The writ of review must command the party to whom it is directed to certify fully to the court issuing the writ, at a specified time and place, a transcript of the record and proceedings (describing or referring to them with convenient certainty), that the same may be reviewed by the court, and requiring the party, in the meantime, to desist from further proceedings in the matter to be reviewed.

[1895 c 65 § 7; RRS § 1005.]

RCW 7.16.080 Stay of proceedings.

If a stay of proceedings be not intended, the words requiring the stay must be omitted from the writ. These words may be inserted or omitted, in the sound discretion of the court, but if

omitted the power of the inferior court or office is not suspended or the proceedings stayed.

[1895 c 65 § 8; RRS § 1006.]

RCW 7.16.100 Service of writ.

The writ may be served as follows, except where different directions respecting the mode of service thereof are given by the court granting it:

(1) Where it is directed to a person or persons by name or by his or her official title or titles, or to a municipal corporation, it must be served upon each officer or other person to whom it is directed, or upon the corporation, in the same manner as a summons.

(2) Where it is directed to a court, or to the judges of a court, having a clerk appointed pursuant to law, service upon the court or the judges thereof may be made by filing the writ with the clerk.

[1895 c 65 § 10; RRS § 1008.]

RCW 7.16.110 Defective return--Further return--Hearing--Judgment.

If the return of the writ be defective, the court may order a further return to be made. When a full return has been made, the court must hear the parties, or such of them as may attend for that purpose, and may thereupon give judgment, either affirming or annulling or modifying the proceedings below.

[1895 c 65 § 11; RRS § 1009.]

RCW 7.16.120 Questions involving merits to be determined.

The questions involving the merits to be determined by the court upon the hearing are:

(1) Whether the body or officer had jurisdiction of the subject matter of the determination under review.

(2) Whether the authority, conferred upon the body or officer in relation to that subject matter, has been pursued in the mode required by law, in order to authorize it or to make the determination.

(3) Whether, in making the determination, any rule of law affecting the rights of the parties thereto has been violated to the prejudice of the relator.

(4) Whether there was any competent proof of all the facts necessary to be proved, in order to authorize the making of the determination.

(5) Whether the factual determinations were supported by substantial evidence.

[1989 c 7 § 1; 1957 c 51 § 6; 1895 c 65 § 12; RRS § 1010.]

RCW 7.16.130 Copy of judgment to inferior tribunal, board, or officer.

A copy of the judgment signed by the clerk, must be transmitted to the inferior tribunal,

board or officer having the custody of the record or proceeding certified up.

[1895 c 65 § 13; RRS § 1011.]

RCW 7.16.140 Judgment roll.

A copy of the judgment signed by the clerk, entered upon or attached to the writ and return, constitute the judgment roll.

[1895 c 65 § 14; RRS § 1012.]

MANDAMUS

RCW 7.16.150 Mandamus defined.

The writ of mandamus may be denominated a writ of mandate.

[1895 c 65 § 15; RRS § 1013.]

RCW 7.16.160 Grounds for granting writ.

It may be issued by any court, except a district or municipal court, to any inferior tribunal, corporation, board or person, to compel the performance of an act which the law especially enjoins as a duty resulting from an office, trust or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by such inferior tribunal, corporation, board or person.

[1987 c 202 § 131; 1987 c 3 § 3; 1895 c 65 § 16; RRS § 1014.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

Severability--1987 c 3: See note following RCW 3.46.020.

RCW 7.16.170 Absence of remedy at law required--Affidavit.

The writ must be issued in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law. It must be issued upon affidavit on the application of the party beneficially interested.

[1895 c 65 § 17; RRS § 1015.]

RCW 7.16.180 Alternative or peremptory writs--Form.

The writ may be either alternative or peremptory. The alternative writ must state generally the allegation against the party to whom it is directed, and command such party, immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court, at a specified time and place, why he has not done

so. The peremptory writ must be in some similar form, except the words requiring the party to show cause why he has not done as commanded must be omitted and a return [day] inserted.

[1895 c 65 § 18; RRS § 1016.]

RCW 7.16.190 Notice of application--No default.

When the application to the court is made without notice to the party, and the writ be allowed, the alternative must be first issued; and if the application be upon due notice and the writ be allowed, the peremptory writ may be issued in the first instance. The notice of the application, when given, must be at least ten days. The writ cannot be granted by default. The case must be heard by the court, whether the adverse party appear or not.

[1895 c 65 § 19; RRS § 1017.]

RCW 7.16.200 Answer.

On the return of the alternative, or the day on which the application for the writ is noticed, the party on whom the writ or notice has been served may show cause by answer, under oath, made in the same manner as an answer to a complaint in a civil action.

[1895 c 65 § 20; RRS § 1018.]

RCW 7.16.210 Questions of fact, how determined.

If an answer be made which raises a question as to a matter of fact essential to the determination of the motion, and affecting the substantial rights of the parties, and upon the supposed truth of the allegation of which the application for the writ is based, the court may, in its discretion, order the question to be tried before a jury, and postpone the argument until such trial can be had, and the verdict certified to the court. The question to be tried must be distinctly stated in the order for trial, and the county must be designated in which the same shall be had. The order may also direct the jury to assess any damages which the appellant may have sustained, in case they find for him.

[1895 c 65 § 21; RRS § 1019.]

RCW 7.16.220 Applicant may demur to answer or countervail it by proof.

On the trial the applicant is not precluded by the answer from any valid objections to its sufficiency, and may countervail it by proof, either in direct denial or by way of avoidance.

[1895 c 65 § 22; RRS § 1020.]

RCW 7.16.230 Motion for new trial, where made.

The motion for new trial must be made in the court in which the issue of fact is tried.

[1895 c 65 § 23; RRS § 1021.]

RCW 7.16.240 Certification of verdict--Argument.

If no notice of a motion for a new trial be given, or if given, the motion be denied, the clerk, within five days after rendition of the verdict or denial of the motion, must transmit to the court in which the application for the writ is pending, a certified copy of the verdict attached to the order of trial, after which either party may bring on the argument of the application, upon reasonable notice to the adverse party.

[1895 c 65 § 24; RRS § 1022.]

RCW 7.16.250 Hearing.

If no answer be made, the case must be heard on the papers of the applicant. If the answer raises only questions of law, or puts in issue immaterial statements not affecting the substantial rights of the party, the court must proceed to hear or fix a day for hearing the argument of the case.

[1895 c 65 § 25; RRS § 1023.]

RCW 7.16.260 Judgment for damages and costs--Peremptory mandate.

If judgment be given for the applicant he may recover the damages which he has sustained, as found by the jury or as may be determined by the court or referee, upon a reference to be ordered, together with costs; and for such damages and costs an execution may issue, and a peremptory mandate must also be awarded without delay.

[1895 c 65 § 26; RRS § 1024.]

RCW 7.16.270 Service of writ.

The writ must be served in the same manner as a summons in a civil action, except when otherwise expressly directed by order of the court. Service upon a majority of the members of any board or body is service upon the board or body, whether at the time of the service the board or body was in session or not.

[1895 c 65 § 27; RRS § 1025.]

RCW 7.16.280 Enforcement of writ--Penalty.

When a temporary mandate has been issued and directed to any inferior tribunal, corporation, board or person upon whom the writ has been personally served and such tribunal, corporation, board, or person has without just excuse, refused or neglected to obey the same, the court may, upon motion, impose a fine not exceeding one thousand dollars. In case of persistence

in a refusal or disobedience, the court may order the party to be imprisoned until the writ is obeyed, and may make any orders necessary and proper for the complete enforcement of the writ.

[1957 c 51 § 7; 1895 c 65 § 28; RRS § 1026.]

PROHIBITION

RCW 7.16.290 Prohibition defined.

The writ of prohibition is the counterpart of the writ of mandate. It arrests the proceedings of any tribunal, corporation, board or person, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.

[1895 c 65 § 29; RRS § 1027.]

RCW 7.16.300 Grounds for granting writ--Affidavit.

It may be issued by any court, except district or municipal courts, to an inferior tribunal, or to a corporation, board or person, in all cases where there is not a plain, speedy and adequate remedy in the ordinary course of law. It is issued upon affidavit, on the application of the person beneficially interested.

[1987 c 202 § 132; 1895 c 65 § 30; RRS § 1028.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 7.16.310 Alternative or peremptory writs--Form.

The writ must be either alternative or peremptory. The alternative writ must state generally the allegations against the party to whom it is directed, and command such party to desist or refrain from further proceedings in the action or matter specified therein until the further order of the court from which it is issued, and to show cause before such court, at a specified time and place, why such party should not be absolutely restrained from any further proceedings in such action or matter. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why he should not be absolutely restrained, etc., must be omitted and a return day inserted.

[1895 c 65 § 31; RRS § 1029.]

RCW 7.16.320 Provisions relating to mandate applicable.

The provisions of this chapter relating to writ of mandate, apply to this proceeding.

[1895 c 65 § 32; RRS § 1030.]

IN GENERAL

RCW 7.16.330 When writs may be made returnable.

Writs of review, mandate, and prohibition issued by the supreme court, the court of appeals, or by a superior court, may, in the discretion of the court issuing the writ, be made returnable, and a hearing thereon be had at any time.

[1971 c 81 § 29; 1895 c 65 § 33; RRS § 1031.]

RCW 7.16.340 Rules of practice.

Except as otherwise provided in this chapter, the provisions of the code of procedure concerning civil actions are applicable to and constitute the rules of practice in the proceedings in this chapter.

[1895 c 65 § 34; RRS § 1032.]

RCW 7.16.350 Appellate review.

From a final judgment in the superior court, in any such proceeding, appellate review by the supreme court or the court of appeals may be sought as in other actions.

[1988 c 202 § 4; 1971 c 81 § 30; 1895 c 65 § 35; RRS § 1033.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 7.16.360 Inapplicability to action reviewable under Administrative Procedure Act or Land Use Petition Act.

This chapter does not apply to state agency action reviewable under chapter 34.05 RCW or to land use decisions of local jurisdictions reviewable under chapter 36.70C RCW.

[1995 c 347 § 716; 1989 c 175 § 38.]

Notes:

Finding--Severability--Part headings and table of contents not law--1995 c 347: See notes following RCW 36.70A.470.

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 7.16.370 Enforcement of term limits for elected officials.

Any resident of this state may bring suit to enforce RCW 43.01.015, 44.04.015, 29.68.015, 29.68.016, 29.51.173, and 29.15.240 and section 8, chapter 1, Laws of 1993. If the person prevails, the court shall award the person reasonable attorney's fees and costs of suit.

[1993 c 1 § 9 (Initiative Measure No. 573, approved November 3, 1992).]

Notes:

Preamble--Severability--1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

**Chapter 7.21 RCW
CONTEMPT OF COURT**

Sections

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7.21.030	Remedial sanctions--Payment for losses.
7.21.040	Punitive sanctions--Fines.
7.21.050	Sanctions--Summary imposition--Procedure.
7.21.060	Administrative actions or proceedings--Petition to court for imposition of sanctions.
7.21.070	Appellate review.
7.21.900	Severability--1989 c 373.

RCW 7.21.010 Definitions.

The definitions in this section apply throughout this chapter:

(1) "Contempt of court" means intentional:

(a) Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;

(b) Disobedience of any lawful judgment, decree, order, or process of the court;

(c) Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or

(d) Refusal, without lawful authority, to produce a record, document, or other object.

(2) "Punitive sanction" means a sanction imposed to punish a past contempt of court for the purpose of upholding the authority of the court.

(3) "Remedial sanction" means a sanction imposed for the purpose of coercing performance when the contempt consists of the omission or refusal to perform an act that is yet in the person's power to perform.

[1989 c 373 § 1.]

RCW 7.21.020 Sanctions--Who may impose.

A judge or commissioner of the supreme court, the court of appeals, or the superior court, a judge of a court of limited jurisdiction, and a commissioner of a court of limited jurisdiction may impose a sanction for contempt of court under this chapter.

[1998 c 3 § 1; 1989 c 373 § 2.]

RCW 7.21.030 Remedial sanctions--Payment for losses.

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e) In cases under chapters 13.32A, 13.34, and 28A.225 RCW, commitment to juvenile detention for a period of time not to exceed seven days. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

[1998 c 296 § 36; 1989 c 373 § 3.]

Notes:

Findings--Intent--1998 c 296 §§ 36-39: "The legislature finds that an essential component of the children in need of services, dependency, and truancy laws is the use of juvenile detention. As chapter 7.21 RCW is currently written, courts may not order detention time without a criminal charge being filed. It is the intent of the legislature to avoid the bringing of criminal charges against youth who need the guidance of the court rather than its punishment. The legislature further finds that ordering a child placed in detention is a remedial action, not a punitive one. Since the legislature finds that the state is required to provide instruction to children in detention, use of the courts' contempt powers is an effective means for furthering the education and protection of these children. Thus, it is the intent of the legislature to authorize a limited sanction of time in juvenile detention independent of chapter 7.21 RCW for failure to comply with court orders in truancy, child in need of services, at-risk youth, and dependency cases for the sole purpose of providing the courts with the tools necessary to enforce orders in these limited types of cases because other statutory contempt remedies are inadequate." [1998 c 296 § 35.]

Findings--Intent--Part headings not law--Short title--1998 c 296: See notes following RCW 74.13.025.

RCW 7.21.040 Punitive sanctions--Fines.

(1) Except as otherwise provided in RCW 7.21.050, a punitive sanction for contempt of court may be imposed only pursuant to this section.

(2)(a) An action to impose a punitive sanction for contempt of court shall be commenced by a complaint or information filed by the prosecuting attorney or city attorney charging a person with contempt of court and reciting the punitive sanction sought to be imposed.

(b) If there is probable cause to believe that a contempt has been committed, the prosecuting attorney or city attorney may file the information or complaint on his or her own initiative or at the request of a person aggrieved by the contempt.

(c) A request that the prosecuting attorney or the city attorney commence an action under this section may be made by a judge presiding in an action or proceeding to which a contempt relates. If required for the administration of justice, the judge making the request may appoint a special counsel to prosecute an action to impose a punitive sanction for contempt of court.

A judge making a request pursuant to this subsection shall be disqualified from presiding at the trial.

(d) If the alleged contempt involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial of the contempt unless the person charged consents to the judge presiding at the trial.

(3) The court may hold a hearing on a motion for a remedial sanction jointly with a trial on an information or complaint seeking a punitive sanction.

(4) A punitive sanction may be imposed for past conduct that was a contempt of court even though similar present conduct is a continuing contempt of court.

(5) If the defendant is found guilty of contempt of court under this section, the court may impose for each separate contempt of court a fine of not more than five thousand dollars or imprisonment in the county jail for not more than one year, or both.

[1989 c 373 § 4.]

RCW 7.21.050 Sanctions--Summary imposition--Procedure.

(1) The judge presiding in an action or proceeding may summarily impose either a remedial or punitive sanction authorized by this chapter upon a person who commits a contempt of court within the courtroom if the judge certifies that he or she saw or heard the contempt. The judge shall impose the sanctions immediately after the contempt of court or at the end of the proceeding and only for the purpose of preserving order in the court and protecting the authority and dignity of the court. The person committing the contempt of court shall be given an opportunity to speak in mitigation of the contempt unless compelling circumstances demand otherwise. The order of contempt shall recite the facts, state the sanctions imposed, and be signed by the judge and entered on the record.

(2) A court, after a finding of contempt of court in a proceeding under subsection (1) of this section may impose for each separate contempt of court a punitive sanction of a fine of not more than five hundred dollars or imprisonment in the county jail for not more than thirty days, or both, or a remedial sanction set forth in RCW 7.21.030(2). A forfeiture imposed as a remedial sanction under this subsection may not exceed more than five hundred dollars for each day the contempt continues.

[1989 c 373 § 5.]

RCW 7.21.060 Administrative actions or proceedings--Petition to court for imposition of sanctions.

A state administrative agency conducting an action or proceeding or a party to the action or proceeding may petition the superior court in the county in which the action or proceeding is being conducted for a remedial sanction specified in RCW 7.21.030 for conduct specified in RCW 7.21.010 in the action or proceeding.

[1989 c 373 § 6.]

RCW 7.21.070 Appellate review.

A party in a proceeding or action under this chapter may seek appellate review under applicable court rules. Appellate review does not stay the proceedings in any other action, suit, or proceeding, or any judgment, decree, or order in the action, suit, or proceeding to which the contempt relates.

[1989 c 373 § 7.]

RCW 7.21.900 Severability--1989 c 373.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1989 c 373 § 30.]

**Chapter 7.24 RCW
UNIFORM DECLARATORY JUDGMENTS ACT**

Sections

7.24.010	Authority of courts to render.
7.24.020	Rights and status under written instruments, statutes, ordinances.
7.24.030	Construction of contracts.
7.24.050	General powers not restricted by express enumeration.
7.24.060	Refusal of declaration where judgment would not terminate controversy.
7.24.070	Review.
7.24.080	Further relief.
7.24.090	Determination of issues of fact.
7.24.100	Costs.
7.24.110	Parties--City as party--Attorney general to be served, when.
7.24.120	Construction of chapter.
7.24.130	"Person" defined.

7.24.135	Severability--1935 c 113.
7.24.140	General purpose stated.
7.24.144	Short title.
7.24.146	Application of chapter--Validation of proceedings.
7.24.190	Court may stay proceedings and restrain parties.

Notes:

Rules of court: *Cf. CR 57.*

RCW 7.24.010 Authority of courts to render.

Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

[1937 c 14 § 1; 1935 c 113 § 1; RRS § 784-1.]

RCW 7.24.020 Rights and status under written instruments, statutes, ordinances.

A person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

[1935 c 113 § 2; RRS § 784-2.]

RCW 7.24.030 Construction of contracts.

A contract may be construed either before or after there has been a breach thereof.

[1935 c 113 § 3; RRS § 784-3.]

RCW 7.24.050 General powers not restricted by express enumeration.

The enumeration in RCW 7.24.020 and 7.24.030 does not limit or restrict the exercise of the general powers conferred in RCW 7.24.010, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

[1985 c 9 § 2. Prior: 1984 c 149 § 3; 1935 c 113 § 5; RRS § 784-5.]

Notes:

Purpose--Reenactment--1985 c 9: "The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of

Article II, section 19 of the state Constitution." [1985 c 9 § 1.]

Severability--1985 c 9: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 9 § 4.]

Reviser's note: 1985 c 9 reenacted RCW 7.24.050 without amendment.

Short title--Application--1984 c 30: See RCW 11.02.900 and 11.02.901.

Severability--Effective dates--1984 c 149: See notes following RCW 11.02.005.

RCW 7.24.060 Refusal of declaration where judgment would not terminate controversy.

The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

[1935 c 113 § 6; RRS § 784-6.]

RCW 7.24.070 Review.

All orders, judgments and decrees under this chapter may be reviewed as other orders, judgments and decrees.

[1935 c 113 § 7; RRS § 784-7.]

RCW 7.24.080 Further relief.

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. When the application is deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

[1935 c 113 § 8; RRS § 784-8.]

RCW 7.24.090 Determination of issues of fact.

When a proceeding under this chapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions, in the court in which the proceeding is pending.

[1935 c 113 § 9; RRS § 784-9.]

RCW 7.24.100 Costs.

In any proceeding under this chapter, the court may make such award of costs as may seem equitable and just.

[1935 c 113 § 10; RRS § 784-10.]

RCW 7.24.110 Parties--City as party--Attorney general to be served, when.

When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general shall also be served with a copy of the proceeding and be entitled to be heard.

[1935 c 113 § 11; RRS § 784-11.]

RCW 7.24.120 Construction of chapter.

This chapter is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

[1935 c 113 § 12; RRS § 784-12.]

RCW 7.24.130 "Person" defined.

The word "person" wherever used in this chapter, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

[1935 c 113 § 13; RRS § 784-13.]

RCW 7.24.135 Severability--1935 c 113.

The several sections and provisions of this chapter, except RCW 7.24.010 and 7.24.020, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the chapter invalid or inoperative.

[1935 c 113 § 14; RRS § 784-14.]

RCW 7.24.140 General purpose stated.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

[1935 c 113 § 15; RRS § 784-15.]

RCW 7.24.144 Short title.

This chapter may be cited as the Uniform Declaratory Judgments Act.

[1935 c 113 § 16; RRS § 784-16.]

RCW 7.24.146 Application of chapter--Validation of proceedings.

This chapter shall apply to all actions and proceedings now pending in the courts of record of the state of Washington seeking relief under the terms of the uniform declaratory judgments act [this chapter]; and all judgments heretofore rendered; and all such actions and proceedings heretofore instituted and now pending in said courts of record of the state of Washington, seeking such relief, are hereby validated, and the respective courts of record in said actions shall have jurisdiction and power to proceed in said actions and to declare the rights, status and other legal relations sought to have been declared in said pending actions and proceedings in accordance with the provisions of said chapter. This chapter does not apply to state agency action reviewable under chapter 34.05 RCW.

[1989 c 175 § 39; 1937 c 14 § 2; RRS § 784-17.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 7.24.190 Court may stay proceedings and restrain parties.

The court, in its discretion and upon such conditions and with or without such bond or other security as it deems necessary and proper, may stay any ruling, order, or any court proceedings prior to final judgment or decree and may restrain all parties involved in order to secure the benefits and preserve and protect the rights of all parties to the court proceedings.

[1965 c 131 § 1.]

Notes:

Rules of court: CR 57.

**Chapter 7.25 RCW
DECLARATORY JUDGMENTS OF LOCAL BOND ISSUES**

Sections

7.25.005	Definitions.
7.25.010	Validity of bond issues may be tested.
7.25.020	Complaint--Defendants--Service--Intervention--Attorney's fee--Notice of action.
7.25.030	Judgment as to validity of all or part of bond issue--Effect.
7.25.040	Other declaratory judgment provisions applicable.

Notes:

Local bond issues generally: Title 39 RCW.

RCW 7.25.005 Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Government entity" means the state of Washington, the state finance committee, any county, city, school district, other municipal corporation, taxing district, or any agency, instrumentality, or public corporation thereof.

(2) "Bonds" means one or more bonds, notes, or other evidences of indebtedness.

(3) "Interested parties" means all taxpayers, ratepayers, or any other persons who have any obligations, rights, or other interests in the bonds or issuance thereof, or the project or purpose for which the bonds were issued or are to be issued.

[1999 c 284 § 2.]

RCW 7.25.010 Validity of bond issues may be tested.

Whenever the legislative or governing body of the state or any county, city, school district, other municipal corporation, taxing district, or any agency, instrumentality, or public corporation thereof shall desire to issue bonds of any kind and shall have passed an ordinance or resolution authorizing the same, the validity of such proposed bond issue may be tested and determined in the manner provided in this chapter.

[1999 c 284 § 1; 1983 c 263 § 1; 1939 c 153 § 1; RRS § 5616-11. Formerly RCW 7.24.150.]

RCW 7.25.020 Complaint--Defendants--Service--Intervention--Attorney's fee--Notice of action.

A complaint shall be prepared and filed in the superior court by such government entity setting forth such ordinance or resolution and that it is the purpose of the plaintiff to issue and sell bonds as stated therein and that it is desired that the right of the plaintiff to so issue such bonds and sell the same shall be tested and determined in said action. In said action all interested parties shall be deemed to be defendants. The title of the action shall be "In re (name of bond issue)." Upon the filing of the complaint the court shall, upon the application of the plaintiff, enter an order naming one or more interested parties upon whom service in said action shall be made as the representative of all interested parties, except such as may intervene as herein provided, and in such case the court shall fix and allow a reasonable attorney's fee in said action to the attorney who shall represent the representative interested parties as aforesaid, and such fee and all taxable costs incurred by such representative interested parties shall be taxed as costs against the plaintiff: PROVIDED, That if the interested parties appointed by the court shall default, the court shall appoint an attorney who shall defend said action on behalf of all interested parties, and such attorney shall be allowed a reasonable fee and taxable costs to be taxed against

the plaintiff: PROVIDED FURTHER, That after filing the complaint, the plaintiff shall twice place a notice in a newspaper of general circulation within the boundaries of the government entity, stating the title of the action, informing the interested parties that the action has been commenced testing the validity of the bonds, and stating that any interested parties, as that term is defined herein, may intervene in such action and be represented therein by his own attorney. Thereupon, any interested parties who desire to intervene must apply to the court to intervene within ten days after the second publication of the notice.

[1999 c 284 § 3; 1983 c 263 § 2; 1939 c 153 § 2; RRS § 5616-12. Formerly RCW 7.24.160.]

RCW 7.25.030 Judgment as to validity of all or part of bond issue--Effect.

The court in such action shall enter its judgment determining whether or not the bonds as proposed will be valid, and if the court finds that a portion, but not all, of the said bond issue is authorized by law, the court shall so declare, and find by its judgment what portion of such bond issue will be valid, and the judgment in said action shall be conclusive and binding upon all interested parties and upon all other persons.

[1999 c 284 § 4; 1939 c 153 § 3; RRS § 5616-13. Formerly RCW 7.24.170.]

RCW 7.25.040 Other declaratory judgment provisions applicable.

Except as otherwise herein provided, all the provisions of the laws of Washington relating to declaratory judgments shall apply to the action herein provided for. The remedy and procedure herein provided shall be in addition to other remedies and procedures now provided by law.

[1999 c 284 § 5; 1939 c 153 § 4; RRS § 5616-14. Formerly RCW 7.24.180.]

Notes:

Uniform Declaratory Judgments Act: Chapter 7.24 RCW.

**Chapter 7.28 RCW
EJECTMENT, QUIETING TITLE**

Sections

- 7.28.010 Who may maintain actions--Service on nonresident defendant.
- 7.28.050 Limitation of actions for recovery of real property--Adverse possession under title deducible of record.
- 7.28.060 Rights inhere to heirs, devisees and assigns.
- 7.28.070 Adverse possession under claim and color of title--Payment of taxes.
- 7.28.080 Color of title to vacant and unoccupied land.
- 7.28.085 Adverse possession--Forest land--Additional requirements--Exceptions.
- 7.28.090 Adverse possession--Public lands--Adverse title in infants, etc.
- 7.28.100 Construction.
- 7.28.110 Substitution of landlord in action against tenant.

- 7.28.120 Pleadings--Superior title prevails.
- 7.28.130 Defendant must plead nature of his estate or right to possession.
- 7.28.140 Verdict of jury.
- 7.28.150 Damages--Limitation--Permanent improvements.
- 7.28.160 Defendant's counterclaim for permanent improvements and taxes paid.
- 7.28.170 Defendant's counterclaim for permanent improvements and taxes paid--Pleadings, issues and trial on counterclaim.
- 7.28.180 Defendant's counterclaim for permanent improvements and taxes paid--Judgment on counterclaim--Payment.
- 7.28.190 Verdict where plaintiff's right to possession expires before trial.
- 7.28.200 Order for survey of property.
- 7.28.210 Order for survey of property--Contents of order--Service.
- 7.28.220 Alienation by defendant, effect of.
- 7.28.230 Mortgagee cannot maintain action for possession--Possession to collect mortgaged, pledged, or assigned rents and profits--Perfection of security interest.
- 7.28.240 Action between cotenants.
- 7.28.250 Action against tenant on failure to pay rent.
- 7.28.260 Effect of judgment--Lis pendens--Vacation.
- 7.28.270 Effect of vacation of judgment.
- 7.28.280 Conflicting claims, donation law, generally--Joinder of parties.
- 7.28.300 Quieting title against outlawed mortgage or deed of trust.
- 7.28.310 Quieting title to personal property.
- 7.28.320 Possession no defense.

Notes:

Forcible and unlawful entry, detainer: Chapters 59.12, 59.16 RCW.

Liens: Title 60 RCW.

Real property: Title 64 RCW.

Rent default, less than forty dollars: Chapter 59.08 RCW.

Tenancies: Chapter 59.04 RCW.

RCW 7.28.010 Who may maintain actions--Service on nonresident defendant.

Any person having a valid subsisting interest in real property, and a right to the possession thereof, may recover the same by action in the superior court of the proper county, to be brought against the tenant in possession; if there is no such tenant, then against the person claiming the title or some interest therein, and may have judgment in such action quieting or removing a cloud from plaintiff's title; an action to quiet title may be brought by the known heirs of any deceased person, or of any person presumed in law to be deceased, or by the successors in interest of such known heirs against the unknown heirs of such deceased person or against such person presumed to be deceased and his unknown heirs, and if it shall be made to appear in such action that the plaintiffs are heirs of the deceased person, or the person presumed in law to be deceased, or the successors in interest of such heirs, and have been in possession of the real property involved in such action for ten years preceding the time of the commencement of such action, and that during said time no person other than the plaintiff in the action or his grantors

has claimed or asserted any right or title or interest in said property, the court may adjudge and decree the plaintiff or plaintiffs in such action to be the owners of such real property, free from all claims of any unknown heirs of such deceased person, or person presumed in law to be deceased; and an action to quiet title may be maintained by any person in the actual possession of real property against the unknown heirs of a person known to be dead, or against any person where it is not known whether such person is dead or not, and against the unknown heirs of such person, and if it shall thereafter transpire that such person was at the time of commencing such action dead the judgment or decree in such action shall be as binding and conclusive on the heirs of such person as though they had been known and named; and in all actions, under this section, to quiet or remove a cloud from the title to real property, if the defendant be absent or a nonresident of this state, or cannot, after due diligence, be found within the state, or conceals himself to avoid the service of summons, service may be made upon such defendant by publication of summons as provided by law; and the court may appoint a trustee for such absent or nonresident defendant, to make or cancel any deed or conveyance of whatsoever nature, or do any other act to carry into effect the judgment or the decree of the court.

[1911 c 83 § 1; 1890 c 72 § 1; Code 1881 § 536; 1879 p 134 § 1; 1877 p 112 § 540; 1869 p 128 § 488; 1854 p 205 § 398; RRS § 785. Formerly RCW 7.28.010, 7.28.020, 7.28.030, and 7.28.040.]

Notes:

Process, publication, etc.: Chapter 4.28 RCW.

Publication of legal notices: Chapter 65.16 RCW.

RCW 7.28.050 Limitation of actions for recovery of real property--Adverse possession under title deducible of record.

That all actions brought for the recovery of any lands, tenements or hereditaments of which any person may be possessed by actual, open and notorious possession for seven successive years, having a connected title in law or equity deducible of record from this state or the United States, or from any public officer, or other person authorized by the laws of this state to sell such land for the nonpayment of taxes, or from any sheriff, marshal or other person authorized to sell such land on execution or under any order, judgment or decree of any court of record, shall be brought within seven years next after possession being taken as aforesaid, but when the possessor shall acquire title after taking such possession, the limitation shall begin to run from the time of acquiring title.

[1893 c 11 § 1; RRS § 786.]

RCW 7.28.060 Rights inhere to heirs, devisees and assigns.

The heirs, devisees and assigns of the person having such title and possession shall have the same benefit of RCW 7.28.050 as the person from whom the possession is derived.

[1893 c 11 § 2; RRS § 787.]

RCW 7.28.070 Adverse possession under claim and color of title--Payment of taxes.

Every person in actual, open and notorious possession of lands or tenements under claim and color of title, made in good faith, and who shall for seven successive years continue in possession, and shall also during said time pay all taxes legally assessed on such lands or tenements, shall be held and adjudged to be the legal owner of said lands or tenements, to the extent and according to the purport of his or her paper title. All persons holding under such possession, by purchase, devise or descent, before said seven years shall have expired, and who shall continue such possession and continue to pay the taxes as aforesaid, so as to complete the possession and payment of taxes for the term aforesaid, shall be entitled to the benefit of this section.

[1893 c 11 § 3; RRS § 788.]

RCW 7.28.080 Color of title to vacant and unoccupied land.

Every person having color of title made in good faith to vacant and unoccupied land, who shall pay all taxes legally assessed thereon for seven successive years, he or she shall be deemed and adjudged to be the legal owner of said vacant and unoccupied land to the extent and according to the purport of his or her paper title. All persons holding under such taxpayer, by purchase, devise or descent, before said seven years shall have expired, and who shall continue to pay the taxes as aforesaid, so as to complete the payment of said taxes for the term aforesaid, shall be entitled to the benefit of this section: PROVIDED, HOWEVER, If any person having a better paper title to said vacant and unoccupied land shall, during the said term of seven years, pay the taxes as assessed on said land for any one or more years of said term of seven years, then and in that case such taxpayer, his heirs or assigns, shall not be entitled to the benefit of this section.

[1893 c 11 § 4; RRS § 789.]

RCW 7.28.085 Adverse possession--Forest land--Additional requirements--Exceptions.

(1) In any action seeking to establish an adverse claimant as the legal owner of a fee or other interest in forest land based on a claim of adverse possession, and in any defense to an action brought by the holder of record title for recovery of title to or possession of a fee or other interest in forest land where such defense is based on a claim of adverse possession, the adverse claimant shall not be deemed to have established open and notorious possession of the forest lands at issue unless, as a minimum requirement, the adverse claimant establishes by clear and convincing evidence that the adverse claimant has made or erected substantial improvements, which improvements have remained entirely or partially on such lands for at least ten years. If the interests of justice so require, the making, erecting, and continuous presence of substantial improvements on the lands at issue, in the absence of additional acts by the adverse claimant,

may be found insufficient to establish open and notorious possession.

(2) This section shall not apply to any adverse claimant who establishes by clear and convincing evidence that the adverse claimant occupied the lands at issue and made continuous use thereof for at least ten years in good faith reliance on location stakes or other boundary markers set by a registered land surveyor purporting to establish the boundaries of property to which the adverse claimant has record title.

(3) For purposes of this section:

(a) "Adverse claimant" means any person, other than the holder of record title, occupying the lands at issue together with any prior occupants of the land in privity with such person by purchase, devise, or decent [descent];

(b) "Claim of adverse possession" does not include a claim asserted under RCW 7.28.050, 7.28.070, or 7.28.080;

(c) "Forest land" has the meaning given in RCW 84.33.100; and

(d) "Substantial improvement" means a permanent or semipermanent structure or enclosure for which the costs of construction exceeded fifty thousand dollars.

(4) This section shall not apply to any adverse claimant who, before June 11, 1998, acquired title to the lands in question by adverse possession under the law then in effect.

(5) This section shall not apply to any adverse claimant who seeks to assert a claim or defense of adverse possession in an action against any person who, at the time such action is commenced, owns less than twenty acres of forest land in the state of Washington.

[1998 c 57 § 1.]

RCW 7.28.090 Adverse possession--Public lands--Adverse title in infants, etc.

RCW 7.28.070 and 7.28.080 shall not extend to lands or tenements owned by the United States or this state, nor to school lands, nor to lands held for any public purpose. Nor shall they extend to lands or tenements when there shall be an adverse title to such lands or tenements, and the holder of such adverse title is a person under eighteen years of age, or incompetent within the meaning of RCW 11.88.010: PROVIDED, Such persons as aforesaid shall commence an action to recover such lands or tenements so possessed as aforesaid, within three years after the several disabilities herein enumerated shall cease to exist, and shall prosecute such action to judgment, or in case of vacant and unoccupied land shall, within the time last aforesaid, pay to the person or persons who have paid the same for his or her betterments, and the taxes, with interest on said taxes at the legal rate per annum that have been paid on said vacant and unimproved land.

[1977 ex.s. c 80 § 7; 1971 ex.s. c 292 § 7; 1893 c 11 § 5; RRS § 790.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.

RCW 7.28.100 Construction.

That the provisions of RCW 7.28.050 through 7.28.100 shall be liberally construed for the purposes set forth in those sections.

[1893 c 11 § 6; RRS § 791.]

RCW 7.28.110 Substitution of landlord in action against tenant.

A defendant who is in actual possession may, for answer, plead that he is in possession only as a tenant of another, naming him and his place of residence, and thereupon the landlord, if he applies therefor, shall be made defendant in place of the tenant, and the action shall proceed in all respects as if originally commenced against him. If the landlord does not apply to be made defendant within the time the tenant is allowed to answer, thereafter he shall not be allowed to, but he shall be made defendant if the plaintiff require it. If the landlord be made defendant on motion of the plaintiff he shall be required to appear and answer within ten days from notice of the pendency of the action and the order making him defendant, or such further notice as the court or judge thereof may prescribe.

[Code 1881 § 537; 1877 p 112 § 541; 1869 p 128 § 489; RRS § 792.]

RCW 7.28.120 Pleadings--Superior title prevails.

The plaintiff in such action shall set forth in his complaint the nature of his estate, claim or title to the property, and the defendant may set up a legal or equitable defense to plaintiff's claims; and the superior title, whether legal or equitable, shall prevail. The property shall be described with such certainty as to enable the possession thereof to be delivered if a recovery be had.

[Code 1881 § 538; 1879 p 134 § 2; 1877 p 113 § 542; 1869 p 128 § 490; RRS § 793.]

RCW 7.28.130 Defendant must plead nature of his estate or right to possession.

The defendant shall not be allowed to give in evidence any estate in himself or another in the property, or any license or right to the possession thereof unless the same be pleaded in his answer. If so pleaded, the nature and duration of such estate, or license or right to the possession, shall be set forth with the certainty and particularity required in a complaint. If the defendant does not defend for the whole of the property, he shall specify for what particular part he does defend. In an action against a tenant, the judgment shall be conclusive against a landlord who has been made defendant in place of the tenant, to the same extent as if the action had been originally commenced against him.

[Code 1881 § 539; 1877 p 113 § 543; 1869 p 129 § 491; RRS § 794.]

RCW 7.28.140 Verdict of jury.

The jury by their verdict shall find as follows:

(1) If the verdict be for the plaintiff, that he is entitled to the possession of the property described in the complaint, or some part thereof, or some undivided share or interest in either, and the nature and duration of his estate in such property, part thereof, or undivided share or interest, in either, as the case may be.

(2) If the verdict be for the defendant, that the plaintiff is not entitled to the possession of the property described in the complaint, or to such part thereof as the defendant defends for, and the estate in such property or part thereof, or license, or right to the possession of either established on the trial by the defendant, if any, in effect as the same is required to be pleaded.

[Code 1881 § 540; 1877 p 113 § 544; 1869 p 129 § 492; RRS § 795.]

Notes:

Rules of court: CR 49.

General, special verdicts: RCW 4.44.410 through 4.44.440.

RCW 7.28.150 Damages--Limitation--Permanent improvements.

The plaintiff shall only be entitled to recover damages for withholding the property for the term of six years next preceding the commencement of the action, and for any period that may elapse from such commencement, to the time of giving a verdict therein, exclusive of the use of permanent improvements made by the defendant. When permanent improvements have been made upon the property by the defendant, or those under whom he claims holding under color of title adversely to the claim of the plaintiff, in good faith, the value thereof at the time of trial shall be allowed as a setoff against such damages.

[Code 1881 § 541; 1877 p 113 § 545; 1869 p 129 § 493; RRS § 796.]

Notes:

Reviser's note: Compare the last sentence of this section with RCW 7.28.160 through 7.28.180.

RCW 7.28.160 Defendant's counterclaim for permanent improvements and taxes paid.

In an action for the recovery of real property upon which permanent improvements have been made or general or special taxes or local assessments have been paid by a defendant, or those under whom he claims, holding in good faith under color or claim of title adversely to the claim of plaintiff, the value of such improvements and the amount of such taxes or assessments with interest thereon from date of payment must be allowed as a counterclaim to the defendant.

[1903 c 137 § 1; RRS § 797.]

RCW 7.28.170 Defendant's counterclaim for permanent improvements and taxes paid--Pleadings, issues and trial on counterclaim.

The counterclaim shall set forth the value of the land apart from the improvements, and the nature and value of the improvements apart from the land and the amount of said taxes and assessments so paid, and the date of payment. Issues shall be joined and tried as in other actions,

and the value of the land and the amount of said taxes and assessments apart from the improvements, and the value of the improvements apart from the land must be specifically found by the verdict of the jury, report of the referee, or findings of the court as the case may be.

[1903 c 137 § 2; RRS § 798.]

RCW 7.28.180 Defendant's counterclaim for permanent improvements and taxes paid--Judgment on counterclaim--Payment.

If the judgment be in favor of the plaintiff for the recovery of the realty, and of the defendant upon the counterclaim, the plaintiff shall be entitled to recover such damages as he may be found to have suffered through the withholding of the premises and waste committed thereupon by the defendant or those under whom he claims, but against this recovery shall be offset pro tanto the value of the permanent improvements and the amount of said taxes and assessments with interest found as above provided. Should the value of improvements or taxes or assessments with interest exceed the recovery for damages, the plaintiff, shall, within two months, pay to the defendant the difference between the two sums and upon proof, after notice, to the defendant, that this has been done, the court shall make an order declaring that fact, and that title to the improvements is vested in him. Should the plaintiff fail to make such payment, the defendant may at any time within two months after the time limited for such payment to be made, pay to the plaintiff the value of the land apart from the improvements, and the amount of the damages awarded against him, and he thereupon shall be vested with title to the land, and, after notice to the plaintiff, the court shall make an order reciting the fact and adjudging title to be in him. Should neither party make the payment above provided, within the specified time, they shall be deemed to be tenants in common of the premises, including the improvements, each holding an interest proportionate to the value of his property determined in the manner specified in RCW 7.28.170: PROVIDED, That the interest of the owner of the improvements shall be the difference between the value of the improvements and the amount of damages recovered against him by the plaintiff.

[1903 c 137 § 3; RRS § 799.]

RCW 7.28.190 Verdict where plaintiff's right to possession expires before trial.

If the right of the plaintiff to the possession of the property expire, after the commencement of the action and before the trial, the verdict shall be given according to the fact, and judgment shall be given only for the damages.

[Code 1881 § 542; 1877 p 114 § 546; 1869 p 130 § 494; RRS § 800.]

RCW 7.28.200 Order for survey of property.

The court or judge thereof, on motion, and after notice to the adverse party, may, for cause shown, grant an order allowing the party applying therefor to enter upon the property in

controversy and make survey and admeasurement thereof, for the purposes of the action.

[Code 1881 § 543; 1877 p 114 § 547; 1869 p 130 § 495; RRS § 801.]

RCW 7.28.210 Order for survey of property--Contents of order--Service.

The order shall describe the property, and a copy thereof shall be served upon the defendant, and thereupon the party may enter upon the property and make such survey and admeasurement; but if any unnecessary injury be done to the premises, he shall be liable therefor.

[Code 1881 § 544; 1877 p 114 § 548; 1869 p 130 § 496; RRS § 802.]

RCW 7.28.220 Alienation by defendant, effect of.

An action for the recovery of the possession of real property against a person in possession, cannot be prejudiced by any alienation made by such person either before or after the commencement of the action; but if such alienation be made after the commencement of the action, and the defendant do not satisfy the judgment recovered for damages for withholding the possession, such damages may be recovered by action against the purchaser.

[Code 1881 § 545; 1877 p 114 § 549; 1869 p 130 § 497; RRS § 803.]

RCW 7.28.230 Mortgagee cannot maintain action for possession--Possession to collect mortgage, pledged, or assigned rents and profits--Perfection of security interest.

(1) A mortgage of any interest in real property shall not be deemed a conveyance so as to enable the owner of the mortgage to recover possession of the real property, without a foreclosure and sale according to law: PROVIDED, That nothing in this section shall be construed as any limitation upon the right of the owner of real property to mortgage, pledge or assign the rents and profits thereof, nor as prohibiting the mortgagee, pledgee or assignee of such rents and profits, or any trustee under a mortgage or trust deed either contemporaneously or upon the happening of a future event of default, from entering into possession of any real property, other than farm lands or the homestead of the mortgagor or his successor in interest, for the purpose of collecting the rents and profits thereof for application in accordance with the provisions of the mortgage or trust deed or other instrument creating the lien, nor as any limitation upon the power of a court of equity to appoint a receiver to take charge of such real property and collect such rents and profits thereof for application in accordance with the terms of such mortgage, trust deed or assignment.

(2) Until paid, the rents and profits of real property constitute real property for the purposes of mortgages, trust deeds or assignments whether or not said rents and profits have accrued. The provisions of RCW 65.08.070 as now or hereafter amended shall be applicable to such rents and profits, and such rents and profits are excluded from *Article 62A.9 RCW.

(3) The recording of an assignment, mortgage, or pledge of unpaid rents and profits of real property, intended as security, in accordance with RCW 65.08.070, shall immediately perfect

the security interest in the assignee, mortgagee, or pledgee and shall not require any further action by the holder of the security interest to be perfected as to any subsequent purchaser, mortgagee, or assignee. Any lien created by such assignment, mortgage, or pledge shall, when recorded, be deemed specific, perfected, and choate even if recorded prior to July 23, 1989.

[1991 c 188 § 1; 1989 c 73 § 1; 1969 ex.s. c 122 § 1; Code 1881 § 546; 1877 p 114 § 550; 1869 p 130 § 498; RRS § 804.]

Notes:

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

RCW 7.28.240 Action between cotenants.

In an action by a tenant in common, or a joint tenant of real property against his cotenant, the plaintiff must show, in addition to his evidence of right, that the defendant either denied the plaintiff's right or did some act amounting to such denial.

[Code 1881 § 547; 1877 p 114 § 551; 1869 p 130 § 499; RRS § 805.]

RCW 7.28.250 Action against tenant on failure to pay rent.

When in the case of a lease of real property and the failure of tenant to pay rent, the landlord has a subsisting right to reenter for such failure; he may bring an action to recover the possession of such property, and such action is equivalent to a demand of the rent and a reentry upon the property. But if at any time before the judgment in such action, the lessee or his successor in interest as to the whole or a part of the property, pay to the plaintiff, or bring into court the amount of rent then in arrear, with interest and cost of action, and perform the other covenants or agreements on the part of the lessee, he shall be entitled to continue in the possession according to the terms of the lease.

[Code 1881 § 548; 1877 p 114 § 552; 1869 p 131 § 500; No RRS.]

Notes:

Forcible entry, detainer: Chapter 59.12 RCW.

Rent default, less than forty dollars: Chapter 59.08 RCW.

Tenancies: Chapter 59.04 RCW.

RCW 7.28.260 Effect of judgment--Lis pendens--Vacation.

In an action to recover possession of real property, the judgment rendered therein shall be conclusive as to the estate in such property and the right of possession thereof, so far as the same is thereby determined, upon all persons claiming by, through, or under the party against whom the judgment is rendered, by title or interest passing after the commencement of the action, if the party in whose favor the judgment is rendered shall have filed a notice of the pendency of the action as required by RCW 4.28.320. When service of the notice is made by publication, and judgment is given for failure to answer, at any time within two years from the entry thereof, the

defendant or his successor in interest as to the whole or any part of the property, shall, upon application to the court or judge thereof, be entitled to an order, vacating the judgment and granting him a new trial, upon the payment of the costs of the action.

[1909 c 35 § 1; Code 1881 § 549; 1877 p 114 § 553; 1869 p 131 § 501; RRS § 806.]

Notes:

Rules of court: *Cf. CR 58, 60(e).*

New trials: Chapter 4.76 RCW.

Vacation of judgments: Chapter 4.72 RCW.

RCW 7.28.270 Effect of vacation of judgment.

If the plaintiff has taken possession of the property before the judgment is set aside and a new trial granted, as provided in RCW 7.28.260, such possession shall not be thereby affected in any way; and if judgment be given for defendant in the new trial, he shall be entitled to restitution by execution in the same manner as if he were plaintiff.

[Code 1881 § 550; 1877 p 115 § 554; 1869 p 131 § 502; RRS § 807.]

Notes:

Rules of court: *Cf. CR 58, 60(e).*

RCW 7.28.280 Conflicting claims, donation law, generally--Joinder of parties.

In an action at law, for the recovery of the possession of real property, if either party claims the property as a donee of the United States, and under the act of congress approved September 27th, 1850, commonly called the "Donation law," or the acts amendatory thereof, such party, from the date of his settlement thereon, as provided in said act, shall be deemed to have a legal estate in fee, in such property, to continue upon condition that he perform the conditions required by such acts, which estate is unconditional and indefeasible after the performance of such conditions. In such action, if both plaintiff and defendant claim title to the same real property, by virtue of settlement, under such acts, such settlement and performance of the subsequent condition shall be prima facie presumed in favor of the party having or claiming under the elder certificate, or patent, as the case may be, unless it appears upon the face of such certificate or patent that the same is absolutely void. Any person in possession, by himself or his tenant, of real property, and any private or municipal corporation in possession by itself or its tenant of any real property, or when such real property is not in the actual possession of anyone, any person or private or municipal corporation claiming title to any real property under a patent from the United States, or during his or its claim of title to such real property under a patent from the United States for such real estate, may maintain a civil action against any person or persons, corporations or associations claiming an interest in said real property or any part thereof, or any right thereto adverse to him, them, or it, for the purpose of determining such claim, estate, or interest; and where several persons, or private or municipal corporations are in possession of, or claim as aforesaid, separate parcels of real property, and an adverse interest is claimed or claim

made in or to any such parcels, by any other person, persons, corporations or associations, arising out of a question, conveyance, statute, grant, or other matter common to all such parcels of real estate, all or any portion of such persons or corporations so in possession, or claiming such parcel of real property may unite as plaintiffs in such suit to determine such adverse claim or interest against all persons, corporations or associations claiming such adverse interest.

[Code 1881 § 551; 1877 p 116 § 556; 1869 p 132 § 504; RRS §§ 808, 809. Formerly RCW 7.28.280 and 7.28.290.]

RCW 7.28.300 Quieting title against outlawed mortgage or deed of trust.

The record owner of real estate may maintain an action to quiet title against the lien of a mortgage or deed of trust on the real estate where an action to foreclose such mortgage or deed of trust would be barred by the statute of limitations, and, upon proof sufficient to satisfy the court, may have judgment quieting title against such a lien.

[1998 c 295 § 17; 1937 c 124 § 1; RRS § 785-1.]

Notes:

Limitation of actions, generally: Chapter 4.16 RCW.

Real estate mortgages, foreclosure: Chapter 61.12 RCW.

RCW 7.28.310 Quieting title to personal property.

Any person or corporation claiming to be the owner of or interested in any tangible or intangible personal property may institute and maintain a suit against any person or corporation also claiming title to or any interest in such property for the purpose of adjudicating the title of the plaintiff to such property, or any interest therein, against any and all adverse claims; removing all such adverse claims as clouds upon the title of the plaintiff and quieting the title of the plaintiff against any and all such adverse claims.

[1929 c 100 § 1; RRS § 809-1.]

RCW 7.28.320 Possession no defense.

The fact that any person or corporation against whom such action may be brought is in the possession of such property, or evidence of title to such property, shall not prevent the maintenance of such suit.

[1929 c 100 § 2; RRS § 809-2.]

**Chapter 7.36 RCW
HABEAS CORPUS**

Sections

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Notes:

Rules of court: *RAP 16.3 through 16.15.*

RCW 7.36.010 Who may prosecute writ.

Every person restrained of his liberty under any pretense whatever, may prosecute a writ of habeas corpus to inquire into the cause of the restraint, and shall be delivered therefrom when illegal.

[Code 1881 § 666; 1877 p 138 § 669; 1869 p 156 § 606; 1854 p 212 § 434; RRS § 1063.]

RCW 7.36.020 Parents, guardians, etc., may act for persons under disability.

Writs of habeas corpus shall be granted in favor of parents, guardians, limited guardians where appropriate, spouses, and next of kin, and to enforce the rights, and for the protection of infants and incompetent or disabled persons within the meaning of RCW 11.88.010; and the proceedings shall in all cases conform to the provisions of this chapter.

[1977 ex.s. c 80 § 8; 1973 1st ex.s. c 154 § 17; Code 1881 § 688; 1877 p 141 § 692; 1869 p 159 § 628; 1854 p 214 § 456; RRS § 1064.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 7.36.030 Petition--Contents.

Application for the writ shall be made by petition, signed and verified either by the plaintiff or by some person in his behalf, and shall specify:

(1) By whom the petitioner is restrained of his liberty, and the place where, (naming the parties if they are known, or describing them if they are not known).

(2) The cause or pretense of the restraint according to the best of the knowledge and belief of the applicant.

(3) If the restraint be alleged to be illegal, in what the illegality consists.

[Code 1881 § 667; 1877 p 138 § 670; 1869 p 156 § 607; 1854 p 212 § 435; RRS § 1065.]

RCW 7.36.040 Who may grant writ.

Writs of habeas corpus may be granted by the supreme court, the court of appeals, or superior court, or by any judge of such courts, and upon application the writ shall be granted without delay.

[1971 c 81 § 31; 1957 c 9 § 10; Code 1881 § 668; 1877 p 138 § 671; 1869 p 156 § 608; 1854 p 212 § 436; RRS § 1066.]

Notes:

Rules of court: *Cf. RAP 16.3, 18.22.*

RCW 7.36.050 To whom directed--Contents.

The writ shall be directed to the officer or party having the person under restraint, commanding him to have such person before the court or judge at such time and place as the court or judge shall direct to do and receive what shall be ordered concerning him, and have then and there the writ.

[Code 1881 § 669; 1877 p 138 § 672; 1869 p 156 § 609; 1854 p 212 § 437; RRS § 1067.]

RCW 7.36.060 Delivery to sheriff if to him directed.

If the writ be directed to the sheriff, it shall be delivered by the clerk to him without delay.

[Code 1881 § 670; 1877 p 138 § 673; 1869 p 156 § 610; 1854 p 212 § 438; RRS § 1068.]

RCW 7.36.070 Service by sheriff if directed to another.

If the writ be directed to any other person, it shall be delivered to the sheriff and shall be by him served by delivering the same to such person without delay.

[Code 1881 § 671; 1877 p 139 § 674; 1869 p 156 § 611; 1854 p 212 § 430; RRS § 1069.]

RCW 7.36.080 Service when person not found.

If the person to whom such writ is directed cannot be found or shall refuse admittance to the sheriff, the same may be served by leaving it at the residence of the person to whom it is directed, or by posting the same on [in] some conspicuous place, either of [on] his dwelling house or where the party is confined or under restraint.

[Code 1881 § 672; 1877 p 139 § 675; 1869 p 157 § 612; 1854 p 212 § 440; RRS § 1070.]

RCW 7.36.090 Return--Attachment for refusal.

The sheriff or other person to whom the writ is directed shall make immediate return thereof, and if he refuse after due service to make return, the court shall enforce obedience by attachment.

[Code 1881 § 673; 1877 p 139 § 676; 1869 p 157 § 613; 1854 p 213 § 441; RRS § 1071.]

RCW 7.36.100 Form of return--Production of person.

The return must be signed and verified by the person making it, who shall state:

- (1) The authority or cause of the restraint of the party in his custody.
- (2) If the authority shall be in writing, he shall return a copy and produce the original on the hearing.
- (3) If he has had the party in his custody or under his restraint, and has transferred him to another, he shall state to whom, the time, place and cause of the transfer. He shall produce the party at the hearing unless prevented by sickness or infirmity, which must be shown in the return.

[Code 1881 § 674; 1877 p 139 § 677; 1869 p 157 § 614; 1854 p 213 § 442; RRS § 1072.]

RCW 7.36.110 Procedure--Pleadings--Amendment.

The court or judge, if satisfied of the truth of the allegation of sickness or infirmity, may proceed to decide on the return, or the hearing may be adjourned until the party can be produced, or for other good cause. The plaintiff may except to the sufficiency of, or controvert the return or any part thereof, or allege any new matter in evidence. The new matter shall be verified, except in cases of commitment on a criminal charge. The return and pleadings may be amended without causing a delay.

[Code 1881 § 675; 1877 p 139 § 678; 1869 p 157 § 615; 1854 p 213 § 443; RRS § 1073.]

RCW 7.36.120 Hearing--Determination.

The court or judge shall thereupon proceed in a summary way to hear and determine the

cause, and if no legal cause be shown for the restraint or for the continuation thereof, shall discharge the party.

[Code 1881 § 676; 1877 p 139 § 679; 1869 p 157 § 616; 1854 p 213 § 444; RRS § 1074.]

Notes:

Rules of court: *ER 1101.*

RCW 7.36.130 Limitation upon inquiry.

No court or judge shall inquire into the legality of any judgment or process whereby the party is in custody, or discharge the party when the term of commitment has not expired, in either of the cases following:

(1) Upon any process issued on any final judgment of a court of competent jurisdiction except where it is alleged in the petition that rights guaranteed the petitioner by the Constitution of the state of Washington or of the United States have been violated and the petition is filed within the time allowed by RCW 10.73.090 and 10.73.100.

(2) For any contempt of any court, officer or body having authority in the premises to commit; but an order of commitment, as for a contempt upon proceedings to enforce the remedy of a party, is not included in any of the foregoing specifications.

(3) Upon a warrant issued from the superior court upon an indictment or information.

[1989 c 395 § 3; 1947 c 256 § 3; 1891 c 43 § 1; Code 1881 § 677; 1869 p 157 § 617; 1854 p 213 § 445; Rem. Supp. 1947 § 1075.]

RCW 7.36.140 Duty of courts when federal question is raised.

In the consideration of any petition for a writ of habeas corpus by the supreme court or the court of appeals, whether in an original proceeding or upon an appeal, if any federal question shall be presented by the pleadings, it shall be the duty of the supreme court to determine in its opinion whether or not the petitioner has been denied a right guaranteed by the Constitution of the United States.

[1971 c 81 § 32; 1947 c 256 § 2; Rem. Supp. 1947 § 1085-2.]

RCW 7.36.150 Admission to bail or discharge--Duty of court.

No person shall be discharged from an order of commitment issued by any judicial or peace officer for want of bail, or in cases not bailable on account of any defect in the charge or process, or for alleged want of probable cause; but in all cases the court or judge shall summon the prosecuting witnesses, investigate the criminal charge, and discharge, admit to bail or recommit the prisoner, as may be just and legal, and recognize witnesses when proper.

[Code 1881 § 678; 1877 p 140 § 681; 1869 p 157 § 618; 1854 p 213 § 446; RRS § 1076.]

RCW 7.36.160 Writ to admit prisoner to bail.

The writ may be had for the purpose of admitting a prisoner to bail in civil and criminal actions. When any person has an interest in the detention, and the prisoner shall not be discharged until the person having such interest is notified.

[Code 1881 § 679; 1877 p 140 § 682; 1869 p 158 § 619; 1854 p 214 § 447; RRS § 1077.]

RCW 7.36.170 Compelling attendance of witnesses.

The court or judge shall have power to require and compel the attendance of witnesses, and to do all other acts necessary to determine the case.

[Code 1881 § 680; 1877 p 140 § 683; 1869 p 158 § 620; 1854 p 214 § 448; RRS § 1078.]

Notes:

Witnesses, compelling attendance: Chapter 5.56 RCW.

RCW 7.36.180 Officers protected from civil liability.

No sheriff or other officer shall be liable to a civil action for obeying any writ of habeas corpus or order of discharge made thereon.

[Code 1881 § 681; 1877 p 140 § 684; 1869 p 158 § 621; 1854 p 214 § 449; RRS § 1079.]

RCW 7.36.190 Warrant to prevent removal.

Whenever it shall appear by affidavit that any one is illegally held in custody or restraint, and that there is good reason to believe that such person will be carried out of the jurisdiction of the court or judge before whom the application is made, or will suffer some irreparable injury before compliance with the writ can be enforced, such court or judge may cause a warrant to be issued reciting the facts, and directed to the sheriff or any constable of the county, commanding him to take the person thus held in custody or restraint, and forthwith bring him before the court or judge to be dealt with according to the law.

[Code 1881 § 682; 1877 p 140 § 685; 1869 p 158 § 622; 1854 p 214 § 450; RRS § 1080.]

RCW 7.36.200 Warrant may call for apprehension of offending party.

The court or judge may also, if the same be deemed necessary, insert in the warrant a command for the apprehension of the person charged with causing the illegal restraint.

[Code 1881 § 683; 1877 p 141 § 687; 1869 p 159 § 623; 1854 p 214 § 451; RRS § 1081.]

RCW 7.36.210 Execution of warrant.

The officer shall execute the writ [warrant] by bringing the person therein named before

the court or judge, and the like return of proceedings shall be required and had as in case of writs of habeas corpus.

[Code 1881 § 684; 1877 p 141 § 688; 1869 p 159 § 624; 1854 p 214 § 452; RRS § 1082.]

RCW 7.36.220 Temporary orders.

The court or judge may make any temporary orders in the cause or disposition of the party during the progress of the proceedings that justice may require. The custody of any party restrained may be changed from one person to another, by order of the court or judge.

[Code 1881 § 685; 1877 p 141 § 689; 1869 p 159 § 625; 1854 p 214 § 453; RRS § 1083.]

RCW 7.36.230 Emergency acts on Sunday authorized.

Any writ or process authorized by this chapter may be issued and served, in cases of emergency, on Sunday.

[Code 1881 § 686; 1877 p 141 § 690; 1869 p 159 § 626; 1854 p 214 § 454; RRS § 1084.]

Notes:

Superior court, issuance of habeas corpus on nonjudicial days: State Constitution Art. 4 § 6 (Amendment 28).

RCW 7.36.240 Writs and process--Issuance--Service--Defects--Amendments.

All writs and other process authorized by this chapter shall be issued by the clerk of the court, and sealed with the seal of such court, and shall be served and returned forthwith, unless the court or judge shall specify a particular time for such return. And no writ or other process shall be disregarded for any defect therein, if enough is shown to notify the officer or person of the purport of the process. Amendments may be allowed and temporary commitments when necessary.

[Code 1881 § 687; 1877 p 141 § 691; 1869 p 159 § 627; 1854 p 214 § 455; RRS § 1085.]

RCW 7.36.250 Proceeding in forma pauperis.

Any person entitled to prosecute a writ of habeas corpus who, by reason of poverty is unable to pay the costs of such proceeding or give security therefor, may file in the court having original jurisdiction of the proceeding an affidavit setting forth such facts and that he believes himself to be entitled to the redress sought. Upon the filing of such an affidavit the court may, if satisfied that the proceeding or appeal is instituted or taken in good faith, order that such proceeding, including appeal, may be prosecuted without prepayment of fees or costs or the giving of security therefor.

[1947 c 256 § 1; Rem. Supp. 1947 § 1085-1.]

Notes:

Rules of court: RAP 16.15(f), 16.15(g).

Chapter 7.40 RCW INJUNCTIONS

Sections

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Notes:

Rules of court: Cf. CR 65, 52(a)(2)(A).

Abortion clinics, interference with: Chapter 9A.50 RCW.

Camping resorts, relating to: RCW 19.105.470, 19.105.490.

Health care facilities, interference with: Chapter 9A.50 RCW.

Injunctions in labor disputes: Chapter 49.32 RCW.

Medical facilities, interference with: Chapter 9A.50 RCW.

Term papers, theses, dissertations, sale of prohibited--Injunctions: RCW 28B.10.584.

RCW 7.40.010 Who may grant restraining orders and injunctions.

Restraining orders and injunctions may be granted by the superior court, or by any judge thereof.

[1957 c 9 § 11; Code 1881 § 153; 1877 p 32 § 153; 1869 p 38 § 151; 1854 p 152 § 111; RRS § 718.]

RCW 7.40.020 Grounds for issuance.

When it appears by the complaint that the plaintiff is entitled to the relief demanded and the relief, or any part thereof, consists in restraining the commission or continuance of some act, the commission or continuance of which during the litigation would produce great injury to the plaintiff; or when during the litigation, it appears that the defendant is doing, or threatened, or is about to do, or is procuring, or is suffering some act to be done in violation of the plaintiff's rights respecting the subject of the action tending to render the judgment ineffectual; or where such relief, or any part thereof, consists in restraining proceedings upon any final order or judgment, an injunction may be granted to restrain such act or proceedings until the further order of the court, which may afterwards be dissolved or modified upon motion. And where it appears in the complaint at the commencement of the action, or during the pendency thereof, by affidavit, that the defendant threatens, or is about to remove or dispose of his property with intent to defraud his creditors, a temporary injunction may be granted to restrain the removal or disposition of his property.

[Code 1881 § 154; 1877 p 33 § 154; 1869 p 38 § 152; 1854 p 152 § 112; RRS § 719.]

RCW 7.40.030 Malicious erection of structure may be enjoined.

An injunction may be granted to restrain the malicious erection, by any owner or lessee of land, of any structure intended to spite, injure or annoy an adjoining proprietor. And where any owner or lessee of land has maliciously erected such a structure with such intent, a mandatory injunction will lie to compel its abatement and removal.

[1883 p 44 § 1, part; Code 1881 § 154 1/2; RRS § 720.]

RCW 7.40.040 Time of granting.

The injunction may be granted at the time of commencing the action, or at any time afterwards, before judgment in that proceeding.

[Code 1881 § 155; 1877 p 33 § 155; 1869 p 39 § 153; 1854 p 153 § 113; RRS § 721.]

RCW 7.40.050 Notice--Restraining orders in emergencies.

No injunction shall be granted until it shall appear to the court or judge granting it, that some one or more of the opposite party concerned, has had reasonable notice of the time and place of making application, except that in cases of emergency to be shown in the complaint, the court may grant a restraining order until notice can be given and hearing had thereon.

[Code 1881 § 156; 1877 p 33 § 156; 1869 p 39 § 154; 1854 p 153 § 114; RRS § 722.]

Notes:

Rules of court: CR 52(a)(2)(A), 65.

RCW 7.40.060 Affidavits at hearing.

On the hearing of an application for an injunction, each party may read affidavits.

[Code 1881 § 157; 1877 p 33 § 157; 1869 p 39 § 155; 1854 p 153 § 115; RRS § 723.]

Notes:

Rules of court: CR 65.

RCW 7.40.070 Terms and conditions may be imposed.

Upon the granting or continuing an injunction, such terms and conditions may be imposed upon the party obtaining it as may be deemed equitable.

[Code 1881 § 158; 1877 p 33 § 158; 1869 p 39 § 156; 1854 p 153 § 116; RRS § 724.]

Notes:

Rules of court: Cf. CR 65(d).

RCW 7.40.080 Injunction bond.

No injunction or restraining order shall be granted until the party asking it shall enter into a bond, in such a sum as shall be fixed by the court or judge granting the order, with surety to the satisfaction of the clerk of the superior court, to the adverse party affected thereby, conditioned to pay all damages and costs which may accrue by reason of the injunction or restraining order. The sureties shall, if required by the clerk, justify as provided by law, and until they so justify, the clerk shall be responsible for their sufficiency. The court in its sound discretion may waive the required bond in situations in which a person's health or life would be jeopardized.

[1994 c 185 § 5; 1957 c 51 § 9; Code 1881 § 159; 1877 p 33 § 159; 1869 p 39 § 157; 1854 p 153 § 117; RRS § 725.]

Notes:

Rules of court: Cf. CR 65(c).

Corporate surety--Insurance: Chapter 48.28 RCW.

RCW 7.40.085 Injunction bonds for injunctions affecting public construction contracts.

In determining the amount of the bond required by RCW 7.40.080 as now or hereafter amended, with respect to an injunction or restraining order that will delay or enjoin a notice to proceed or the performance of work under a construction contract for a public contracting body among the factors regarded in the exercise of its discretion, the court shall consider:

(1) All costs and liquidated damages provided for in the contract or otherwise that may result from such delay;

(2) The probable costs to the public in terms of inconvenience, delayed use of the proposed facilities, and escalation of costs of delayed construction of the proposed facilities that

may be incurred as a result of a delay subsequently found to be without good cause; and

(3) The procedures for consideration of objections to proposed construction and the opportunity the one seeking the injunction had for objecting prior to the letting of the contract.

[1974 ex.s. c 153 § 1.]

RCW 7.40.090 Bond for injunction after temporary restraining order.

When an injunction is granted upon the hearing, after a temporary restraining order, the plaintiff shall not be required to enter into a second bond, unless the former shall be deemed insufficient, but the plaintiff and his surety shall remain liable upon his original bond.

[Code 1881 § 160; 1877 p 33 § 160; 1869 p 39 § 158; 1854 p 153 § 118; RRS § 726.]

Notes:

Rules of court: Cf. CR 65(c).

RCW 7.40.100 Copy of order serves as writ.

It shall not be necessary to issue a writ of injunction, but the clerk shall issue a copy of the order of injunction duly certified by him, which shall be forthwith served by delivering the same to the adverse party.

[Code 1881 § 161; 1877 p 33 § 161; 1869 p 39 § 159; 1854 p 153 § 119; RRS § 727.]

RCW 7.40.110 Stay of judgment--Release of errors.

In application to stay proceedings after judgment, the plaintiff shall endorse upon his complaint a release of errors in the judgment whenever required to do so by the judge or court.

[Code 1881 § 162; 1877 p 33 § 162; 1869 p 39 § 160; 1854 p 153 § 120; RRS § 728.]

RCW 7.40.120 Injunction, who is bound by.

An order of injunction shall bind every person and officer restrained from the time he is informed thereof.

[Code 1881 § 163; 1877 p 33 § 163; 1869 p 40 § 161; 1854 p 153 § 121; RRS § 729.]

RCW 7.40.130 When adverse party becomes bound.

When notice of the application for an injunction has been served upon the adverse party, it shall not be necessary to serve the order upon him, but he shall be bound by the injunction as soon as the bond required of the plaintiff is executed and delivered to the proper officer.

[Code 1881 § 164; 1877 p 34 § 164; 1869 p 40 § 162; 1854 p 154 § 122; RRS § 730.]

RCW 7.40.140 Disposition of money collected on enjoined judgment.

Money collected upon a judgment afterward enjoined, remaining in the hands of the collecting officer, shall be paid to the clerk of the court granting the injunction, subject to the order of the court.

[Code 1881 § 165; 1877 p 34 § 165; 1869 p 40 § 163; 1854 p 154 § 123; RRS § 731.]

RCW 7.40.150 Contempt for disobedience.

Whenever it shall appear to any court granting a restraining order or an order of injunction, or by affidavit, that any person has wilfully disobeyed the order after notice thereof, such court shall award an attachment for contempt against the party charged, or an order to show cause why it should not issue. The attachment or order shall be issued by the clerk of the court, and directed to the sheriff, and shall be served by him.

[1957 c 9 § 12; Code 1881 § 166; 1877 p 34 § 166; 1869 p 40 § 164; 1854 p 154 § 124; RRS § 732.]

RCW 7.40.160 Attachment and arrest--Indemnity of plaintiff.

The attachment for contempt shall be immediately served, by arresting the party charged, and bringing him into court, if in session, to be dealt with as in other cases of contempt; and the court shall also take all necessary measures to secure and indemnify the plaintiff against damages in the premises.

[Code 1881 § 167; 1877 p 34 § 167; 1869 p 40 § 165; 1854 p 154 § 125; RRS § 733.]

RCW 7.40.170 Bond for appearance.

If the court is not in session the officer making the arrest shall cause the person to enter into a bond, with surety, to be approved by the officer, conditioned that he personally appear in open court whenever his appearance shall be required, to answer such contempt, and that he will pay to the plaintiff all his damages and costs occasioned by the breach of the order; and in default thereof he shall be committed to the jail of the county until he shall enter into such bond with surety, or be otherwise legally discharged.

[1891 c 56 § 1; Code 1881 § 168; 1877 p 34 § 168; 1869 p 40 § 166; 1854 p 154 § 126; RRS § 734.]

RCW 7.40.180 Motion to dissolve or modify.

Motions to dissolve or modify injunctions may be made in open court, or before a judge of the superior court, at any time after reasonable notice to the adverse party.

[1891 c 36 § 1; Code 1881 § 169; 1877 p 34 § 169; 1869 p 40 § 167; 1854 p 154 § 127; RRS § 735.]

Notes:

Rules of court: CR 65.

RCW 7.40.190 Damages on dissolution of injunction to stay judgment.

When an injunction to stay proceedings after judgment for debt or damages shall be dissolved, the court shall award such damages not exceeding ten percent on the judgment, as the court may deem right, against the party in whose favor the injunction issued.

[Code 1881 § 170; 1877 p 34 § 170; 1869 p 41 § 168; 1854 p 154 § 128; RRS § 736.]

RCW 7.40.200 Damages for rents and waste.

If an injunction to stay proceedings after verdict or judgment in an action for the recovery of real estate, or the possession thereof, be dissolved, the damages assessed against the party obtaining the injunction, shall include the reasonable rents and profits of the lands recovered, and all waste committed after granting injunction.

[Code 1881 § 171; 1877 p 35 § 171; 1869 p 41 § 169; 1854 p 154 § 129; RRS § 737.]

RCW 7.40.210 Motion to reinstate.

Upon an order being made dissolving or modifying an order of injunction, the plaintiff may move the court to reinstate the order, and the court may, in its discretion, allow the motion, and appoint a time for hearing the same before the court, or a time and place for hearing before some judge thereof, and upon the hearing, the parties may produce such additional affidavits or depositions as the court shall direct, and the order of injunction shall be dissolved, modified, or reinstated, as the court or judge may deem right. Until the hearing of the motion to reinstate the order of injunction, the order to dissolve or modify it, shall be suspended.

[Code 1881 § 172; 1877 p 35 § 172; 1869 p 41 § 170; 1854 p 154 § 130; RRS § 738.]

RCW 7.40.230 Injunctions--Fraud in obtaining telecommunications service.

(1) Whenever it appears that any person is engaged in or about to engage in any act that constitutes or will constitute a violation of RCW 9.26A.110 or 9.26A.090, the prosecuting attorney, a telecommunications company, or any person harmed by an alleged violation of RCW 9.26A.110 or 9.26A.090 may initiate a civil proceeding in superior court to enjoin such violation, and may petition the court to issue an order for the discontinuance of the specific telephone service being used in violation of RCW 9.26A.110 or 9.26A.090.

(2) An action under this section shall be brought in the county in which the unlawful act or acts are alleged to have taken place, and shall be commenced by the filing of a verified complaint, or shall be accompanied by an affidavit.

(3) If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in or about to engage in any act that constitutes a violation of RCW 9.26A.110 or 9.26A.090, the court may issue a temporary restraining order to abate and prevent

the continuance or recurrence of the act. The court may direct the sheriff to seize and retain until further order of the court any device that is being used in violation of RCW 9.26A.110 or 9.26A.090. All property seized pursuant to the order of the court shall remain in the custody of the court.

(4) The court may issue a permanent injunction to restrain, abate or prevent the continuance or recurrence of the violation of RCW 9.26A.110 or 9.26A.090. The court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction. The court may retain jurisdiction of the case for the purpose of enforcing its orders.

(5) If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in or is about to engage in any act that constitutes a violation of RCW 9.26A.110 or 9.26A.090, the court may issue an order which shall be promptly served upon the person in whose name the telecommunications device is listed, requiring the party, within a reasonable time, to be fixed by the court, from the time of service of the petition on said party, to show cause before the judge why telephone service should not promptly be discontinued. At the hearing the burden of proof shall be on the complainant.

(6) Upon a finding by the court that the telecommunications device is being used or has been used in violation of RCW 9.26A.110, the court may issue an order requiring the telephone company which is rendering service over the device to disconnect such service. Upon receipt of such order, which shall be served upon an officer of the telephone company by the sheriff or deputy of the county in which the telecommunications device is installed, the telephone company shall proceed promptly to disconnect and remove such device and discontinue all telephone service until further order of the court, provided that the telephone company may do so without breach of the peace or trespass.

(7) The telecommunications company that petitions the court for the removal of any telecommunications device under this section shall be a necessary party to any proceeding or action arising out of or under RCW 9.26A.110.

(8) No telephone company shall be liable for any damages, penalty, or forfeiture, whether civil or criminal, for any legal act performed in compliance with any order issued by the court.

(9) Property seized pursuant to the direction of the court that the court has determined to have been used in violation of RCW 9.26A.110 shall be forfeited after notice and hearing. The court may remit or mitigate the forfeiture upon terms and conditions as the court deems reasonable if it finds that such forfeiture was incurred without gross negligence or without any intent of the petitioner to violate the law, or it finds the existence of such mitigating circumstances as to justify the remission or the mitigation of the forfeiture. In determining whether to remit or mitigate forfeiture, the court shall consider losses that may have been suffered by victims as the result of the use of the forfeited property.

[1990 c 11 § 4.]

Notes:

Severability--1990 c 11: See RCW 9.26A.900.

Chapter 7.42 RCW
INJUNCTIONS--OBSCENE MATERIALS

Sections

7.42.010	Obscene prints and articles--Jurisdiction to enjoin.
7.42.020	Injunction authorized.
7.42.030	Trial by jury--Judgment.
7.42.040	Matter to be surrendered to sheriff--Seizure, destruction.
7.42.050	Prosecuting attorney need not file undertaking prior to order--Nonliability.
7.42.060	Knowledge of contents chargeable after service.
7.42.070	Exemptions.
7.42.900	Severability--1959 c 105.

Notes:

Rules of court: *Cf. CR 65.*

Crimes, obscenity: Chapter 9.68 RCW.

Criminal procedure, sufficiency of indictment, information for obscene literature: RCW 10.37.130.

RCW 7.42.010 Obscene prints and articles--Jurisdiction to enjoin.

The superior courts shall have jurisdiction to enjoin the sale or distribution of obscene prints and articles as hereinafter specified.

[1959 c 105 § 1.]

RCW 7.42.020 Injunction authorized.

The prosecuting attorney of every county of the state, in which a person, firm, or corporation sells or distributes or offers to sell or distribute or has in his possession with intent to sell or distribute any book, magazine, pamphlet, comic book, story paper, writing, paper, newspaper, phonograph record, magnetic tape, electric or mechanical transcription, picture, drawing, photograph, figure, image or any written or printed matter of an indecent character, which is obscene, lewd, lascivious, filthy or indecent, or which contains an article or instrument of indecent use or purports to be for indecent use or purpose, may maintain an action in the name of the state for an injunction against such person, firm, or corporation in the superior court to prevent the sale or further sale or the distribution or further distribution or the acquisition or possession of any book, magazine, pamphlet, comic book, story paper, writing, paper, newspaper, phonograph record, magnetic tape, electric or mechanical transcription, picture, drawing, photograph, figure or image or any written or printed matter of indecent character, herein described.

[1959 c 105 § 2.]

RCW 7.42.030 Trial by jury--Judgment.

The person, firm, or corporation sought to be enjoined shall be entitled to a trial by jury of the issues within a reasonable time after joinder of issue and a judgment shall be entered by the court within two days of the conclusion of the trial. No injunction or restraining order shall be issued prior to the conclusion of the trial.

[1959 c 105 § 3.]

RCW 7.42.040 Matter to be surrendered to sheriff--Seizure, destruction.

In the event that a final order or judgment of injunction be entered in favor of the state and against the person, firm, or corporation sought to be enjoined, such final order or judgment shall contain a provision directing the person, firm, or corporation to surrender to the sheriff of the county in which the action was brought any of the matter described in RCW 7.42.020, and each sheriff shall be directed to seize and destroy the same.

[1959 c 105 § 4.]

RCW 7.42.050 Prosecuting attorney need not file undertaking prior to order--Nonliability.

In any action brought as herein provided, the prosecuting attorney shall not be required to file any undertaking before the issuance of an injunction order provided for in RCW 7.42.040, shall not be liable for costs and shall not be liable for damages sustained by reason of the injunction order in cases where judgment is rendered in favor of the person, firm, or corporation sought to be enjoined.

[1959 c 105 § 5.]

RCW 7.42.060 Knowledge of contents chargeable after service.

Every person, firm, or corporation who sells, distributes, or acquires possession with intent to sell or distribute any of the matter described in RCW 7.42.020, after the service upon him of a summons and complaint in an action brought by the prosecuting attorney pursuant to this chapter is chargeable with knowledge of the contents thereof.

[1959 c 105 § 6.]

RCW 7.42.070 Exemptions.

Nothing in this chapter shall apply to any recognized historical society or museum, the state law library, any county law library, the state library, the public library, any library of any college or university, or to any archive or library under the supervision and control of the state, county, municipality, or other political subdivision.

[1959 c 105 § 7.]

RCW 7.42.900 Severability--1959 c 105.

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

[1959 c 105 § 8.]

**Chapter 7.43 RCW
INJUNCTIONS--DRUG NUISANCES**

Sections

7.43.010	Injunction authorized.
7.43.020	Complaint--Affidavit.
7.43.030	Temporary restraining order or preliminary injunction.
7.43.040	Temporary restraining order or preliminary injunction--Bond required.
7.43.050	Priority of actions.
7.43.060	Dismissal of citizen complaint--Limitations.
7.43.070	Service of complaint.
7.43.080	Order of abatement.
7.43.090	Final order of abatement.
7.43.100	Sale of items subject to forfeiture--Use of proceeds.
7.43.110	Violation of injunction--Contempt of court.
7.43.120	Fine constitutes lien.
7.43.130	Recovery of damages not precluded.
7.43.900	Severability--1988 c 141.

RCW 7.43.010 Injunction authorized.

(1) Every building or unit within a building used for the purpose of unlawfully manufacturing, delivering, selling, storing, or giving away any controlled substance as defined in chapter 69.50 RCW, legend drug as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW, and every building or unit within a building wherein or upon which such acts take place, is a nuisance which shall be enjoined, abated, and prevented, whether it is a public or private nuisance.

(2) As used in this chapter, "building" includes, but is not limited to, any structure or any separate part or portion thereof, whether permanent or not, or the ground itself.

[1988 c 141 § 4.]

RCW 7.43.020 Complaint--Affidavit.

The action provided for in RCW 7.43.010 shall be brought in the superior court in the county in which the property is located. Such action shall be commenced by the filing of a complaint alleging the facts constituting the nuisance.

Any complaint filed under this chapter shall be verified or accompanied by affidavit. For purposes of showing that the owner or his or her agent has had an opportunity to abate the nuisance, the affidavit shall contain a description of all attempts by the applicant to notify and locate the owner of the property or the owner's agent.

In addition, the affidavit shall describe in detail the adverse impact associated with the property on the surrounding neighborhood. "Adverse impact" includes, but is not limited to, the following: Any search warrants served on the property where controlled substances were seized; investigative purchases of controlled substances on or near the property by law enforcement or their agents; arrests of persons who frequent the property for violation of controlled substances laws; increased volume of traffic associated with the property; and the number of complaints made to law enforcement of illegal activity associated with the property.

After filing the complaint, the court shall grant a hearing within three business days after the filing.

[1988 c 141 § 5.]

RCW 7.43.030 Temporary restraining order or preliminary injunction.

Upon application for a temporary restraining order or preliminary injunction, the court may, upon a showing of good cause, issue an ex parte restraining order or preliminary injunction, preventing the defendant and all other persons from removing or in any manner interfering with the personal property and contents of the place where the nuisance is alleged to exist and may grant such preliminary equitable relief as is necessary to prevent the continuance or recurrence of the nuisance pending final resolution of the matter on the merits. However, pending the decision, the stock in trade may not be so restrained, but an inventory and full accounting of all business transactions may be required.

The restraining order or preliminary injunction may be served by handing to and leaving a copy with any person in charge of the place or residing in the place, or by posting a copy in a conspicuous place at or upon one or more of the principal doors or entrances to the place, or by both delivery and posting. The officer serving the order or injunction shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining the nuisance.

Any violation of the order or injunction is a contempt of court, and where such order or injunction is posted, mutilation or removal thereof while the same remains in force is a contempt of court if such posted order or injunction contains a notice to that effect.

[1988 c 141 § 6.]

RCW 7.43.040 Temporary restraining order or preliminary injunction--Bond required.

A temporary restraining order or preliminary injunction shall not issue under this chapter except upon the giving of a bond or security by the applicant, in the sum that the court deems proper, but not less than one thousand dollars, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully restrained or enjoined. A bond or security shall not be required of the state of Washington, municipal corporations, or political subdivisions of the state of Washington.

[1988 c 141 § 7.]

RCW 7.43.050 Priority of actions.

An action under this chapter shall have precedence over all other actions, except prior matters of the same character, criminal proceedings, election contests, hearings on temporary restraining orders and injunctions, and actions to forfeit vehicles used in violation of the uniform controlled substances act.

[1988 c 141 § 8.]

RCW 7.43.060 Dismissal of citizen complaint--Limitations.

(1) If the complaint under this chapter is filed by a citizen, the complaint shall not be dismissed by the citizen for want of prosecution except upon a sworn statement made by the citizen and the citizen's attorney, if the citizen has one. The statement shall set forth the reasons why the action should be dismissed. The case shall only be dismissed if so ordered by the court.

(2) In case of failure to prosecute the action with reasonable diligence, or at the request of the plaintiff, the court, in its discretion, may substitute any other citizen consenting to be substituted for the plaintiff.

[1988 c 141 § 9.]

RCW 7.43.070 Service of complaint.

A copy of the complaint, together with a notice of the time and place of the hearing of the action shall be served upon the defendant at least one business day before the hearing. Service may also be made by posting the papers in the same manner as is provided for in RCW 7.43.030. If the hearing is then continued at the request of any defendant, all temporary orders and injunctions shall be extended as a matter of course.

[1988 c 141 § 10.]

RCW 7.43.080 Order of abatement.

(1) Except as provided in subsection (2) of this section, if the existence of the nuisance is established in the action, an order of abatement shall be entered as part of the final judgment in the case. Plaintiff's costs in the action, including those of abatement, are a lien upon the building or unit within a building. The lien is enforceable and collectible by execution issued by order of the court.

(2) If the court finds and concludes that the owner of the building or unit within a building: (a) Had no knowledge of the existence of the nuisance or has been making reasonable efforts to abate the nuisance, (b) has not been guilty of any contempt of court in the proceedings, and (c) will immediately abate any such nuisance that may exist at the building or unit within a building and prevent it from being a nuisance within a period of one year thereafter, the court shall, if satisfied of the owner's good faith, order the building or unit within a building to be delivered to the owner, and no order of abatement shall be entered. If an order of abatement has been entered and the owner subsequently meets the requirements of this subsection, the order of abatement shall be canceled.

[1988 c 141 § 11.]

RCW 7.43.090 Final order of abatement.

Any final order of abatement issued under this chapter shall:

(1) Direct the removal of all personal property subject to seizure and forfeiture pursuant to RCW 69.50.505 from the building or unit within a building, and direct their disposition pursuant to the forfeiture provisions of RCW 69.50.505;

(2) Provide for the immediate closure of the building or unit within a building against its use for any purpose, and for keeping it closed for a period of one year unless released sooner as provided in this chapter; and

(3) State that while the order of abatement remains in effect the building or unit within a building shall remain in the custody of the court.

[1988 c 141 § 12.]

RCW 7.43.100 Sale of items subject to forfeiture--Use of proceeds.

In all actions brought under this chapter, the proceeds and all moneys forfeited pursuant to the forfeiture provisions of RCW 69.50.505 shall be applied as follows:

(1) First, to the fees and costs of the removal and sale;

(2) Second, to the allowances and costs of closing and keeping closed the building or unit within a building;

(3) Third, to the payment of the plaintiff's costs in the action; and

(4) Fourth, the balance, if any, to the owner of the property.

If the proceeds of the sale of items subject to seizure and forfeiture do not fully discharge all of the costs, fees, and allowances, the building or unit within a building shall then also be sold under execution issued upon the order of the court, and the proceeds of the sale shall be applied

in a like manner.

A building or unit within a building shall not be sold under this section unless the court finds and concludes by clear and convincing evidence that the owner of the building or unit within a building had actual or constructive knowledge or notice of the existence of the nuisance. However, this shall not be construed as limiting or prohibiting the entry of any final order of abatement as provided in this chapter.

[1988 c 141 § 13.]

RCW 7.43.110 Violation of injunction--Contempt of court.

An intentional violation of a restraining order, preliminary injunction, or order of abatement under this chapter is a contempt of court as provided in chapter 7.21 RCW.

[1989 c 373 § 9; 1988 c 141 § 14.]

Notes:

Severability--1989 c 373: See RCW 7.21.900.

RCW 7.43.120 Fine constitutes lien.

Whenever the owner of a building or unit within a building upon which the act or acts constituting the contempt have been committed, or the owner of any interest in the building or unit has been found in contempt of court, and fined in any proceedings under this chapter, the fine is a lien upon the building or unit within a building to the extent of the owner's interest. The lien is enforceable and collectible by execution issued by order of the court.

[1989 c 373 § 10; 1988 c 141 § 15.]

Notes:

Severability--1989 c 373: See RCW 7.21.900.

RCW 7.43.130 Recovery of damages not precluded.

The abatement of a nuisance under this chapter does not prejudice the right of any person to recover damages for its past existence.

[1988 c 141 § 16.]

RCW 7.43.900 Severability--1988 c 141.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1988 c 141 § 18.]

Chapter 7.44 RCW
NE EXEAT

Sections

7.44.010	Affidavit for writ.
7.44.020	Complaint.
7.44.021	Arrest and bail--Bond.
7.44.030	Recognizance of defendant.
7.44.031	Recognizance of defendant--Discharge by securing performance.
7.44.040	Subrogation of surety--Rights of contractor.
7.44.050	Habeas corpus available to defendant.
7.44.060	District judges have jurisdiction.
7.44.070	Venue.

RCW 7.44.010 Affidavit for writ.

Actions may be commenced upon any agreement in writing before the time for the performance of the contract expires, when the plaintiff or his agent shall make and file an affidavit with the clerk of the proper court, that the defendant is about to leave the state without performing or making provisions for the performance of the contract, taking with him property, moneys, credits or effects subject to execution, with intent to defraud plaintiff.

[Code 1881 § 636; 1877 p 133 § 639; 1869 p 149 § 576; 1854 p 209 § 418; RRS § 778.]

RCW 7.44.020 Complaint.

At the time of filing the affidavit the plaintiff shall also file his complaint in the action, and thenceforth the action shall proceed as other actions at law, except as otherwise provided in this chapter.

[1891 c 42 (p 81) § 1; Code 1881 § 637; 1877 p 133 § 640; 1869 p 149 § 577; 1854 p 209 § 419; RRS § 779, part: FORMER PARTS OF SECTION: 1891 c 42 § 2 now codified as RCW 7.44.021.]

RCW 7.44.021 Arrest and bail--Bond.

Upon such affidavit and complaint being filed, the clerk shall issue an order of arrest and bail, directed to the sheriff, which shall be issued, served and returned in all respects as such orders in other cases; before such order shall issue the plaintiff shall file in the office of the clerk a bond, with sufficient surety, to be approved by the clerk, conditioned that the plaintiff will pay the defendant such damages and costs as he shall wrongfully sustain by reason of the action, which surety shall justify as provided by law.

[1957 c 51 § 10; 1891 c 42 § 2. Formerly RCW 7.44.020, part.]

Notes:

Corporate surety--Insurance: Chapter 48.28 RCW.

RCW 7.44.030 Recognizance of defendant.

The sheriff shall require the defendant to enter into a bond, with sufficient surety, personally to appear within the time allowed by law for answering the complaint, and to abide the order of the court; and in default thereof the defendant shall be committed to prison until discharged in due course of law; such special bail shall be liable for the principal, and shall have a right to arrest and deliver him up, as in other cases, and the defendant may give other bail.

[1891 c 42 § 3; Code 1881 § 638; 1877 p 133 § 641; 1869 p 149 § 578; 1854 p 209 § 420; RRS § 780, part. FORMER PARTS OF SECTION: Code 1881 § 639; 1877 p 133 § 642; 1869 p 150 § 579; 1854 p 209 § 421 now codified as RCW 7.44.031.]

RCW 7.44.031 Recognizance of defendant--Discharge by securing performance.

Instead of giving special bail, as above provided, the defendant shall be entitled to his discharge from custody if he will secure the performance of the contract to the satisfaction of the plaintiff.

[Code 1881 § 639; 1877 p 133 § 642; 1869 p 150 § 579; 1854 p 209 § 421; RRS § 780, part. Formerly RCW 7.44.030, part.]

RCW 7.44.040 Subrogation of surety--Rights of contractor.

This proceeding may be had in favor of any surety or other person jointly bound with the defendant. It may also be prosecuted by the person in whose favor the contract exists, against any one or more of the persons bound thereby, upon filing such affidavit, when the co-contractors are nonresidents or probably insolvent, or at the request of any of them when they are residents and solvent.

[Code 1881 § 640; 1877 p 133 § 643; 1869 p 150 § 580; 1854 p 210 § 422; RRS § 781.]

RCW 7.44.050 Habeas corpus available to defendant.

The defendant may have the same remedy by writ of habeas corpus as in other cases of arrest and bail.

[Code 1881 § 641; 1877 p 134 § 644; 1869 p 150 § 581; 1854 p 210 § 423; RRS § 782.]

RCW 7.44.060 District judges have jurisdiction.

The proceedings provided for in this chapter may be had before district judges in all cases within their jurisdiction.

[1987 c 202 § 135; 1891 c 42 § 4; Code 1881 § 642; 1877 p 134 § 644; 1869 p 150 § 582; 1854 p 210 § 424; RRS § 783.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 7.44.070 Venue.

The affidavit and bond may be filed, and proceedings had in any county where the defendants may be found.

[Code 1881 § 643; 1877 p 134 § 646; 1869 p 150 § 583; 1854 p 210 § 425; RRS § 784.]

**Chapter 7.48 RCW
NUISANCES**

Sections

7.48.010	Actionable nuisance defined.
7.48.020	Who may sue--Judgment for damages--Warrant for abatement--Injunction.
7.48.030	Issuance and execution of warrant.
7.48.040	Stay of issuance of warrant.
7.48.050	Moral nuisances--Definitions.
7.48.052	Moral nuisances.
7.48.054	Moral nuisance--Personal property--Effects of notice.
7.48.056	Abate moral nuisance--Enjoin owner.
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Notes:

Nuisances

criminal: Chapter 9.66 RCW.

drug, injunctions: Chapter 7.43 RCW.

jurisdiction of superior court: State Constitution Art. 4 § 6 (Amendment 28).

RCW 7.48.010 Actionable nuisance defined.

The obstruction of any highway or the closing of the channel of any stream used for boating or rafting logs, lumber or timber, or whatever is injurious to health or indecent or offensive to the senses, or an obstruction to the free use of property, so as to essentially interfere with the comfortable enjoyment of the life and property, is a nuisance and the subject of an action for damages and other and further relief.

[Code 1881 § 605; 1877 p 126 § 610; 1869 p 144 § 599; 1854 p 207 § 405; RRS § 943.]

Notes:

Crimes

malicious mischief: Chapter 9.61 RCW.

public nuisance: RCW 9.66.010.

RCW 7.48.020 Who may sue--Judgment for damages--Warrant for abatement--Injunction.

Such action may be brought by any person whose property is, or whose patrons or employees are, injuriously affected or whose personal enjoyment is lessened by the nuisance. If judgment be given for the plaintiff in such action, he or she may, in addition to the execution to

enforce the same, on motion, have an order allowing a warrant to issue to the sheriff to abate and to deter or prevent the resumption of such nuisance. Such motion shall be allowed, of course, unless it appear on the hearing that the nuisance has ceased, or that such remedy is inadequate to abate or prevent the continuance of the nuisance, in which latter case the plaintiff may have the defendant enjoined.

[1994 c 45 § 5; 1891 c 50 § 1; Code 1881 § 606; 1877 p 126 § 611; 1869 p 144 § 560; 1854 p 207 § 406; RRS § 944.]

Notes:

Findings--Declaration--Severability--1994 c 45: See notes following RCW 7.48.140.

RCW 7.48.030 Issuance and execution of warrant.

If the order be made, the clerk shall thereafter, at any time within six months, when requested by the plaintiff, issue such warrant directed to the sheriff, requiring him forthwith to abate the nuisance at the expense of the defendant, and return the warrant as soon thereafter as may be, with his proceedings indorsed thereon. The expenses of abating the nuisance may be levied by the sheriff on the property of the defendant, and in this respect the warrant is to be deemed an execution against property.

[Code 1881 § 607; 1877 p 126 § 612; 1869 p 145 § 561; 1854 p 207 § 407; RRS § 945.]

RCW 7.48.040 Stay of issuance of warrant.

At any time before the order is made or the warrant issues, the defendant may, on motion to the court or judge thereof, have an order to stay the issue of such warrant for such period as may be necessary, not exceeding six months, to allow the defendant to abate the nuisance himself, upon his giving bond to the plaintiff in a sufficient amount with one or more sureties, to the satisfaction of the court or judge thereof, that he will abate it within the time and in the manner specified in such order. The sureties shall justify as provided by law. If the defendant fails to abate such nuisance within the time specified, the warrant for the abatement of the nuisance may issue as if the same had not been stayed.

[1957 c 51 § 11; Code 1881 § 608; 1877 p 127 § 613; 1869 p 145 § 562; RRS § 946.]

Notes:

Corporate surety--Insurance: Chapter 48.28 RCW.

RCW 7.48.050 Moral nuisances--Definitions.

The definitions set forth in this section shall apply throughout this chapter as they relate to moral nuisances.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct which appears in the lewd matter, or knowledge of the acts of lewdness, assignation, or prostitution which occur on the premises.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, excretory functions, or lewd exhibition of the genitals or genital area.

Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, in person or by electronic transmission, with or without consideration.

(5) "Matter" shall mean a live performance, a motion picture film, or a publication or any combination thereof.

(6) "Moral nuisance" means a nuisance which is injurious to public morals.

(7) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Films, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(8) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(9) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(10) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or a motion picture film which is offered for sale or exhibited in a coin-operated machine.

(11) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter.

[1990 c 152 § 1; 1979 c 1 § 1 (Initiative Measure No. 335, approved November 8, 1977); 1913 c 127 § 1; RRS § 946-1.]

Notes:

Severability--1990 c 152: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 152 § 6.]

RCW 7.48.052 Moral nuisances.

The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition, or where lewd live performances are publicly exhibited as a regular course of business;

(2) Any and every place in the state where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition, or where a lewd live performance is publicly and repeatedly exhibited;

(3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(4) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(5) Any and every lewd publication possessed at a place which is a moral nuisance under this section;

(6) Every place which, as a regular course of business, is used for the purpose of lewdness, assignation, or prostitution, and every such place in or upon which acts of lewdness, assignation, or prostitution are conducted, permitted, carried on, continued, or exist;

(7) All public houses or places of resort where illegal gambling is carried on or permitted; all houses or places within any city, town, or village, or upon any public road, or highway where drunkenness, illegal gambling, fighting, or breaches of the peace are carried on or permitted; all houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection or any other means.

[1990 c 152 § 2; 1988 c 141 § 1; 1979 c 1 § 2 (Initiative Measure No. 335, approved November 8, 1977).]

Notes:

Severability--1990 c 152: See note following RCW 7.48.050.

Severability--1988 c 141: See RCW 7.43.900.

RCW 7.48.054 Moral nuisance--Personal property--Effects of notice.

The following are also declared to be moral nuisances, as personal property used in conducting and maintaining a moral nuisance:

(1) All moneys paid as admission price to the exhibition of any lewd film or lewd live performance found to be a moral nuisance;

(2) All valuable consideration received for the sale of any lewd publication which is found to be a moral nuisance;

(3) The furniture, fixtures, and contents of a place which is a moral nuisance.

From and after service of a copy of the notice of hearing of the application for a preliminary injunction, provided for in RCW 7.48.064, upon the place or its manager, acting

manager, or person then in charge, all such persons are deemed to have knowledge of the acts, conditions, or things which make such place a moral nuisance. Where the circumstantial proof warrants a determination that a person had knowledge of the moral nuisance prior to such service of process, the court shall make such finding.

[1990 c 152 § 3; 1979 c 1 § 3 (Initiative Measure No. 335, approved November 8, 1977).]

Notes:

Severability--1990 c 152: See note following RCW 7.48.050.

RCW 7.48.056 Abate moral nuisance--Enjoin owner.

In addition to any other remedy provided by law, any act, occupation, structure, or thing which is a moral nuisance may be abated, and the person doing such act or engaged in such occupation, and the owner and agent of the owner of any such structure or thing, may be enjoined as provided in this chapter.

[1979 c 1 § 4 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.058 Maintaining action to abate moral nuisance--Bond.

The attorney general, prosecuting attorney, city attorney, city prosecutor, or any citizen of the county may maintain an action of an equitable nature in the name of the state of Washington upon the relation of such attorney general, prosecuting attorney, city attorney, city prosecutor, or citizen, to abate a moral nuisance, to perpetually enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a moral nuisance.

If such action is instituted by a private person, the complainant shall execute a bond to the person against whom complaint is made, with good and sufficient surety to be approved by the court or clerk thereof, in the sum of not less than five hundred dollars, to secure to the party enjoined the damages he may sustain if such action is wrongfully brought, and the court finds there was no reasonable grounds or cause for said action and the case is dismissed for that reason before trial or for want of prosecution. No bond shall be required of the attorney general, prosecuting attorney, city attorney, or city prosecutor, and no action shall be maintained against such public official for his official action when brought in good faith.

[1979 c 1 § 5 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.060 Moral nuisance--Jurisdiction--Filing a complaint.

The action provided for in RCW 7.48.058 shall be brought in any court of competent jurisdiction in the county in which the property is located. Such action shall be commenced by the filing of a verified complaint alleging the facts constituting the nuisance. After the filing of said complaint, application for a temporary injunction may be made to the court in which the action is filed, or to a judge thereof, who shall grant a hearing within ten days after the filing.

[1979 c 1 § 6 (Initiative Measure No. 335, approved November 8, 1977); 1913 c 127 § 2; RRS § 946-2.]

RCW 7.48.062 Moral nuisance--Restraining order--Violations.

Where such application for a temporary injunction is made, the court or judge thereof may, on application of the complainant showing good cause, issue an ex parte restraining order, restraining the defendant and all other persons from removing or in any manner interfering with the personal property and contents of the place where such nuisance is alleged to exist, until the decision of the court or judge granting or refusing such temporary injunction and until the further order of the court thereon, except that pending such decision, the stock in trade may not be so restrained, but an inventory and full accounting of all business transactions may be required.

The restraining order may be served by handing to and leaving a copy of such order with any person in charge of such place or residing therein, or by posting a copy thereof in a conspicuous place at or upon one or more of the principal doors or entrances to such place, or by both such delivery and posting. The officer serving such restraining order shall forthwith make and return into court an inventory of the personal property and contents situated in and used in conducting or maintaining such nuisance.

Any violation of such restraining order is a contempt of court, and where such order is posted, mutilation or removal thereof while the same remains in force is a contempt of court if such posted order contains therein a notice to that effect.

[1979 c 1 § 7 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.064 Moral nuisance--Hearing--Notice--Consolidation with trial.

A copy of the complaint, together with a notice of the time and place of the hearing of the application for a temporary injunction, shall be served upon the defendant at least three days before such hearing. The place may also be served by posting such papers in the same manner as is provided for in RCW 7.48.062 in the case of a restraining order. If the hearing is then continued at the instance of any defendant, the temporary writ as prayed shall be granted as a matter of course.

Before or after the commencement of the hearing of an application for a temporary injunction, the court, on application of either of the parties or on its own motion, may order the trial of the action on the merits to be advanced and consolidated with the hearing on the application for the temporary injunction. Any evidence received upon an application for a temporary injunction which would be admissible in the trial on the merits becomes a part of the record of the trial and need not be repeated as to such parties at the trial on the merits.

[1979 c 1 § 8 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.066 Finding of moral nuisance--Orders.

If upon hearing, the allegations of the complaint are sustained to the satisfaction of the

court or judge, the court or judge shall issue a temporary injunction without additional bond, restraining the defendant and any other person from continuing the nuisance.

If at the time the temporary injunction is granted, it further appears that the person owning, in control of, or in charge of the nuisance so enjoined had received three days notice of the hearing, then the court shall declare a temporary forfeiture of the use of the real property upon which such public nuisance is located and the personal property located therein, and shall forthwith issue an order closing such place against its use for any purpose until a final decision is rendered on the application for a permanent injunction, unless:

(1) The person owning, in control of, or in charge of such nuisance shows to the satisfaction of the court or judge, by competent and admissible evidence which is subject to cross-examination, that the nuisance complained of has been abated by such person; or

(2) The owner of such property, as a "good faith" lessor, has taken action to void said lease as is authorized by RCW 7.48.085.

Such order shall also continue in effect for such further period as the order authorized in RCW 7.48.062 provides. If no order has been issued pursuant to RCW 7.48.062, then an order restraining the removal or interference with the personal property and contents located therein shall be issued. Such restraining order shall be served and the inventory of such property shall be made and filed as provided for in RCW 7.48.062.

Such order shall also require such persons to show cause within thirty days why such closing order should not be made permanent, as provided for in RCW 7.48.078.

[1979 c 1 § 9 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.068 Abatement of moral nuisance by owner--Effect on injunction.

The owner of any real or personal property to be closed or restrained, or which has been closed or restrained, may appear after the filing of the complaint and before the hearing on the application for a permanent injunction.

The court, if satisfied of the good faith of the owner of the real property and of the innocence on the part of any owner of the personal property of any knowledge of its use as a nuisance, and that with reasonable care and diligence such owner could not have known thereof shall, at the time of the hearing on the application for the temporary injunction and upon payment of all costs incurred and upon the filing of a bond by the owner of the real property with sureties to be approved by the clerk in the full value of the property to be ascertained by the court, conditioned that such owner will immediately abate the nuisance and prevent the same from being established or kept, refrain from issuing any order closing such real property or restraining the removal or interference with such personal property, and, if such temporary injunction has already been issued, shall cancel said order and shall deliver such real or personal property, or both, to the respective owners thereof. The release of any real or personal property under this section shall not release it from any judgment, lien, penalty, or liability to which it may be subjected by law.

[1979 c 1 § 10 (Initiative Measure No. 335, approved November 8, 1977).]

Notes:

Voluntary abatement: RCW 7.48.110.

RCW 7.48.070 Moral nuisance--Priority of action on calendar.

The action provided for in RCW 7.48.058 shall be set down for trial at the first term of the court and shall have precedence over all other cases except crimes, election contests, or injunctions.

[1979 c 1 § 11 (Initiative Measure No. 335, approved November 8, 1977); 1913 c 127 § 3; RRS § 946-3.]

RCW 7.48.072 Moral nuisance--Effects of admission or finding of guilt.

In such action, an admission or finding of guilty of any person under the criminal laws against lewdness, prostitution, or assignation at any such place is admissible for the purpose of proving the existence of such nuisance, and is prima facie evidence of such nuisance and of knowledge of, and of acquiescence and participation therein, on the part of the person charged with maintaining such nuisance.

[1979 c 1 § 12 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.074 Moral nuisance--Evidence of reputation--Admissibility.

At all hearings upon the merits, evidence of the general reputation of the building or place constituting the alleged nuisance, of the inmates thereof, and of those resorting thereto, is admissible for the purpose of proving the existence of such nuisance.

[1979 c 1 § 13 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.076 Moral nuisance--Trial--Costs--Dismissal--Judgment.

If the action is brought by a person who is a citizen of the county, and the court finds that there were no reasonable grounds or probable cause for bringing said action, and the case is dismissed before trial for that reason or for want of prosecution, the costs, including attorney's fees, may be taxed to such person.

If the existence of the nuisance is established upon the trial, a judgment shall be entered which shall perpetually enjoin the defendant and any other person from further maintaining the nuisance at the place complained of, and the defendant from maintaining such nuisance elsewhere. The entire expenses of such abatement, including attorney's fees, shall be recoverable by the plaintiff as a part of his costs of the lawsuit.

If the complaint is filed by a person who is a citizen of the county, it shall not be dismissed except upon a sworn statement by the complainant and his attorney, setting forth the reason why the action should be dismissed and the dismissal approved by the prosecuting attorney in writing or in open court. If the judge is of the opinion that the action should not be

dismissed, he may direct the prosecuting attorney to prosecute said action to judgment at the expense of the county, and if the action is continued for more than one term of court, any person who is a citizen of the county or has an office therein, or the attorney general, the prosecuting attorney, city attorney, or city prosecutor, may be substituted for the complainant and prosecute said action to judgment.

[1979 c 1 § 14 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.078 Moral nuisance--Judgment--Penalties--Disposal of personal property.

If the existence of a nuisance is admitted or established in an action as provided for in RCW 7.48.058 or in a criminal proceeding, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the place of all personal property and contents used in conducting the nuisance and not already released under authority of the court as provided for in RCW 7.48.066 and 7.48.068, and shall direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution. Lewd matter shall be destroyed and shall not be sold.

Such judgment shall impose a penalty of three hundred dollars for the maintenance of such nuisance, which penalty shall be imposed against the person or persons found to have maintained the nuisance, and, in case any owner or agent of the building found to have had actual or constructive notice of the maintenance of such nuisance, against such owner or agent, and against the building kept or used for the purposes of maintaining a moral nuisance, which penalty shall be collected by execution as in civil actions, and when collected, shall be paid into the current expense fund of the county in which the judgment is had.

Such order shall also require the renewal for one year of any bond furnished by the owner of the real property, as provided in RCW 7.48.068 or, if not so furnished, shall continue for one year any closing order issued at the time of granting the temporary injunction, or, if no such closing order was then issued, shall include an order directing the effectual closing of the place against its use for any purpose and keeping it closed for a period of one year unless sooner released.

The owner of any place closed and not released under bond may then appear and obtain such release in the manner and upon fulfilling the requirements provided in RCW 7.48.068.

Owners of unsold personal property and contents so seized must appear and claim the same within ten days after such order of abatement is made, and prove innocence to the satisfaction of the court of any knowledge of such use thereof, and that with reasonable care and diligence they could not have known thereof. If such innocence is established, such unsold personal property and contents shall be delivered to the owner, otherwise it shall be sold as provided in this section. For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court.

[1979 c 1 § 15 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.080 Moral nuisance--Violation of injunction--Contempt of court.

A violation of any injunction granted under RCW 7.48.050 through 7.48.100 is a contempt of court as provided in chapter 7.21 RCW.

[1989 c 373 § 11; 1979 c 1 § 16 (Initiative Measure No. 335, approved November 8, 1977); 1913 c 127 § 4; RRS § 946-4.]

Notes:

Severability--1989 c 373: See RCW 7.21.900.

RCW 7.48.085 Moral nuisance--Property owner may repossess.

If a tenant or occupant of a building or tenement, under a lawful title, uses such place for the purposes of maintaining a moral nuisance, such use makes void at the option of the owner the lease or other title under which he holds, and without any act of the owner causes the right of possession to revert and vest in such owner, who may without process of law make immediate entry upon the premises.

[1979 c 1 § 17 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.090 Moral nuisance--Contraband--Forfeitures.

Lewd matter is contraband, and there are no property rights therein. All personal property declared to be a moral nuisance in RCW 7.48.052 and 7.48.054 and all moneys and other consideration declared to be a moral nuisance under RCW 7.48.056 are the subject of forfeiture to the local government and are recoverable as damages in the county wherein such matter is sold, exhibited, or otherwise used. Such moneys may be traced to and shall be recoverable from persons who, under RCW 7.48.064, have knowledge of the nuisance at the time such moneys are received by them.

Upon judgment against the defendants in legal proceedings brought pursuant to RCW 7.48.050 through 7.48.100 as now or hereafter amended, an accounting shall be made by such defendant or defendants of all moneys received by them which have been declared to be a public nuisance under this section. An amount equal to the sum of all moneys estimated to have been taken in as gross income from such unlawful commercial activity shall be forfeited to the general funds of the city and county governments wherein such matter is sold or exhibited, to be shared equally, as a forfeiture of the fruits of an unlawful enterprise and as partial restitution for damages done to the public welfare, public health, and public morals.

Where the action is brought pursuant to RCW 7.48.050 through 7.48.100 as now or hereafter amended, special injury need not be proven, and the costs of abatement are a lien on both the real and personal property used in maintaining the nuisance. Costs of abatement include, but are not limited to the following:

- (1) Investigative costs;

- (2) Court costs;
- (3) Reasonable attorney's fees arising out of the preparation for and trial of the cause, appeals therefrom, and other costs allowed on appeal;
- (4) Printing costs of trial and appellate briefs, and all other papers filed in such proceedings.

[1979 c 1 § 18 (Initiative Measure No. 335, approved November 8, 1977); 1927 c 94 § 1; 1913 c 127 § 5; RRS § 946-5.]

RCW 7.48.100 Moral nuisance--Immunity of certain motion picture theatre employees.

The provisions of any criminal statutes with respect to the exhibition of, or the possession with the intent to exhibit, any obscene film shall not apply to a motion picture projectionist, usher, or ticket taker acting within the scope of his employment, if such projectionist, usher, or ticket taker (1) has no financial interest in the place wherein he is so employed, other than his salary, and (2) freely and willingly gives testimony regarding such employment in any judicial proceedings brought under RCW 7.48.050 through 7.48.100 as now or hereafter amended, including pretrial discovery proceedings incident thereto, when and if such is requested, and upon being granted immunity by the trial judge sitting in such matters.

[1979 c 1 § 19 (Initiative Measure No. 335, approved November 8, 1977); 1927 c 94 § 2; 1913 c 127 § 6; RRS § 946-6.]

RCW 7.48.110 Houses of lewdness, assignation or prostitution may be abated--Voluntary abatement.

If the owner of the building in which a nuisance is found to be maintained, appears and pays all costs of the proceeding, and files a bond with sureties to be approved by the clerk in the full value of the property to be ascertained by the court, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court or judge may, if satisfied of his good faith, order the premises, closed under the order of abatement, to be delivered to said owner, and said order closing the building canceled. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty or liability to which it may be subject by law.

[1927 c 94 § 3; 1913 c 127 § 7; RRS § 946-7.]

RCW 7.48.120 Nuisance defined.

Nuisance consists in unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully interferes with, obstructs or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square,

street or highway; or in any way renders other persons insecure in life, or in the use of property.

[Code 1881 § 1235; 1875 p 79 § 1; RRS § 9914.]

Notes:

Crimes

malicious mischief: Chapter 9.61 RCW.

nuisances: Chapter 9.66 RCW.

RCW 7.48.130 Public nuisance defined.

A public nuisance is one which affects equally the rights of an entire community or neighborhood, although the extent of the damage may be unequal.

[Code 1881 § 1236; 1875 p 79 § 2; RRS § 9912.]

Notes:

Crimes, nuisances: Chapter 9.66 RCW.

RCW 7.48.140 Public nuisances enumerated.

It is a public nuisance:

(1) To cause or suffer the carcass of any animal or any offal, filth, or noisome substance to be collected, deposited, or to remain in any place to the prejudice of others;

(2) To throw or deposit any offal or other offensive matter, or the carcass of any dead animal, in any watercourse, stream, lake, pond, spring, well, or common sewer, street, or public highway, or in any manner to corrupt or render unwholesome or impure the water of any such spring, stream, pond, lake, or well, to the injury or prejudice of others;

(3) To obstruct or impede, without legal authority, the passage of any river, harbor, or collection of water;

(4) To obstruct or encroach upon public highway, private ways, streets, alleys, commons, landing places, and ways to burying places or to unlawfully obstruct or impede the flow of municipal transit vehicles as defined in RCW 46.04.355 or passenger traffic, access to municipal transit vehicles or stations as defined in *RCW 9.91.025(2)(a), or otherwise interfere with the provision or use of public transportation services, or obstruct or impede a municipal transit driver, operator, or supervisor in the performance of that individual's duties;

(5) To carry on the business of manufacturing gun powder, nitroglycerine, or other highly explosive substance, or mixing or grinding the materials therefor, in any building within fifty rods of any valuable building erected at the time such business may be commenced;

(6) To establish powder magazines near incorporated cities or towns, at a point different from that appointed by the corporate authorities of such city or town; or within fifty rods of any occupied dwelling house;

(7) To erect, continue, or use any building, or other place, for the exercise of any trade, employment, or manufacture, which, by occasioning obnoxious exhalations, offensive smells, or otherwise is offensive or dangerous to the health of individuals or of the public;

(8) To suffer or maintain on one's own premises, or upon the premises of another, or to permit to be maintained on one's own premises, any place where wines, spirituous, fermented, malt, or other intoxicating liquors are kept for sale or disposal to the public in contravention of law;

(9) For an owner or occupier of land, knowing of the existence of a well, septic tank, cesspool, or other hole or excavation ten inches or more in width at the top and four feet or more in depth, to fail to cover, fence or fill the same, or provide other proper and adequate safeguards: PROVIDED, That this section shall not apply to a hole one hundred square feet or more in area or one that is open, apparent, and obvious.

Every person who has the care, government, management, or control of any building, structure, powder magazine, or any other place mentioned in this section shall, for the purposes of this section, be taken and deemed to be the owner or agent of the owner or owners of such building, structure, powder magazine or other place, and, as such, may be proceeded against for erecting, contriving, causing, continuing, or maintaining such nuisance.

[1994 c 45 § 2; 1955 c 237 § 1; 1895 c 14 § 1; Code 1881 § 1246; RRS § 9913.]

Notes:

***Reviser's note:** The reference to RCW 9.91.025(2)(a) appears to be erroneous. Reference to RCW 9.91.025(2) was apparently intended.

Findings--Declaration--1994 c 45: "The legislature finds that it is important to the general welfare to protect and preserve public safety in the operation of public transportation facilities and vehicles, in order to protect the personal safety of both passengers and employees. The legislature further finds that public transportation facilities and services will be utilized more fully by the general public if they are assured of personal safety and security in the utilization.

The legislature recognizes that cities, towns, counties, public transportation benefit areas, and other municipalities that offer public transportation services have the independent authority to adopt regulations, rules, and guidelines that regulate conduct in public transportation vehicles and facilities to protect and preserve the public safety in the operation of the vehicles and facilities. The legislature finds that this act is not intended to limit the independent authority to regulate conduct by these municipalities. The legislature, however, further finds that this act is necessary to provide state-wide guidelines that regulate conduct in public transportation vehicles and facilities to further enhance the independent regulatory authority of cities, towns, counties, public transportation benefit areas, and any other municipalities that offer public transportation services." [1994 c 45 § 1.]

Severability--1994 c 45: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 45 § 6.]

Crimes

malicious mischief: Chapter 9.61 RCW.

nuisance: Chapter 9.66 RCW.

Devices simulating traffic control signs declared public nuisance: RCW 47.36.180.

RCW 7.48.150 Private nuisance defined.

Every nuisance not included in the definition of RCW 7.48.130 is private.

[Code 1881 § 1237; 1875 p 79 § 3; RRS § 9915.]

RCW 7.48.155 Unlawful use of firearm or deadly weapon--Arrest required.

The unlawful use of a firearm or other deadly weapon by a person in, or adjacent to his or her dwelling, that imminently threatens the physical safety of other people in the adjacent area, so as to essentially interfere with the comfortable enjoyment of their residences, is a nuisance and may be abated, and the person who unlawfully used the firearm or deadly weapon is subject to the punishment provided in this chapter. This section does not apply unless the person who unlawfully used the firearm or other deadly weapon is arrested for this activity.

[1992 c 38 § 10.]

Notes:

Intent--Effective date--1992 c 38: See notes following RCW 59.18.352.

RCW 7.48.160 Authorized act not a nuisance.

Nothing which is done or maintained under the express authority of a statute, can be deemed a nuisance.

[Code 1881 § 1238; 1875 p 79 § 4; RRS § 9916.]

RCW 7.48.170 Successive owners liable.

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of such property caused by a former owner, is liable therefor in the same manner as the one who first created it.

[Code 1881 § 1239; 1875 p 79 § 5; RRS § 9917.]

RCW 7.48.180 Abatement does not preclude action for damages.

The abatement of a nuisance does not prejudice the right of any person to recover damages for its past existence.

[Code 1881 § 1240; 1875 p 79 § 6; RRS § 9918.]

RCW 7.48.190 Nuisance does not become legal by prescription.

No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

[Code 1881 § 1241; 1875 p 80 § 7; RRS § 9919.]

RCW 7.48.200 Remedies.

The remedies against a public nuisance are: Indictment or information, a civil action, or abatement. The remedy by indictment or information shall be as regulated and prescribed in this

chapter. When a civil action for damage is resorted to, the practice shall conform to RCW 7.48.010 through 7.48.040.

[1957 c 51 § 12; Code 1881 § 1242; 1875 p 80 § 8; RRS § 9920.]

RCW 7.48.210 Civil action, who may maintain.

A private person may maintain a civil action for a public nuisance, if it is specially injurious to himself but not otherwise.

[Code 1881 § 1243; 1875 p 80 § 9; RRS § 9921.]

RCW 7.48.220 Abatement, by whom.

A public nuisance may be abated by any public body or officer authorized thereto by law.

[Code 1881 § 1244; 1875 p 80 § 10; RRS § 9922.]

RCW 7.48.230 Public nuisance--Abatement.

Any person may abate a public nuisance which is specially injurious to him by removing, or if necessary, destroying the thing which constitutes the same, without committing a breach of the peace, or doing unnecessary injury.

[Code 1881 § 1245; 1875 p 80 § 11; RRS § 9923.]

RCW 7.48.240 Certain places of resort declared nuisances.

Houses of ill fame, kept for the purpose, where persons are employed for purposes of prostitution; all public houses or places of resort where gambling is carried on, or permitted; all houses or places within any city, town, or village, or upon any public road, or highway where drunkenness, gambling, fighting or breaches of the peace are carried on, or permitted; all opium dens, or houses, or places of resort where opium smoking is permitted, are nuisances, and may be abated, and the owners, keepers, or persons in charge thereof, and persons carrying on such unlawful business shall be punished as provided in this chapter.

[1973 1st ex.s. c 154 § 18; Code 1881 § 1247; 1875 p 81 § 13; RRS § 9924.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 7.48.250 Penalty--Abatement.

Whoever is convicted of erecting, causing or contriving a public or common nuisance as described in this chapter, or at common law, when the same has not been modified or repealed by statute, where no other punishment therefor is specially provided, shall be punished by a fine not exceeding one thousand dollars, and the court with or without such fine, may order such nuisance

to be abated, and issue a warrant as hereinafter provided: PROVIDED, That orders and warrants of abatement shall not be issued by district judges.

[1987 c 202 § 136; 1957 c 45 § 1; Code 1881 § 1248; 1875 p 81 § 14; RRS § 9925.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 7.48.260 Warrant of abatement.

When, upon indictment or information, complaint or action, any person is adjudged guilty of a nuisance, if it be in superior court the court may in addition to the fine imposed, if any, or to the judgment for damages or costs, for which a separate execution may issue, order that such nuisance be abated, or removed at the expense of the defendant, and after inquiry into and estimating, as nearly as may be, the sum necessary to defray the expenses of such abatement, the court may issue a warrant therefor: PROVIDED, That if the conviction was had in a district court, the district judge shall not issue the order and warrant of abatement, but on application therefor, shall transfer the cause to the superior court which shall proceed to try the issue of abatement in the same manner as if the action had been originally commenced therein.

[1987 c 202 § 137; 1957 c 45 § 2; Code 1881 § 1249; 1875 p 81 § 15; RRS § 9926, part. FORMER PARTS OF SECTION: Code 1881 § 1250; 1875 p 81 § 16.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 7.48.270 Stay of warrant.

Instead of issuing such warrant, the court may order the same to be stayed upon motion of the defendant, and upon his entering into a bond in such sum and with such surety as the court may direct to the state, conditioned either that the defendant will discontinue said nuisance, or that within a time limited by the court, and not exceeding six months, he will cause the same to be abated and removed, as either is directed by the court, and upon his default to perform the condition of his bond, the same shall be forfeited, and the court, upon being satisfied of such default, may order such warrant forthwith to issue, and an order to show cause why judgment should not be entered against the sureties of said bond.

[1957 c 45 § 3; Code 1881 § 1251; 1875 p 81 § 17; RRS § 9927.]

RCW 7.48.280 Costs of abatement.

The expense of abating a nuisance, by virtue of a warrant, can be collected by the officer in the same manner as damages and costs are collected on execution, except that the materials of any buildings, fences, or other things that may be removed as a nuisance, may be first levied upon and sold by the officer, and if any of the proceeds remain after satisfying the expense of the removal, such balance must be paid by the officer to the defendant or to the owner of the property

levied upon, and if said proceeds are not sufficient to pay such expenses, the officer must collect the residue thereof.

[Code 1881 § 1252; 1875 p 82 § 18; RRS § 9928.]

RCW 7.48.300 Agricultural activities and forest practices--Legislative finding and purpose.

The legislature finds that agricultural activities conducted on farmland and forest practices in urbanizing areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses and timber production. It is therefore the purpose of RCW 7.48.300 through 7.48.310 and 7.48.905 to provide that agricultural activities conducted on farmland and forest practices be protected from nuisance lawsuits.

[1992 c 52 § 2; 1979 c 122 § 1.]

RCW 7.48.305 Agricultural activities and forest practices--Presumed reasonable and not a nuisance--Exception--Damages.

Notwithstanding any other provision of this chapter, agricultural activities conducted on farmland and forest practices, if consistent with good agricultural and forest practices and established prior to surrounding nonagricultural and nonforestry activities, are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on the public health and safety.

If those agricultural activities and forest practices are undertaken in conformity with all applicable laws and rules, the activities are presumed to be good agricultural and forest practices not adversely affecting the public health and safety for purposes of this section and RCW 7.48.300. An agricultural activity that is in conformity with such laws and rules shall not be restricted as to the hours of the day or day or days of the week during which it may be conducted.

Nothing in this section shall affect or impair any right to sue for damages.

[1992 c 151 § 1; 1992 c 52 § 3; 1979 c 122 § 2.]

Notes:

Reviser's note: This section was amended by 1992 c 52 § 3 and by 1992 c 151 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 7.48.310 Agricultural activities and forest practices--Definitions.

As used in RCW 7.48.305:

(1) "Agricultural activity" means a condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketed produce at roadside stands or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; movement, including, but not limited to, use of current county

road ditches, streams, rivers, canals, and drains, and use of water for agricultural activities; ground and aerial application of seed, fertilizers, conditioners, and plant protection products; employment and use of labor; roadway movement of equipment and livestock; protection from damage by wildlife; prevention of trespass; construction and maintenance of buildings, fences, roads, bridges, ponds, drains, waterways, and similar features and maintenance of streambanks and watercourses; and conversion from one agricultural activity to another.

(2) "Farm" means the land, buildings, freshwater ponds, freshwater culturing and growing facilities, and machinery used in the commercial production of farm products.

(3) "Farmland" means land or freshwater ponds devoted primarily to the production, for commercial purposes, of livestock, freshwater aquacultural, or other agricultural commodities.

(4) "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, dairy and dairy products, poultry and poultry products, livestock, including breeding, grazing, and recreational equine use, fruits, vegetables, flowers, seeds, grasses, trees, freshwater fish and fish products, apiaries, equine and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur.

(5) "Forest practice" means "forest practice" as defined in RCW 76.09.020.

[1992 c 52 § 4; 1991 c 317 § 2; 1979 c 122 § 3.]

RCW 7.48.900 Severability--Initiative Measure No. 335.

If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1979 c 1 § 20 (Initiative Measure No. 335, approved November 8, 1977).]

RCW 7.48.905 Severability--1979 c 122.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1979 c 122 § 4.]

**Chapter 7.48A RCW
MORAL NUISANCES**

Sections	
7.48A.010	Definitions.
7.48A.020	Moral nuisances--Declaration of.
7.48A.030	Civil actions--Who may bring.
7.48A.040	Maintenance of moral nuisance--Fine--Maximum.
7.48A.050	Fines--Payment.

7.48A.060	Exceptions to application of chapter.
7.48A.070	Findings.
7.48A.080	Temporary injunction.
7.48A.090	Restraining order--Service--Violation of order or injunction.
7.48A.100	When bond or security not required.
7.48A.110	Hearing--Service of notice.
7.48A.120	Production of discovery materials--Temporary injunction.
7.48A.130	Precedence of hearing on injunction.
7.48A.140	Violation of order or injunction--Penalties.
7.48A.900	Severability--1982 c 184.
7.48A.901	Severability--1989 c 70.

Notes:

Drug nuisances--Injunctions: Chapter 7.43 RCW.

RCW 7.48A.010 Definitions.

The definitions set forth in this section shall apply throughout this chapter.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual or violent conduct which appears in the lewd matter, or knowledge of the acts of lewdness or prostitution which occur on the premises, or knowledge that controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, or injection or any other means.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which explicitly depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or

(iii) Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

(c) Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, in person or by electronic transmission, with or without consideration.

(5) "Matter" shall mean a live performance, a motion picture film, or a publication or any

combination thereof.

(6) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Film, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(7) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(8) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(9) "Prurient" means that which incites lasciviousness or lust.

(10) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or coin-operated machine.

(11) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter.

[1990 c 152 § 4; 1988 c 141 § 2; 1982 c 184 § 1.]

Notes:

Severability--1990 c 152: See note following RCW 7.48.050.

Severability--1988 c 141: See RCW 7.43.900.

RCW 7.48A.020 Moral nuisances--Declaration of.

The following are declared to be moral nuisances:

(1) Any and every place in the state where lewd films are publicly exhibited as a regular course of business, or possessed for the purpose of such exhibition, or where lewd live performances are publicly exhibited as a regular course of business;

(2) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a moral nuisance under this section;

(3) Any and every place of business in the state in which lewd publications constitute a principal part of the stock in trade;

(4) Every place which, as a regular course of business, is used for the purpose of lewdness or prostitution, and every such place in or upon which acts of lewdness or prostitution are conducted, permitted, carried on, continued, or exist;

(5) All houses, housing units, other buildings, or places of resort where controlled substances identified in Article II of chapter 69.50 RCW and not authorized by that chapter, are manufactured, delivered, or possessed, or where any such substance not obtained in a manner authorized by chapter 69.50 RCW is consumed by ingestion, inhalation, injection, or any other

means.

[1990 c 152 § 5; 1988 c 141 § 3; 1982 c 184 § 2.]

Notes:

Severability--1990 c 152: See note following RCW 7.48.050.

Severability--1988 c 141: See RCW 7.43.900.

RCW 7.48A.030 Civil actions--Who may bring.

Any of the following parties may bring a civil action in the superior court of any county where a moral nuisance is alleged to have been maintained:

- (1) The prosecuting attorney for the county where the alleged moral nuisance is located;
- (2) The city attorney for the city where the alleged moral nuisance is located; or
- (3) The attorney general.

The rules of evidence, burden of proof, and all other rules of court shall be the court rules generally applicable to civil cases in this state: PROVIDED, That the standard of proof on the issue of obscenity shall be clear, cogent, and convincing evidence.

[1982 c 184 § 3.]

RCW 7.48A.040 Maintenance of moral nuisance--Fine--Maximum.

(1) No person shall with knowledge maintain a moral nuisance.

(2) Upon a determination that a defendant has with knowledge maintained a moral nuisance, the court shall impose a civil fine and judgment of an amount as the court shall determine to be appropriate. In imposing the civil fine, the court shall consider the wilfulness of the defendant's conduct and the profits made by the defendant attributable to the lewd matter, lewdness, or prostitution, whichever is applicable. In no event shall the civil fine exceed the greater of twenty-five thousand dollars or these profits.

[1985 c 235 § 1; 1982 c 184 § 4.]

Notes:

Severability--1985 c 235: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 235 § 4.]

RCW 7.48A.050 Fines--Payment.

All civil fines assessed under RCW 7.48A.040 shall be paid into the general treasury of the governmental unit commencing the civil action.

[1985 c 235 § 2; 1982 c 184 § 5.]

Notes:

Severability--1985 c 235: See note following RCW 7.48A.040.

RCW 7.48A.060 Exceptions to application of chapter.

Nothing in this chapter applies to the circulation of any material by any recognized historical society or museum, any library of any college or university, or to any archive or library under the supervision and control of the state, county, municipality, or other political subdivision.

[1982 c 184 § 6.]

RCW 7.48A.070 Findings.

The legislature finds that actions against moral nuisances as declared in RCW 7.48A.020 (1) through (4) involve balancing the safeguards necessary to protect constitutionally protected speech and the community and law enforcement efforts to curb dissemination of obscene matters. The legislature finds that the difficulty in ascertaining and obtaining originals and copies of obscene matters for evidentiary purposes thwarts legitimate enforcement efforts. The legislature finds that the balancing of the concerns warrants specific discovery procedures applicable to actions against moral nuisances involving obscene matters.

[1989 c 70 § 1.]

RCW 7.48A.080 Temporary injunction.

After the plaintiff files a civil action under this chapter, the plaintiff may apply to the superior court in which the plaintiff filed the action for a temporary or preliminary injunction. The court shall grant a hearing within ten days after the plaintiff applies for a temporary injunction.

[1989 c 70 § 2.]

RCW 7.48A.090 Restraining order--Service--Violation of order or injunction.

After the plaintiff applies for a temporary or preliminary injunction, the court may, upon a showing of good cause, issue an ex parte restraining order restraining the defendant and all other persons from removing or in any manner interfering with the personal property and contents of the place where the nuisance is alleged to exist, until the court grants or denies the plaintiff's application for a temporary or preliminary injunction or until further order of the court. However, pending the court's decision on the injunction, the temporary restraining order shall not restrain the exhibition or sale of any film, publication or item of stock in trade. The order may require that at least one original of each film or publication shall be preserved pending the hearing on the injunction. The court may require an inventory and full accounting of all business transactions.

The officer serving the restraining order or preliminary injunction may serve the order by handing to and leaving a copy with any person in charge of the place or residing in the place, or by posting a copy in a conspicuous place at or upon one or more of the principal doors or

entrances to the place, or by both delivery and posting. The officer serving the restraining order or injunction shall forthwith make and return to the court, an inventory of the personal property and contents situated in and used in conducting or maintaining the alleged nuisance.

Any violation of the temporary order or injunction is a contempt of court. Mutilation or removal of a posted order that is in force is a contempt of court if the posted order or injunction contains a notice to that effect.

[1989 c 70 § 3.]

RCW 7.48A.100 When bond or security not required.

A bond or security shall not be required of the city attorney, the prosecuting attorney, or the attorney general.

[1989 c 70 § 4.]

RCW 7.48A.110 Hearing--Service of notice.

A copy of the complaint, together with a notice of the time and place of the hearing on the application for a temporary injunction, shall be served upon the defendant at least three business days before the hearing. Service may also be made by posting the required documents in the same manner as is provided in RCW 7.48A.090. If the defendant requests a continuance of the hearing, all temporary restraining orders and injunctions shall be extended as a matter of course.

[1989 c 70 § 5.]

RCW 7.48A.120 Production of discovery materials--Temporary injunction.

If the court finds at the hearing for an injunction, that the accounting, inventory, personal property, and contents of the place alleged to be a nuisance provide evidence of a moral nuisance as defined by RCW 7.48A.020 (1) through (4), the court may order the defendant to produce to the plaintiff a limited number of original films, film plates, publications, videotapes, any other obscene matter, and other discovery materials the court determines is necessary for evidentiary purposes to resolve the action on the merits.

The court may issue a temporary injunction enjoining the defendant and all other persons from removing or in any manner interfering with the court-ordered discovery. This discovery procedure supplements and does not replace any other discovery procedures and rules generally applicable to civil cases in this state.

[1989 c 70 § 6.]

RCW 7.48A.130 Precedence of hearing on injunction.

The hearing on the injunction shall have precedence over all other actions, except prior matters of the same character, criminal proceedings, election contests, hearings on temporary

restraining orders and injunctions, and actions to forfeit vehicles used in violation of the uniform controlled substances act, chapter 69.50 RCW.

[1989 c 70 § 7.]

RCW 7.48A.140 Violation of order or injunction--Penalties.

An intentional violation of a restraining order, preliminary injunction, or injunction under this chapter is punishable as a contempt of court.

[1989 c 70 § 8.]

RCW 7.48A.900 Severability--1982 c 184.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1982 c 184 § 9.]

RCW 7.48A.901 Severability--1989 c 70.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1989 c 70 § 9.]

**Chapter 7.52 RCW
PARTITION**

Sections

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- 7.52.150 Lien creditors to be brought in.
- 7.52.160 Clerk's certificate of unsatisfied judgment liens.
- 7.52.170 Ascertainment of liens--Priority.
- 7.52.180 Notice to lienholders.
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- 7.52.200 Exceptions to report--Service of notice on absentee.
- 7.52.210 Order of confirmation is conclusive.
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- 7.52.280 Terms of sale to be directed by court.
- 7.52.290 Referee may take security.
- 7.52.300 Estate of tenant for life or years may be sold.
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- 7.52.330 Protection of unknown tenant.
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- 7.52.360 Referees or guardians not to be interested in purchase.
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- 7.52.390 Purchase by interested party.
- 7.52.400 Investment of proceeds of unknown owner.
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- 7.52.420 Securities to parties entitled to share when proportions determined.
- 7.52.430 Duties of clerk in making investments.
- 7.52.440 Unequal partition--Compensation adjudged.
- 7.52.450 Infant's share of proceeds to guardian.
- 7.52.460 Guardian or limited guardian of incompetent or disabled person may receive proceeds--Bond.
- 7.52.470 Guardian or limited guardian may consent to partition.
- 7.52.480 Apportionment of costs.

Notes:

Real property and conveyances: Title 64 RCW.

Termination of condominium: RCW 64.34.268.

RCW 7.52.010 Persons entitled to bring action.

When several persons hold and are in possession of real property as tenants in common, in which one or more of them have an estate of inheritance, or for life or years, an action may be maintained by one or more of such persons, for a partition thereof, according to the respective rights of the persons interested therein, and for sale of such property, or a part of it, if it appear that a partition cannot be made without great prejudice to the owners.

[Code 1881 § 552; 1877 p 117 § 557; 1869 p 133 § 505; RRS § 838.]

RCW 7.52.020 Requisites of complaint.

The interest of all persons in the property shall be set forth in the complaint specifically and particularly as far as known to the plaintiff, and if one or more of the parties, or the share or quantity of interest of any of the parties be unknown to the plaintiff, or be uncertain or contingent, or the ownership of the inheritance depend upon an executory devise, or the remainder be a contingent remainder, so that such parties cannot be named, that fact shall be set forth in the complaint.

[Code 1881 § 553; 1877 p 117 § 558; 1869 p 133 § 506; RRS § 839.]

RCW 7.52.030 Lien creditors as parties defendant.

The plaintiff may, at his option, make creditors having a lien upon the property or any portion thereof, other than by a judgment or decree, defendants in the suit. When the lien is upon an undivided interest or estate of any of the parties, such lien, if a partition be made, is thenceforth a lien only on the share assigned to such party; but such share shall be first charged with its just proportion of the costs of the partition, in preference to such lien.

[Code 1881 § 554; 1877 p 117 § 559; 1869 p 133 § 507; RRS § 840.]

RCW 7.52.040 Notice.

The notice shall be directed by name to all the tenants in common, who are known, and in the same manner to all lien creditors who are made parties to the suit, and generally to all persons unknown, having or claiming an interest or estate in the property.

[Code 1881 § 555; 1877 p 117 § 560; 1869 p 133 § 508; RRS § 841.]

RCW 7.52.050 Service by publication.

If a party, having a share or interest in, or lien upon the property, be unknown, or either of the known parties reside out of the state or cannot be found therein, and such fact be made to appear by affidavit, the notice may be served by publication, as in ordinary cases. When service is made by publication, the notice must contain a brief description of the property which is the subject of the suit.

[Code 1881 § 556; 1877 p 117 § 561; 1869 p 134 § 509; RRS § 842.]

Notes:

Publication of legal notices: Chapter 65.16 RCW.

RCW 7.52.060 Answer--Contents.

The defendant shall set forth in his answer, the nature, and extent of his interest in the property, and if he be a lien creditor, how such lien was created, the amount of the debt secured thereby and remaining due, and whether such debt is secured in any other way, and if so, the nature of such other security.

[Code 1881 § 557; 1877 p 118 § 562; 1869 p 134 § 510; RRS § 843.]

RCW 7.52.070 Trial--Proof must be taken.

The rights of the several parties, plaintiffs as well as defendants, may be put in issue, tried and determined in such suit, and where a defendant fails to answer, or where a sale of the property is necessary, the title shall be ascertained by proof to the satisfaction of the court, before the decree for partition or sale is given.

[Code 1881 § 558; 1877 p 118 § 563; 1869 p 134 § 511; RRS § 844.]

RCW 7.52.080 Order of sale or partition.

If it be alleged in the complaint and established by evidence, or if it appear by the evidence without such allegation in the complaint, to the satisfaction of the court, that the property or any part of it, is so situated that partition cannot be made without great prejudice to the owners, the court may order a sale thereof, and for that purpose may appoint one or more referees. Otherwise, upon the requisite proofs being made, it shall decree a partition according to the respective rights of the parties as ascertained by the court, and appoint three referees, therefor, and shall designate the portion to remain undivided for the owners whose interests remain unknown or are not ascertained.

[Code 1881 § 559; 1877 p 118 § 564; 1869 p 134 § 512; RRS § 845.]

RCW 7.52.090 Partition, how made.

In making the partition, the referees shall divide the property, and allot the several portions thereof to the respective parties, quality and quantity relatively considered, according to the respective rights of the parties as determined by the court, designating the several portions by proper landmarks, and may employ a surveyor with the necessary assistants to aid them therein. The referees shall make a report of their proceedings, specifying therein the manner of executing their trust, describing the property divided and the shares allotted to each party, with a particular description of each share.

[Code 1881 § 560; 1877 p 118 § 565; 1869 p 134 § 513; RRS § 846.]

RCW 7.52.100 Report of referees, confirmation--Effect.

The court may confirm or set aside the report in whole or in part, and if necessary, appoint new referees. Upon the report being confirmed a decree shall be entered that such

partition be effectual forever, which decree shall be binding and conclusive:

(1) On all parties named therein, and their legal representatives who have at the time any interest in the property divided, or any part thereof as owners in fee, or as tenants for life or for years, or as entitled to the reversion, remainder or inheritance of such property or any part thereof, after the termination of a particular estate therein, or who by any contingency may be entitled to a beneficial interest in the property, or who have an interest in any undivided share thereof, as tenants for years or for life.

(2) On all persons interested in the property to whom notice shall have been given by publication.

(3) On all other persons claiming from or through such parties or persons or either of them.

[Code 1881 § 561; 1877 p 118 § 566; 1869 p 135 § 514; RRS § 847.]

RCW 7.52.110 Decree does not affect tenant.

Such decree and partition shall not affect any tenants for years or for life, of the whole of the property which is the subject of partition, nor shall such decree and partition preclude any persons, except such as are specified in RCW 7.52.100, from claiming title to the property in question, or from controverting the title of the parties between whom the partition shall have been made.

[Code 1881 § 562; 1877 p 119 § 567; 1869 p 135 § 515; RRS § 848.]

RCW 7.52.120 Costs.

The expenses of the referees, including those of a surveyor and his assistants, when employed, shall be ascertained and allowed by the court, and the amount thereof, together with the fees allowed by law to the referees, shall be paid by the plaintiff and may be allowed as costs.

[Code 1881 § 563; 1877 p 119 § 568; 1869 p 135 § 516; RRS § 849.]

RCW 7.52.130 Sale of property.

If the referees report to the court that the property, of which partition shall have been decreed, or any separate portion thereof is so situated that a partition thereof cannot be made without great prejudice to the owners, and the court is satisfied that such report is correct, it may thereupon by an order direct the referees to sell the property or separate portion thereof.

[Code 1881 § 564; 1877 p 119 § 569; 1869 p 135 § 517; RRS § 850.]

RCW 7.52.140 Estate for life or years to be set off.

When a part of the property only is ordered to be sold, if there be an estate for life or years in an undivided share of the property, the whole of such estate may be set off in any part of

the property not ordered sold.

[Code 1881 § 565; 1877 p 119 § 570; 1869 p 136 § 518; RRS § 851.]

RCW 7.52.150 Lien creditors to be brought in.

Before making an order of sale, if lien creditors, other than those by judgment or decree, have not been made parties, the court, on motion of either party, shall order the plaintiff to file a supplemental complaint, making such creditors defendants.

[Code 1881 § 566; 1877 p 119 § 571; 1869 p 136 § 519; RRS § 852.]

RCW 7.52.160 Clerk's certificate of unsatisfied judgment liens.

If an order of sale be made before the distribution of the proceeds thereof, the plaintiff shall produce to the court the certificate of the clerk of the county where the property is situated, showing the liens remaining unsatisfied, if any, by judgment or decree upon the property or any portion thereof, and unless he do so the court shall order a referee to ascertain them.

[1957 c 51 § 13; Code 1881 § 567; 1877 p 119 § 570; 1869 p 136 § 520; RRS § 853.]

RCW 7.52.170 Ascertainment of liens--Priority.

If it appear by such certificate or reference, in case the certificate is not produced, that any such liens exist, the court shall appoint a referee to ascertain what amount remains due thereon or secured thereby respectively, and the order of priority in which they are entitled to be paid out of the property.

[Code 1881 § 568; 1877 p 119 § 571; 1869 p 136 § 521; RRS § 854.]

RCW 7.52.180 Notice to lienholders.

The plaintiff must cause a notice to be served at least twenty days before the time for appearance on each person having such lien by judgment or decree, to appear before the referee at a specified time and place to make proof by his own affidavit or otherwise, of the true amount due or to become due, contingently or absolutely on his judgment or decree.

[Code 1881 § 569; 1877 p 120 § 572; 1869 p 136 § 522; RRS § 855.]

RCW 7.52.190 Proceedings and report of referee.

The referee shall receive the evidence and report the names of the creditors whose liens are established, the amounts due thereon, or secured thereby, and their priority respectively, and whether contingent or absolute. He shall attach to his report the proof of service of the notices and the evidence before him.

[Code 1881 § 570; 1877 p 120 § 573; 1869 p 136 § 523; RRS § 856.]

RCW 7.52.200 Exceptions to report--Service of notice on absentee.

The report of the referee may be excepted to by either party to the suit, or to the proceedings before the referee, in like manner and with like effect as in ordinary cases. If a lien creditor be absent from the state, or his residence therein be unknown, and that fact appear by affidavit, the court or judge thereof may by order direct that service of the notice may be made upon his agent or attorney of record, or by publication thereof, for such time and in such manner as the order may prescribe.

[Code 1881 § 571; 1877 p 120 § 574; 1869 p 137 § 524; RRS § 857.]

RCW 7.52.210 Order of confirmation is conclusive.

If the report of the referee be confirmed, the order of confirmation is binding and conclusive upon all parties to the suit, and upon the lien creditors who have been duly served with the notice to appear before the referee, as provided in RCW 7.52.180.

[Code 1881 § 572; 1877 p 120 § 575; 1869 p 137 § 525; RRS § 858.]

RCW 7.52.220 Distribution of proceeds of sale.

The proceeds of the sale of the encumbered property shall be distributed by the decree of the court, as follows:

- (1) To pay its just proportion of the general costs of the suit.
- (2) To pay the costs of the reference.
- (3) To satisfy the several liens in their order of priority, by payment of the sums due, and to become due, according to the decree.
- (4) The residue among the owners of the property sold, according to their respective shares.

[Code 1881 § 573; 1877 p 120 § 576; 1869 p 137 § 526; RRS § 859.]

RCW 7.52.230 Other securities to be first exhausted.

Whenever any party to the suit, who holds a lien upon the property or any part thereof, has other securities for the payment of the amount of such lien, the court may in its discretion, order such sureties to be exhausted before a distribution of the proceeds of sale, or may order a just deduction to be made from the amount of the lien on the property on account thereof.

[Code 1881 § 574; 1877 p 121 § 577; 1869 p 137 § 527; RRS § 860.]

RCW 7.52.240 Lien proceedings not to delay sale.

The proceedings to ascertain the amount of the liens, and to determine their priority as above provided, or those hereinafter authorized to determine the rights of parties to funds paid into court, shall not delay the sale, nor affect any other party, whose rights are not involved in such proceedings.

[Code 1881 § 575; 1877 p 121 § 578; 1869 p 137 § 528; RRS § 861.]

RCW 7.52.250 Distribution at direction of court.

The proceeds of sale, and the securities taken by the referees, or any part thereof, shall be distributed by them to the persons entitled thereto, whenever the court so directs. But if no such direction be given, all such proceeds and securities shall be paid into court, or deposited as directed by the court.

[Code 1881 § 576; 1877 p 121 § 579; 1869 p 138 § 529; RRS § 862.]

RCW 7.52.260 Continuance of suit to determine claims.

When the proceeds of sale of any shares or parcel belonging to persons who are parties to the suit and who are known, are paid into court, the suit may be continued as between such parties, for the determination of their respective claims thereto, which shall be ascertained and adjudged by the court. Further testimony may be taken in court, or by a referee at the discretion of the court, and the court may, if necessary, require such parties to present the facts or law in controversy, by pleadings as in an original suit.

[Code 1881 § 577; 1877 p 121 § 580; 1869 p 138 § 530; RRS § 863.]

RCW 7.52.270 Sales to be by public auction.

All sales of real property made by the referees shall be made by public auction, to the highest bidder, in the manner required for the sale of real property on execution. The notice shall state the terms of sale, and if the property, or any part of it is to be sold, subject to a prior estate, charge or lien, that shall be stated in the notice.

[Code 1881 § 578; 1877 p 121 § 581; 1869 p 138 § 531; RRS § 864.]

RCW 7.52.280 Terms of sale to be directed by court.

The court shall, in the order of sale, direct the terms of credit which may be allowed for the purchase money of any portion of the premises, of which it may direct a sale on credit; and for that portion of which the purchase money is required by the provisions hereinafter contained, to be invested for the benefit of unknown owners, infants or parties out of the state.

[Code 1881 § 579; 1877 p 121 § 583; 1869 p 138 § 532; RRS § 865.]

RCW 7.52.290 Referee may take security.

The referees may take separate mortgages, and other securities for the whole, or convenient portions of the purchase money, of such parts of the property as are directed by the court to be sold on credit, in the name of the clerk of the court, and his successors in office; and for the shares of any known owner of full age, in the name of such owner.

[Code 1881 § 580; 1877 p 121 § 584; 1869 p 138 § 533; RRS § 866.]

RCW 7.52.300 Estate of tenant for life or years may be sold.

When the estate of any tenant for life or years, in any undivided part of the property in question, shall have been admitted by the parties, or ascertained by the court to be existing at the time of the order of sale, and the person entitled to such estate shall have been made a party to the suit, such estate may be first set off out of any part of the property, and a sale made of such parcel, subject to the prior unsold estate of such tenant therein; but if in the judgment of the court, a due regard to the interest of all the parties require that such estate be also sold, the sale may be so ordered.

[Code 1881 § 581; 1877 p 122 § 585; 1869 p 138 § 534; RRS § 867.]

RCW 7.52.310 Tenant for life or years may receive sum in gross--Consent.

Any person entitled to an estate for life or years in any undivided part of the property, whose estate shall have been sold, shall be entitled to receive such sum in gross as may be deemed a reasonable satisfaction for such estate, and which the person so entitled shall consent to accept instead thereof, by an instrument duly acknowledged and filed with the clerk.

[Code 1881 § 582; 1877 p 122 § 586; 1869 p 139 § 535; RRS § 868.]

RCW 7.52.320 Court to determine sum if consent not given.

If such consent be not given, as provided in RCW 7.52.310, before the report of sale, the court shall ascertain and determine what proportion of the proceeds of the sale, after deducting expenses, will be a just and reasonable sum to be invested for the benefit of the person entitled to such estate for life, or years, and shall order the same to be deposited in court for that purpose.

[Code 1881 § 583; 1877 p 122 § 587; 1869 p 139 § 536; RRS § 869.]

RCW 7.52.330 Protection of unknown tenant.

If the persons entitled to such estate, for life or years, be unknown, the court shall provide for the protection of their rights in the same manner, as far as may be, as if they were known and had appeared.

[Code 1881 § 584; 1877 p 122 § 589; 1869 p 139 § 538; RRS § 870.]

RCW 7.52.340 Contingent or vested estates.

In all cases of sales in partition, when it appears that any person has a vested or contingent future right or estate therein, the court shall ascertain and settle the proportionate value of such contingent or vested right or estate, and shall direct such proportion of the proceeds of sale to be invested, secured or paid over in such manner as to protect the rights and interests of the parties.

[1957 c 51 § 14; Code 1881 § 585; RRS § 871. Cf. Laws 1881 § 586; 1877 p 122 § 590; 1869 p 140 § 539.]

RCW 7.52.350 Terms of sale must be made known.

In all cases of sales of property the terms shall be made known at the time, and if the premises consist of distinct farms or lots, they shall be sold separately or otherwise, if the court so directs.

[Code 1881 § 586; 1877 p 122 § 591; 1869 p 140 § 540; RRS § 872.]

RCW 7.52.360 Referees or guardians not to be interested in purchase.

Neither of the referees, nor any person for the benefit of either of them, shall be interested in any purchase, nor shall the guardian of an infant be an interested party in the purchase of any real property being the subject of the suit, except for the benefit of the infant. All sales contrary to the provisions of this section shall be void.

[Code 1881 § 587; 1877 p 122 § 592; 1869 p 140 § 541; RRS § 873.]

RCW 7.52.370 Referees' report of sale--Contents.

After completing the sale, the referees shall report the same to the court, with a description of the different parcels of land sold to each purchaser, the name of the purchaser, the price paid or secured, the terms and conditions of the sale, and the securities, if any, taken. The report shall be filed with the clerk.

[Code 1881 § 588; 1877 p 122 § 593; 1869 p 140 § 542; RRS § 874.]

RCW 7.52.380 Exceptions--Confirmation.

The report of sale may be excepted to in writing by any party entitled to a share of the proceeds. If the sale be confirmed, the order of confirmation shall direct the referees to execute conveyances and take securities pursuant to such sale.

[Code 1881 § 589; 1877 p 123 § 594; 1869 p 140 § 543; RRS § 875.]

RCW 7.52.390 Purchase by interested party.

When a party entitled to a share of the property, or an encumbrancer entitled to have his lien paid out of the sale, becomes a purchaser, the referees may take his receipt for so much of the proceeds of the sale as belong to him.

[Code 1881 § 590; 1877 p 123 § 595; 1869 p 140 § 544; RRS § 876.]

RCW 7.52.400 Investment of proceeds of unknown owner.

When there are proceeds of sale belonging to an unknown owner, or to a person without the state who has no legal representative within it, or when there are proceeds arising from the sale of an estate subject to the prior estate of a tenant for life or years, which are paid into the court or otherwise deposited by order of the court, the same shall be invested in securities on interest for the benefit of the persons entitled thereto.

[Code 1881 § 591; 1877 p 123 § 596; 1869 p 140 § 545; RRS § 877.]

RCW 7.52.410 Investment in name of clerk.

When the security for the proceeds of sale is taken, or when an investment of any such proceeds is made, it shall be done, except as herein otherwise provided, in the name of the clerk of the court and his successors in office, who shall hold the same for the use and benefit of the parties interested, subject to the order of the court.

[Code 1881 § 592; 1877 p 123 § 597; 1869 p 141 § 546; RRS § 878.]

RCW 7.52.420 Securities to parties entitled to share when proportions determined.

When security is taken by the referees on a sale, and the parties interested in such security by an instrument in writing under their hands, delivered to the referees, agree upon the share and proportions to which they are respectively entitled, or when shares and proportions have been previously adjudged by the court, such securities shall be taken in the names of and payable to the parties respectively entitled thereto, and shall be delivered to such parties upon their receipt therefor. Such agreement and receipt shall be returned and filed with the clerk.

[Code 1881 § 593; 1877 p 123 § 598; 1869 p 141 § 547; RRS § 879.]

RCW 7.52.430 Duties of clerk in making investments.

The clerk in whose name a security is taken, or by whom an investment is made, and his successors in office, shall receive the interest and principal as it becomes due, and apply and invest the same as the court may direct, and shall file in his office all securities taken and keep an account in a book provided and kept for that purpose in the clerk's office, free for inspection by all persons, of investments and moneys received by him thereon, and the disposition thereof.

[Code 1881 § 594; 1877 p 123 § 599; 1869 p 141 § 548; RRS § 880.]

RCW 7.52.440 Unequal partition--Compensation adjudged.

When it appears that partition cannot be made equal between the parties according to their respective rights, without prejudice to the rights and interests of some of them, the court may adjudge compensation to be made by one party to another on account of the inequality of partition; but such compensation shall not be required to be made to others by owners unknown, nor by infants, unless in case of an infant it appear that he has personal property sufficient for that purpose, and that his interest will be promoted thereby.

[Code 1881 § 595; 1877 p 124 § 600; 1869 p 141 § 549; RRS § 881.]

RCW 7.52.450 Infant's share of proceeds to guardian.

When the share of an infant is sold, the proceeds of the sale may be paid by the referees making the sale, to his general guardian, or the special guardian appointed for him in the suit, upon giving the security required by law, or directed by order of the court.

[Code 1881 § 596; 1877 p 124 § 601; 1869 p 142 § 550; RRS § 882.]

RCW 7.52.460 Guardian or limited guardian of incompetent or disabled person may receive proceeds--Bond.

The guardian or limited guardian who may be entitled to the custody and management of the estate of an incompetent or disabled person adjudged incapable of conducting his own affairs, whose interest in real property shall have been sold, may receive in behalf of such person his share of the proceeds of such real property from the referees, on executing a bond with sufficient sureties, approved by the judge of the court, conditioned that he faithfully discharge the trust reposed in him, and will render a true and just account to the person entitled, or to his legal representative.

[1977 ex.s. c 80 § 9; Code 1881 § 597; 1877 p 124 § 602; 1869 p 142 § 551; RRS § 883.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 7.52.470 Guardian or limited guardian may consent to partition.

The general guardian of an infant, and the guardian or limited guardian entitled to the custody and management of the estate of an incompetent or disabled person adjudged incapable of conducting his own affairs, who is interested in real estate held in common or in any other manner, so as to authorize his being made a party to an action for the partition thereof, may consent to a partition without suit and agree upon the share to be set off to such infant or other person entitled, and may execute a release in his behalf to the owners of the shares or parts to

which they may respectively be entitled, and upon an order of the court.

[1977 ex.s. c 80 § 10; Code 1881 § 598; 1877 p 124 § 603; 1869 p 142 § 552; RRS § 884.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 7.52.480 Apportionment of costs.

The cost of partition, including fees of referees and other disbursements including reasonable attorney fees to be fixed by the court and in case the land is ordered sold, costs of an abstract of title, shall be paid by the parties respectively entitled to share in the lands divided, in proportion to their respective interests therein, and may be included and specified in the decree. In that case there shall be a lien on the several shares, and the decree may be enforced by execution against the parties separately. When, however, a litigation arises between some of the parties only, the court may require the expense of such litigation to be paid by the parties thereto, or any of them.

[1923 c 9 § 1; Code 1881 § 599; 1877 p 124 § 604; 1869 p 142 § 553; RRS § 885.]

**Chapter 7.56 RCW
QUO WARRANTO**

Sections

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7.56.150	Proceedings to annul.

RCW 7.56.010 Against whom information may be filed.

An information may be filed against any person or corporation in the following cases:

- (1) When any person shall usurp, intrude upon, or unlawfully hold or exercise any public

office or franchise within the state, or any office in any corporation created by the authority of the state.

(2) When any public officer shall have done or suffered any act, which, by the provisions of law, shall work a forfeiture of his office.

(3) When several persons claim to be entitled to the same office or franchise, one information may be filed against any or all such persons in order to try their respective rights to the office or franchise.

(4) When any association or number of persons shall act within this state as a corporation, without being legally incorporated.

(5) Or where any corporation do, or omit acts which amount to a surrender or a forfeiture of their rights and privileges as a corporation, or where they exercise powers not conferred by law.

[Code 1881 § 702; 1877 p 143 § 706; 1854 p 216 § 468; RRS § 1034.]

RCW 7.56.020 Who may file.

The information may be filed by the prosecuting attorney in the superior court of the proper county, upon his own relation, whenever he shall deem it his duty to do so, or shall be directed by the court or other competent authority, or by any other person on his own relation, whenever he claims an interest in the office, franchise or corporation which is the subject of the information.

[Code 1881 § 703; 1877 p 143 § 707; 1854 p 216 § 469; RRS § 1035.]

RCW 7.56.030 Contents of information.

The information shall consist of a plain statement of the facts which constitute the grounds of the proceedings, addressed to the court.

[Code 1881 § 704; 1877 p 143 § 708; 1854 p 216 § 470; RRS § 1036.]

RCW 7.56.040 Information for usurping office--Requisites--Damages.

Whenever an information shall be filed against a person for usurping an office, by the prosecuting attorney, he shall also set forth therein the name of the person rightfully entitled to the office, with an averment of his right thereto; and when filed by any other person he shall show his interest in the matter, and he may claim the damages he has sustained.

[Code 1881 § 705; 1877 p 143 § 709; 1854 p 216 § 471; RRS § 1037.]

RCW 7.56.050 Notice--Pleadings--Proceedings.

Whenever an information is filed, a notice signed by the relator shall be served and returned, as in other actions. The defendant shall appear and answer, or suffer default, and

subsequent proceeding be had as in other cases.

[Code 1881 § 706; 1877 p 144 § 710; 1854 p 217 § 472; RRS § 1038.]

RCW 7.56.060 Judgment.

In every case wherein the right to an office is contested, judgment shall be rendered upon the rights of the parties, and for the damages the relator may show himself entitled to, if any, at the time of the judgment.

[Code 1881 § 707; 1877 p 144 § 711; 1854 p 217 § 473; RRS § 1039.]

RCW 7.56.070 Judgment for relator--Ouster of defendant.

If judgment be rendered in favor of the relator, he shall proceed to exercise the functions of the office, after he has been qualified as required by law, and the court shall order the defendant to deliver over all books and papers in his custody or within his power, belonging to the office from which he has been ousted.

[Code 1881 § 708; 1877 p 144 § 712; 1854 p 217 § 474; RRS § 1040.]

RCW 7.56.080 Delivery of books and papers--Enforcement of order.

If the defendant shall refuse or neglect to deliver over the books and papers pursuant to the order, the court or judge thereof shall enforce the order by attachment and imprisonment.

[Code 1881 § 709; 1877 p 144 § 713; 1854 p 217 § 475; RRS § 1041.]

RCW 7.56.090 Action for damages--Limitation.

When judgment is rendered in favor of the plaintiff, he may, if he has not claimed his damages in the information, have his action for the damages at any time within one year after the judgment.

[Code 1881 § 710; 1877 p 144 § 714; 1854 p 217 § 476; RRS § 1042.]

RCW 7.56.100 Judgment of ouster or forfeiture.

Whenever any defendant shall be found guilty of any usurpation of or intrusion into, or unlawfully exercising any office or franchise within this state, or any office in any corporation created by the authority of this state, or when any public officer thus charged shall be found guilty of having done or suffered any act which by the provisions of the law shall work a forfeiture of his office, or when any association or number of persons shall be found guilty of having acted as a corporation without having been legally incorporated, the court shall give judgment of ouster against the defendant or defendants, and exclude him or them from the office, franchise or corporate rights, and in case of corporations that the same shall be dissolved, and the

court shall adjudge costs in favor of the plaintiff.

[Code 1881 § 711; 1877 p 144 § 715; 1854 p 217 § 478; RRS § 1043.]

RCW 7.56.110 Judgment against corporation--Costs--Receivership.

If judgment be rendered against any corporation or against any persons claiming to be a corporation, the court may cause the costs to be collected by executions against the persons claiming to be a corporation or by attachment against the directors or other officers of the corporation, and shall restrain the corporation, appoint a receiver of its property and effects, take an account and make a distribution thereof among the creditors. The prosecuting attorney shall immediately institute proceedings for that purpose.

[Code 1881 § 712; 1877 p 144 § 716; 1854 p 217 § 479; RRS § 1044.]

RCW 7.56.120 Action to recover forfeited property.

Whenever any property shall be forfeited to the state for its use, the legal title shall be deemed to be in the state from the time of the forfeiture, and an information may be filed by the prosecuting attorney in the superior court for the recovery of the property, alleging the ground on which the recovery is claimed, and like proceedings and judgment shall be had as in civil action for the recovery of the property.

[Code 1881 § 713; 1877 p 145 § 717; 1854 p 218 § 480; RRS § 1045.]

Notes:

Escheats: Chapter 11.08 RCW.

Uniform unclaimed property act: Chapter 63.29 RCW.

RCW 7.56.130 Costs.

When an information is filed by the prosecuting attorney, he shall not be liable for the costs, but when it is filed upon the relation of a private person such person shall be liable for costs unless the same are adjudged against the defendant.

[Code 1881 § 714; 1877 p 145 § 718; 1854 p 218 § 481; RRS § 1046.]

RCW 7.56.140 Information to annul patent, certificate, or deed.

An information may be prosecuted for the purpose of annulling or vacating any letters patent, certificate or deed, granted by the proper authorities of this state, when there is reason to believe that the same were obtained by fraud or through mistake or ignorance of a material fact, or when the patentee or those claiming under him have done or omitted an act in violation of the terms on which the letters, deeds or certificates were granted, or have by any other means forfeited the interests acquired under the same.

[Code 1881 § 715; 1877 p 145 § 719; 1854 p 218 § 482; RRS § 1047.]

RCW 7.56.150 Proceedings to annul.

In such cases, the information may be filed by the prosecuting attorney upon his relation, or by any private person upon his relation showing his interest in the subject matter; and the subsequent proceedings, judgment of the court and awarding of costs, shall conform to the above provisions, and such letters patent, deed or certificate shall be annulled or sustained, according to the right of the case.

[Code 1881 § 716; 1877 p 145 § 720; 1854 p 218 § 483; RRS § 1048.]

**Chapter 7.60 RCW
RECEIVERS**

Sections

7.60.010	Receiver defined.
7.60.020	Grounds for appointment.
7.60.030	Oath--Bond.
7.60.040	Powers of receiver.
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Notes:

Rules of court: *Cf. CR 66, 43(e)(2).*

RCW 7.60.010 Receiver defined.

A receiver is a person appointed by a court or judicial officer to take charge of property during the pending of a civil action or proceeding, or upon a judgment, decree or order therein, and to manage and dispose of it as the court or officer may direct.

[1891 c 52 § 1; RRS § 740.]

RCW 7.60.020 Grounds for appointment.

A receiver may be appointed by the court in the following cases:

- (1) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his or her claim;
- (2) In an action between partners, or other persons jointly interested in any property or fund;
- (3) In all actions where it is shown that the property, fund, or rents and profits in controversy are in danger of being lost, removed, or materially injured;
- (4) In an action or proceeding by a mortgagee or beneficiary for the foreclosure of a

mortgage or deed of trust and the sale of the mortgaged property; when the mortgagee or beneficiary has a perfected assignment of rents pursuant to RCW 7.28.230(3); or when it appears that such property is in danger of being lost, removed, or materially injured; (or when such property is insufficient to discharge the debt, to secure the application of the rents and profits accruing, before a sale can be had);

(5) When a corporation has been dissolved, or is in the process of dissolution or is insolvent, or is in imminent danger of insolvency, or has forfeited its corporate rights, and when the court in its sound discretion deems that the appointment of a receiver is necessary to secure ample justice to the parties; and

(6) In such other cases as may be provided by law, or when, in the discretion of the court, it may be necessary to secure ample justice to the parties: PROVIDED, That no party or attorney or other person interested in an action shall be appointed receiver therein.

[1998 c 295 § 18; 1937 c 47 § 1; Code 1881 § 193; 1877 p 40 § 197; 1869 p 48 § 196; 1854 p 162 § 171; RRS § 741.]

RCW 7.60.030 Oath--Bond.

Before entering upon his duties, the receiver must be sworn to perform them faithfully, and with one or more sureties, approved by the court, execute a bond to such person as the court may direct, conditioned that he will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

[Code 1881 § 194; 1877 p 41 § 198; 1869 p 48 § 198; 1854 p 162 § 173; RRS § 742.]

RCW 7.60.040 Powers of receiver.

The receiver shall have power, under control of the court, to bring and defend actions, to take and keep possession of the property, to receive rents, collect debts, and generally to do such acts respecting the property, as the court may authorize.

[Code 1881 § 198; 1877 p 41 § 202; 1869 p 49 § 202; 1854 p 163 § 177; RRS § 743.]

Notes:

Rules of court: *Cf. SPR 98.10W.*

RCW 7.60.050 Order when part of claim admitted.

When the answer of the defendant admits part of the plaintiff's claim to be just, the court, on motion, may order the defendant to satisfy that part of the claim, and may enforce the order by execution or attachment.

[Code 1881 § 199; 1877 p 41 § 203; 1869 p 49 § 203; 1854 p 163 § 178; RRS § 744.]

**Chapter 7.64 RCW
REPLEVIN**

Sections

7.64.010	Plaintiff may claim and obtain immediate delivery.
7.64.020	Application for delivery--Order to show cause--Petition--Hearing.
7.64.035	Order awarding possession of property to plaintiff--Bond by plaintiff--Final judgment.
7.64.045	Plaintiff's duties upon issuance of order awarding possession of property.
7.64.047	Sheriff to take possession of property.
7.64.050	Redelivery bond.
7.64.070	Qualification and justification of sureties.
7.64.100	Claim by third party.
7.64.110	Return of proceedings by sheriff.
7.64.115	Execution of final judgment.
7.64.900	Severability--1979 ex.s. c 132.
7.64.901	Severability--1990 c 227.

RCW 7.64.010 Plaintiff may claim and obtain immediate delivery.

The plaintiff in an action to recover the possession of personal property may claim and obtain the immediate delivery of such property, after a hearing, as provided in this chapter.

The remedies provided under this chapter are in addition to any other remedy available to the plaintiff, including a secured creditor's right of self-help repossession.

[1990 c 227 § 1; 1979 ex.s. c 132 § 1; Code 1881 § 142; 1877 p 30 § 142; 1869 p 35 § 140; 1854 p 150 § 100; RRS § 707.]

RCW 7.64.020 Application for delivery--Order to show cause--Petition--Hearing.

(1) At the time of filing the complaint or any time thereafter, the plaintiff may apply to the judge or court commissioner to issue an order directing the defendant to appear and show cause why an order putting the plaintiff in immediate possession of the personal property should not be issued.

(2) In support of the application, the plaintiff, or someone on the plaintiff's behalf, shall make an affidavit, or a declaration as permitted under RCW 9A.72.085, showing:

(a) That the plaintiff is the owner of the property or is lawfully entitled to the possession of the property by virtue of a special property interest, including a security interest, specifically describing the property and interest;

(b) That the property is wrongfully detained by defendant;

(c) That the property has not been taken for a tax, assessment, or fine pursuant to a statute and has not been seized under an execution or attachment against the property of the plaintiff, or if so seized, that it is by law exempt from such seizure; and

(d) The approximate value of the property.

(3) The order to show cause shall state the date, time, and place of the hearing, which shall be set no earlier than ten and no later than twenty-five days after the date of the order.

(4) A certified copy of the order to show cause, with a copy of the plaintiff's affidavit or declaration attached, shall be served upon the defendant no later than five days before the hearing date.

[1990 c 227 § 2; 1979 ex.s. c 132 § 2; Code 1881 § 143; 1877 p 30 § 143; 1869 p 35 § 141; 1854 p 150 § 101; RRS § 708.]

RCW 7.64.035 Order awarding possession of property to plaintiff--Bond by plaintiff--Final judgment.

(1) At the hearing on the order to show cause, the judge or court commissioner may issue an order awarding possession of the property to the plaintiff and directing the sheriff to put the plaintiff in possession of the property:

(a)(i) If the plaintiff establishes the right to obtain possession of the property pending final disposition, or (ii) if the defendant, after being served with the order to show cause, fails to appear at the hearing; and

(b) If the plaintiff executes to the defendant and files in the court a bond in such sum as the court may order, with sufficient surety to be approved by the clerk, conditioned that the plaintiff will prosecute the action without delay and that if the order is wrongfully sued out, the plaintiff will pay all costs that may be adjudged to the defendant and all damages, court costs, reasonable attorneys' fees, and costs of recovery that the defendant may incur by reason of the order having been issued.

(2) An order awarding possession shall: (a) State that a show cause hearing was held; (b) describe the property and its location; (c) direct the sheriff to take possession of the property and put the plaintiff in possession as provided in this chapter; (d) if deemed necessary, direct the sheriff to break and enter a building or enclosure to obtain possession of the property if it is concealed in the building or enclosure; and (e) be signed by the judge or commissioner.

(3) If at the time of the hearing more than twenty days have elapsed since service of the summons and complaint and the defendant does not raise an issue of fact prior to or at the hearing that requires a trial on the issue of possession or damages, the judge or court commissioner may also, in addition to entering an order awarding possession, enter a final judgment awarding plaintiff possession of the property or its value if possession cannot be obtained, damages, court costs, reasonable attorneys' fees, and costs of recovery.

[1990 c 227 § 3; 1979 ex.s. c 132 § 5.]

RCW 7.64.045 Plaintiff's duties upon issuance of order awarding possession of property.

After issuance of the order awarding possession, the plaintiff shall deliver a copy of the bond and a certified copy of the order awarding possession to the sheriff of the county where the

property is located and shall provide the sheriff with all available information as to the location and identity of the defendant and the property claimed. If the property is returned to the plaintiff by the defendant or if the plaintiff otherwise obtains possession of the property, the plaintiff shall notify the sheriff of this fact as soon as possible.

[1990 c 227 § 4; 1979 ex.s. c 132 § 6.]

RCW 7.64.047 Sheriff to take possession of property.

(1) After receiving an order awarding possession, the sheriff shall take possession of the property. If the property or any part of it is concealed in a building or enclosure, the sheriff shall publicly demand delivery of the property. If the property is not delivered and if the order awarding possession so directs, the sheriff shall cause the building or enclosure to be broken open and take possession of the property.

(2) At the time of taking possession of the property, the sheriff shall serve copies of the bond and the order awarding possession on the defendant or, if someone other than the defendant is in possession of the property, shall serve the copies on that person. If the copies of the bond and the order are not served on the defendant at the time of taking possession, the sheriff shall, within a reasonable time after taking possession, give notice to the defendant either by serving copies of the bond and order on the defendant in the same manner as a summons in a civil action or by causing the copies to be mailed to the defendant by both regular mail and certified mail, return receipt requested.

(3) As soon as possible after taking possession of the property and after receiving lawful fees for taking possession and necessary expenses for keeping the property, the sheriff shall release the property to the plaintiff, unless before the release the defendant has, as provided in RCW 7.64.050, given a redelivery bond to the sheriff or filed a redelivery bond with the court and notified the sheriff of that fact.

[1990 c 227 § 5.]

RCW 7.64.050 Redelivery bond.

(1) At the hearing on the order to show cause or at any time before the sheriff takes possession of the property, the defendant may post a redelivery bond and retain possession of the property pending final judgment in the action for possession. At any time after the sheriff takes possession and before release of the property to the plaintiff as provided in RCW 7.64.047, the defendant may require the sheriff to return the property by posting a redelivery bond.

(2) A redelivery bond may be given to the sheriff or filed with the court. If the bond is filed with the court after a certified copy of the order awarding possession has been issued to the sheriff, the defendant shall give notice of the filing to the sheriff.

(3) The redelivery bond shall be executed by one or more sufficient sureties to the effect that they are bound in an amount equal to the value of the bond filed by the plaintiff, conditioned that the defendant will deliver the property to the plaintiff if judgment is entered for the plaintiff

in the action for possession and will pay any sum recovered by the plaintiff in that action.

(4) The defendant's sureties, upon a notice to the plaintiff or the plaintiff's attorney, of not less than two, nor more than six days, shall justify as provided by law; upon such justification, the sheriff shall release the property to the defendant. The sheriff shall be responsible for the defendant's sureties until they justify, or until justification is completed or expressly waived, and may retain the property until that time; but if they, or others in their place, fail to justify at the time and place appointed, the sheriff shall release the property to the plaintiff.

[1990 c 227 § 6; 1979 ex.s. c 132 § 3; Code 1881 § 146; 1877 p 31 § 146; 1869 p 36 § 144; 1854 p 151 § 104; RRS § 711.]

RCW 7.64.070 Qualification and justification of sureties.

The qualification of sureties and their justification shall be as prescribed by law.

[1957 c 51 § 17; Code 1881 § 148; 1877 p 31 § 148; 1869 p 37 § 146; 1854 p 151 § 106; RRS § 713.]

Notes:

Corporate surety--Insurance: Chapter 48.28 RCW.

RCW 7.64.100 Claim by third party.

If the property taken by the sheriff is claimed by any person other than the defendant or the defendant's agent, the claimant may assert the claim by intervening in the plaintiff's action for possession.

[1990 c 227 § 7; 1979 ex.s. c 132 § 4; Code 1881 § 151; 1877 p 32 § 151; 1869 p 37 § 149; 1854 p 151 § 109; RRS § 716.]

RCW 7.64.110 Return of proceedings by sheriff.

The sheriff shall file a return of proceedings with the clerk of the court in which the action is pending within twenty days after taking possession of the property.

[1990 c 227 § 8; 1891 c 34 § 1; Code 1881 § 152; 1877 p 32 § 152; 1869 p 38 § 150; 1854 p 152 § 110; RRS § 717.]

RCW 7.64.115 Execution of final judgment.

To the extent the final judgment entered at a show cause hearing or at any other time is not satisfied by proceedings under an order awarding possession issued at the show cause hearing, the judgment shall be executed in the same manner as any other judgment.

[1990 c 227 § 9.]

RCW 7.64.900 Severability--1979 ex.s. c 132.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1979 ex.s. c 132 § 9.]

RCW 7.64.901 Severability--1990 c 227.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1990 c 227 § 11.]

**Chapter 7.68 RCW
VICTIMS OF CRIMES--COMPENSATION, ASSISTANCE**

Sections

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Notes:

Domestic violence, official response: Chapter 10.99 RCW.

Victims of sexual assault, programs and plans in aid of: Chapter 70.125 RCW.

RCW 7.68.010 Intent.

Notes:

Reviser's note: RCW 7.68.010 was amended by 1989 c 12 § 1 without reference to its repeal by 1989 1st ex.s. c 5 § 14. It has been decodified for publication purposes pursuant to RCW 1.12.025.

RCW 7.68.015 Program to be operated within conditions and limitations.

The department of labor and industries shall operate the crime victims' compensation program within the appropriations and the conditions and limitations on the appropriations provided for this program.

[1989 1st ex.s. c 5 § 1.]

Notes:

Severability--1989 1st ex.s. c 5: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 1st ex.s. c 5 § 15.]

Application--1989 1st ex.s. c 5: "Except as provided in section 4 of this act, sections 1 through 8 of this act shall apply to all claims filed on or after July 1, 1989." [1989 1st ex.s. c 5 § 16.]

Effective dates--1989 1st ex.s. c 5: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and sections 3 and 7 of this act shall take effect immediately [May 14, 1989]. The remaining sections shall take effect July 1, 1989." [1989 1st ex.s. c 5 § 17.]

RCW 7.68.020 Definitions.

The following words and phrases as used in this chapter have the meanings set forth in

this section unless the context otherwise requires.

(1) "Department" means the department of labor and industries.

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state, or an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state; and the crime occurred in a state which does not have a crime victims compensation program, for which the victim is eligible as set forth in the Washington compensation law, or an act of terrorism as defined in 18 U.S.C. Sec. 2331, as it exists on May 2, 1997, committed outside of the United States against a resident of the state of Washington, except as follows:

(a) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless:

(i) The injury or death was intentionally inflicted;

(ii) The operation thereof was part of the commission of another non-vehicular criminal act as defined in this section;

(iii) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained: PROVIDED, That in cases where a probable criminal defendant has died in perpetration of vehicular assault or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits; or

(iv) Injury or death caused by a driver in violation of RCW 46.61.502;

(b) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding, except as provided for in subsection (2)(a)(iii) of this section;

(c) Evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; and

(d) Acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct are deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child," "accredited school," "dependent," "beneficiary," "average monthly wage,"

"director," "injury," "invalid," "permanent partial disability," and "permanent total disability" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

(5) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

(6) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(7) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

[1997 c 249 § 1; 1990 c 73 § 1; 1987 c 281 § 6; 1985 c 443 § 11; 1983 c 239 § 4; 1980 c 156 § 2; 1977 ex.s. c 302 § 2; 1975 1st ex.s. c 176 § 1; 1973 1st ex.s. c 122 § 2.]

Notes:

Application--1997 c 249: "This act is remedial in nature and applies to criminal acts that occur on April 1, 1997, and thereafter." [1997 c 249 § 2.]

Effective date--1997 c 249: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 2, 1997]." [1997 c 249 § 3.]

Effective date--1990 c 73: "This act shall take effect October 1, 1990." [1990 c 73 § 2.]

Application--1987 c 281 § 6: "The 1987 amendments to RCW 7.68.020 by section 5 [6] of this act apply only to vehicular assault under RCW 46.61.522 or vehicular homicide under RCW 46.61.520 that occurs after June 30, 1987." [1987 c 281 § 7.]

Effective date--1987 c 281: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1987." [1987 c 281 § 9.]

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Legislative intent--"Public or private insurance"--1980 c 156: "Sections 2 through 4 of this 1980 act are required to clarify the legislative intent concerning the phrase "public or private insurance" as used in section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130 which was the subject of *Wagner v. Labor & Indus.*, 92 Wn.2d 463 (1979). It has continuously been the legislative intent to include as "public insurance" both state and federal statutory social welfare and insurance schemes which make available to victims or their beneficiaries recompense as a result of the claimed injury or death, such as but not limited to old age and survivors insurance, medicare, medicaid, benefits under the veterans' benefits act, longshore and harbor workers act, industrial insurance act, law enforcement officers' and fire fighters' retirement system act, Washington public employees' retirement system act, teachers' retirement system act, and firemen's relief and pension act. "Private insurance" continuously has been intended to include sources of recompense available by contract, such as but not limited to policies insuring a victim's life or disability." [1980 c 156 § 1.]

RCW 7.68.030 Duties of department--General provisions.

It shall be the duty of the director to establish and administer a program of benefits to innocent victims of criminal acts within the terms and limitations of this chapter. In so doing, the director shall, in accordance with chapter 34.05 RCW, adopt rules and regulations necessary to the administration of this chapter, and the provisions contained in chapter 51.04 RCW, including but not limited to RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or hereafter amended, shall apply where appropriate in keeping with the intent of this chapter. The

director may apply for and, subject to appropriation, expend federal funds under Public Law 98-473 and any other federal program providing financial assistance to state crime victim compensation programs. The federal funds shall be deposited in the public safety and education account in the general fund and may be expended only for purposes authorized by applicable federal law.

[1989 1st ex.s. c 5 § 2; 1985 c 443 § 12; 1973 1st ex.s. c 122 § 3.]

Notes:

Severability--Application--Effective dates--1989 1st ex.s. c 5: See notes following RCW 7.68.015.

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

**RCW 7.68.035 Penalty assessments in addition to fine or bail
forfeiture--Distribution--Establishment of crime victim and witness programs in
county--Contribution required from cities and towns.**

(1)(a) When any person is found guilty in any superior court of having committed a crime, except as provided in subsection (2) of this section, there shall be imposed by the court upon such convicted person a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be five hundred dollars for each case or cause of action that includes one or more convictions of a felony or gross misdemeanor and two hundred fifty dollars for any case or cause of action that includes convictions of only one or more misdemeanors.

(b) When any juvenile is adjudicated of any offense in any juvenile offense disposition under Title 13 RCW, except as provided in subsection (2) of this section, there shall be imposed upon the juvenile offender a penalty assessment. The assessment shall be in addition to any other penalty or fine imposed by law and shall be one hundred dollars for each case or cause of action that includes one or more adjudications for a felony or gross misdemeanor and seventy-five dollars for each case or cause of action that includes adjudications of only one or more misdemeanors.

(2) The assessment imposed by subsection (1) of this section shall not apply to motor vehicle crimes defined in Title 46 RCW except those defined in the following sections: RCW 46.61.520, 46.61.522, 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101, 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.5249, 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010, 46.44.180, 46.10.090(2), and 46.09.120(2).

(3) When any person accused of having committed a crime posts bail in superior court pursuant to the provisions of chapter 10.19 RCW and such bail is forfeited, there shall be deducted from the proceeds of such forfeited bail a penalty assessment, in addition to any other penalty or fine imposed by law, equal to the assessment which would be applicable under subsection (1) of this section if the person had been convicted of the crime.

(4) Such penalty assessments shall be paid by the clerk of the superior court to the county treasurer who shall monthly transmit the money as provided in RCW 10.82.070. Each county shall deposit fifty percent of the money it receives per case or cause of action under subsection

(1) of this section and retains under RCW 10.82.070, not less than one and seventy-five one-hundredths percent of the remaining money it retains under RCW 10.82.070 and the money it retains under chapter 3.62 RCW, and all money it receives under subsection (7) of this section into a fund maintained exclusively for the support of comprehensive programs to encourage and facilitate testimony by the victims of crimes and witnesses to crimes. A program shall be considered "comprehensive" only after approval of the department upon application by the county prosecuting attorney. The department shall approve as comprehensive only programs which:

(a) Provide comprehensive services to victims and witnesses of all types of crime with particular emphasis on serious crimes against persons and property. It is the intent of the legislature to make funds available only to programs which do not restrict services to victims or witnesses of a particular type or types of crime and that such funds supplement, not supplant, existing local funding levels;

(b) Are administered by the county prosecuting attorney either directly through the prosecuting attorney's office or by contract between the county and agencies providing services to victims of crime;

(c) Make a reasonable effort to inform the known victim or his surviving dependents of the existence of this chapter and the procedure for making application for benefits;

(d) Assist victims in the restitution and adjudication process; and

(e) Assist victims of violent crimes in the preparation and presentation of their claims to the department of labor and industries under this chapter.

Before a program in any county west of the Cascade mountains is submitted to the department for approval, it shall be submitted for review and comment to each city within the county with a population of more than one hundred fifty thousand. The department will consider if the county's proposed comprehensive plan meets the needs of crime victims in cases adjudicated in municipal, district or superior courts and of crime victims located within the city and county.

(5) Upon submission to the department of a letter of intent to adopt a comprehensive program, the prosecuting attorney shall retain the money deposited by the county under subsection (4) of this section until such time as the county prosecuting attorney has obtained approval of a program from the department. Approval of the comprehensive plan by the department must be obtained within one year of the date of the letter of intent to adopt a comprehensive program. The county prosecuting attorney shall not make any expenditures from the money deposited under subsection (4) of this section until approval of a comprehensive plan by the department. If a county prosecuting attorney has failed to obtain approval of a program from the department under subsection (4) of this section or failed to obtain approval of a comprehensive program within one year after submission of a letter of intent under this section, the county treasurer shall monthly transmit one hundred percent of the money deposited by the county under subsection (4) of this section to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

(6) County prosecuting attorneys are responsible to make every reasonable effort to insure

that the penalty assessments of this chapter are imposed and collected.

(7) Every city and town shall transmit monthly one and seventy-five one-hundredths percent of all money, other than money received for parking infractions, retained under RCW 3.46.120, 3.50.100, and 35.20.220 to the county treasurer for deposit as provided in subsection (4) of this section.

[2000 c 71 § 3; 1999 c 86 § 1; 1997 c 66 § 9; 1996 c 122 § 2; 1991 c 293 § 1; 1989 c 252 § 29; 1987 c 281 § 1; 1985 c 443 § 13; 1984 c 258 § 311; 1983 c 239 § 1; 1982 1st ex.s. c 8 § 1; 1977 ex.s. c 302 § 10.]

Notes:

Effective date--2000 c 71: See note following RCW 13.40.198.

Findings--Intent--1996 c 122: "The legislature finds that current funding for county victim-witness advocacy programs is inadequate. Also, the state crime victims compensation program should be enhanced to provide for increased benefits to families of victims who are killed as a result of a criminal act. It is the intent of the legislature to provide increased financial support for the county and state crime victim and witness programs by requiring offenders to pay increased penalty assessments upon conviction of a gross misdemeanor or felony crime. The increased financial support is intended to allow county victim/witness programs to more fully assist victims and witnesses through the criminal justice processes. On the state level, the increased funds will allow the remedial intent of the crime victims compensation program to be more fully served. Specifically, the increased funds from offender penalty assessments will allow more appropriate compensation for families of victims who are killed as a result of a criminal act, including reasonable burial benefits." [1996 c 122 § 1.]

Purpose--Prospective application--Effective dates--Severability--1989 c 252: See notes following RCW 9.94A.030.

Effective date--1987 c 281: See note following RCW 7.68.020.

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

Effective dates--1982 1st ex.s. c 8: "Chapter 8, Laws of 1982 1st ex. sess. is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 27, 1982], except sections 2, 3, and 6 of chapter 8, Laws of 1982 1st ex. sess. shall take effect on January 1, 1983." [1982 1st ex.s. c 47 § 29; 1982 1st ex.s. c 8 § 9.]

Intent--Reports--1982 1st ex.s. c 8: "The intent of the legislature is that the victim of crime program will be self-funded. Toward that end, the department of labor and industries shall not pay benefits beyond the resources of the account. The department of labor and industries and the administrator for the courts shall cooperatively prepare a report on the collection of penalty assessments and the level of expenditures, and recommend adjustments to the revenue collection mechanism to the legislature before January 1, 1983. It is further the intent of the legislature that the percentage of funds devoted to comprehensive programs for victim assistance, as provided in RCW 7.68.035, be re-examined to ensure that it does not unreasonably conflict with the higher priority of compensating victims. To that end, the county prosecuting attorneys shall report to the legislature no later than January 1, 1984, either individually or as a group, on their experience and costs associated with such programs, describing the nature and extent of the victim assistance provided." [1982 1st ex.s. c 8 § 10.]

RCW 7.68.050 Right of action for damages--Election--Effect of election or recovery--Lien of state.

(1) No right of action at law for damages incurred as a consequence of a criminal act shall be lost as a consequence of being entitled to benefits under the provisions of this chapter. The

victim or his beneficiary may elect to seek damages from the person or persons liable for the claimed injury or death, and such victim or beneficiary is entitled to the full compensation and benefits provided by this chapter regardless of any election or recovery made pursuant to this section.

(2) For the purposes of this section, the rights, privileges, responsibilities, duties, limitations, and procedures contained in RCW 51.24.050 through 51.24.110 apply.

(3) If the recovery involved is against the state, the lien of the department includes the interest on the benefits paid by the department to or on behalf of such person under this chapter computed at the rate of eight percent per annum from the date of payment.

(4) The 1980 amendments to this section apply only to injuries which occur on or after April 1, 1980.

[1998 c 91 § 1; 1980 c 156 § 3; 1977 ex.s. c 302 § 3; 1973 1st ex.s. c 122 § 5.]

Notes:

Legislative intent--"Public or private insurance"--1980 c 156: See note following RCW 7.68.020.

RCW 7.68.060 Applications for benefits--Accrual of rights.

(1) For the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 shall apply: PROVIDED, That no compensation of any kind shall be available under this chapter if:

(a) An application for benefits is not received by the department within two years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of dependents or beneficiaries accrued, unless the director has determined that "good cause" exists to expand the time permitted to receive the application. "Good cause" shall be determined by the department on a case-by-case basis and may extend the period of time in which an application can be received for up to five years after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of dependents or beneficiaries accrued; or

(b) The criminal act is not reported by the victim or someone on his or her behalf to a local police department or sheriff's office within twelve months of its occurrence or, if it could not reasonably have been reported within that period, within twelve months of the time when a report could reasonably have been made. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victims.

(2) This section shall apply only to criminal acts reported after December 31, 1985.

(3) Because victims of childhood criminal acts may repress conscious memory of such criminal acts far beyond the age of eighteen, the rights of adult victims of childhood criminal acts shall accrue at the time the victim discovers or reasonably should have discovered the elements of the crime. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victim.

[1996 c 122 § 4; 1990 c 3 § 501; 1986 c 98 § 1; 1985 c 443 § 14; 1977 ex.s. c 302 § 4; 1975 1st ex.s. c 176 § 2;

1973 1st ex.s. c 122 § 6.]

Notes:

Findings--Intent--1996 c 122: See note following RCW 7.68.035.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

RCW 7.68.070 Benefits--Right to and amount--Limitations.

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: PROVIDED, That benefits for burial expenses shall not exceed the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum

payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the

average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

(17) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

[1996 c 122 § 5; 1993 sp.s. c 24 § 912; 1992 c 203 § 1; 1990 c 3 § 502; 1989 1st ex.s. c 5 § 5; 1989 c 12 § 2; 1987 c 281 § 8; 1985 c 443 § 15; 1983 c 239 § 2; 1982 1st ex.s. c 8 § 2; 1981 1st ex.s. c 6 § 26; 1977 ex.s. c 302 § 5; 1975 1st ex.s. c 176 § 3; 1973 1st ex.s. c 122 § 7.]

Notes:

Findings--Intent--1996 c 122: See note following RCW 7.68.035.

Severability--Effective dates--1993 sp.s. c 24: See notes following RCW 28A.165.070.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability--Application--Effective dates--1989 1st ex.s. c 5: See notes following RCW 7.68.015.

Effective date--1987 c 281: See note following RCW 7.68.020.

Application--1985 c 443 § 15: "The amendments to RCW 7.68.070 by this act apply only to criminal acts occurring after December 31, 1985." [1986 c 98 § 3; 1985 c 443 § 17.]

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Effective dates--Intent--Reports--1982 1st ex.s. c 8: See notes following RCW 7.68.035.

Effective date--Severability--1981 1st ex.s. c 6: See notes following RCW 74.04.005.

RCW 7.68.075 Marital status--Payment for or on account of children.

Notwithstanding the provisions of any of the sections, as now or hereafter amended, of Title 51 RCW which are made applicable to this chapter, the marital status of all victims shall be deemed to be fixed as of the date of the criminal act. All references to the child or children living or conceived of the victim in this chapter shall be deemed to refer to such child or children as of the date of the criminal act unless the context clearly indicates the contrary.

Payments for or on account of any such child or children shall cease when such child is no longer a "child" as defined in RCW 51.08.030, as now or hereafter amended, or on the death of any such child whichever occurs first.

Payments to the victim or surviving spouse for or on account of any such child or children shall be made only when the victim or surviving spouse has legal custody of any such child or children. Where the victim or surviving spouse does not have such legal custody any payments for or on account of any such child or children shall be made to the person having legal custody

of such child or children and the amount of payments shall be subtracted from the payments which would have been due the victim or surviving spouse had legal custody not been transferred to another person.

[1977 ex.s. c 302 § 6; 1975 1st ex.s. c 176 § 9.]

RCW 7.68.080 Medical aid--Construction.

The provisions of chapter 51.36 RCW as now or hereafter amended govern the provision of medical aid under this chapter to victims injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, except that:

(1) The provisions contained in RCW 51.36.030, 51.36.040, and 51.36.080 as now or hereafter amended do not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation do not apply: PROVIDED, That:

(a) When the injury to any victim is so serious as to require the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed from the fund established pursuant to RCW 7.68.090; and

(b) In the case of alleged rape or molestation of a child the reasonable costs of a colposcope examination shall be reimbursed from the fund pursuant to RCW 7.68.090. Hospital, clinic, and medical charges along with all related fees under this chapter shall conform to regulations promulgated by the director. The director shall set these service levels and fees at a level no lower than those established by the department of social and health services under Title 74 RCW. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.

[1990 c 3 § 503; 1989 1st ex.s. c 5 § 6; 1986 c 98 § 2; 1983 c 239 § 3; 1981 1st ex.s. c 6 § 27; 1975 1st ex.s. c 176 § 4; 1973 1st ex.s. c 122 § 8.]

Notes:

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability--Application--Effective dates--1989 1st ex.s. c 5: See notes following RCW 7.68.015.

Effective date--Severability--1981 1st ex.s. c 6: See notes following RCW 74.04.005.

RCW 7.68.085 Cap on medical benefits--Alternative programs--Plan for reduction of expenditures.

The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are:

(1) Necessary for a previously accepted condition;

(2) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and

(3) Not available from an alternative source.

The director of financial management and the director of labor and industries shall monitor expenditures from the public safety and education account. Once each fiscal quarter, the director of financial management shall determine if expenditures from the public safety and education account during the prior fiscal quarter exceeded allotments by more than ten percent. Within thirty days of a determination that expenditures exceeded allotments by more than ten percent, the director of financial management shall develop and implement a plan to reduce expenditures from the account to a level that does not exceed the allotments. Such a plan may include across-the-board reductions in allotments from the account to all nonjudicial agencies except for the crime victims compensation program. In implementing the plan, the director of financial management shall seek the cooperation of judicial agencies in reducing their expenditures from the account. The director of financial management shall notify the legislative fiscal committees prior to implementation of the plan.

Development and implementation of the plan is not required if the director of financial management notifies the legislative fiscal committees that increases in the official revenue forecast for the public safety and education account for that fiscal quarter will eliminate the need to reduce expenditures from the account. The official revenue forecast for the public safety and education account shall be prepared by the economic and revenue forecast council pursuant to RCW 82.33.020 and 82.33.010.

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

[1990 c 3 § 504; 1989 1st ex.s. c 5 § 3.]

Notes:

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

Application--Transition plans--1989 1st ex.s. c 5 § 3: "The cap on medical benefits established by section 3 of this act shall apply equally to current and future recipients of crime victims' compensation benefits. The director shall prepare individual transition plans for individuals who exceed the medical benefit cap on July 1, 1989. The transition plans must be completed within ninety days of July 1, 1989." [1989 1st ex.s. c 5 § 4.]

Severability--Application--Effective dates--1989 1st ex.s. c 5: See notes following RCW 7.68.015.

RCW 7.68.090 Establishment of funds.

The director shall establish such fund or funds, separate from existing funds, necessary to administer this chapter, and payment to these funds shall be from legislative appropriation,

statutory provision, reimbursement and subrogation as provided in this chapter, and from any contributions or grants specifically so directed.

[1995 c 234 § 3; 1973 1st ex.s. c 122 § 9.]

Notes:

Finding--1995 c 234: See note following RCW 72.09.095.

RCW 7.68.100 Physicians' reporting.

The requirements relating to physicians' reporting contained in RCW 51.36.060 and 51.48.060 as now or hereafter amended shall apply under this chapter. Any funds collected pursuant to RCW 51.48.060 as now or hereafter amended shall be paid into the fund established pursuant to RCW 7.68.090.

[1973 1st ex.s. c 122 § 10.]

RCW 7.68.110 Appeals.

The provisions contained in chapter 51.52 RCW relating to appeals shall govern appeals under this chapter: PROVIDED, That no provision contained in chapter 51.52 RCW concerning employers as parties to any settlement, appeal, or other action shall apply to this chapter: PROVIDED FURTHER, That appeals taken from a decision of the board of industrial insurance appeals under this chapter shall be governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.05.510 through 34.05.598, and the department shall have the same right of review from a decision of the board of industrial insurance appeals as does the claimant: PROVIDED FURTHER, That the time in which to file a protest or appeal from any order, decision, or award under this chapter shall be ninety days from the date the order, decision, or award is communicated to the parties.

[1997 c 102 § 1; 1989 c 175 § 40; 1977 ex.s. c 302 § 7; 1975 1st ex.s. c 176 § 5; 1973 1st ex.s. c 122 § 11.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 7.68.120 Reimbursement--Restitution to victim--Notice--Fees--Order to withhold and deliver--Limitation.

Any person who has committed a criminal act which resulted in injury compensated under this chapter may be required to make reimbursement to the department as provided in this section.

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the department by any person found to have committed the criminal act in either a civil or criminal court proceeding in which he or she is a party. If there has been a superior or district court order, or an order of the indeterminate sentence review board or the department of social and health services, as provided in subsection (4) of this section, the debt

shall be limited to the amount provided for in the order. A court order shall prevail over any other order. If, in a criminal proceeding, a person has been found to have committed the criminal act that results in the payment of benefits to a victim and the court in the criminal proceeding does not enter a restitution order, the department shall, within one year of imposition of the sentence, petition the court for entry of a restitution order.

(2)(a) The department may issue a notice of debt due and owing to the person found to have committed the criminal act, and shall serve the notice on the person in the manner prescribed for the service of a summons in a civil action or by certified mail. The department shall file the notice of debt due and owing along with proof of service with the superior court of the county where the criminal act took place. The person served the notice shall have thirty days from the date of service to respond to the notice by requesting a hearing in superior court.

(b) If a person served a notice of debt due and owing fails to respond within thirty days, the department may seek a default judgment. Upon entry of a judgment in an action brought pursuant to (a) of this subsection, the clerk shall enter the order in the execution docket. The filing fee shall be added to the amount of the debt indicated in the judgment. The judgment shall become a lien upon all real and personal property of the person named in the judgment as in other civil cases. The judgment shall be subject to execution, garnishment, or other procedures for collection of a judgment.

(3)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a judgment for a debt due and owing has been entered under subsection (2) of this section. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150.

(4) Upon being placed on work release pursuant to chapter 72.65 RCW, or upon release from custody of a state correctional facility on parole, any convicted person who owes a debt to

the department as a consequence of a criminal act may have the schedule or amount of payments therefor set as a condition of work release or parole by the department of social and health services or indeterminate sentence review board respectively, subject to modification based on change of circumstances. Such action shall be binding on the department.

(5) Any requirement for payment due and owing the department by a convicted person under this chapter may be waived, modified downward or otherwise adjusted by the department in the interest of justice, the well-being of the victim, and the rehabilitation of the individual.

(6) The department shall not seek payment for a debt due and owing if such action would deprive the victim of the crime giving rise to the claim under this chapter of the benefit of any property to which the victim would be entitled under RCW 26.16.030.

[1995 c 33 § 1; 1973 1st ex.s. c 122 § 12.]

RCW 7.68.125 Erroneous or fraudulent payment--Repayment, when--Order contending a debt due--Filing--Fee--Service--Penalty.

(1) Whenever any payment under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by fraud, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed that any claim therefor has been waived. The department may exercise its discretion to waive, in whole or in part, the amount of any such timely claim.

(2) Whenever any payment under this chapter has been made pursuant to an adjudication by the department, board, or any court and timely appeal therefrom has been made and the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter. The department may exercise its discretion to waive, in whole or in part, the amount thereof.

(3) Whenever any payment under this chapter has been induced by fraud the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient under this chapter and the amount of the penalty shall be placed in the fund or funds established pursuant to RCW 7.68.090.

(4) If the department issues an order contending a debt due and owing under this section, the order is subject to chapter 51.52 RCW. If the order becomes final under chapter 51.52 RCW, the director or the director's designee may file with the clerk of any county within the state a warrant in the amount stated in the order plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately enter the warrant in the execution docket. The amount of the warrant as docketed becomes a lien upon all real and personal property of the person against whom the warrant is issued, the same as a judgment in a

civil case. The warrant shall then be subject to execution, garnishment, and other procedures for the collection of judgments. The filing fee must be added to the amount of the warrant. The department shall mail a conformed copy of the warrant to the person named within seven working days of filing with the clerk.

(5)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a final order of debt due and owing has been entered. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150.

[1995 c 33 § 2; 1975 1st ex.s. c 176 § 8.]

RCW 7.68.130 Public or private insurance--Attorneys' fees and costs of victim.

(1) Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance available, less a proportionate share of reasonable attorneys' fees and costs, if any, incurred by the victim in obtaining recovery from the insurer. Calculation of a proportionate share of attorneys' fees and costs shall be made under the formula established in RCW 51.24.060. The department or the victim may require court approval of costs and attorneys' fees or may petition a court for determination of the reasonableness of costs and attorneys' fees.

(2) Benefits payable after 1980 to victims injured or killed before 1980 shall be reduced by any other public or private insurance including but not limited to social security.

(3) Payment by the department under this chapter shall be secondary to other insurance benefits, notwithstanding the provision of any contract or coverage to the contrary. In the case of private life insurance proceeds, the first forty thousand dollars of the proceeds shall not be considered for purposes of any reduction in benefits.

(4) For the purposes of this section, the collection methods available under RCW 7.68.125(4) apply.

[1995 c 33 § 3; 1985 c 443 § 16; 1980 c 156 § 4; 1977 ex.s. c 302 § 8; 1973 1st ex.s. c 122 § 13.]

Notes:

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Legislative intent--"Public or private insurance"--1980 c 156: See note following RCW 7.68.020.

RCW 7.68.140 Confidentiality.

Information contained in the claim files and records of victims, under the provisions of this chapter, shall be deemed confidential and shall not be open to public inspection: PROVIDED, That, except as limited by state or federal statutes or regulations, such information may be provided to public employees in the performance of their official duties: PROVIDED FURTHER, That except as otherwise limited by state or federal statutes or regulations a claimant or a representative of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant: PROVIDED FURTHER, That physicians treating or examining victims claiming benefits under this chapter or physicians giving medical advice to the department regarding any claim may, at the discretion of the department and as not otherwise limited by state or federal statutes or regulations, inspect the claim files and records of such victims, and other persons may, when rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this chapter, inspect the claim files and records of such victims at the discretion of the department and as not otherwise limited by state or federal statutes or regulations.

[1997 c 310 § 1; 1975 1st ex.s. c 176 § 6; 1973 1st ex.s. c 122 § 14.]

RCW 7.68.145 Release of information in performance of official duties.

Notwithstanding any other provision of law, all law enforcement, criminal justice, or other governmental agencies, or hospital; any physician or other practitioner of the healing arts; or any other organization or person having possession or control of any investigative or other information pertaining to any alleged criminal act or victim concerning which a claim for benefits has been filed under this chapter, shall, upon request, make available to and allow the reproduction of any such information by the section of the department administering this chapter or other public employees in their performance of their official duties under this chapter.

No person or organization, public or private, shall incur any legal liability by reason of releasing any such information to the director of labor and industries or the section of the department which administers this chapter or other public employees in the performance of their official duties under this chapter.

[1975 1st ex.s. c 176 § 7.]

RCW 7.68.150 Benefits, payments and costs to be funded and accounted for separately.

All benefits and payments made, and all administrative costs accrued, pursuant to this chapter shall be funded and accounted for separate from the other operations and responsibilities of the department.

[1973 1st ex.s. c 122 § 15.]

RCW 7.68.160 Claims of persons injured prior to effective date.

Any person who has been injured as a result of a "criminal act" as herein defined on or after January 1, 1972 up to July 1, 1974, who would otherwise be eligible for benefits under this chapter, may for a period of ninety days from July 1, 1974, file a claim for benefits with the department on a form provided by the department. The department shall investigate and review such claims, and, within two hundred ten days of July 1, 1974, shall report to the governor its findings and recommendations as to such claims, along with a statement as to what special legislative relief, if any, the department recommends should be provided.

[1986 c 158 § 2; 1973 1st ex.s. c 122 § 16.]

Notes:

Effective date--1973 1st ex.s. c 122: See RCW 7.68.900 and note following.

RCW 7.68.165 Application of chapter to claims filed under RCW 7.68.160.

The rights, privileges, responsibilities, duties, limitations and procedures contained in this chapter shall apply to those claims filed pursuant to RCW 7.68.160. In respect to such claims, the department shall proceed in the same manner and with the same authority as provided in this chapter with respect to those claims filed pursuant to RCW 7.68.060 as now or hereafter amended.

[1975 1st ex.s. c 176 § 10.]

RCW 7.68.170 Examination costs of sexual assault victims paid by state.

No costs incurred by a hospital or other emergency medical facility for the examination of the victim of a sexual assault, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter.

[1979 ex.s. c 219 § 11.]

Notes:

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.200 Payment for reenactments of crimes--Contracts--Deposits--Damages.

After hearing, as provided in RCW 7.68.210, every person, firm, corporation, partnership, association or other legal entity contracting with any person or the representative or assignee of any person, accused or convicted of a crime in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, live entertainment of any kind, or from the expression of such accused or convicted person's thoughts, feelings, opinion or emotions regarding such crime, shall submit a copy of such contract to the department and pay over to the department any moneys which would otherwise, by terms of such contract, be owing to the person so accused or convicted or his representatives. The department shall deposit such moneys in an escrow account for the benefit of and payable to any victim or the legal representative of any victim of crimes committed by: (i) such convicted person; or (ii) such accused person, but only if such accused person is eventually convicted of the crime and provided that such victim, within five years of the date of the establishment of such escrow account, brings a civil action in a court of competent jurisdiction and recovers a money judgment for damages against such person or his representatives.

[1979 ex.s. c 219 § 13.]

Notes:

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.210 Payment may be directed based on contract.

The prosecutor or the department may, at any time after the person's arraignment petition any superior court for an order, following notice and hearing, directing that any contract described in RCW 7.68.200 shall be paid in accordance with RCW 7.68.200 through 7.68.280.

[1979 ex.s. c 219 § 12.]

Notes:

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.220 Notice published of moneys in escrow.

The department, at least once every six months for five years from the date it receives such moneys, shall cause to have published a legal notice in newspapers of general circulation in the county wherein the crime was committed and in counties contiguous to such county advising such victims that such escrow moneys are available to satisfy money judgments pursuant to this section. For crimes committed in a city located within a county having a population of one million or more, the notice provided for in this section shall be in newspapers having general circulation in such city. The department may, in its discretion, provide for such additional notice as it deems necessary.

[1979 ex.s. c 219 § 14.]

Notes:

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.230 Payment to accused if charges dismissed, acquitted.

Upon dismissal of charges or acquittal of any accused person the department shall immediately pay over to such accused person the moneys in the escrow account established on behalf of such accused person.

[1979 ex.s. c 219 § 15.]

Notes:

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.240 Payment if no actions pending.

Upon a showing by any convicted person or the state that five years have elapsed from the establishment of such escrow account and further that no actions are pending against such convicted person pursuant to RCW 7.68.200 through 7.68.280, the department shall immediately pay over fifty percent of any moneys in the escrow account to such person or his legal representatives and fifty percent of any moneys in the escrow account to the fund under RCW 7.68.035(4).

[1988 c 155 § 4; 1979 ex.s. c 219 § 16.]

Notes:

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.250 Persons not guilty for mental reasons deemed convicted.

For purposes of *this act, a person found not guilty as a result of the defense of mental disease or defect shall be deemed to be a convicted person.

[1979 ex.s. c 219 § 17.]

Notes:

***Reviser's note:** "this act" literally refers to 1979 ex.s. c 219. As used in this section, the term apparently refers to only sections 12 through 20 of that act, which are codified as RCW 7.68.200 through 7.68.280.

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.260 Time for filing action begins when escrow account established.

Notwithstanding any inconsistent provision of the civil practice and rules with respect to the timely bringing of an action, the five year period provided for in RCW 7.68.200 shall not begin to run until an escrow account has been established.

[1979 ex.s. c 219 § 18.]

Notes:

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.270 Escrow moneys may be used for legal representation.

Notwithstanding the foregoing provisions of *this act the department shall make payments from an escrow account to any person accused or convicted of a crime upon the order of a court of competent jurisdiction after a showing by such person that such moneys shall be used for the exclusive purpose of retaining legal representation at any stage of the proceedings against such person, including the appeals process.

[1979 ex.s. c 219 § 19.]

Notes:

***Reviser's note:** "this act," see note following RCW 7.68.250.

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.280 Actions to avoid law null and void.

Any action taken by any person accused or convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of *this act shall be null and void as against the public policy of this state.

[1979 ex.s. c 219 § 20.]

Notes:

***Reviser's note:** "this act," see note following RCW 7.68.250.

Severability--1979 ex.s. c 219: See note following RCW 70.125.010.

RCW 7.68.290 Restitution--Disposition when victim dead or not found.

If a defendant has paid restitution pursuant to court order under RCW 9.92.060, 9.94A.140, 9.94A.142, 9.95.210, or 9A.20.030 and the victim entitled to restitution cannot be found or has died, the clerk of the court shall deposit with the county treasurer the amount of restitution unable to be paid to the victim. The county treasurer shall monthly transmit the money to the state treasurer for deposit as provided in RCW 43.08.250. Moneys deposited under this section shall be used to compensate victims of crimes through the crime victims compensation fund.

[1997 c 358 § 3; 1987 c 281 § 2.]

Notes:

Effective date--1987 c 281: See note following RCW 7.68.020.

RCW 7.68.300 Finding.

The legislature finds compelling state interests in compensating the victims of crime and in preventing criminals from profiting from their crimes. RCW 7.68.310 through 7.68.340 are intended to advance both of these interests.

[1993 c 288 § 3.]

RCW 7.68.310 Property subject to seizure and forfeiture.

The following are subject to seizure and forfeiture and no property right exists in them:

(1) All tangible or intangible property, including any right or interest in such property, acquired by a person convicted of a crime for which there is a victim of the crime and to the extent the acquisition is the direct or indirect result of the convicted person having committed the crime. Such property includes but is not limited to the convicted person's remuneration for, or contract interest in, any reenactment or depiction or account of the crime in a movie, book, magazine, newspaper or other publication, audio recording, radio or television presentation, live entertainment of any kind, or any expression of the convicted person's thoughts, feelings, opinions, or emotions regarding the crime.

(2) Any property acquired through the traceable proceeds of property described in subsection (1) of this section.

[1993 c 288 § 4.]

RCW 7.68.320 Seizure and forfeiture--Procedure.

(1) Any property subject to seizure and forfeiture under RCW 7.68.310 may be seized by the prosecuting attorney of the county in which the convicted person was convicted upon process issued by any superior court having jurisdiction over the property.

(2) Proceedings for forfeiture are commenced by a seizure. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later, except that such real property seized may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest.

(3) The prosecuting attorney who seized the property shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing

statement in accordance with *chapter 62A.9 RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(4) If no person notifies the seizing prosecuting attorney in writing of the person's claim of ownership or right to possession of the property within forty-five days for personal property or ninety days for real property, the property seized shall be deemed forfeited.

(5) If any person notifies the seizing prosecuting attorney in writing of the person's claim of ownership or right to possession of the property within forty-five days for personal property or ninety days for real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The prosecuting attorney shall file the case into a court of competent jurisdiction. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. In cases involving personal property, the burden of producing evidence shall be by a preponderance and upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property. In cases involving real property, the burden of producing evidence shall be by a preponderance and upon the prosecuting attorney. The seizing prosecuting attorney shall promptly return the property to the claimant upon a determination by the prosecuting attorney or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(6) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the county auditor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules.

(7) A forfeiture action under this section may be brought at any time from the date of conviction until the expiration of the statutory maximum period of incarceration that could have been imposed for the crime involved.

(8) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if at the time the security interest was created, the secured party did not know that the property was subject to seizure and forfeiture.

[1993 c 288 § 5.]

Notes:

*Reviser's note: Chapter 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see chapter 62A.9A RCW.

RCW 7.68.330 Seizure and forfeiture--Distribution of proceeds.

(1) The proceeds of any forfeiture action brought under RCW 7.68.320 shall be distributed as follows:

(a) First, to the victim or to the plaintiff in a wrongful death action brought as a result of the victim's death, to satisfy any money judgment against the convicted person, or to satisfy any restitution ordered as part of the convicted person's sentence;

(b) Second, to the reasonable legal expenses of bringing the action;

(c) Third, to the crime victims' compensation fund under RCW 7.68.090.

(2) A court may establish such escrow accounts or other arrangements as it deems necessary and appropriate in order to distribute proceeds in accordance with this section.

[1993 c 288 § 6.]

RCW 7.68.340 Seizure and forfeiture--Remedies nondefeatable and supplemental.

(1) Any action taken by or on behalf of a convicted person including but not limited to executing a power of attorney or creating a corporation for the purpose of defeating the provisions of RCW 7.68.300 through 7.68.330 is null and void as against the public policy of this state.

(2) RCW 7.68.300 through 7.68.330 are supplemental and do not limit rights or remedies otherwise available to the victims of crimes and do not limit actions otherwise available against persons convicted of crimes.

[1993 c 288 § 7.]

RCW 7.68.900 Effective date--1973 1st ex.s. c 122.

This chapter shall take effect on July 1, 1974.

[1973 1st ex.s. c 122 § 17.]

Notes:

Funding required: "This bill shall not take effect until the funds necessary for its implementation have been specifically appropriated by the legislature and such appropriation itself has become law. It is the intention of the legislature that if the governor shall veto this section or any item thereof, none of the provisions of this bill shall take effect." [1973 1st ex.s. c 122 § 21.]

Reviser's note: Funding for 1973 1st ex.s. c 122 was provided in 1973 1st ex.s. c 137 § 107 and 1975 1st ex.s. c 269 § 67(2).

RCW 7.68.905 Severability--Construction--1977 ex.s. c 302.

(1) If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances, is not affected.

(2) Subsection (1) of this section shall be effective retroactively to July 1, 1974.

[1977 ex.s. c 302 § 12.]

RCW 7.68.910 Section captions.

Section captions as used in this act do not constitute any part of the law.

[1973 1st ex.s. c 122 § 20.]

RCW 7.68.915 Savings--Statute of limitations--1982 1st ex.s. c 8.

Nothing in chapter 8, Laws of 1982 1st ex. sess., affects or impairs any right to benefits existing prior to *the effective date of this act. For injuries occurring on and after July 1, 1981, and before *the effective date of this act, the statute of limitations for filing claims under this chapter shall begin to run on *the effective date of this act.

[1982 1st ex.s. c 8 § 3.]

Notes:

***Reviser's note:** For "the effective date of this act," see note following RCW 7.68.035.

Effective dates--Intent--Reports--1982 1st ex.s. c 8: See notes following RCW 7.68.035.

Chapter 7.69 RCW
CRIME VICTIMS, SURVIVORS, AND WITNESSES

Sections

7.69.010	Intent.
7.69.020	Definitions.
7.69.030	Rights of victims, survivors, and witnesses.
7.69.040	Representation of incapacitated or incompetent victim.
7.69.050	Construction of chapter--Other remedies or defenses.

RCW 7.69.010 Intent.

In recognition of the severe and detrimental impact of crime on victims, survivors of victims, and witnesses of crime and the civic and moral duty of victims, survivors of victims, and witnesses of crimes to fully and voluntarily cooperate with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this chapter, to grant to the victims of crime and the survivors of such victims a significant role in the criminal justice system. The legislature further intends to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity; and that the rights extended in this chapter to victims, survivors of victims, and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants.

[1985 c 443 § 1; 1981 c 145 § 1.]

Notes:

Severability--1985 c 443: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 443 § 27.]

Effective date--1985 c 443: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1985." [1985 c 443 § 28.]

RCW 7.69.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Crime" means an act punishable as a felony, gross misdemeanor, or misdemeanor under the laws of this state or equivalent federal or local law.

(2) "Survivor" or "survivors" of a victim of crime means a spouse, child, parent, legal guardian, sibling, or grandparent. If there is more than one survivor of a victim of crime, one survivor shall be designated by the prosecutor to represent all survivors for purposes of providing the notice to survivors required by this chapter.

(3) "Victim" means a person against whom a crime has been committed or the representative of a person against whom a crime has been committed.

(4) "Victim impact statement" means a statement submitted to the court by the victim or a survivor, individually or with the assistance of the prosecuting attorney if assistance is requested by the victim or survivor, which may include but is not limited to information assessing the financial, medical, social, and psychological impact of the offense upon the victim or survivors.

(5) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding has been commenced.

(6) "Crime victim/witness program" means any crime victim and witness program of a county or local law enforcement agency or prosecutor's office, any rape crisis center's sexual assault victim advocacy program as provided in chapter 70.125 RCW, any domestic violence program's legal and community advocate program for domestic violence victims as provided in chapter 70.123 RCW, or any other crime victim advocacy program which provides trained advocates to assist crime victims during the investigation and prosecution of the crime.

[1993 c 350 § 5; 1985 c 443 § 2; 1981 c 145 § 2.]

Notes:

Findings--Severability--1993 c 350: See notes following RCW 26.50.035.

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

RCW 7.69.030 Rights of victims, survivors, and witnesses.

There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights:

(1) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

(2) To be informed by local law enforcement agencies or the prosecuting attorney of the

final disposition of the case in which the victim, survivor, or witness is involved;

(3) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

(4) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

(5) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

(6) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

(7) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

(8) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

(9) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance;

(10) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

(11) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

(12) With respect to victims and survivors of victims, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing for felony convictions upon request by a victim or survivor;

(13) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and

permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

(14) With respect to victims and survivors of victims, to present a statement personally or by representation, at the sentencing hearing for felony convictions;

(15) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment; and

(16) With respect to victims and survivors of victims, to present a statement in person, via audio or videotape, in writing or by representation at any hearing conducted regarding an application for pardon or commutation of sentence.

[1999 c 323 § 2; 1997 c 343 § 1; 1993 c 350 § 6; 1985 c 443 § 3; 1981 c 145 § 3.]

Notes:

Intent--1999 c 323: See note following RCW 9.94A.260.

Findings--Severability--1993 c 350: See notes following RCW 26.50.035.

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Child victims and witnesses, additional rights: Chapter 7.69A RCW.

RCW 7.69.040 Representation of incapacitated or incompetent victim.

For purposes of this chapter, a victim who is incapacitated or otherwise incompetent shall be represented by a parent or present legal guardian, or if none exists, by a representative designated by the prosecuting attorney without court appointment or legal guardianship proceedings. Any victim may designate another person as the victim's representative for purposes of the rights enumerated in RCW 7.69.030.

[1985 c 443 § 4.]

Notes:

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

RCW 7.69.050 Construction of chapter--Other remedies or defenses.

Nothing contained in this chapter may be construed to provide grounds for error in favor of a criminal defendant in a criminal proceeding, nor may anything in this chapter be construed to grant a new cause of action or remedy against the state, its political subdivisions, law enforcement agencies, or prosecuting attorneys. The failure of a person to make a reasonable effort to ensure that victims, survivors, and witnesses under this chapter have the rights enumerated in RCW 7.69.030 shall not result in civil liability against that person. This chapter does not limit other civil remedies or defenses of the offender or the victim or survivors of the victim.

[1985 c 443 § 5.]

Notes:

Severability--Effective date--1985 c 443: See notes following RCW 7.69.010.

Chapter 7.69A RCW
CHILD VICTIMS AND WITNESSES

Sections

7.69A.010	Legislative intent.
7.69A.020	Definitions.
7.69A.030	Rights of child victims and witnesses.
7.69A.040	Liability for failure to notify or assure child's rights.
7.69A.050	Rights of child victims and witnesses--Confidentiality of address--Notice of right--Penalty.

RCW 7.69A.010 Legislative intent.

The legislature recognizes that it is important that child victims and child witnesses of crime cooperate with law enforcement and prosecutorial agencies and that their assistance contributes to state and local enforcement efforts and the general effectiveness of the criminal justice system of this state. Therefore, it is the intent of the legislature by means of this chapter, to insure that all child victims and witnesses of crime are treated with the sensitivity, courtesy, and special care that must be afforded to each child victim of crime and that their rights be protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded the adult victim, witness, or criminal defendant.

[1985 c 394 § 1.]

Notes:

Reviser's note: "This chapter" has been substituted for "this act" in this section.

RCW 7.69A.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Crime" means an act punishable as a felony, gross misdemeanor, or misdemeanor under the laws of this state or equivalent federal or local law.

(2) "Child" means any living child under the age of eighteen years.

(3) "Victim" means a living person against whom a crime has been committed.

(4) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution in a criminal action, or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding has been commenced.

(5) "Family member" means child, parent, or legal guardian.

(6) "Advocate" means any person, including a family member not accused of a crime,

who provides support to a child victim or child witness during any legal proceeding.

(7) "Court proceedings" means any court proceeding conducted during the course of the prosecution of a crime committed against a child victim, including pretrial hearings, trial, sentencing, or appellate proceedings.

(8) "Identifying information" means the child's name, address, location, and photograph, and in cases in which the child is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.

(9) "Crime victim/witness program" means any crime victim and witness program of a county or local law enforcement agency or prosecutor's office, any rape crisis center's sexual assault victim advocacy program as provided in chapter 70.125 RCW, any domestic violence program's legal and community advocate program for domestic violence victims as provided in chapter 70.123 RCW, or any other crime victim advocacy program which provides trained advocates to assist crime victims during the investigation and prosecution of the crime.

[1993 c 350 § 7; 1992 c 188 § 2; 1985 c 394 § 2.]

Notes:

Findings--Severability--1993 c 350: See notes following RCW 26.50.035.

Findings--Intent--1992 c 188: "The legislature recognizes that the cooperation of child victims of sexual assault and their families is integral to the successful prosecution of sexual assaults against children. The legislature finds that release of information identifying child victims of sexual assault may subject the child to unwanted contacts by the media, public scrutiny and embarrassment, and places the child victim and the victim's family at risk when the assailant is not in custody. Release of information to the press and the public harms the child victim and has a chilling effect on the willingness of child victims and their families to report sexual abuse and to cooperate with the investigation and prosecution of the crime. The legislature further finds that public dissemination of the child victim's name and other identifying information is not essential to accurate and necessary release of information to the public concerning the operation of the criminal justice system. Therefore, the legislature intends to assure child victims of sexual assault and their families that the identities and locations of child victims will remain confidential." [1992 c 188 § 1.]

Severability--1992 c 188: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 188 § 10.]

RCW 7.69A.030 Rights of child victims and witnesses.

In addition to the rights of victims and witnesses provided for in RCW 7.69.030, there shall be every reasonable effort made by law enforcement agencies, prosecutors, and judges to assure that child victims and witnesses are afforded the rights enumerated in this section. Except as provided in RCW 7.69A.050 regarding child victims or child witnesses of violent crimes, sex crimes, or child abuse, the enumeration of rights shall not be construed to create substantive rights and duties, and the application of an enumerated right in an individual case is subject to the discretion of the law enforcement agency, prosecutor, or judge. Child victims and witnesses have the following rights:

(1) To have explained in language easily understood by the child, all legal proceedings and/or police investigations in which the child may be involved.

(2) With respect to child victims of sex or violent crimes or child abuse, to have a crime victim advocate from a crime victim/witness program present at any prosecutorial or defense interviews with the child victim. This subsection applies if practical and if the presence of the crime victim advocate does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the child victim and to promote the child's feelings of security and safety.

(3) To be provided, whenever possible, a secure waiting area during court proceedings and to have an advocate or support person remain with the child prior to and during any court proceedings.

(4) To not have the names, addresses, nor photographs of the living child victim or witness disclosed by any law enforcement agency, prosecutor's office, or state agency without the permission of the child victim, child witness, parents, or legal guardians to anyone except another law enforcement agency, prosecutor, defense counsel, or private or governmental agency that provides services to the child victim or witness.

(5) To allow an advocate to make recommendations to the prosecuting attorney about the ability of the child to cooperate with prosecution and the potential effect of the proceedings on the child.

(6) To allow an advocate to provide information to the court concerning the child's ability to understand the nature of the proceedings.

(7) To be provided information or appropriate referrals to social service agencies to assist the child and/or the child's family with the emotional impact of the crime, the subsequent investigation, and judicial proceedings in which the child is involved.

(8) To allow an advocate to be present in court while the child testifies in order to provide emotional support to the child.

(9) To provide information to the court as to the need for the presence of other supportive persons at the court proceedings while the child testifies in order to promote the child's feelings of security and safety.

(10) To allow law enforcement agencies the opportunity to enlist the assistance of other professional personnel such as child protection services, victim advocates or prosecutorial staff trained in the interviewing of the child victim.

(11) With respect to child victims of violent or sex crimes or child abuse, to receive either directly or through the child's parent or guardian if appropriate, at the time of reporting the crime to law enforcement officials, a written statement of the rights of child victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county.

[1997 c 283 § 2; 1993 c 350 § 8; 1985 c 394 § 3.]

Notes:

Findings--Severability--1993 c 350: See notes following RCW 26.50.035.

RCW 7.69A.040 Liability for failure to notify or assure child's rights.

The failure to provide notice to a child victim or witness under this chapter of the rights enumerated in RCW 7.69A.030 shall not result in civil liability so long as the failure to notify was in good faith and without gross negligence. The failure to make a reasonable effort to assure that child victims and witnesses are afforded the rights enumerated in RCW 7.69A.030 shall not result in civil liability so long as the failure to make a reasonable effort was in good faith and without gross negligence.

[1985 c 394 § 4.]

RCW 7.69A.050 Rights of child victims and witnesses--Confidentiality of address--Notice of right--Penalty.

At the time of reporting a crime to law enforcement officials and at the time of the initial witness interview, child victims or child witnesses of violent crimes, sex crimes, or child abuse and the child's parents shall be informed of their rights to not have their address disclosed by any law enforcement agency, prosecutor's office, defense counsel, or state agency without the permission of the child victim or the child's parents or legal guardian. The address may be disclosed to another law enforcement agency, prosecutor, defense counsel, or private or governmental agency that provides services to the child. Intentional disclosure of an address in violation of this section is a misdemeanor.

[1997 c 283 § 1.]

**Chapter 7.70 RCW
ACTIONS FOR INJURIES RESULTING FROM HEALTH CARE**

Sections

7.70.010	Declaration of modification of actions for damages based upon injuries resulting from health care.
7.70.020	Definitions.
7.70.030	Propositions required to be established--Burden of proof.
7.70.040	Necessary elements of proof that injury resulted from failure to follow accepted standard of care.
7.70.050	Failure to secure informed consent--Necessary elements of proof--Emergency situations.
7.70.060	Consent form--Contents--Prima facie evidence--Failure to use.
7.70.065	Informed consent--Persons authorized to provide for patients who are not competent--Priority.
7.70.070	Attorneys' fees.
7.70.080	Evidence of compensation from other source.
7.70.090	Hospital governing bodies--Liability--Limitations.
7.70.100	Mandatory mediation of health care claims--Procedures.
7.70.110	Mandatory mediation of health care claims--Tolling statute of limitations.
7.70.120	Mandatory mediation of health care claims--Right to trial not abridged.
7.70.130	Mandatory mediation of health care claims--Exempt from arbitration mandate.

Notes:

Complaint in personal injury actions not to include statement of damages: RCW 4.28.360.

Evidence of furnishing or offering to pay medical expenses inadmissible to prove liability in personal injury actions

for medical negligence: Chapter 5.64 RCW.
Immunity of members of professional review committees, societies, examining, licensing or disciplinary boards from civil suit: RCW 4.24.240.
Malpractice insurance for retired physicians providing health care services: RCW 43.70.460.
Statute of limitations in actions for injuries resulting from health care: RCW 4.16.350.
Verdict or award of future economic damages in personal injury or property damage action may provide for periodic payments: RCW 4.56.260.

RCW 7.70.010 Declaration of modification of actions for damages based upon injuries resulting from health care.

The state of Washington, exercising its police and sovereign power, hereby modifies as set forth in this chapter and in RCW 4.16.350, as now or hereafter amended, certain substantive and procedural aspects of all civil actions and causes of action, whether based on tort, contract, or otherwise, for damages for injury occurring as a result of health care which is provided after June 25, 1976.

[1975-'76 2nd ex.s. c 56 § 6.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

RCW 7.70.020 Definitions.

As used in this chapter "health care provider" means either:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a licensed acupuncturist, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, midwife, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative.

[1995 c 323 § 3; 1985 c 326 § 27; 1981 c 53 § 1; 1975-'76 2nd ex.s. c 56 § 7.]

Notes:

Effective date--1981 c 53: See note following RCW 18.50.005.

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

RCW 7.70.030 Propositions required to be established--Burden of proof.

No award shall be made in any action or arbitration for damages for injury occurring as the result of health care which is provided after June 25, 1976, unless the plaintiff establishes one or more of the following propositions:

- (1) That injury resulted from the failure of a health care provider to follow the accepted standard of care;
- (2) That a health care provider promised the patient or his representative that the injury suffered would not occur;
- (3) That injury resulted from health care to which the patient or his representative did not consent.

Unless otherwise provided in this chapter, the plaintiff shall have the burden of proving each fact essential to an award by a preponderance of the evidence.

[1975-'76 2nd ex.s. c 56 § 8.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

RCW 7.70.040 Necessary elements of proof that injury resulted from failure to follow accepted standard of care.

The following shall be necessary elements of proof that injury resulted from the failure of the health care provider to follow the accepted standard of care:

- (1) The health care provider failed to exercise that degree of care, skill, and learning expected of a reasonably prudent health care provider at that time in the profession or class to which he belongs, in the state of Washington, acting in the same or similar circumstances;
- (2) Such failure was a proximate cause of the injury complained of.

[1983 c 149 § 2; 1975-'76 2nd ex.s. c 56 § 9.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

RCW 7.70.050 Failure to secure informed consent--Necessary elements of proof--Emergency situations.

(1) The following shall be necessary elements of proof that injury resulted from health care in a civil negligence case or arbitration involving the issue of the alleged breach of the duty to secure an informed consent by a patient or his representatives against a health care provider:

- (a) That the health care provider failed to inform the patient of a material fact or facts relating to the treatment;
- (b) That the patient consented to the treatment without being aware of or fully informed

of such material fact or facts;

(c) That a reasonably prudent patient under similar circumstances would not have consented to the treatment if informed of such material fact or facts;

(d) That the treatment in question proximately caused injury to the patient.

(2) Under the provisions of this section a fact is defined as or considered to be a material fact, if a reasonably prudent person in the position of the patient or his representative would attach significance to it deciding whether or not to submit to the proposed treatment.

(3) Material facts under the provisions of this section which must be established by expert testimony shall be either:

(a) The nature and character of the treatment proposed and administered;

(b) The anticipated results of the treatment proposed and administered;

(c) The recognized possible alternative forms of treatment; or

(d) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment administered and in the recognized possible alternative forms of treatment, including nontreatment.

(4) If a recognized health care emergency exists and the patient is not legally competent to give an informed consent and/or a person legally authorized to consent on behalf of the patient is not readily available, his consent to required treatment will be implied.

[1975-'76 2nd ex.s. c 56 § 10.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

RCW 7.70.060 Consent form--Contents--Prima facie evidence--Failure to use.

If a patient while legally competent, or his representative if he is not competent, signs a consent form which sets forth the following, the signed consent form shall constitute prima facie evidence that the patient gave his informed consent to the treatment administered and the patient has the burden of rebutting this by a preponderance of the evidence:

(1) A description, in language the patient could reasonably be expected to understand, of:

(a) The nature and character of the proposed treatment;

(b) The anticipated results of the proposed treatment;

(c) The recognized possible alternative forms of treatment; and

(d) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment;

(2) Or as an alternative, a statement that the patient elects not to be informed of the elements set forth in subsection (1) of this section.

Failure to use a form shall not be admissible as evidence of failure to obtain informed consent.

[1975-'76 2nd ex.s. c 56 § 11.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

Minors

access to personal records: RCW 42.48.020.

alcohol and drug treatment: RCW 70.96A.095.

liability of provider: RCW 26.09.310.

mental health treatment: Chapter 71.34 RCW.

sexually transmitted diseases: RCW 70.24.110.

Records, rights: RCW 70.02.130.

RCW 7.70.065 Informed consent--Persons authorized to provide for patients who are not competent--Priority.

(1) Informed consent for health care for a patient who is not competent, as defined in *RCW 11.88.010(1)(b), to consent may be obtained from a person authorized to consent on behalf of such patient. Persons authorized to provide informed consent to health care on behalf of a patient who is not competent to consent shall be a member of one of the following classes of persons in the following order of priority:

(a) The appointed guardian of the patient, if any;

(b) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;

(c) The patient's spouse;

(d) Children of the patient who are at least eighteen years of age;

(e) Parents of the patient; and

(f) Adult brothers and sisters of the patient.

(2) If the physician seeking informed consent for proposed health care of the patient who is not competent to consent makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(a) If a person of higher priority under this section has refused to give such authorization;

or

(b) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(3) Before any person authorized to provide informed consent on behalf of a patient not competent to consent exercises that authority, the person must first determine in good faith that that patient, if competent, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.

[1987 c 162 § 1.]

Notes:

***Reviser's note:** RCW 11.88.010 was amended by 1990 c 122 § 2, changing subsection (1)(b) to

subsection (1)(e).

RCW 7.70.070 Attorneys' fees.

The court shall, in any action under this chapter, determine the reasonableness of each party's attorneys fees. The court shall take into consideration the following:

- (1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) The fee customarily charged in the locality for similar legal services;
- (4) The amount involved and the results obtained;
- (5) The time limitations imposed by the client or by the circumstances;
- (6) The nature and length of the professional relationship with the client;
- (7) The experience, reputation, and ability of the lawyer or lawyers performing the services;
- (8) Whether the fee is fixed or contingent.

[1975-'76 2nd ex.s. c 56 § 12.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.
Attorneys' fees: Chapter 4.84 RCW.

RCW 7.70.080 Evidence of compensation from other source.

Any party may present evidence to the trier of fact that the patient has already been compensated for the injury complained of from any source except the assets of the patient, his representative, or his immediate family, or insurance purchased with such assets. In the event such evidence is admitted, the plaintiff may present evidence of an obligation to repay such compensation. Insurance bargained for or provided on behalf of an employee shall be considered insurance purchased with the assets of the employee. Compensation as used in this section shall mean payment of money or other property to or on behalf of the patient, rendering of services to the patient free of charge to the patient, or indemnification of expenses incurred by or on behalf of the patient. Notwithstanding this section, evidence of compensation by a defendant health care provider may be offered only by that provider.

[1975-'76 2nd ex.s. c 56 § 13.]

Notes:

Severability--1975-'76 2nd ex.s. c 56: See note following RCW 4.16.350.

RCW 7.70.090 Hospital governing bodies--Liability--Limitations.

Members of the board of directors or other governing body of a public or private hospital are not individually liable for personal injuries or death resulting from health care administered

by a health care provider granted privileges to provide health care at the hospital unless the decision to grant the privilege to provide health care at the hospital constitutes gross negligence.

[1987 c 212 § 1201; 1986 c 305 § 905.]

Notes:

Preamble--Report to legislature--Applicability--Severability--1986 c 305: See notes following RCW 4.16.160.

RCW 7.70.100 Mandatory mediation of health care claims--Procedures.

(1) All causes of action, whether based in tort, contract, or otherwise, for damages arising from injury occurring as a result of health care provided after July 1, 1993, shall be subject to mandatory mediation prior to trial.

(2) The supreme court shall by rule adopt procedures to implement mandatory mediation of actions under this chapter. The rules shall address, at a minimum:

(a) Procedures for the appointment of, and qualifications of, mediators. A mediator shall have experience or expertise related to actions arising from injury occurring as a result of health care, and be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge. The parties may stipulate to a nonlawyer mediator. The court may prescribe additional qualifications of mediators;

(b) Appropriate limits on the amount or manner of compensation of mediators;

(c) The number of days following the filing of a claim under this chapter within which a mediator must be selected;

(d) The method by which a mediator is selected. The rule shall provide for designation of a mediator by the superior court if the parties are unable to agree upon a mediator;

(e) The number of days following the selection of a mediator within which a mediation conference must be held;

(f) A means by which mediation of an action under this chapter may be waived by a mediator who has determined that the claim is not appropriate for mediation; and

(g) Any other matters deemed necessary by the court.

(3) Mediators shall not impose discovery schedules upon the parties.

[1993 c 492 § 419.]

Notes:

Medical malpractice review--1993 c 492: "(1) The administrator for the courts shall coordinate a collaborative effort to develop a voluntary system for review of medical malpractice claims by health services experts prior to the filing of a cause of action under chapter 7.70 RCW.

(2) The system shall have at least the following components:

(a) Review would be initiated, by agreement of the injured claimant and the health care provider, at the point at which a medical malpractice claim is submitted to a malpractice insurer or a self-insured health care provider.

(b) By agreement of the parties, an expert would be chosen from a pool of health services experts who have agreed to review claims on a voluntary basis.

(c) The mutually agreed upon expert would conduct an impartial review of the claim and provide his or her opinion to the parties.

(d) A pool of available experts would be established and maintained for each category of health care practitioner by the corresponding practitioner association, such as the Washington state medical association and the Washington state nurses association.

(3) The administrator for the courts shall seek to involve at least the following organizations in a collaborative effort to develop the informal review system described in subsection (2) of this section:

- (a) The Washington defense trial lawyers association;
- (b) The Washington state trial lawyers association;
- (c) The Washington state medical association;
- (d) The Washington state nurses association and other employee organizations representing nurses;
- (e) The Washington state hospital association;
- (f) The Washington state physicians insurance exchange and association;
- (g) The Washington casualty company;
- (h) The doctor's agency;
- (i) Group health cooperative of Puget Sound;
- (j) The University of Washington;
- (k) Washington osteopathic medical association;
- (l) Washington state chiropractic association;
- (m) Washington association of naturopathic physicians; and
- (n) The department of health.

(4) On or before January 1, 1994, the administrator for the courts shall provide a report on the status of the development of the system described in this section to the governor and the appropriate committees of the senate and the house of representatives." [1993 c 492 § 418.]

Findings--Intent--1993 c 492: See notes following RCW 43.72.005.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 7.70.110 Mandatory mediation of health care claims--Tolling statute of limitations.

The making of a written, good faith request for mediation of a dispute related to damages for injury occurring as a result of health care prior to filing a cause of action under this chapter shall toll the statute of limitations provided in RCW 4.16.350 for one year.

[1996 c 270 § 1; 1993 c 492 § 420.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.72.005.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 7.70.120 Mandatory mediation of health care claims--Right to trial not abridged.

RCW 7.70.100 may not be construed to abridge the right to trial by jury following an unsuccessful attempt at mediation.

[1993 c 492 § 421.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.72.005.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective

dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

RCW 7.70.130 Mandatory mediation of health care claims--Exempt from arbitration mandate.

A cause of action that has been mediated as provided in RCW 7.70.100 shall be exempt from any superior court civil rules mandating arbitration of civil actions or participation in settlement conferences prior to trial.

[1993 c 492 § 423.]

Notes:

Findings--Intent--1993 c 492: See notes following RCW 43.72.005.

Short title--Severability--Savings--Captions not law--Reservation of legislative power--Effective

dates--1993 c 492: See RCW 43.72.910 through 43.72.915.

**Chapter 7.71 RCW
HEALTH CARE PEER REVIEW**

Sections

- 7.71.010 Legislative finding.
- 7.71.020 Federal law applicable in Washington state.
- 7.71.030 Actions by health care peer review body--Exclusive remedy.
- 7.71.040 Chapter does not limit or repeal other immunities conferred by law.

RCW 7.71.010 Legislative finding.

The legislature finds the assurance of quality and cost-effectiveness in the delivery of health care can be assisted through the review of health care by health care providers. It also recognizes that some peer review decisions may be based on factors other than competence or professional conduct. Although it finds that peer review decisions based on matters unrelated to quality and utilization review need redress, it concludes that it is necessary to balance carefully the rights of the consuming public who benefit by peer review with the rights of those who are occasionally hurt by peer review decisions based on matters other than competence or professional conduct.

The legislature intends to foreclose federal antitrust actions to the extent Parker v. Brown, 317 U.S. 341 (1943), allows and to permit only those actions in RCW 7.71.020 and 7.71.030.

[1987 c 269 § 1.]

RCW 7.71.020 Federal law applicable in Washington state.

Pursuant to P.L. 99-660 Sec. 411(c)(2), Title IV of that act shall apply in Washington state as of July 26, 1987.

[1987 c 269 § 2.]

RCW 7.71.030 Actions by health care peer review body--Exclusive remedy.

(1) This section shall provide the exclusive remedy for any action taken by a professional peer review body of health care providers as defined in RCW 7.70.020, that is found to be based on matters not related to the competence or professional conduct of a health care provider.

(2) Actions shall be limited to appropriate injunctive relief, and damages shall be allowed only for lost earnings directly attributable to the action taken by the professional review body, incurred between the date of such action and the date the action is functionally reversed by the professional peer review body.

(3) Reasonable attorneys' fees and costs as approved by the court shall be awarded to the prevailing party, if any, as determined by the court.

(4) The statute of limitations for actions under this section shall be one year from the date of the action of the professional review body.

[1987 c 269 § 3.]

RCW 7.71.040 Chapter does not limit or repeal other immunities conferred by law.

Nothing in this chapter limits or repeals any other immunities conferred upon participants in the peer review process contained in any other state or federal law.

[1987 c 269 § 4.]

**Chapter 7.72 RCW
PRODUCT LIABILITY ACTIONS**

Sections

7.72.010	Definitions.
7.72.020	Scope.
7.72.030	Liability of manufacturer.
7.72.040	Liability of product seller other than manufacturer--Exception.
7.72.050	Relevance of industry custom, technological feasibility, and nongovernmental, legislative or administrative regulatory standards.
7.72.060	Length of time product sellers are subject to liability.

Notes:

Contributory fault: Chapter 4.22 RCW.

RCW 7.72.010 Definitions.

For the purposes of this chapter, unless the context clearly indicates to the contrary:

(1) Product seller. "Product seller" means any person or entity that is engaged in the

business of selling products, whether the sale is for resale, or for use or consumption. The term includes a manufacturer, wholesaler, distributor, or retailer of the relevant product. The term also includes a party who is in the business of leasing or bailing such products. The term "product seller" does not include:

(a) A seller of real property, unless that person is engaged in the mass production and sale of standardized dwellings or is otherwise a product seller;

(b) A provider of professional services who utilizes or sells products within the legally authorized scope of the professional practice of the provider;

(c) A commercial seller of used products who resells a product after use by a consumer or other product user: PROVIDED, That when it is resold, the used product is in essentially the same condition as when it was acquired for resale;

(d) A finance lessor who is not otherwise a product seller. A "finance lessor" is one who acts in a financial capacity, who is not a manufacturer, wholesaler, distributor, or retailer, and who leases a product without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(e) A licensed pharmacist who dispenses a prescription product manufactured by a commercial manufacturer pursuant to a prescription issued by a licensed prescribing practitioner if the claim against the pharmacist is based upon strict liability in tort or the implied warranty provisions under the uniform commercial code, Title 62A RCW, and if the pharmacist complies with recordkeeping requirements pursuant to chapters 18.64, 69.41, and 69.50 RCW, and related administrative rules as provided in RCW 7.72.040. Nothing in this subsection (1)(e) affects a pharmacist's liability under RCW 7.72.040(1).

(2) Manufacturer. "Manufacturer" includes a product seller who designs, produces, makes, fabricates, constructs, or remanufactures the relevant product or component part of a product before its sale to a user or consumer. The term also includes a product seller or entity not otherwise a manufacturer that holds itself out as a manufacturer.

A product seller acting primarily as a wholesaler, distributor, or retailer of a product may be a "manufacturer" but only to the extent that it designs, produces, makes, fabricates, constructs, or remanufactures the product for its sale. A product seller who performs minor assembly of a product in accordance with the instructions of the manufacturer shall not be deemed a manufacturer. A product seller that did not participate in the design of a product and that constructed the product in accordance with the design specifications of the claimant or another product seller shall not be deemed a manufacturer for the purposes of RCW 7.72.030(1)(a).

(3) Product. "Product" means any object possessing intrinsic value, capable of delivery either as an assembled whole or as a component part or parts, and produced for introduction into trade or commerce. Human tissue and organs, including human blood and its components, are excluded from this term.

The "relevant product" under this chapter is that product or its component part or parts, which gave rise to the product liability claim.

(4) Product liability claim. "Product liability claim" includes any claim or action brought

for harm caused by the manufacture, production, making, construction, fabrication, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, storage or labeling of the relevant product. It includes, but is not limited to, any claim or action previously based on: Strict liability in tort; negligence; breach of express or implied warranty; breach of, or failure to, discharge a duty to warn or instruct, whether negligent or innocent; misrepresentation, concealment, or nondisclosure, whether negligent or innocent; or other claim or action previously based on any other substantive legal theory except fraud, intentionally caused harm or a claim or action under the consumer protection act, chapter 19.86 RCW.

(5) Claimant. "Claimant" means a person or entity asserting a product liability claim, including a wrongful death action, and, if the claim is asserted through or on behalf of an estate, the term includes claimant's decedent. "Claimant" includes any person or entity that suffers harm. A claim may be asserted under this chapter even though the claimant did not buy the product from, or enter into any contractual relationship with, the product seller.

(6) Harm. "Harm" includes any damages recognized by the courts of this state: PROVIDED, That the term "harm" does not include direct or consequential economic loss under Title 62A RCW.

[1991 c 189 § 3; 1981 c 27 § 2.]

Notes:

Preamble--1981 c 27: "Tort reform in this state has for the most part been accomplished in the courts on a case-by-case basis. While this process has resulted in significant progress and the harshness of many common law doctrines has to some extent been ameliorated by decisional law, the legislature has from time to time felt it necessary to intervene to bring about needed reforms such as those contained in the 1973 comparative negligence act.

The purpose of this amendatory act is to enact further reforms in the tort law to create a fairer and more equitable distribution of liability among parties at fault.

Of particular concern is the area of tort law known as product liability law. Sharply rising premiums for product liability insurance have increased the cost of consumer and industrial goods. These increases in premiums have resulted in disincentives to industrial innovation and the development of new products. High product liability premiums may encourage product sellers and manufacturers to go without liability insurance or pass the high cost of insurance on to the consuming public in general.

It is the intent of the legislature to treat the consuming public, the product seller, the product manufacturer, and the product liability insurer in a balanced fashion in order to deal with these problems.

It is the intent of the legislature that the right of the consumer to recover for injuries sustained as a result of an unsafe product not be unduly impaired. It is further the intent of the legislature that retail businesses located primarily in the state of Washington be protected from the substantially increasing product liability insurance costs and unwarranted exposure to product liability litigation." [1981 c 27 § 1.]

RCW 7.72.020 Scope.

(1) The previous existing applicable law of this state on product liability is modified only to the extent set forth in this chapter.

(2) Nothing in this chapter shall prevent the recovery of direct or consequential economic loss under Title 62A RCW.

[1981 c 27 § 3.]

RCW 7.72.030 Liability of manufacturer.

(1) A product manufacturer is subject to liability to a claimant if the claimant's harm was proximately caused by the negligence of the manufacturer in that the product was not reasonably safe as designed or not reasonably safe because adequate warnings or instructions were not provided.

(a) A product is not reasonably safe as designed, if, at the time of manufacture, the likelihood that the product would cause the claimant's harm or similar harms, and the seriousness of those harms, outweighed the burden on the manufacturer to design a product that would have prevented those harms and the adverse effect that an alternative design that was practical and feasible would have on the usefulness of the product: PROVIDED, That a firearm or ammunition shall not be deemed defective in design on the basis that the benefits of the product do not outweigh the risk of injury posed by its potential to cause serious injury, damage, or death when discharged.

(b) A product is not reasonably safe because adequate warnings or instructions were not provided with the product, if, at the time of manufacture, the likelihood that the product would cause the claimant's harm or similar harms, and the seriousness of those harms, rendered the warnings or instructions of the manufacturer inadequate and the manufacturer could have provided the warnings or instructions which the claimant alleges would have been adequate.

(c) A product is not reasonably safe because adequate warnings or instructions were not provided after the product was manufactured where a manufacturer learned or where a reasonably prudent manufacturer should have learned about a danger connected with the product after it was manufactured. In such a case, the manufacturer is under a duty to act with regard to issuing warnings or instructions concerning the danger in the manner that a reasonably prudent manufacturer would act in the same or similar circumstances. This duty is satisfied if the manufacturer exercises reasonable care to inform product users.

(2) A product manufacturer is subject to strict liability to a claimant if the claimant's harm was proximately caused by the fact that the product was not reasonably safe in construction or not reasonably safe because it did not conform to the manufacturer's express warranty or to the implied warranties under Title 62A RCW.

(a) A product is not reasonably safe in construction if, when the product left the control of the manufacturer, the product deviated in some material way from the design specifications or performance standards of the manufacturer, or deviated in some material way from otherwise identical units of the same product line.

(b) A product does not conform to the express warranty of the manufacturer if it is made part of the basis of the bargain and relates to a material fact or facts concerning the product and the express warranty proved to be untrue.

(c) Whether or not a product conforms to an implied warranty created under Title 62A RCW shall be determined under that title.

(3) In determining whether a product was not reasonably safe under this section, the trier of fact shall consider whether the product was unsafe to an extent beyond that which would be contemplated by the ordinary consumer.

[1988 c 94 § 1; 1981 c 27 § 4.]

RCW 7.72.040 Liability of product seller other than manufacturer--Exception.

(1) Except as provided in subsection (2) of this section, a product seller other than a manufacturer is liable to the claimant only if the claimant's harm was proximately caused by:

- (a) The negligence of such product seller; or
- (b) Breach of an express warranty made by such product seller; or
- (c) The intentional misrepresentation of facts about the product by such product seller or the intentional concealment of information about the product by such product seller.

(2) A product seller, other than a manufacturer, shall have the liability of a manufacturer to the claimant if:

- (a) No solvent manufacturer who would be liable to the claimant is subject to service of process under the laws of the claimant's domicile or the state of Washington; or
- (b) The court determines that it is highly probable that the claimant would be unable to enforce a judgment against any manufacturer; or
- (c) The product seller is a controlled subsidiary of a manufacturer, or the manufacturer is a controlled subsidiary of the product seller; or
- (d) The product seller provided the plans or specifications for the manufacture or preparation of the product and such plans or specifications were a proximate cause of the defect in the product; or
- (e) The product was marketed under a trade name or brand name of the product seller.

(3) Subsection (2) of this section does not apply to a pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer pursuant to a prescription issued by a licensed practitioner if the pharmacist complies with recordkeeping requirements pursuant to chapters 18.64, 69.41, and 69.50 RCW, and related administrative rules.

[1991 c 189 § 2; 1981 c 27 § 5.]

RCW 7.72.050 Relevance of industry custom, technological feasibility, and nongovernmental, legislative or administrative regulatory standards.

(1) Evidence of custom in the product seller's industry, technological feasibility or that the product was or was not, in compliance with nongovernmental standards or with legislative regulatory standards or administrative regulatory standards, whether relating to design, construction or performance of the product or to warnings or instructions as to its use may be considered by the trier of fact.

(2) When the injury-causing aspect of the product was, at the time of manufacture, in

compliance with a specific mandatory government contract specification relating to design or warnings, this compliance shall be an absolute defense. When the injury-causing aspect of the product was not, at the time of manufacture, in compliance with a specific mandatory government specification relating to design or warnings, the product shall be deemed not reasonably safe under RCW 7.72.030(1).

[1981 c 27 § 6.]

RCW 7.72.060 Length of time product sellers are subject to liability.

(1) Useful safe life. (a) Except as provided in subsection (1)(b) hereof, a product seller shall not be subject to liability to a claimant for harm under this chapter if the product seller proves by a preponderance of the evidence that the harm was caused after the product's "useful safe life" had expired.

"Useful safe life" begins at the time of delivery of the product and extends for the time during which the product would normally be likely to perform or be stored in a safe manner. For the purposes of this chapter, "time of delivery" means the time of delivery of a product to its first purchaser or lessee who was not engaged in the business of either selling such products or using them as component parts of another product to be sold. In the case of a product which has been remanufactured by a manufacturer, "time of delivery" means the time of delivery of the remanufactured product to its first purchaser or lessee who was not engaged in the business of either selling such products or using them as component parts of another product to be sold.

(b) A product seller may be subject to liability for harm caused by a product used beyond its useful safe life, if:

(i) The product seller has warranted that the product may be utilized safely for such longer period; or

(ii) The product seller intentionally misrepresents facts about its product, or intentionally conceals information about it, and that conduct was a proximate cause of the claimant's harm; or

(iii) The harm was caused by exposure to a defective product, which exposure first occurred within the useful safe life of the product, even though the harm did not manifest itself until after the useful safe life had expired.

(2) Presumption regarding useful safe life. If the harm was caused more than twelve years after the time of delivery, a presumption arises that the harm was caused after the useful safe life had expired. This presumption may only be rebutted by a preponderance of the evidence.

(3) Statute of limitation. Subject to the applicable provisions of chapter 4.16 RCW pertaining to the tolling and extension of any statute of limitation, no claim under this chapter may be brought more than three years from the time the claimant discovered or in the exercise of due diligence should have discovered the harm and its cause.

[1981 c 27 § 7.]

Chapter 7.75 RCW
DISPUTE RESOLUTION CENTERS

Sections

7.75.010	Legislative findings and intent.
7.75.020	Dispute resolution center--Creation--Plan--Approval by county or municipality.
7.75.030	Services to be provided without charge or for fee based on ability to pay.
7.75.035	Surcharge by county legislative authority.
7.75.040	Dispute resolution agreement required--When admissible as evidence.
7.75.050	Confidentiality of centers' files, etc.--Exception--Privileged communications.
7.75.060	Withdrawal from dispute resolution process.
7.75.070	Center may seek and expend funds.
7.75.080	Statutes of limitations tolled until dispute resolution process concluded.
7.75.090	Application of chapter.
7.75.100	Immunity from civil action.

Notes:

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

RCW 7.75.010 Legislative findings and intent.

(1) The legislature finds and declares that:

(a) The resolution of many disputes can be costly and complex in a judicial setting where the parties involved are necessarily in an adversary posture and subject to formalized procedures; and

(b) Alternative dispute resolution centers can meet the needs of Washington's citizens by providing forums in which persons may voluntarily participate in the resolution of disputes in an informal and less adversarial atmosphere.

(2) It is the intent of the legislature that programs established pursuant to this chapter:

(a) Stimulate the establishment and use of dispute resolution centers to help meet the need for alternatives to the courts for the resolution of certain disputes.

(b) Encourage continuing community participation in the development, administration, and oversight of local programs designed to facilitate the informal resolution of disputes between and among members of the community.

(c) Offer structures for dispute resolution which may serve as models for resolution centers in other communities.

(d) Serve a specific community or locale and resolve disputes that arise within that community or locale.

(e) Educate the community on ways of using the services of the neighborhood dispute resolution center directly and in a preventive capacity.

[1984 c 258 § 501.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.020 Dispute resolution center--Creation--Plan--Approval by county or municipality.

(1) A dispute resolution center may be created and operated by a municipality, county, or by a corporation organized exclusively for the resolution of disputes or for charitable or educational purposes. The corporation shall not be organized for profit, and no part of the net earnings may inure to the benefit of any private shareholders or individuals. The majority of the directors of such a corporation shall not consist of members of any single profession.

(2) A dispute resolution center may not begin operation under this chapter until a plan for establishing a center for the mediation and settlement of disputes has been approved by the legislative authority of the municipality or county creating the center or, in the case of a center operated by a nonprofit corporation, by the legislative authority of the municipality or county within which the center will be located. A plan for a dispute resolution center shall not be approved and the center shall not begin operation until the legislative authority finds that the plan adequately prescribes:

(a) Procedures for filing requests for dispute resolution services with the center and for scheduling mediation sessions participated in by the parties to the dispute;

(b) Procedures to ensure that each dispute mediated by the center meets the criteria for appropriateness for mediation set by the legislative authority and for rejecting disputes which do not meet the criteria;

(c) Procedures for giving notice of the time, place, and nature of the mediation session to the parties, and for conducting mediation sessions that comply with the provisions of this chapter;

(d) Procedures which ensure that participation by all parties is voluntary;

(e) Procedures for obtaining referrals from public and private bodies;

(f) Procedures for meeting the particular needs of the participants, including, but not limited to, providing services at times convenient to the participants, in sign language, and in languages other than English;

(g) Procedures for providing trained and certified mediators who, during the dispute resolution process, shall make no decisions or determinations of the issues involved, but who shall facilitate negotiations by the participants themselves to achieve a voluntary resolution of the issues; and

(h) Procedures for informing and educating the community about the dispute resolution center and encouraging the use of the center's services in appropriate cases.

[1997 c 41 § 4; 1984 c 258 § 502.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.030 Services to be provided without charge or for fee based on ability to pay.

A dispute resolution center established under this chapter shall provide dispute resolution services either without charge to the participants or for a fee which is based on the participant's ability to pay.

[1984 c 258 § 503.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.035 Surcharge by county legislative authority.

(1) A county legislative authority may impose a surcharge of up to ten dollars on each civil filing fee in district court and a surcharge of up to fifteen dollars on each filing fee for small claims actions for the purpose of funding dispute resolution centers established under this chapter.

(2) Any surcharge imposed shall be collected by the clerk of the court and remitted to the county treasurer for deposit in a separate account to be used solely for dispute resolution centers established under this chapter. Money received under this section is not subject to RCW 3.62.020(2) or 3.62.090. The accounts created pursuant to this subsection shall be audited by the state auditor in accordance with RCW 43.09.260.

[1990 c 172 § 1.]

Notes:

Effective date--1990 c 172: "This act shall take effect July 1, 1990." [1990 c 172 § 4.]

RCW 7.75.040 Dispute resolution agreement required--When admissible as evidence.

(1) In conducting a dispute resolution process, a center established under this chapter shall require:

(a) That the disputing parties enter into a written agreement which expresses the method by which they shall attempt to resolve the issues in dispute; and

(b) That at the conclusion of the dispute resolution process, the parties enter into a written agreement which sets forth the settlement of the issues and the future responsibilities, if any, of each party.

(2) A written agreement entered into with the assistance of a center at the conclusion of the written dispute resolution process is admissible as evidence in any judicial or administrative proceeding.

[1984 c 258 § 504.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.050 Confidentiality of centers' files, etc.--Exception--Privileged communications.

All memoranda, work notes or products, or case files of centers established under this chapter are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless the court or administrative tribunal determines that the materials were submitted by a participant to the center for the purpose of avoiding discovery of the material in a subsequent proceeding. Any communication relating to the subject matter of the resolution made during the resolution process by any participant, mediator, or any other person is a privileged communication and is not subject to disclosure in any judicial or administrative proceeding unless all parties to the communication waive the privilege. The foregoing privilege and limitation on evidentiary use does not apply to any communication of a threat that injury or damage may be inflicted on any person or on the property of a party to the dispute, to the extent the communication may be relevant evidence in a criminal matter.

[1984 c 258 § 505.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.060 Withdrawal from dispute resolution process.

Any person who voluntarily enters a dispute resolution process at a center established under this chapter may revoke his or her consent, withdraw from dispute resolution, and seek judicial or administrative redress prior to reaching a written resolution agreement. The withdrawal shall be in writing. No legal penalty, sanction, or restraint may be imposed upon the person.

[1984 c 258 § 506.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.070 Center may seek and expend funds.

A dispute resolution center established under this chapter may seek and accept contributions from counties and municipalities, agencies of the state and federal governments, private sources, and any other available funds, and may expend the funds to carry out the purposes of this chapter.

[1984 c 258 § 507.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.080 Statutes of limitations tolled until dispute resolution process

concluded.

Any applicable statute of limitations shall be tolled as to participants in dispute resolution at a center established under this chapter during the period which begins with the date of the participants' execution of the written agreement required by RCW 7.75.040(1)(a) and ends on the date that a written agreement at the conclusion of the dispute resolution process is executed under RCW 7.75.040(1)(b) or a participant's written notice of withdrawal from the dispute resolution process is executed under RCW 7.75.060.

[1984 c 258 § 508.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.090 Application of chapter.

Nothing in this chapter precludes any person or persons not operating under RCW 7.75.020 from providing dispute resolution services. However, the provisions of RCW 7.75.050, relating to confidentiality, and RCW 7.75.080, relating to statutes of limitation, apply only to proceedings conducted by a dispute resolution center established under this chapter.

[1984 c 258 § 509.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 7.75.100 Immunity from civil action.

(1) Members of the board of directors of a dispute resolution center are immune from suit in any civil action based upon any proceedings or other official acts performed in good faith as members of the board.

(2) Employees and volunteers of a dispute resolution center are immune from suit in any civil action based on any proceedings or other official acts performed in their capacity as employees or volunteers, except in cases of wilful or wanton misconduct.

(3) A dispute resolution center is immune from suit in any civil action based on any of its proceedings or other official acts performed by its employees, volunteers, or members or its board of directors, except (a) in cases of wilful or wanton misconduct by its employees or volunteers, and (b) in cases of official acts performed in bad faith by members of its board.

[1986 c 95 § 2.]

**Chapter 7.80 RCW
CIVIL INFRACTIONS**

Sections

7.80.005 Legislative finding--1987 c 456.

7.80.010	Jurisdiction of courts.
7.80.020	Issuance of process.
7.80.030	Training of judicial officers.
7.80.040	"Enforcement officer" defined.
7.80.050	Notice of infraction--Issuance, service, filing.
7.80.060	Person receiving notice--Identification and detention.
7.80.070	Notice--Determination final unless contested--Form.
7.80.080	Response to notice--Contesting determination--Mitigating circumstances--Hearing--Failure to respond or appear.
7.80.090	Hearings--Rules of procedure--Counsel.
7.80.100	Hearings--Contesting determination that infraction committed--Appeal.
7.80.110	Hearings--Explanation of mitigating circumstances.
7.80.120	Monetary penalties--Restitution.
7.80.130	Order of court--Civil nature--Modification of penalty--Community service.
7.80.140	Costs and attorney fees.
7.80.150	Notices--Record of--Cancellation prohibited, penalty--Audit.
7.80.160	Notice, failure to sign, nonappearance--Failure to satisfy penalty.
7.80.900	Decriminalization of certain municipal ordinances.
7.80.901	Effective date--1987 c 456 §§ 9-31.

RCW 7.80.005 Legislative finding--1987 c 456.

The legislature finds that many minor offenses that are established as misdemeanors are obsolete or can be more appropriately punished by the imposition of civil fines. The legislature finds that some misdemeanors should be decriminalized to allow resources of the legal system, such as judges, prosecutors, juries, and jails, to be used to punish serious criminal behavior, since acts characterized as criminal behavior have a tremendous fiscal impact on the legal system.

The establishment of a system of civil infractions is a more expeditious and less expensive method of disposing of minor offenses and will decrease the cost and workload of the courts of limited jurisdiction.

[1987 c 456 § 6.]

RCW 7.80.010 Jurisdiction of courts.

(1) All violations of state law, local law, ordinance, regulation, or resolution designated as civil infractions may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal court has the authority to hear and determine pursuant to this chapter civil infractions that are established by municipal ordinance and that are committed within the jurisdiction of the municipality.

(3) Any city or town with a municipal court under chapter 3.50 RCW may contract with the county to have civil infractions that are established by city or town ordinance and that are committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine civil infractions pursuant to this chapter.

(5) Nothing in this chapter prevents any city, town, or county from hearing and determining civil infractions pursuant to its own system established by ordinance.

[1987 c 456 § 9.]

RCW 7.80.020 Issuance of process.

Notwithstanding any other provision of law governing service of process in civil cases, a court of limited jurisdiction having jurisdiction over an alleged civil infraction may issue process anywhere within the state.

[1987 c 456 § 10.]

RCW 7.80.030 Training of judicial officers.

All judges and court commissioners adjudicating civil infractions shall complete such training requirements as are promulgated by the supreme court.

[1987 c 456 § 11.]

RCW 7.80.040 "Enforcement officer" defined.

As used in this chapter, "enforcement officer" means a person authorized to enforce the provisions of the title or ordinance in which the civil infraction is established.

[1987 c 456 § 12.]

RCW 7.80.050 Notice of infraction--Issuance, service, filing.

(1) A civil infraction proceeding is initiated by the issuance, service, and filing of a notice of civil infraction.

(2) A notice of civil infraction may be issued by an enforcement officer when the civil infraction occurs in the officer's presence.

(3) A court may issue a notice of civil infraction if an enforcement officer files with the court a written statement that the civil infraction was committed in the officer's presence or that the officer has reasonable cause to believe that a civil infraction was committed.

(4) Service of a notice of civil infraction issued under subsection (2) or (3) of this section shall be as provided by court rule. Until such a rule is adopted, service shall be as provided in *JTIR 2.2(c)(1) and (3), as applicable.

(5) A notice of infraction shall be filed with a court having jurisdiction within forty-eight hours of issuance, excluding Saturdays, Sundays, and holidays. A notice of infraction not filed within the time limits prescribed in this section may be dismissed without prejudice.

[1987 c 456 § 13.]

Notes:

***Reviser's note:** The Justice Court Traffic Infraction Rules (JTIR) were replaced by the Infraction Rules for Courts of Limited Jurisdiction (IRLJ), effective September 1, 1992.

RCW 7.80.060 Person receiving notice--Identification and detention.

A person who is to receive a notice of civil infraction under RCW 7.80.050 is required to identify himself or herself to the enforcement officer by giving his or her name, address, and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a driver's license or identicard.

A person who is unable or unwilling to reasonably identify himself or herself to an enforcement officer may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a civil infraction.

Each agency authorized to issue civil infractions shall adopt rules on identification and detention of persons committing civil infractions.

[1987 c 456 § 14.]

RCW 7.80.070 Notice--Determination final unless contested--Form.

(1) A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this chapter.

(2) The form for the notice of civil infraction shall be prescribed by rule of the supreme court and shall include the following:

(a) A statement that the notice represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific civil infraction for which the notice was issued;

(d) A statement of the monetary penalty established for the civil infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that at any hearing to contest the determination the state has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the person may subpoena witnesses including the enforcement officer who issued the notice of civil infraction;

(g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the person will be deemed to have committed the civil infraction and may not subpoena witnesses;

(h) A statement that the person must respond to the notice as provided in this chapter within fifteen days;

(i) A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the person in the amount of the penalty and that this failure may be referred to the prosecuting attorney for criminal prosecution for failure to respond or appear;

(j) A statement, which the person shall sign, that the person promises to respond to the notice of civil infraction in one of the ways provided in this chapter;

(k) A statement that failure to respond to a notice of civil infraction as promised or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail.

[1987 c 456 § 15.]

RCW 7.80.080 Response to notice--Contesting determination--Mitigating circumstances--Hearing--Failure to respond or appear.

(1) Any person who receives a notice of civil infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the civil infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of civil infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the civil infraction must be submitted with the response. The clerk of a court may accept cash in payment for an infraction. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records.

(3) If the person determined to have committed the civil infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven days nor more than ninety days from the date of the notice of hearing, except by agreement.

(4) If the person determined to have committed the civil infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven days nor more than ninety days from the date of the notice of hearing, except by agreement.

(5) The court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction and may notify the prosecuting attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of civil infraction:

(a) Fails to respond to the notice of civil infraction as provided in subsection (2) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section.

[1987 c 456 § 16.]

RCW 7.80.090 Hearings--Rules of procedure--Counsel.

(1) Procedures for the conduct of all hearings provided in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

(3) The attorney representing the state, county, city, or town may appear in any proceedings under this chapter but need not appear, notwithstanding any statute or rule of court to the contrary.

[1987 c 456 § 17.]

RCW 7.80.100 Hearings--Contesting determination that infraction committed--Appeal.

(1) A hearing held for the purpose of contesting the determination that a civil infraction has been committed shall be without a jury and shall be recorded in the manner provided for in courts of limited jurisdiction.

(2) The court may consider the notice of civil infraction and any other written report made under oath submitted by the enforcement officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may request the court for issuance of subpoena of witnesses, including the enforcement officer who issued the notice, and has the right to present evidence and examine witnesses present in court.

(3) The burden of proof is upon the state to establish the commission of the civil infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument, the court shall determine whether the civil infraction was committed. Where it has not been established that the civil infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the civil infraction was committed, an appropriate order shall be entered in the court's records.

(5) An appeal from the court's determination or order shall be to the superior court in the manner provided by the Rules for Appeal of Decisions of Courts of Limited Jurisdiction. The decision of the superior court is subject only to discretionary review pursuant to the Rules of Appellate Procedure.

[1987 c 456 § 18.]

RCW 7.80.110 Hearings--Explanation of mitigating circumstances.

(1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of a civil infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that a civil infraction has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the civil infraction, an appropriate order shall be entered in the court's records.

(3) There is no appeal from the court's determination or order.

[1987 c 456 § 19.]

RCW 7.80.120 Monetary penalties--Restitution.

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments, except for an infraction of state law involving tobacco products as specified in RCW 70.93.060(4), in which case the maximum penalty and default amount is five hundred dollars;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

[1997 c 159 § 2; 1987 c 456 § 20.]

RCW 7.80.130 Order of court--Civil nature--Modification of penalty--Community service.

(1) An order entered after the receipt of a response which does not contest the

determination, or after it has been established at a hearing that the civil infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

[1987 c 456 § 21.]

RCW 7.80.140 Costs and attorney fees.

Each party to a civil infraction case is responsible for costs incurred by that party, but the court may assess witness fees against a nonprevailing respondent. Attorney fees may be awarded to either party in a civil infraction case.

[1987 c 456 § 22.]

RCW 7.80.150 Notices--Record of--Cancellation prohibited, penalty--Audit.

Every law enforcement agency in this state or other agency authorized to issue notices of civil infractions shall provide in appropriate form notices of civil infractions which shall be issued in books with notices in quadruplicate and meeting the requirements of this section.

The chief administrative officer of every such agency shall be responsible for the issuance of such books and shall maintain a record of every such book and each notice contained therein issued to individual members or employees of the agency and shall require and retain a receipt for every book so issued.

Every law enforcement officer or other person upon issuing a notice of civil infraction to an alleged perpetrator of a civil infraction under the laws of this state or of any ordinance of any city or town shall deposit the original or a copy of such notice of civil infraction with a court having competent jurisdiction over the civil infraction, as provided in RCW 7.80.050.

Upon the deposit of the original or a copy of such notice of civil infraction with a court having competent jurisdiction over the civil infraction, the original or copy may be disposed of only as provided in this chapter.

It is official misconduct for any law enforcement officer or other officer or public employee to dispose of a notice of civil infraction or copies thereof or of the record of the issuance of the same in a manner other than as required in this section.

The chief administrative officer of every law enforcement agency or other agency authorized to issue notices of civil infractions shall require the return to him or her of a copy of every notice issued by a person under his or her supervision to an alleged perpetrator of a civil infraction under any law or ordinance and of all copies of every notice which has been spoiled or upon which any entry has been made and not issued to an alleged perpetrator.

Such chief administrative officer shall also maintain or cause to be maintained in

connection with every notice issued by a person under his or her supervision a record of the disposition of the charge by the court in which the original or copy of the notice was deposited.

Any person who cancels or solicits the cancellation of any notice of civil infraction, in any manner other than as provided in this section, is guilty of a misdemeanor.

Every record of notices required in this section shall be audited monthly by the appropriate fiscal officer of the government agency to which the law enforcement agency or other agency authorized to issue notices of civil infractions is responsible.

[1987 c 456 § 23.]

RCW 7.80.160 Notice, failure to sign, nonappearance--Failure to satisfy penalty.

(1) A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

(2) Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by an appearance by counsel.

(3) A person who willfully fails to pay a monetary penalty or to perform community service as required by a court under this chapter may be found in contempt of court as provided in chapter 7.21 RCW.

[1989 c 373 § 12; 1987 c 456 § 24.]

Notes:

Severability--1989 c 373: See RCW 7.21.900.

RCW 7.80.900 Decriminalization of certain municipal ordinances.

Any municipal criminal ordinance in existence on the January 1, 1989, which is the same as or substantially similar to a statute which is decriminalized by sections 25 through 30 and 32, chapter 456, Laws of 1987 is deemed to be civil in nature and shall be punished as provided in this chapter.

[1987 c 456 § 31.]

RCW 7.80.901 Effective date--1987 c 456 §§ 9-31.

Sections 9 through 31 of this act shall take effect January 1, 1989.

[1987 c 456 § 34.]

Chapter 7.84 RCW

NATURAL RESOURCE INFRACTIONS

Sections

7.84.010	Legislative declaration.
7.84.020	"Infraction" defined.
7.84.030	Notice of infraction--Issuance, service, filing--Penalty.
7.84.040	Jurisdiction of court--Venue.
7.84.050	Notice--Determination final unless contested--Form.
7.84.060	Response to notice--Contesting determination--Mitigating circumstances--Hearing--Failure to respond or appear--Penalty.
7.84.070	Hearing--Rules of procedure--Counsel.
7.84.080	Hearing--Contesting determination that infraction committed--Appeal.
7.84.090	Hearing--Explanation of mitigating circumstances.
7.84.100	Monetary penalties.
7.84.110	Order of court--Civil nature--Modification of penalty--Community service.
7.84.120	Issuance of process.
7.84.130	Failure to pay or complete community service--Penalty.
7.84.900	Effective date--1987 c 380.
7.84.901	Severability--1987 c 380.

Notes:

Tree spiking, action for damages: RCW 9.91.155.

RCW 7.84.010 Legislative declaration.

The legislature declares that decriminalizing certain offenses contained in Titles 75, 76, 77, 79, and 79A RCW and chapter 43.30 RCW and any rules adopted pursuant to those titles and chapters would promote the more efficient administration of those titles and chapters. The purpose of this chapter is to provide a just, uniform, and efficient procedure for adjudicating those violations which, in any of these titles and chapters or rules adopted under these chapters or titles, are declared not to be criminal offenses. The legislature respectfully requests the supreme court to prescribe any rules of procedure necessary to implement this chapter.

[1999 c 249 § 502; 1993 c 244 § 2; 1987 c 380 § 1.]

Notes:

Severability--1999 c 249: See note following RCW 79A.05.010.

Intent--1993 c 244: See note following RCW 79A.60.010.

RCW 7.84.020 "Infraction" defined.

Unless the context clearly requires otherwise, the definition in this section applies throughout this chapter.

"Infraction" means an offense which, by the terms of Title *75, 76, 77, 79, or 79A RCW or chapter 43.30 RCW and rules adopted under these titles and chapters, is declared not to be a criminal offense and is subject to the provisions of this chapter.

[1999 c 249 § 503; 1993 c 244 § 3; 1987 c 380 § 2.]

Notes:

***Reviser's note:** Title 75 RCW was recodified, repealed, and/or decodified in its entirety by 2000 c 107. See Comparative Table for Title 75 RCW in the Table of Disposition of Former RCW Sections, Volume 0.

Severability--1999 c 249: See note following RCW 79A.05.010.

Intent--1993 c 244: See note following RCW 79A.60.010.

RCW 7.84.030 Notice of infraction--Issuance, service, filing--Penalty.

(1) An infraction proceeding is initiated by the issuance, service, and filing of a notice of infraction.

(2) A notice of infraction may be issued by a person authorized to enforce the provisions of the title or chapter in which the infraction is established when the infraction occurs in that person's presence.

(3) A court may issue a notice of infraction if a person authorized to enforce the provisions of the title or chapter in which the infraction is established files with the court a written statement that the infraction was committed in that person's presence or that the officer has reason to believe an infraction was committed.

(4) Service of a notice of infraction issued under subsection (2) or (3) of this section shall be as provided by court rule.

(5) A notice of infraction shall be filed with a court having jurisdiction within five days of issuance, excluding Saturdays, Sundays, and holidays.

(6) Failure to sign an infraction notice shall constitute a misdemeanor under chapter 9A.20 RCW.

[1987 c 380 § 3.]

RCW 7.84.040 Jurisdiction of court--Venue.

(1) Infraction proceedings may be heard and determined by a district court.

(2) Infraction proceedings shall be brought in the district court district in which the infraction occurred. If an infraction takes place in the offshore waters, as defined in *RCW 75.08.011, the infraction proceeding may be brought in any county bordering on the Pacific Ocean.

[1987 c 380 § 4.]

Notes:

***Reviser's note:** RCW 75.08.011 was repealed by 2000 c 107 § 125.

RCW 7.84.050 Notice--Determination final unless contested--Form.

(1) A notice of infraction represents a determination that an infraction has been committed. The determination shall be final unless contested as provided in this chapter.

(2) The form for the notice of infraction shall be prescribed by rule of the supreme court

and shall include the following:

- (a) A statement that the notice represents a determination that an infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this chapter;
- (b) A statement that an infraction is a noncriminal offense for which imprisonment will not be imposed as a sanction;
- (c) A statement of the specific infraction for which the notice was issued;
- (d) A statement of the monetary penalty established for the infraction;
- (e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;
- (f) A statement that at any hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed; and that the person may subpoena witnesses including the officer who issued the notice of infraction;
- (g) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction the person shall be deemed to have committed the infraction and shall not subpoena witnesses;
- (h) A statement that failure to respond to a notice of infraction within fifteen days is a misdemeanor and may be punished by fine or imprisonment;
- (i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances is a misdemeanor and may be punished by fine or imprisonment; and
- (j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter.

[1987 c 380 § 5.]

RCW 7.84.060 Response to notice--Contesting determination--Mitigating circumstances--Hearing--Failure to respond or appear--Penalty.

(1) Any person who receives a notice of infraction shall respond to such notice as provided in this section within fifteen days of the date of the notice.

(2) If the person determined to have committed the infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of infraction and submitting it, either by mail or in person, to the court specified on the notice. A check or money order in the amount of the penalty prescribed for the infraction shall be submitted with the response. When a response which does not contest the determination is received, an appropriate order shall be entered in the court's records.

(3) If the person determined to have committed the infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of infraction requesting a hearing and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be sooner than seven days from the date of the notice, except by agreement.

(4) If the person determined to have committed the infraction does not contest the determination but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of infraction requesting a hearing for that purpose and submitting it, either by mail or in person, to the court specified on the notice. The court shall notify the person in writing of the time, place, and date of the hearing.

(5) If any person issued a notice of infraction: (a) Fails to respond to the notice of infraction as provided in subsection (2) of this section, or (b) fails to appear at a hearing requested pursuant to subsection (3) or (4) of this section, the court shall enter an appropriate order assessing the monetary penalty prescribed for the infraction and any other penalty authorized by this chapter. In addition, failure to respond to a notice of infraction, as required by this chapter, and failure to appear at a hearing requested pursuant to subsection (3) or (4) of this section are each punishable as a misdemeanor under chapter 9A.20 RCW.

[1987 c 380 § 6.]

RCW 7.84.070 Hearing--Rules of procedure--Counsel.

(1) Procedures for the conduct of all hearings provided for in this chapter may be established by rule of the supreme court.

(2) Any person subject to proceedings under this chapter may be represented by counsel.

[1987 c 380 § 7.]

RCW 7.84.080 Hearing--Contesting determination that infraction committed--Appeal.

(1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(2) The court may consider the notice of infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court. The rules of evidence shall apply to contested hearings.

(3) The burden of proof is upon the state to establish the commission of the infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument, the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed, an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed, the court may assess a monetary penalty not exceeding that provided for the infraction in the applicable court rule or statute and shall enter an appropriate order.

(5) An appeal from the court's determination or order shall be to the superior court. A

defendant may appeal a judgment entered after a contested hearing finding that the defendant has committed the infraction. The plaintiff may appeal a decision which in effect abates, discontinues, or determines the case other than by a judgment that the defendant has not committed an infraction. No other orders or judgments are appealable by either party. The decision of the superior court is subject only to discretionary review pursuant to the rules of appellate procedure.

[1987 c 380 § 8.]

RCW 7.84.090 Hearing--Explanation of mitigating circumstances.

(1) A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has been committed shall not be contested at a hearing held for the purpose of explaining mitigating circumstances.

(2) After the court has heard the explanation of the circumstances surrounding the commission of the infraction, it may assess a monetary penalty not exceeding that provided for the infraction in rules adopted pursuant to this chapter and shall enter an appropriate order.

(3) There may be no appeal from the court's determination or order.

[1987 c 380 § 9.]

RCW 7.84.100 Monetary penalties.

(1) A person found to have committed an infraction shall be assessed a monetary penalty. No penalty may exceed five hundred dollars for each offense unless specifically authorized by statute.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated infractions. The legislature requests the supreme court to adjust this schedule every two years for inflation. The maximum penalty imposed by the schedule shall be five hundred dollars per infraction and the minimum penalty imposed by the schedule shall be ten dollars per infraction. This schedule may be periodically reviewed by the legislature and is subject to its revision.

(3) Whenever a monetary penalty is imposed by a court under this chapter, it is immediately payable. If the person is unable to pay at that time, the court may, in its discretion, grant an extension of the period in which the penalty may be paid.

[1987 c 380 § 10.]

RCW 7.84.110 Order of court--Civil nature--Modification of penalty--Community service.

(1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or

after a hearing for the purpose of explaining mitigating circumstances, is civil in nature.

(2) The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

[1987 c 380 § 11.]

RCW 7.84.120 Issuance of process.

A court of limited jurisdiction having jurisdiction over an alleged infraction may issue process anywhere within the state.

[1987 c 380 § 12.]

RCW 7.84.130 Failure to pay or complete community service--Penalty.

(1) Failure to pay a monetary penalty assessed by a court under the provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

(2) Failure to complete community service ordered by a court under the provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

[1987 c 380 § 13.]

RCW 7.84.900 Effective date--1987 c 380.

This act shall take effect January 1, 1988.

[1987 c 380 § 21.]

RCW 7.84.901 Severability--1987 c 380.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1987 c 380 § 22.]

**Chapter 7.88 RCW
CONFIDENTIALITY OF FINANCIAL INSTITUTION COMPLIANCE REVIEW
INFORMATION**

Sections

7.88.005

Findings.

7.88.010

Definitions.

7.88.020	Compliance review document confidentiality--Civil actions--Immunity of compliance review personnel from compulsory testimony.
7.88.030	Compliance review document confidentiality--Exceptions.
7.88.040	Court review of application of privilege--Disclosure order.
7.88.050	Other privileges not limited, waived, or abrogated.

RCW 7.88.005 Findings.

The legislature finds and declares that efforts by financial institutions to comply voluntarily with state and federal statutory and regulatory requirements are vital to the public interest; that possible discovery and use in civil litigation of work produced in connection with such voluntary compliance efforts has an undesirable chilling effect on the use, scope, and effectiveness of voluntary compliance efforts by financial institutions; and that the public interest in encouraging aggressive voluntary compliance review outweighs the value of this work product in civil litigation.

[1997 c 435 § 1.]

RCW 7.88.010 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" means any person that controls, is controlled by, or is under common control with a financial institution.

(2) "Civil action" means a civil proceeding pending in a court or other adjudicatory tribunal with jurisdiction to issue a request or subpoena for records, including a voluntary or mandated alternative dispute resolution mechanism under which a party may compel the production of records. "Civil action" does not include an examination or enforcement proceeding initiated by a governmental agency with primary regulatory jurisdiction over a financial institution in possession of a compliance review document.

(3) "Compliance review personnel" means a person or persons assigned and directed by the board of directors or management of a financial institution or affiliate to conduct a compliance review, and any person engaged or assigned by compliance review personnel or by the board of directors or management to assist in a compliance review.

(4) "Compliance review" means a self-critical analysis conducted by compliance review personnel to test, review, or evaluate past conduct, transactions, policies, or procedures for the purpose of confidentially (a) ascertaining, monitoring, or remediating violations of applicable state and federal statutes, rules, regulations, or mandatory policies, statements, or guidelines, (b) assessing and improving loan quality, loan underwriting standards, or lending practices, or (c) assessing and improving financial reporting to federal or state regulatory agencies.

(5) "Compliance review document" means any record prepared or created by compliance review personnel in connection with a compliance review. "Compliance review document"

includes any documents created or data generated in the course of conducting a compliance review, but does not include other underlying documents, data, or factual materials that are the subject of, or source materials for, the compliance review, including any documents in existence prior to the commencement of the compliance review that are not themselves compliance review documents related to a past compliance review.

(6) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized by federal or state law to accept deposits in this state.

(7) "Person" means an individual, group, committee, partnership, firm, association, corporation, limited liability company, or other entity, including a financial institution or affiliate and its agents, employees, legal counsel, auditors, and consultants.

[1997 c 435 § 2.]

RCW 7.88.020 Compliance review document confidentiality--Civil actions--Immunity of compliance review personnel from compulsory testimony.

Except as provided in RCW 7.88.030:

(1) Compliance review documents are confidential and are not discoverable or admissible as evidence in any civil action.

(2) Compliance review personnel shall not be required to testify at deposition or trial in any civil action concerning the contents of or matters addressed in any compliance review or any compliance review documents, nor as to the actions or activities undertaken by or at the direction of the financial institution or affiliate in connection with a compliance review.

[1997 c 435 § 3.]

RCW 7.88.030 Compliance review document confidentiality--Exceptions.

RCW 7.88.020 does not:

(1) Limit the discovery or admissibility in any civil action of any documents that are not compliance review documents;

(2) Limit the discovery or admissibility of the testimony as to the identity of relevant witnesses or the identification of any relevant documents other than compliance review documents;

(3) Apply if the financial institution or affiliate expressly waives the privilege in writing;

(4) Apply if a compliance review document or matters learned in connection with a compliance review are voluntarily disclosed, but only to the extent of that disclosure, to a nonaffiliated third party other than a federal or state regulatory agency or legal counsel for or independent auditors of the financial institution or affiliate; or

(5) Apply to any information required by statute, rule, or federal regulation to be maintained by or provided to a governmental agency while the information is in the possession of the agency, to the extent applicable law authorizes its disclosure.

[1997 c 435 § 4.]

RCW 7.88.040 Court review of application of privilege--Disclosure order.

In a proceeding in which the privilege provided by this chapter is asserted, a court of competent jurisdiction may determine after in camera review that the privilege does not apply to any or all of the documents for which the privilege is claimed, and if so, the court may order the materials disclosed but shall protect from disclosure any other material in or related to compliance review documents or to activities of compliance review personnel to which the privilege does apply.

[1997 c 435 § 5.]

RCW 7.88.050 Other privileges not limited, waived, or abrogated.

This chapter does not limit, waive, or abrogate the scope or nature of any other statutory or common law privilege of this state or the United States, including the attorney-client privilege.

[1997 c 435 § 6.]

**Title 8 RCW
EMINENT DOMAIN**

Chapters

- 8.04 Eminent domain by state.**
- 8.08 Eminent domain by counties.**
- 8.12 Eminent domain by cities.**
- 8.16 Eminent domain by school districts.**
- 8.20 Eminent domain by corporations.**
- 8.24 Private ways of necessity.**
- 8.25 Additional provisions applicable to eminent domain proceedings.**
- 8.26 Relocation assistance--Real property acquisition policy.**
- 8.28 Miscellaneous provisions.**

Notes:

Access to state timber and other valuable material: Chapter 76.16 RCW.

Assessments against public lands: RCW 79.44.140.

Cemetery districts: RCW 68.52.200.

Diking and drainage districts

appropriation of lands: RCW 85.05.070, 85.05.230, 85.05.240, 85.06.070.

in two or more counties: RCW 85.24.260 through 85.24.265.

special districts: RCW 85.38.180.

Diking, drainage, and sewerage improvement districts: RCW 85.08.190.

Drainage districts: Chapter 85.06 RCW.

East capitol site: RCW 79.24.520.

Eminent domain

*affecting corporations other than municipal: State Constitution Art. 12 § 10.
state Constitution Art. 1 § 16 (Amendment 9).*

telegraph and telephone companies: State Constitution Art. 12 § 19.

Existing and additional toll bridges: RCW 47.58.080.

Fire protection districts: Chapters 52.04, 52.12 RCW.

Flood control districts: RCW 86.09.202 through 86.09.223.

Gas companies: RCW 80.28.220, 80.28.230.

Generation of electricity by steam: RCW 43.21A.616.

Highways, acquisition in advance of programmed construction: RCW 47.12.190.

Housing authority: RCW 35.82.070, 35.82.110.

Limited access facilities, acquisition of property for: RCW 47.52.050.

Metropolitan municipal corporations: RCW 35.58.320.

Municipal airports: RCW 14.07.020.

Park and playground systems--Counties, service area: Chapter 36.68 RCW.

Parking commission: RCW 35.86A.080.

Port districts: RCW 53.08.010, 53.08.020, 53.25.100, 53.25.190.

Public hospital districts: RCW 70.44.060.

Public stadium, convention, performing arts, and visual arts facilities: RCW 67.28.140.

Public utility districts: Chapters 54.16, 54.20 RCW.

Public waterways: RCW 91.08.100 through 91.08.260.

Reclamation districts: RCW 89.30.130, 89.30.184 through 89.30.208.

Recreational facilities: RCW 67.20.010.

Regional transport authorities: RCW 81.112.080.

Road improvement districts: RCW 36.88.310.

State board for community and technical colleges: RCW 28B.50.090.

Tax lien, amount withheld from condemnation award: RCW 84.60.050.

Toll bridges: RCW 47.56.090.

Toll roads: RCW 47.56.090, 47.56.400.

Underground storage of natural gas: RCW 80.40.030.

Urban renewal law: RCW 35.81.080.

Utility district, county-wide--Distribution properties: RCW 54.32.040.

Valuation: Chapters 84.33, 84.34, 84.36, 84.38 RCW.

Warehouses and elevators: Chapter 22.16 RCW.

Water-sewer districts: Chapter 57.16 RCW.

Chapter 8.04 RCW

EMINENT DOMAIN BY STATE

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8.04.020	Notice--Contents--Service--Publication.
8.04.060	Adjournment of proceedings--Further notice.
8.04.070	Hearing--Order adjudicating public use.
8.04.080	Order to direct determination of damages and offsetting benefits.
8.04.090	Order for immediate possession--Payment of tender into court.
8.04.092	Determination of adequacy of payment--Jury trial--Costs.

8.04.094	Demand for trial--Time of trial--Decree of appropriation.
8.04.097	Acquisition when several ownerships.
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8.04.110	Trial--Damages to be found.
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8.04.130	Payment of damages--Effect--Costs--Appellate review.
8.04.140	Claimants, payment of--Conflicting claims.
8.04.150	Appellate review.
8.04.160	Award, how paid into court.
8.04.170	Condemnation for military purposes.
8.04.180	Condemnation for military purposes--Construction.
8.04.191	Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

Notes:

Additional provisions applicable to eminent domain proceedings: Chapter 8.25 RCW.
City streets as state highways--Rights of way: RCW 47.24.030.
Condemnation of blighted property: Chapter 35.80A RCW.
Department of ecology: RCW 43.21A.450, 43.21A.610 through 43.21A.642.
Department of fish and wildlife--Acquisition of property--Condemnation--When authorized: RCW 77.12.037.
Department of transportation--Airports, facilities: RCW 47.68.100, 47.68.120.
Joint operating agency: RCW 43.52.391.
Mt. St. Helens recovery--Department of transportation: RCW 43.01.210.
Parks and recreation commission: RCW 79A.05.030(7).
Puget Sound ferry and toll bridge system: RCW 47.60.020.
Quinault Tribal Highway: RCW 47.20.725.
Relocation assistance: Chapter 8.26 RCW.
State agency housing: RCW 43.82.030.
State highways: Chapter 47.12 RCW.
Tidelands, shorelands, oyster reserves--Department of natural resources: RCW 79.91.210.

RCW 8.04.010 Petition for appropriation--Contents.

Whenever any officer, board, commission, or other body representing the state is authorized by the legislature to acquire any land, real estate, premises, or other property, deemed necessary for the public uses of the state, or any department or institution thereof, the attorney general shall present to the superior court of the county in which the land, real estate, premises, or other property so sought to be acquired or appropriated is situated, a petition in which the land, real estate, premises, or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer, or other person or party interested therein, or any part thereof, insofar as can be ascertained from the public records, the object for which the property is sought to be appropriated, and praying that a

jury be impanelled to ascertain and determine the compensation to be made in money to such owner or owners, respectively, and to all tenants, encumbrancers, and others interested, for taking such land, real estate, premises, or other property, or in case a jury is waived, as in other civil cases in courts of record, in the manner prescribed by law, then that the compensation to be made as aforesaid be ascertained and determined by the court.

[1955 c 156 § 6; 1911 c 64 § 1; 1891 c 74 § 1; RRS § 891.]

RCW 8.04.020 Notice--Contents--Service--Publication.

A notice stating briefly the objects of the petition and containing a description of the land, real estate, premises or property sought to be acquired and appropriated, and stating the time and place when and where the same will be presented to the court or the judge thereof, shall be served on each and every person named therein as owner, encumbrancer, tenant or otherwise interested therein at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or, in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode; or, in case of a foreign corporation, at its principal place of business in this state, with some person of more than sixteen years of age. In case of domestic corporations, such service shall be made upon the president, secretary or other director or trustee of such corporation. In case of persons under the age of eighteen years, on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such person; in case of idiots, lunatics or distracted persons, on their guardians, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In case the land, real estate, premises or other property sought to be appropriated is school or county land, the notice shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be acquired and appropriated is situated. In all cases where the owner or person claiming an interest in such real estate or other property is a nonresident of this state, or where the residence of such owner or person is unknown, and an affidavit of the attorney general shall be filed that such owner or person is a nonresident of this state, or that after diligent inquiry his residence is unknown or cannot be ascertained, service may be made by publication thereof in any newspaper published in the county where such lands are situated once a week for two successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest the county in which lies the land sought to be acquired and appropriated. And such publication shall be deemed service upon each of such nonresident person or persons whose residence is unknown. Such notice shall be signed by the attorney general of the state of Washington. Such notice may be served by any competent person eighteen years of age or over. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to

the person not served, but all persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, order and other papers in the proceedings, authorized by RCW 8.04.010 through 8.04.160, may be made as the superior court or judge thereof may direct.

[1971 ex.s. c 292 § 10; 1891 c 74 § 2; RRS § 892. Formerly RCW 8.04.020, 8.04.030, 8.04.040, 8.04.050.]

Notes:

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.

Publication of legal notices: Chapter 65.16 RCW.

Publication of notice in eminent domain proceedings: RCW 4.28.120.

Service of process where state land is involved: RCW 8.28.010.

RCW 8.04.060 Adjournment of proceedings--Further notice.

The court or judge may, upon application of the said attorney general or any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

[1891 c 74 § 3; RRS § 893.]

RCW 8.04.070 Hearing--Order adjudicating public use.

At the time and place appointed for hearing the petition, or to which the hearing may have been adjourned, if the court has satisfactory proof that all parties interested in the lands, real estate, premises or other property described in the petition have been duly served with the notice, and is further satisfied by competent proof that the contemplated use for which the lands, real estate, premises, or other property are sought to be appropriated is really necessary for the public use of the state, it shall make and enter an order, to be recorded in the minutes of the court, and which order shall be final unless appellate review thereof is sought within five days after entry thereof, adjudicating that the contemplated use for which the lands, real estate, premises or other property are sought to be appropriated is really a public use of the state.

[1988 c 202 § 6; 1971 c 81 § 33; 1955 c 213 § 2. Prior: 1925 ex.s. c 98 § 1, part; 1891 c 74 § 4, part; RRS § 894, part.]

Notes:

Rules of court: *Writ procedure superseded by RAP 2.1, 2.2(a)(4), 5.2, 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.04.080 Order to direct determination of damages and offsetting benefits.

The order shall direct that determination be had of the compensation and damages to be paid all parties interested in the land, real estate, premises or other property sought to be appropriated for the taking and appropriation thereof, together with the injury, if any, caused by

such taking and appropriation to the remainder of the lands, real estate, premises, or other property from which the same is to be taken and appropriated after offsetting against any and all such compensation and damages the special benefits, if any, accruing to such remainder by reason of the appropriation and the use by the state of the lands, real estate, premises, and other property described in the petition. The determination shall be made within thirty days after the entry of such order, before a jury if trial by jury is demanded at the hearing either by the petitioner or by the respondents, otherwise by the court sitting without a jury. If no regular venire has been called so as to be available to serve within such time on application of the petitioner at the hearing, the court may by its order continue such determination to the next regular jury term if a regular venire will be called within sixty days, otherwise the court shall call a special jury within said sixty days and direct that a jury panel be selected and summoned pursuant to chapter 2.36 RCW, from the citizens of the county in which the lands, real estate, premises, or other property sought to be appropriated are situated, as many qualified persons as may be necessary in order to form a jury of twelve persons, unless the petitioner and respondents both consent to a less number of jurors (such number to be not less than three), and such consent is entered by the clerk in the minutes of such hearing. In any county with a population of less than seventy thousand, the costs of such special jury for the trial of such condemnation cases only shall be borne by the state.

[1991 c 363 § 8; 1988 c 188 § 15; 1955 c 213 § 3. Prior: 1925 ex.s. c 98 § 1, part; 1891 c 74 § 4, part; RRS § 894, part.]

Notes:

Rules of court: *CR 47, 48.*

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Legislative findings--Severability--Effective date--1988 c 188: See notes following RCW 2.36.010.

Juries in courts of limited jurisdiction: RCW 2.36.050.

RCW 8.04.090 Order for immediate possession--Payment of tender into court.

In case the state shall require immediate possession and use of the property sought to be condemned, and an order of necessity shall have been granted, and no review has been taken therefrom, the attorney general may stipulate with respondents in accordance with the provisions of this section and RCW 8.04.092 and 8.04.094 for an order of immediate possession and use, and file with the clerk of the court wherein the action is pending, a certificate of the state's requirement of immediate possession and use of the land, which shall state the amount of money offered to the respondents and shall further state that such offer constitutes a continuing tender of such amount. The attorney general shall file a copy of the certificate with the office of financial management, which forthwith shall issue and deliver to him a warrant payable to the order of the clerk of the court wherein the action is pending in a sum sufficient to pay the amount offered, which shall forthwith be paid into the registry of the court. The court without further notice to respondent shall enter an order granting to the state the immediate possession and use of the property described in the order of necessity, which order shall bind the petitioner to pay the full

amount of any final judgment of compensation and damages which may thereafter be awarded for the taking and appropriation of the lands, real estate, premises, or other property described in the petition and for the injury, if any, to the remainder of the lands, real estate, premises, or other property from which they are to be taken by reason of such taking and appropriation, after offsetting against any and all such compensation and damages the special benefits, if any, accruing to such remainder by reason of the appropriation and use by the state of the lands, real estate, premises, or other property described in the petition. The moneys paid into court may at any time after entry of the order of immediate possession, be withdrawn by respondents, by order of the court, as their interests shall appear.

[1979 c 151 § 7; 1973 c 106 § 7; 1955 c 213 § 4. Prior: 1951 c 177 § 1; 1925 ex.s. c 98 § 1, part; RRS § 894, part.]

RCW 8.04.092 Determination of adequacy of payment--Jury trial--Costs.

The amount paid into court shall constitute just compensation paid for the taking of such property: PROVIDED, That respondents may, in the same action, request a trial for the purpose of assessing the amount of compensation to be made and the amount of damages arising from the taking. At the trial, the date of valuation of the property shall be the date of entry of the order granting to the state immediate possession and use of the property. If, pursuant to such hearing, the verdict of the jury, unless a jury is waived by all parties, or decision of the court, awards respondents an amount in excess of the tender, the court shall order the excess paid to respondents with interest thereon from the time of the entry of the order of immediate possession, and shall charge the costs of the action to the state. If, pursuant to the trial, the verdict of the jury or decision of the court awards respondents an amount equal to the tender, the costs of the action shall be charged to the state, and if the verdict or decision awards an amount less than the amount of the tender, the state shall be taxed for costs and the state, if respondents have accepted the tender and withdrawn the amount paid into court, shall be entitled to a judgment for the difference; otherwise, the excess on deposit shall be returned to the state.

[1983 c 140 § 1; 1955 c 155 § 1; 1951 c 177 § 2.]

RCW 8.04.094 Demand for trial--Time of trial--Decree of appropriation.

If any respondent shall elect to demand a trial for the purpose of assessing just compensation and damages arising from the taking, he shall so move within sixty days from the date of entry of the order of immediate possession and use, and the issues shall be brought to trial within one year from the date of such order unless good and sufficient proof shall be offered and it shall appear therefrom to the court that the hearing could not have been held within said year. In the event that no such demand be timely made or having been timely made, shall not be brought to trial within the limiting period, the court, upon application of the state, shall enter a decree of appropriation for the amount paid into court under the provisions of RCW 8.04.090, as the total sum to which respondents are entitled, and such decree shall be final and nonappealable.

[1951 c 177 § 3.]

RCW 8.04.097 Acquisition when several ownerships.

Whenever it becomes necessary on behalf of the state to acquire by condemnation more than one tract of land, property, or property rights, existing in any one county, and held in different ownerships or interests, the state may consolidate and file a single petition as one action against the several tracts of land, property, or property rights held by said different ownerships or interests, setting forth separately the descriptions of the tracts of land, property, or property rights needed, and the owners, persons, or parties interested therein.

[1955 c 156 § 1. Formerly RCW 8.04.190.]

RCW 8.04.098 Acquisition when several ownerships--Public use.

At the time and place appointed for hearing the petition, the court may enter an order adjudicating public use as affecting all tracts of land, property, or property rights as described therein, which order shall be final as to those respondents not seeking a review to the supreme court or the court of appeals within five days after the entry thereof.

[1971 c 81 § 34; 1955 c 156 § 2. Formerly RCW 8.04.200.]

RCW 8.04.099 Acquisition when several ownerships--Selection of single jury.

Thereafter, if requested by the state, a single jury shall be selected to hear and determine in separate trials, the amount of compensation and damages, if any, that shall be paid for the different tracts, parcels, property, or property rights, as set forth in the petition.

[1955 c 156 § 3. Formerly RCW 8.04.210.]

Notes:

Juries--Civil actions, selection, impaneling, and swearing of: Chapters 2.36, 4.44 RCW.

RCW 8.04.100 Cases may be consolidated for trial.

At the time of fixing the date for trial by jury in any case the court may, on application of the petitioner, order that any one or more condemnation cases then pending before the court and requiring determination by a jury of the compensation and damages as aforesaid be consolidated and tried before one and the same jury but with a separate award to be made in each case. If necessary, the sheriff, under direction of the court or judge thereof, shall summon as many qualified persons as may be required to complete the jury from citizens of the county where such lands, real estate, premises or other property sought to be appropriated are situated.

[1955 c 213 § 5. Prior: 1925 ex.s. c 98 § 1, part; RRS § 894, part.]

RCW 8.04.110 Trial--Damages to be found.

A judge of the superior court shall preside at the trial to determine the compensation and damage to be awarded, which trial shall be held at the court house in the county where the land, real estate, premises or other property sought to be appropriated or acquired is situated: and in the case of each such trial by jury the jurors by their verdict shall fix as a lump sum the total amount of damages which shall result to all persons or parties and to any county and to all tenants, encumbrancers and others interested therein, by reason of the appropriation and use of the lands, real estate, premises or other property sought to be appropriated or acquired. Upon the trial, witnesses may be examined in behalf of either party to the proceedings as in civil actions; and a witness served with a subpoena in each proceeding shall be punished for failure to appear at such trial, or for perjury, as upon a trial of a civil action. In case a jury is not demanded as provided for in *section 894 such total amount of damages shall be ascertained and determined by the court or judge thereof and the proceedings shall be the same as in trials of an issue of fact by the court.

[1925 ex.s. c 98 § 2; 1891 c 74 § 5; RRS § 895.]

Notes:

Rules of court: *CR 26 through 37.*

***Reviser's note:** "section 894" refers to RRS § 894 herein codified (as amended) as RCW 8.04.070, 8.04.080, 8.04.090, and 8.04.100.

Witnesses, examination of: Title 5 RCW.

RCW 8.04.112 Damages to buildings.

If there is a building standing, in whole or in part, upon any land to be taken, the jury shall add to their finding of the value of the land taken, the damages to the building. If the entire building is taken, or if the building is damaged, so that it cannot be readjusted to the premises, then the measure of damages shall be the fair market value of the building. If part of the building is taken or damaged and the building can be readjusted or replaced on the part of the land remaining, and the state agrees thereto, then the measure of damages shall be the cost of readjusting or moving the building, or the part thereof left, together with the depreciation in the market value of the building by reason of such readjustment or moving.

[1955 c 156 § 4.]

RCW 8.04.114 Damages to buildings--Where based on readjustment or moving.

If damages are based upon readjustment or moving of building or buildings, the court shall order and fix the time in the judgment and decree of appropriation within which any such building must be moved or readjusted. Upon failure to comply with said order, the state may move said building upon respondent's remaining land and recover its costs and expenses incidental thereto. The state shall have a lien upon the building and the remaining land from the date of the judgment and decree of appropriation for the necessary costs and expenses of removal until the order of the court has been complied with. The amount of the lien and satisfaction

thereof shall be by application and entry of a supplemental judgment in said proceedings and execution thereon.

[1955 c 156 § 5.]

RCW 8.04.120 Judgment--Decree of appropriation--Recording.

At the time of rendering judgment for damages, whether upon default or trial, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate or premises sought to be appropriated, thereby vesting the legal title to the same in the state of Washington. Whenever said judgment or decree of appropriation is made, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate or other premises are situated, and shall be recorded by said auditor like a deed of real estate, and with like effect.

[1891 c 74 § 6; RRS § 896.]

Notes:

Recording of deeds of real estate: Title 65 RCW.

RCW 8.04.130 Payment of damages--Effect--Costs--Appellate review.

Upon the entry of judgment upon the verdict of the jury or the decision of the court awarding damages, the state may make payment of the damages and the costs of the proceedings by depositing them with the clerk of the court, to be paid out under the direction of the court or judge thereof; and upon making such payment into court of the damages assessed and allowed for any land, real estate, premises, or other property mentioned in the petition, and of the costs, the state shall be released and discharged from any and all further liability therefor, unless upon appeal the owner or party interested recovers a greater amount of damages; and in that case the state shall be liable only for the amount in excess of the sum paid into court and the costs of appeal.

In the event appellate review is sought by any party to the proceedings, the moneys paid into the superior court by the state pursuant to this section shall remain in the custody of the court until the final determination of the proceedings by the supreme court or the court of appeals.

[1988 c 202 § 7; 1971 c 81 § 35; 1951 c 177 § 4; 1925 ex.s. c 98 § 3; 1891 c 74 § 7; RRS § 897.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.04.140 Claimants, payment of--Conflicting claims.

Any person, corporation or county claiming to be entitled to any money paid into court, as provided in RCW 8.04.010 through 8.04.160, may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or it is entitled to the same, the court shall

make an order directing the payment to such claimant the portion of such money as he or it shall be found entitled to; but if, upon application, the court or judge thereof should decide that the title to the land, real estate or premises specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he shall refuse such order until such action is commenced and the conflicting claims to such land, real estate or premises be determined according to law.

[1891 c 74 § 8; RRS § 898.]

RCW 8.04.150 Appellate review.

Either party may seek appellate review of the judgment for damages entered in the superior court within thirty days after the entry of judgment as aforesaid, and such review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the review: PROVIDED HOWEVER, That upon such review no bond shall be required: AND PROVIDED FURTHER, That if the owner of land, the real estate or premises accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively appellate review, and final judgment by default may be rendered in the superior court as in other cases: PROVIDED FURTHER, That no review shall operate so as to prevent the said state of Washington from taking possession of such property pending review after the amount of said award shall have been paid into court.

[1988 c 202 § 8; 1971 c 81 § 36; 1891 c 74 § 9; RRS § 899.]

Notes:

Rules of court: *Cf. RAP 5.2, 8.1, 18.22.*

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.04.160 Award, how paid into court.

Whenever the attorney general shall file with the director of financial management a certificate setting forth the amount of any award found against the state of Washington under the provisions of RCW 8.04.010 through 8.04.160, together with the costs of said proceeding, and a description of the lands and premises sought to be appropriated and acquired, and the title of the action or proceeding in which said award is rendered, it shall be the duty of the office of financial management to forthwith issue a warrant upon the state treasury to the order of the attorney general in a sum sufficient to make payment in money of said award and the costs of said proceeding, and thereupon it shall be the duty of said attorney general to forthwith pay to the clerk of said court in money the amount of said award and costs.

[1979 c 151 § 8; 1973 c 106 § 8; 1891 c 74 § 10; RRS § 900.]

RCW 8.04.170 Condemnation for military purposes.

Whenever the governor, as commander-in-chief of the military of this state, shall deem it

necessary to acquire any lands, real estate, premises or other property for any military purpose or purposes of this state, either to add to, enlarge, increase or otherwise improve state military facilities now or hereafter existing or to establish new facilities, the acquisition of which shall have been provided for by the state, by a county or by a city, or by either, all or any thereof, upon certificate by the governor of such necessity, proceedings for the condemnation, appropriation and taking of the lands, real estate, premises or other property so certified to be necessary shall be taken as follows:

Where the state is to pay the purchase price it shall be the duty of the attorney general, upon receipt by him of said certificate of the governor, to file a petition in the superior court for the county in which such lands, real estate, premises or other property may be situate praying such condemnation, appropriating and taking, which petition shall be prosecuted to a final determination in the manner by law provided for other condemnation suits brought by or on behalf of the state;

Where a county is to pay the purchase price it shall be the duty of the prosecuting attorney of said county upon receipt by him of said certificate of the governor, to file a petition in the superior court for said county praying such condemnation, appropriation and taking, which petition shall be prosecuted to a final determination in the manner by law provided for other condemnation suits brought by or on behalf of a county;

Where a city is to pay the purchase price it shall be the duty of the corporation counsel, city attorney or other head of the legal department of said city, upon receipt by him of said certificate of the governor, to file a petition in the superior court for the county in which said city is situate, praying such condemnation, appropriation and taking, which petition shall be prosecuted to a final determination in the manner by law provided for other condemnation suits brought by or on behalf of such city;

Where the purchase price is to be paid by the state, a county and a city or by the state and a county, or by the state and a city, or by a county and a city, the condemnation shall be prosecuted to a final determination in the manner by law provided for either or any thereof, as the governor may determine, which determination shall be final and conclusive.

[1917 c 153 § 1; RRS § 900-1.]

Notes:

Notice where military land is involved: RCW 8.28.030.

RCW 8.04.180 Condemnation for military purposes--Construction.

Nothing contained in RCW 8.04.170 shall be construed as in any manner applying to condemnation by any county for the purpose of acquiring title to any site for a mobilization, training and supply station, to be donated by any county to the United States.

[1917 c 153 § 2; RRS § 900-2.]

RCW 8.04.191 Appointment of guardian ad litem for minors, alleged incapacitated

persons--Protection of interests.

See RCW 8.25.270.

**Chapter 8.08 RCW
EMINENT DOMAIN BY COUNTIES**

Sections

8.08.010	Condemnation authorized for general county purposes--Petition.
8.08.020	Public use declared.
8.08.030	Notice of presentation of petition.
8.08.040	Hearing--Order adjudicating public use.
8.08.050	Trial--Damages to be found.
8.08.060	Judgment--Decree of appropriation.
8.08.070	Costs.
8.08.080	Appellate review.
8.08.090	Appropriation authorized in aid of federal or state improvement.
8.08.100	Mode of appropriation.
8.08.110	Tax levy to pay costs.
8.08.120	Indebtedness is for general county purposes.
8.08.130	Limitation.
8.08.140	Condemnation for military purposes.
8.08.141	Condemnation for military purposes--Construction.
8.08.150	Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

Notes:

Additional provisions applicable to eminent domain proceedings: Chapter 8.25 RCW.

Contracts with cities: RCW 36.64.070.

County rail districts: RCW 36.60.070.

Fairs: RCW 36.37.020.

Flood control by counties: RCW 86.12.020.

Irrigation purposes: RCW 87.03.140 through 87.03.150.

Land registration: RCW 65.12.400, 65.12.610.

Limited access facilities: RCW 47.52.050.

Local improvement districts: RCW 36.69.270, 36.94.240.

Relocation assistance: Chapter 8.26 RCW.

River improvements: RCW 86.12.020.

Roads, bridges

powers of county commissioners: RCW 36.75.040.

rights-of-way: RCW 36.85.010, 36.85.020.

service districts: RCW 36.83.090.

Transportation benefit districts: RCW 36.73.130.

Utility local improvement districts: RCW 36.94.240.

Wharves and landings: RCW 88.24.070.

RCW 8.08.010 Condemnation authorized for general county purposes--Petition.

Every county is hereby authorized and empowered to condemn land and property within the county for public use; whenever the board of county commissioners deems it necessary for county purposes to acquire such land, real estate, premises or other property, and is unable to agree with the owner or owners thereof for its purchase, it shall be the duty of the prosecuting attorney to present to the superior court of the county in which said land, real estate, premises, or other property so sought to be acquired or appropriated shall be situated, a petition in which the land, real estate, premises, or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer, or other person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money to such owner or owners respectively, and to all tenants, encumbrancers, or others interested, for taking such lands, real estate, premises, or other property, or in case a jury be waived, as in other civil cases in courts of record, in the manner prescribed by law, then that the compensation to be made as aforesaid be ascertained or determined by the court or the judge thereof.

[1949 c 79 § 1; Rem. Supp. 1949 § 3991-6.]

RCW 8.08.020 Public use declared.

Any condemnation, appropriation or disposition intended in RCW 8.08.010 through 8.08.080 shall be deemed and held to be for a county purpose and public use within the meaning of RCW 8.08.010 through 8.08.080 when it is directly or indirectly, approximately or remotely for the general benefit or welfare of the county or of the inhabitants thereof.

[1949 c 79 § 2; Rem. Supp. 1949 § 3991-7.]

RCW 8.08.030 Notice of presentation of petition.

A notice, stating the time and place when and where such petition shall be presented to the court or the judge thereof, together with a copy of such petition, shall be served on each and every person named therein as owner or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such notice shall be signed by the prosecuting attorney of the county wherein the real estate or property sought to be taken is situated, and may be served in the same manner as a summons in a civil action in such superior court is authorized by law to be served.

[1949 c 79 § 3; Rem. Supp. 1949 § 3991-8.]

Notes:

Publication of notice in eminent domain proceedings: RCW 4.28.120.

RCW 8.08.040 Hearing--Order adjudicating public use.

At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises or other property described in said petition have been duly served with said notice as prescribed herein, and shall be further satisfied by competent proof that the contemplated use for which the lands, real estate, premises, or other property sought to be appropriated is a public use of the county, the court or judge thereof may make and enter an order adjudicating that the contemplated use is really a public use of the county, and which order shall be final unless review thereof to the supreme court or the court of appeals be taken within five days after entry of such order, adjudicating that the contemplated use for which the lands, real estate, premises or other property sought to be appropriated is really a public use of the county, and directing that determination be had of the compensation and damages to be paid all parties interested in the land, real estate, premises, or other property sought to be appropriated for the taking and appropriation thereof, together with the injury, if any, caused by such taking or appropriation to the remainder of the lands, real estate, premises, or other property from which the same is to be taken and appropriated, after offsetting against any and all such compensation and damages, special benefits, if any, accruing to such remainder by reason of such appropriation and use by the county of such lands, real estate, premises, and other property described in the petition; such determination to be made by a jury, unless waived, in which event the compensation or damages shall be determined by the court without a jury. Proceedings under this chapter shall have precedence over all cases in court except criminal cases.

[2000 c 68 § 1; 1971 c 81 § 37; 1949 c 79 § 4; Rem. Supp. 1949 § 3991-9.]

Notes:

Findings--Intent--2000 c 68: "(1) The legislature finds that there is a need to study the use of eminent domain and its application under contemporary jurisprudence. It is the intent of the legislature to create a joint study group to study ways to expedite resolution of public use disputes in eminent domain proceedings.

(2) The study group shall consist of two legislators from each caucus of the senate and house of representatives, as appointed by leaders of each caucus respectively.

(3) The study group shall review the need, use, application, and effects of eminent domain, current case law on eminent domain, the impact on the courts of the exercise of eminent domain, and ways to expedite resolution of public use disputes in eminent domain proceedings.

(4) The study group shall review other issues related to eminent domain as desired by the study group.

(5) House office of program research and senate committee services shall provide staff and administrative support for the study group.

(6) This section shall expire December 31, 2000." [2000 c 68 § 2.]

RCW 8.08.050 Trial--Damages to be found.

The jury selected to hear the evidence and determine the compensation to be paid to the owner or owners of such real estate or property to be appropriated for public use, shall be selected, impaneled and sworn in the same manner that juries in other civil actions are selected, impaneled and sworn, and in case a jury is waived, such compensation or damages shall be ascertained and determined by the court or judge thereof and the proceedings shall be the same as

in trial of an issue of fact by the court. Upon the close of the evidence, the court shall instruct the jury as to the matters submitted to them and the law pertaining thereto. Whereupon the jury shall retire and deliberate and determine upon the amount of the compensation of damages and money that shall be paid to the owner or owners of the real estate or property sought to be appropriated, which shall be the amount found by the jury to be the fair and full value of such premises, and when the jury shall have determined upon their verdict, they shall return the same to the court as in other civil actions.

[1949 c 79 § 5; Rem. Supp. 1949 § 3991-10.]

Notes:

Rules of court: CR 47, 48.

Juries, civil actions, selection, impaneling and swearing of: Chapters 2.36, 4.44 RCW.

Verdicts, civil actions: Chapter 4.44 RCW.

RCW 8.08.060 Judgment--Decree of appropriation.

Upon the verdict of the jury or upon the determination of the court of the compensation or damages to be paid for the real estate or property appropriated, judgment shall be entered against such county in favor of the owner or owners of the real estate or property so appropriated for the amount found as just compensation therefor, and upon the payment of such amount by such county to the clerk of such court for the use of the owner or owners or the persons interested in the premises sought to be taken, the court shall enter a decree of appropriation of the real estate or property sought to be taken, thereby vesting the title to the same in such county; and a certified copy of such decree of appropriation may be filed in the office of the county auditor of the county wherein the real estate taken is situated and shall be recorded by such auditor like a deed of real estate and with like effect. The money so paid to the clerk of the court shall be by him paid to the person or persons entitled thereto upon the order of the court.

[1949 c 79 § 6; Rem. Supp. 1949 § 3991-11.]

RCW 8.08.070 Costs.

All the costs of such proceedings in the superior court shall be paid by the county initiating such proceedings.

[1949 c 79 § 7; Rem. Supp. 1949 § 3991-12.]

RCW 8.08.080 Appellate review.

Either party may seek appellate review of the judgment for compensation of the damages awarded in the superior court within thirty days after the entry of judgment as aforesaid, and such review shall bring before the supreme court or the court of appeals the propriety and justice of the amount of damage in respect to the parties to the review: PROVIDED, That upon such review no bonds shall be required: AND PROVIDED FURTHER, That if the owner of land, real

estate, or premises accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively appellate review, and final judgment by default may be rendered in the superior court as in other cases.

[1988 c 202 § 9; 1971 c 81 § 38; 1949 c 79 § 8; Rem. Supp. 1949 § 3991-13.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.08.090 Appropriation authorized in aid of federal or state improvement.

Every county in this state is hereby, for the purposes of RCW 8.08.090 through 8.08.130, declared to be a body corporate and is authorized and empowered by and through its board of county commissioners whenever said board shall judge it to be clearly for the general welfare and benefit of the people of the county, and so far as shall be in harmony with the Constitution of this state and the provisions of RCW 8.08.090 through 8.08.130, to condemn and appropriate as hereinafter in RCW 8.08.090 through 8.08.130 provided and to dispose of for public use such lands, properties, rights and interests as are hereinafter in RCW 8.08.090 through 8.08.130 mentioned, whenever the government of the United States or of this state is intending or proposing the construction, operation or maintenance of any public work situated or to be situated wholly or partly within such county, or the expenditure of money or labor for the construction, operation or maintenance of any such work, and such condemnation or appropriation will enable the county to aid, promote, facilitate or prepare for any such construction, operation, maintenance or expenditure by either or both such governments, or to fulfill or dispose of any condition upon which such construction, operation, maintenance or expenditure is by law or from any cause contingent, and no property shall be exempt from such condemnation, appropriation or disposition by reason of the same having been or being dedicated, appropriated or otherwise reduced or held to public use.

[1895 c 2 § 1; RRS § 901.]

RCW 8.08.100 Mode of appropriation.

The right of eminent domain for the purposes intended in RCW 8.08.090 through 8.08.130 is hereby extended to all counties in this state and every such county for any purpose of condemnation, appropriation or disposition such as is mentioned in RCW 8.08.090 is hereby authorized and empowered to condemn and appropriate all necessary lands and all rights, properties and interests in or appurtenant to land under the same procedure as is or shall be provided by the laws of this state for the case of any similar condemnation or appropriation by other corporations.

[1895 c 2 § 3; RRS § 903.]

RCW 8.08.110 Tax levy to pay costs.

The board of county commissioners is hereby authorized and empowered in aid of the powers granted or prescribed in RCW 8.08.090 to levy, annually, a tax as large as may be necessary, but not exceeding the rate of one mill on the dollar, upon all the taxable property in the county, such tax to be assessed, levied and collected at the same time and in the same manner as taxes for general county purposes, but the proceeds of said taxes, when collected, shall constitute and be a special fund, applicable solely to the cost of such condemnation, appropriation or disposition, as is mentioned in RCW 8.08.090, and the expenses incident thereto.

[1895 c 2 § 2; RRS § 902.]

RCW 8.08.120 Indebtedness is for general county purposes.

Any county purpose mentioned in RCW 8.08.090 through 8.08.130 shall be deemed and held to be a general county purpose and any indebtedness contracted or to be contracted therefor shall be deemed and held to be an indebtedness for general county purposes, and all the provisions of law of this state relative to indebtedness for general county purposes or the contracting of such indebtedness or the bonds for funding the same shall be deemed applicable to any indebtedness contracted or to be contracted or any bonds issued by any county under RCW 8.08.090 through 8.08.130, but the accounts of the county with respect to the receipts and disbursements of all moneys received or disbursed by the county under the provisions of RCW 8.08.090 through 8.08.130 shall, for each condemnation, appropriation and disposition, be so kept as to clearly and fully exhibit such accounts separate and apart from the other accounts of the county.

[1895 c 2 § 4; RRS § 904.]

Notes:

Public contracts and indebtedness: Title 39 RCW.

RCW 8.08.130 Limitation.

Any condemnation, appropriation or disposition intended in RCW 8.08.090 through 8.08.130 shall be deemed and held to be for a county purpose and public use within the meaning of RCW 8.08.090 through 8.08.130 when it is directly or indirectly, approximately or remotely for the general benefit or welfare of the county or of the inhabitants thereof, or when it is otherwise within the meaning of the phrase "for a county purpose" as occurring in the Constitution of this state.

[1895 c 2 § 5; RRS § 905.]

RCW 8.08.140 Condemnation for military purposes.

See RCW 8.04.170.

RCW 8.08.141 Condemnation for military purposes--Construction.

See RCW 8.04.180.

RCW 8.08.150 Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

See RCW 8.25.270.

**Chapter 8.12 RCW
EMINENT DOMAIN BY CITIES**

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Watershed property, city in adjoining state may condemn: RCW 8.28.050.

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CONDEMNATION

RCW 8.12.010 "City" defined.

The term "city," when used in this chapter, means and includes every city and town and each unclassified city and town in the state of Washington.

[1915 c 154 § 20; RRS § 9272.]

Notes:

Severability--1915 c 154: "An adjudication of invalidity of any part of this act shall not affect the validity of the act as a whole or any part thereof." [1915 c 154 § 19; RRS § 9271.] This applies to RCW 8.12.010 through 8.12.560.

RCW 8.12.020 Other terms defined.

Whenever the word "person" is used in this chapter, the same shall be construed to include any company, corporation or association, the state or any county therein, and the words "city" or "town" wherever used, shall be construed to be either. Whenever the words "installment" or "installments" are used in this chapter, they shall be construed to include

installment or installments of interest, as provided in RCW 8.12.420. Whenever the words "public markets" are used in this chapter and the public market is managed in whole or in part by a public corporation created by a city, the words shall be construed to include all real or personal property located in a district or area designated by a city as a public market and traditionally devoted to providing farmers, crafts vendors and other merchants with retail space to market their wares to the public. Property located in such a district or area need not be exclusively or primarily used for such traditional public market retail activities and may include property used for other public purposes including, but not limited to, the provision of human services and low-income or moderate-income housing.

[1990 c 189 § 2; 1925 ex.s. c 115 § 4; 1907 c 153 § 52; RRS § 9277. Prior: 1905 c 55 § 51; 1893 c 84 § 51.]

RCW 8.12.030 Condemnation authorized--Purposes enumerated.

Every city and town and each unclassified city and town within the state of Washington, is hereby authorized and empowered to condemn land and property, including state, county and school lands and property for streets, avenues, alleys, highways, bridges, approaches, culverts, drains, ditches, public squares, public markets, city and town halls, jails and other public buildings, and for the opening and widening, widening and extending, altering and straightening of any street, avenue, alley or highway, and to damage any land or other property for any such purpose or for the purpose of making changes in the grade of any street, avenue, alley or highway, or for the construction of slopes or retaining walls for cuts and fills upon real property abutting on any street, avenue, alley or highway now ordered to be, or such as shall hereafter be ordered to be opened, extended, altered, straightened or graded, or for the purpose of draining swamps, marshes, tidelands, tide flats or ponds, or filling the same, within the limits of such city, and to condemn land or property, or to damage the same, either within or without the limits of such city for public parks, drives and boulevards, hospitals, pesthouses, drains and sewers, garbage crematories and destructors and dumping grounds for the destruction, deposit or burial of dead animals, manure, dung, rubbish, and other offal, and for aqueducts, reservoirs, pumping stations and other structures for conveying into and through such city a supply of fresh water, and for the purpose of protecting such supply of fresh water from pollution, and to condemn land and other property and damage the same for such and for any other public use after just compensation having been first made or paid into court for the owner in the manner prescribed by this chapter.

[1915 c 154 § 1; 1907 c 153 § 1; RRS § 9215. Prior: 1905 c 55 § 1; 1893 c 84 § 1.]

RCW 8.12.040 Ordinance to specify method of payment--Limitations.

When the corporate authorities of any such city shall desire to condemn land or other property, or damage the same, for any purpose authorized by this chapter, such city shall provide therefor by ordinance, and unless such ordinance shall provide that such improvement shall be paid for wholly or in part by special assessment upon property benefited, compensation therefor shall be made from any general funds of such city applicable thereto. If such ordinance shall

provide that such improvement shall be paid for wholly or in part by special assessment upon property benefited, the proceedings for the making of such special assessment shall be as hereinafter prescribed, in this chapter: PROVIDED, That no special assessment shall be levied under authority of this chapter except when made for the purpose of streets, avenues, alleys, or highways or alterations thereof or changes of the grade therein or other improvements in or adjoining the same, or for bridges, approaches, culverts, sewers, drains, ditches, public squares, public playgrounds, public parks, drives or boulevards or for the purpose of draining swamps, marshes, tide flats, tidelands or ponds or for filling the same: AND IT IS FURTHER PROVIDED, That when a street, avenue, highway or boulevard is established or widened to a width greater than one hundred and fifty feet the excess over and above the one hundred and fifty feet shall be paid out of the general fund of such city without any deduction for benefits of such excess.

[1925 ex.s. c 128 § 2; 1907 c 153 § 2; RRS § 9216. Prior: 1905 c 55 § 2; 1893 c 84 § 2.]

RCW 8.12.050 Petition for condemnation.

Whenever any such ordinance shall be passed by the legislative authority of any such city for the making of any improvement authorized by this chapter or any other improvement that such city is authorized to make, the making of which will require that property be taken or damaged for public use, such city shall file a petition in the superior court of the county in which such land is situated, in the name of the city, praying that just compensation, to be made for the property to be taken or damaged for the improvement or purpose specified in such ordinance, be ascertained by a jury or by the court in case a jury be waived.

[1913 c 11 § 1; 1907 c 153 § 3; RRS § 9217. Prior: 1905 c 55 § 3; 1893 c 84 § 3.]

RCW 8.12.060 Contents of petition.

Such petition shall contain a copy of said ordinance, certified by the clerk under the corporate seal, a reasonably accurate description of the lots, parcels of land and property which will be taken or damaged, and the names of the owners and occupants thereof and of persons having any interest therein, so far as known, to the officer filing the petition or appearing from the records in the office of the county auditor.

[1907 c 153 § 4; RRS § 9218. Prior: 1905 c 55 § 4; 1893 c 84 § 4.]

RCW 8.12.070 Summons--Service.

Upon the filing of the petition aforesaid a summons, returnable as summons in other civil actions, shall be issued and served upon the persons made parties defendant, together with a copy of the petition, as in other civil actions. And in case any of them are unknown or reside out of the state, a summons for publication shall issue and publication be made and return and proof thereof be made in the same manner as is or shall be provided by the laws of the state for service upon

absent defendants in other civil actions. Notice so given by publication shall be sufficient to authorize the court to hear and determine the suit as though all parties had been sued by their proper names and had been personally served.

[1907 c 153 § 5; RRS § 9219. Prior: 1905 c 55 § 5; 1893 c 84 § 5.]

Notes:

Commencement of actions: Chapter 4.28 RCW.

Publication of

legal notices: Chapter 65.16 RCW.

notice in eminent domain proceedings: RCW 4.28.120.

RCW 8.12.080 Service when state or county lands are involved.

In case the land, real estate, premises or other property sought to be appropriated or damaged is state, school or county land, the summons and copy of petition shall be served on the auditor of the county in which such land, real estate, premises or other property is situated. Service upon other parties defendant shall be made in the same manner as is or shall be provided by law for service of summons in other civil actions.

[1907 c 153 § 6; RRS § 9220. Prior: 1905 c 55 § 6; 1893 c 84 § 6.]

Notes:

Service of process where state land is involved: RCW 8.28.010.

RCW 8.12.090 Waiver of jury--Adjudication of public use--Procedure.

In any proceedings under this chapter wherein a trial by jury is provided for, the jury may be waived as in other civil cases in courts of record in the manner prescribed by law, and the matter may be heard and determined without the intervention of a jury. Whenever an attempt is made to take private property, for a use alleged to be public under authority of this chapter, the question whether the contemplated use be really public shall be a judicial question and shall be determined as such by the court before inquiry is had into the question of compensation to be made. When a jury is required for the determination of any matter under this chapter, such jury may be the same jury summoned for the trial of ordinary civil actions before the court, or the court may, in its discretion, issue a venire to the sheriff to summon as jurors such number of qualified persons as the court shall deem sufficient. Except as herein otherwise provided, the practice and procedure under this chapter in the superior court and in relation to the taking of appeals and prosecution thereof, shall be the same as in other civil actions, but all appeals must be taken within thirty days from the date of rendition of the judgment appealed from. Proceedings under this chapter shall have precedence of all cases in court except criminal cases.

[1907 c 153 § 51; RRS § 9276. Prior: 1905 c 55 § 50; 1893 c 84 § 50. Formerly RCW 8.12.090, 8.12.110 and 8.12.200, part.]

Notes:

Juries, civil actions: Chapters 2.36, 4.44 RCW.

RCW 8.12.100 Trial--Jury--Right to separate juries.

Upon the return of said summons, or as soon thereafter as the business of court will permit, the said court shall proceed to the hearing of such petition and shall impanel a jury to ascertain the just compensation to be paid for the property taken or damaged, but if any defendant or party in interest shall demand, and the court shall deem it proper, separate juries may be impaneled as to the compensation or damages to be paid to any one or more of such defendants or parties in interest.

[1907 c 153 § 7; RRS § 9221. Prior: 1905 c 55 § 7; 1893 c 84 § 7.]

RCW 8.12.120 Interested party may be brought in.

Such jury shall also ascertain the just compensation to be paid to any person claiming an interest in any lot, parcel of land or property which may be taken or damaged by such improvement, whether or not such person's name or such lot, parcel of land or other property is mentioned or described in such petition: PROVIDED, Such person shall first be admitted as a party defendant to said suit by such court and shall file a statement of his interest in and description of the lot, parcel of land or other property in respect to which he claims compensation.

[1907 c 153 § 8; RRS § 9222. Prior: 1905 c 55 § 8; 1893 c 84 § 8.]

Notes:

Rules of court: CR 17 through 25.

RCW 8.12.130 Jury may view premises.

The court may upon the motion of such city or of any defendant direct that said jury (under the charge of any officer of the court and accompanied by such person or persons as may be appointed by the court to point out the property sought to be taken or damaged) shall view the lands and property affected by said improvement.

[1907 c 153 § 9; RRS § 9223. Prior: 1905 c 55 § 9; 1893 c 84 § 9.]

Notes:

View of premises by jury: RCW 4.44.270.

RCW 8.12.140 Damages to building--Measure.

If there be any building standing, in whole or in part, upon any land to be taken, the jury shall add to their finding of the value of the land taken the damages to said building. If the entire building is taken, or if the building is damaged, so that it cannot be readjusted to the premises, then the measure of damages shall be the fair market value of the building. If part of the building

is taken or damaged and the building can be readjusted or replaced on the part of the land remaining, then the measure of damages shall be the cost of readjusting or moving the building, or the part thereof left, together with the depreciation in the market value of said building by reason of said readjustment or moving.

[1907 c 153 § 10; RRS § 9224. Prior: 1905 c 55 § 10; 1893 c 84 § 10.]

RCW 8.12.150 Separate findings where there are several interests--Interpleader of adverse claimants.

If the land and buildings belong to different parties, or if the title to the property be divided into different interests by lease or otherwise, the damages done to each of such interests may be separately found by the jury on the request of any party. In making such findings, the jury shall first find and set forth in their verdict the total amount of the damage to said land and buildings and all premises therein, estimating the same as an entire estate and as if the same were the sole property of one owner in fee simple; and they shall then apportion the damages so found among the several parties entitled to the same, in proportion to their several interests and claims and the damages sustained by them respectively, and set forth such apportionment in their verdict. No delay in ascertaining the amount of compensation shall be occasioned by any doubt or contest which may arise as to the ownership of the property, or any part thereof, or as to the extent of the interest of any defendant in the property to be taken or damaged, but in such case, the jury shall ascertain the entire compensation or damage that should be paid for the property and the entire interests of all the parties therein, and the court may thereafter require adverse claimants to interplead, so as to fully determine their rights and interests in the compensation so ascertained. And the court may make such order as may be necessary in regard to the deposit or payment of such compensation.

[1907 c 153 § 11; RRS § 9225.]

Notes:

Rules of court: *CR 54.*

RCW 8.12.160 Verdict--New trial--Continuance--New summons.

Upon the return of the verdict the proceedings of the court regarding new trial and the entry of judgment thereon shall be the same as in other civil actions, and the judgment shall be such as the nature of the case shall require. The court shall continue or adjourn the case from time to time as to all occupants and owners named in such petition who shall not have been served with process or brought in by publication, and new summons may issue or new publication may be made at any time; and upon such occupants or owners being brought in, the court may impanel a jury to ascertain the compensation so to be made to such defendant or defendants for private property taken or damaged, and like proceedings shall be had for such purpose as herein provided.

[1907 c 153 § 12; RRS § 9226. Prior: 1905 c 55 § 11; 1893 c 84 § 11.]

Notes:

Rules of court: *CR 17 through 25, 54, 59.*

Entry of judgment, civil actions: Chapter 4.64 RCW.

New trials, civil actions: Chapter 4.76 RCW.

RCW 8.12.170 Change of ownership--Powers of court.

The court shall have power at any time, upon proof that any such owner or owners named in such petition who has not been served with process has ceased to be such owner or owners since the filing of such petition, to impanel a jury and ascertain the just compensation to be made for the property (or the damage thereto) which has been owned by the person or persons so ceasing to own the same, and the court may upon any finding or findings of any jury or juries, or at any time during the course of such proceedings enter such order, rule, judgment or decree as the nature of the case may require.

[1907 c 153 § 13; RRS § 9227. Prior: 1905 c 55 § 12; 1893 c 84 § 12.]

RCW 8.12.190 Findings by jury.

When the ordinance providing for any such improvement provides that compensation therefor shall be paid in whole or in part by special assessment upon property benefited, the jury or court, as the case may be, shall find separately:

(1) The value of land taken at date of trial;

(2) The damages which will accrue to the part remaining because of its severance from the part taken, over and above any local or special benefits arising from the proposed improvement. No lot, block, tract or parcel of land found by the court or jury to be so damaged shall be assessed for any benefits arising from such taking only;

(3) The gross damages to any land or property not taken (other than damages to a remainder, by reason of its severance from the part taken), and in computing such gross damages shall not deduct any benefits from the proposed improvement. Such finding by the court or jury shall leave any lot, block, parcel or tract of land, or other property subject to assessment for its proportion of any and all local and special benefits accruing thereto by reason of said improvement.

When such ordinance does not provide for any assessment in whole or in part on property specially benefited, the compensation found for land or property taken or damaged shall be ascertained over and above any local or special benefits from the proposed improvement.

Such city or town may offset against any award of the jury or court for the taking or damaging of any lot, block, tract or parcel of land or other property, any general taxes or local assessments unpaid at the time such award is made. Such offset shall be made by deducting the amount of such unpaid taxes and assessments at the time of payment of the judgment or issuance of a warrant in payment of such judgment.

[1909 c 210 § 1; 1907 c 153 § 15; RRS § 9229. Prior: 1905 c 55 § 15; 1893 c 84 § 15.]

RCW 8.12.200 Judgment--Appellate review--Payment of award into court.

Any final judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases, provided that in case any defendant recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive as to the damages caused by such improvement unless appellate review is sought, and review of the same shall not delay proceedings under said ordinance, if such city shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs, and such city, after making such payment into court, shall be liable to such owner or owners or parties interested for the payment of any further compensation which may at any time be finally awarded to such parties seeking review of said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor, and abide any rule or order of the court in relation to the matter in controversy. In case of review by the supreme court or the court of appeals of the state by any party to the proceedings the money so paid into the superior court by such city, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively appellate review and final judgment may be rendered in the superior court as in other cases.

[1993 c 14 § 1; 1988 c 202 § 10; 1971 c 81 § 39; 1907 c 153 § 16; 1905 c 55 § 16; 1893 c 84 § 16; RRS § 9230. FORMER PART OF SECTION: 1907 c 153 § 51, part; RRS § 9276, part, now codified in RCW 8.12.090. Prior: 1905 c 55 § 50; 1893 c 84 § 50, part.]

Notes:

Effective date--1993 c 14: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1993]." [1993 c 14 § 2.]

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.12.210 Title vests upon payment.

The court, upon proof that just compensation so found by the jury, or by the court in case the jury is waived, together with costs, has been paid to the person entitled thereto, or has been paid into court as directed by the court, shall enter an order that the city or town shall have the right at any time thereafter to take possession of or damage the property in respect to which such compensation shall have been so paid or paid into court as aforesaid, and thereupon, the title to any property so taken shall be vested in fee simple in such city or town.

[1907 c 153 § 17; RRS § 9231. Prior: 1905 c 55 § 17; 1893 c 84 § 17.]

Notes:

Rules of court: CR 58.

PAYMENT FOR IMPROVEMENT

RCW 8.12.220 Payment from general fund.

When the ordinance under which said improvement is ordered to be made shall not provide that such improvement shall be made wholly by special assessment upon property benefited, the whole amount of such damage and costs, or such part thereof as shall not be assessed upon property benefited shall be paid from the general fund of such city or town, and if sufficient funds therefor are not already provided, such city or town shall levy and collect a sufficient sum therefor as part of the general taxes of such city or town, or may contract indebtedness by the issuance of bonds or warrants therefor as in other cases of internal improvements.

[1907 c 153 § 18; RRS § 9232. Prior: 1905 c 55 § 18; 1893 c 84 § 18.]

RCW 8.12.230 Payment by special assessment.

When such ordinance under which said improvement shall be ordered, shall provide that such improvement shall be paid for, in whole or in part, by special assessment of property benefited thereby, the damages and costs awarded, or such part thereof as is to be paid by special assessment, shall be levied, assessed and collected in the manner hereinafter provided.

[1907 c 153 § 19; RRS § 9233. Prior: 1905 c 55 § 19; 1893 c 84 § 19.]

RCW 8.12.240 Petition for assessment--Appointment of commissioners.

Such city may file in the same proceeding a supplementary petition, praying the court that an assessment be made for the purpose of raising an amount necessary to pay the compensation and damages which may [be] or shall have been awarded for the property taken or damaged, with costs of the proceedings, or for such part thereof as the ordinance shall provide. The said court shall thereupon appoint three competent persons as commissioners to make such assessment, or if there be a board of eminent domain commissioners of such city, appointed under the provisions of this chapter, said proceeding for assessment shall be referred to said board. Said commissioners shall include in such assessment the compensation and damages which may [be] or shall have been awarded for the property taken or damaged, with all costs and expenses of the proceedings incurred to the time of their appointment, or to the time when said proceeding was referred to them, together with the probable further costs and expenses of the proceedings, including therein the estimated costs of making and collecting such assessment.

[1907 c 153 § 20; RRS § 9234. Prior: 1905 c 55 § 20; 1893 c 84 § 20.]

RCW 8.12.250 Advancement from general funds against assessments.

If any city or town shall desire to take possession of any property or do any damage or proceed with any improvement, the compensation for which is to be paid for in whole or in part by the proceeds of special assessment under this chapter, it may advance from its general funds, or any moneys available for the purpose, the amount of the assessments aforesaid, and pay the same to the owner or into court, as herein provided, reimbursing itself for moneys so advanced from the special assessments aforesaid. If there be no funds available for the purpose, such city may contract indebtedness for the purpose of raising funds therefor, which indebtedness shall be contracted and such proceedings taken therefor as is provided by law for indebtedness contracted for other internal improvements.

[1907 c 153 § 50; RRS § 9275. Prior: 1905 c 55 § 49; 1893 c 84 § 49.]

Notes:

Contracting indebtedness by city: Titles 35, 39 RCW.

ASSESSMENTS--IMMEDIATE PAYMENT

RCW 8.12.260 Appointment of board of eminent domain commissioners--Terms of office.

At any time after June 11, 1907, any such city may petition the superior court of the county in which said city is situated, that a board of eminent domain commissioners be appointed to make assessments in all condemnation proceedings instituted by such city. Said superior court shall thereupon, by order duly entered in its records, appoint three competent persons as commissioners who shall be known as and who shall constitute the "board of eminent domain commissioners of the city of," and who shall thereafter make assessments in all condemnation proceedings instituted by such city. The order of the court shall provide that one of the members of such board shall serve for one year, one for two years and one for three years, from the date of their appointment and until their successors are appointed and qualified. Annually thereafter, said superior court shall appoint one such person as such commissioner, whose term shall begin on the same day of the month on which the first order of appointment was made and continue for three years thereafter and until his successor is appointed and qualified. If any commissioner shall be disqualified in any proceeding by reason of interest, or for any other reason, said superior court shall appoint some other competent person to act in his place in such proceeding.

[1907 c 153 § 21; RRS § 9235. Prior: 1905 c 55 § 21; 1893 c 84 § 21.]

RCW 8.12.270 Oath of commissioners--Compensation.

All commissioners, before entering upon their duties shall take and subscribe an oath that

they will faithfully perform the duties of the office to which they are appointed, and will to the best of their abilities make true and impartial assessments according to law. Every commissioner shall receive compensation at the rate of ten dollars per day for each day actually spent in making the assessment herein provided for: PROVIDED, That in any city of the first class the superior court of the county in which said city is situated may, by order duly entered in its record, fix the compensation of each commissioner in an amount in no case to exceed twenty-five dollars per day for each day actually spent in making the assessment herein provided for. Each commissioner shall file in the proceeding in which he has made such assessment his account, stating the number of days he has actually spent in said proceeding, and upon the approval of said account by the judge before whom the proceeding is pending, the comptroller or city clerk of such city shall issue a warrant in the amount approved by the judge upon the special fund created to pay the awards and costs of said proceeding, and the fees of such commissioner so paid shall be included in the cost and expense of such proceedings. In case such commissioners are, during the same period, or parts thereof, engaged in making assessments in different proceedings, in rendering their accounts they shall apportion them to the different proceedings in proportion to the amount of time, actually spent by them on the assessment in each proceeding.

[1947 c 139 § 1; 1929 c 87 § 1; 1915 c 154 § 2; 1907 c 153 § 22; Rem. Supp. 1947 § 9236. Prior: 1905 c 55 § 22, part; 1893 c 84 § 22, part.]

RCW 8.12.280 Duties of commissioners--Assessment of benefits--Apportionment.

It shall be the duty of such commissioners to examine the locality where the improvement is proposed to be made and the property which will be especially benefited thereby, and to estimate what proportion, if any, of the total cost of such improvement will be a benefit to the public, and what proportion thereof will be a benefit to the property to be benefited, and apportion the same between the city and such property so that each shall bear its relative equitable proportion, and having found said amounts, to apportion and assess the amount so found to be a benefit to the property upon the several lots, blocks, tracts and parcels of land, or other property in the proportion in which they will be severally benefited by such improvement: PROVIDED, That the legislative body of the city may in the ordinance initiating any such improvement establish an assessment district and said district when so established shall be deemed to include all the lands or other property especially benefited by the proposed improvement, and the limits of said district when so fixed shall be binding and conclusive on the said commissioners: AND PROVIDED FURTHER, That no property shall be assessed a greater amount than it will be actually benefited. That all leasehold rights and interests of private persons, firms or corporations in or to harbor areas located within the corporate limits of any incorporated city or town are for the purpose of assessment for the payment of the awards, interest and costs of any improvement authorized by this chapter, declared to be real property, and all such leasehold rights and interests may be assessed and reassessed in accordance with the special benefits received for the purpose of paying the cost of any such improvement heretofore made or which may hereafter be made in accordance with law.

[1915 c 154 § 3; 1909 c 211 § 1; 1907 c 153 § 23; RRS § 9237. Prior: 1905 c 55 § 22, part; 1893 c 84 § 22, part.]

RCW 8.12.290 Assessment roll.

Such commissioners in each proceeding shall also make or cause to be made an assessment roll in which shall appear the names of the owners, so far as known, the description of each lot, block, tract or parcel of land or other property and the amounts assessed as special benefits thereto, and in which they shall set down as against the city the amount they shall have found as public benefit, if any, and certify such assessment roll to the court before which said proceeding is pending, within sixty days after their appointment or after the date of the order referring said proceeding to them, or within such extension of said period as shall be allowed by the court.

[1907 c 153 § 24; RRS § 9238. Prior: 1905 c 55 § 23; 1893 c 84 § 23.]

RCW 8.12.300 Hearing on assessment roll--Notice.

After the return of such assessment roll, the court shall make an order setting a time for the hearing thereof before the court, which day shall be at least twenty days after return of the roll. It shall be the duty of the commissioners to give notice of the assessment and of the day fixed by the court for the hearing thereof in the following manner:

(1) They shall at least twenty days prior to the date fixed for the hearing on the roll, mail to each owner of the property assessed, whose name and address is known to them, a notice substantially in the following form:

"Title of Cause. To: Pursuant to an order of the superior court of the State of Washington, in and for the county of, there will be a hearing in the above entitled cause on at upon the assessment roll prepared by the commissioners heretofore appointed by said court to assess the property specially benefited by the (here describe nature of improvement); and you are hereby required if you desire to make any objections to the assessment roll, to file your objections to the same before the date herein fixed for the hearing upon the roll, a description of your property and the amount assessed against it for the aforesaid improvement is as follows: (Description of property and amount assessed against it.)

.....
.....
.....
Commissioners."

(2) They shall cause at least twenty days' notice to be given by posting notice of the hearing on the assessment roll in at least three public places in the city, one of which shall be in the neighborhood of the proposed improvement, and by publishing the same at least for two successive weeks in the official newspaper of the city. The notice so required to be posted and

published, may be substantially as follows:

"Title of Cause. Special assessment notice. Notice is hereby given to all persons interested, that an assessment roll has been filed in the above entitled cause providing for the assessment upon the property benefited of the cost of (here insert brief description of improvement) and that the roll has been set down for hearing on the day of at The boundaries of the assessment district are substantially as follows: (here insert an approximate description of the assessment district). All persons desiring to object to the assessment roll are required to file their objections before the date fixed for the hearing upon the roll, and appear on the day fixed for hearing before said court.

.
.
.
Commissioners."

[1985 c 469 § 3; 1907 c 153 § 25; RRS § 9239. Prior: 1905 c 55 § 24; 1893 c 84 § 24.]

RCW 8.12.310 Proof of service.

On or before the final hearing, the affidavit of one or more of the commissioners shall be filed in said court, stating that they have sent, or caused to be sent, by mail, to the owners whose property has been assessed and whose names and addresses are known to them, the notice hereinbefore required to be sent by mail to the owners of the property assessed. They shall also cause to be filed the affidavit of the person who shall have posted the notice required by this chapter to be posted, setting forth when and in what manner the same was posted. Such affidavits shall be received as prima facie evidence of a compliance with this chapter in regard to giving such notices. They shall also file an affidavit of publication of such notice in like manner as is required in other cases of affidavits of publication of notice of [or] summons.

[1907 c 153 § 26; RRS § 9240. Prior: 1905 c 55 § 25; 1893 c 84 § 25.]

RCW 8.12.320 Continuance of hearing.

If twenty days shall not have elapsed between the first publication or the posting of such notices and the day set for hearing, the hearing shall be continued until such time as the court shall order. The court shall retain full jurisdiction of the matter, until final judgment on the assessments; and if the notice given shall prove invalid or insufficient the court shall order new notice to be given.

[1907 c 153 § 27; RRS § 9241. Prior: 1905 c 55 § 26; 1893 c 84 § 26.]

RCW 8.12.330 Objections to assessment roll.

Any person interested in any property assessed may without payment of any fee to the clerk of court file objections to such report at any time before the day set for hearing said roll. As

to all property to the assessment of which objections are not filed as herein provided, default may be entered and the assessment confirmed by the court. On the hearing, the report of such commissioners shall be competent evidence and either party may introduce such other evidence as may tend to establish the right of the matter. The hearing shall be conducted as in other cases at law, tried by the court without a jury, and if it shall appear that the property of the objector is assessed more or less than it will be benefited or more or less than its proportionate share of the costs of the improvement, the court shall so find and also find the amount in which said property ought to be assessed, and the judgment shall be entered accordingly.

[1947 c 139 § 2; 1907 c 153 § 28; Rem. Supp. 1947 § 9242. Prior: 1905 c 55 §§ 27, 28; 1893 c 84 §§ 27, 28.]

RCW 8.12.340 Modification of assessment.

The court before which any such proceedings may be pending shall have authority at any time before final judgment to modify, alter, change, annul or confirm any assessment returned as aforesaid, or cause any such assessment to be recast by the same commissioners, whenever it shall be necessary for the obtainment of justice, or may appoint other commissioners in the place of all or any of the commissioners first appointed for the purpose of making such assessment or modifying, altering, changing or recasting the same, and may take all such proceedings and make all such orders as may be necessary to make a true and just assessment of the cost of such improvement according to the principles of this chapter, and may from time to time, as may be necessary, continue the application for that purpose as to the whole or any part of the premises.

[1907 c 153 § 29; RRS § 9243. Prior: 1905 c 55 § 29; 1893 c 84 § 29.]

RCW 8.12.350 Judgment, effect--Lien.

The judgment of the court shall have the effect of a separate judgment as to each tract or parcel of land or other property assessed, and any appeal from such judgment shall not invalidate or delay the judgment except as to the property concerning which the appeal is taken. Such judgment shall be a lien upon the property assessed from the date thereof until payment shall be made, and said lien shall be paramount and superior to any other lien or encumbrance whatsoever, theretofore or thereafter created, except a lien for assessments for general taxes.

[1915 c 154 § 4; 1907 c 153 § 30; RRS § 9244. Prior: 1905 c 55 § 30; 1893 c 84 § 30.]

RCW 8.12.360 Certification of roll to treasurer.

The clerk of the court in which such judgment is rendered shall certify a copy of the assessment roll and judgment to the treasurer of the city, or if there has been an appeal taken from any part of such judgment, then he shall certify such part of the roll and judgment as is not included in such appeal, and the remainder when final judgment is rendered: PROVIDED, That if upon such appeal, the judgment of the superior court shall be affirmed, the assessments on such property as to which appeal has been taken shall bear interest at the same rate and from the

same date which other assessments not paid within the time hereafter provided shall bear. Such copy of the assessment roll shall describe the lots, blocks, tracts, parcels of land or other property assessed, and the respective amounts assessed on each, and shall be sufficient warrant to the city treasurer to collect the assessment therein specified. In no case, however, shall a copy of such assessment roll and judgment be certified to the city treasurer unless and until the awards of the jury shall have first been accepted by the city council or other legislative body as provided by law, or the time for rejecting the same shall have expired.

[1915 c 154 § 5; 1907 c 153 § 31; RRS § 9245. Prior: 1905 c 55 § 31; 1893 c 84 § 31.]

RCW 8.12.370 Treasurer's notice to pay when assessments immediately payable.

Whenever the assessment for any such improvement shall be immediately payable, the owner of any such lot, tract or parcel of land or other property so assessed may pay such entire assessment, or any part thereof, without interest, within thirty days after the notice of such assessment.

The city treasurer shall, as soon as the certified copy of the assessment roll has been placed in his hands for collection, publish a notice in the official newspaper of the city for two consecutive daily, or two consecutive weekly issues, and then by posting four notices thereof in public places along the line of the proposed improvement, that the said roll is in his hands for collection, and that any assessment thereon, or any part thereof, may be paid within thirty days from the date of the first publication or posting of said notice, without penalty, interest or costs, and if not so paid, the same shall thereupon become delinquent.

[1915 c 154 § 6; 1907 c 153 § 32; RRS § 9246. Prior: 1905 c 55 § 32; 1893 c 84 § 32.]

RCW 8.12.380 Notice by mail--Penalty for default.

It shall be the duty of the city treasurer into whose hands such judgment and assessment roll shall come, to mail notices of such assessment to the persons whose names appear on the assessment roll, so far as the addresses of such persons are known to him. Any such treasurer omitting so to do, shall be liable to a penalty of five dollars for every such omission; but the validity of the special assessment shall not be affected by such omission. When any assessment or assessments are paid, it shall be the duty of the treasurer to write the word "paid" opposite the same together with the name and post office address of the person making the payment and the date of payment. The owner may annually notify the treasurer of his address and it shall be the duty of the treasurer to mail the notice above provided for to such address.

[1907 c 153 § 33; RRS § 9247. Prior: 1905 c 55 § 33; 1893 c 84 § 33.]

BONDS--INSTALLMENT PAYMENT

RCW 8.12.390 Bonds authorized.

The city council or other legislative body of any city may, in their discretion, provide by ordinance for the payment of the whole or any portion of the cost and expense of any local improvement authorized by law, by bonds of the improvement district, which bonds shall be issued and sold as herein provided.

[1915 c 154 § 10; 1907 c 153 § 47; RRS § 9262.]

Notes:

Cities and towns: Title 35 RCW.

Public contracts and indebtedness: Title 39 RCW.

RCW 8.12.400 Maturity--Interest--Payment.

(1) Such bonds shall be issued only in pursuance of ordinances of the city directing the issuance of the same, and by their terms shall be made payable on or before a date not to exceed twelve years from and after their date, which latter date may be fixed by resolution or ordinance by council or other legislative body of said city and shall bear interest at such rate or rates as may be authorized by the council or other legislative body of said city, which interest shall be payable annually, or semiannually, as may be provided by resolution or ordinance: PROVIDED, That the legislative body of any city of the first class having a population of three hundred thousand inhabitants, or more, issuing any bonds hereunder may by ordinance, passed by unanimous vote, authorize the issuance of such bonds payable on or before a date not to exceed twenty-two years from and after the date of the issue of such bonds, and shall in such ordinance provide that said bonds shall be sold at not less than par and shall bear interest at such rate or rates as may be authorized by the legislative body.

Such bonds shall be in such denominations as shall be provided in the resolution or ordinance authorizing their issuance and shall be numbered from one upwards, consecutively, and each bond and any coupon shall be signed by the mayor and attested by the clerk or comptroller of such city: PROVIDED, HOWEVER, That any coupons may in lieu of being so signed have printed thereon a facsimile of the signature of said officers and each bond shall have the seal of such city affixed thereto and shall refer to the improvement to pay for which the same shall be issued and to the ordinance authorizing the same. Each bond shall provide that the principal sum therein named, and the interest thereon, shall be payable out of the local improvement fund created for the payment of the cost and expense of such improvement, and not otherwise. Such bonds shall not be issued in any amount in excess of the cost and expense of the improvement. The bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 12; 1970 ex.s. c 56 § 2; 1969 ex.s. c 232 § 64; 1925 ex.s. c 115 § 1; 1915 c 154 § 11; RRS § 9263.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 8.12.410 Sale--Application of proceeds.

(1) The bonds issued under the provisions of this chapter or any portion thereof may be sold by any authorized officer or officers of the city at not less than their par value and accrued interest, and the proceeds thereof shall be applied in payment of the awards, interest and costs of the improvement.

(2) Notwithstanding subsection (1) of this section, such bonds may be sold in accordance with chapter 39.46 RCW.

[1983 c 167 § 13; 1915 c 154 § 12; RRS § 9264.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 8.12.420 Installment payment of assessments.

In all cases where any city shall issue bonds as provided for in this chapter, the whole or any portion of the separate assessments for any such improvement may be paid during the thirty day period provided for in RCW 8.12.430, and thereafter the sum remaining unpaid may be paid in equal annual installments; the number of which installments shall be less by two than the number of years which the bonds issued to pay for the improvements may run, with interest upon the whole unpaid sum at the bond rate, and each year thereafter one of such installments, together with the interest due thereon and on all installments thereafter to become due, shall be collected in the same manner as shall be provided by law and the resolutions and ordinances of such city for the collection of assessments for such improvements in cases where no bonds are issued: PROVIDED, HOWEVER, That whenever the legislative body of any city of the first class having a population of three hundred thousand inhabitants, or more, shall have, as provided in RCW 8.12.400, by unanimous vote determined that any bonds issued hereunder shall be payable in twenty-two years, such legislative body may by ordinance provide that the principal sum remaining unpaid after the thirty day period specified in RCW 8.12.430 may be paid in ten equal annual installments, beginning with the eleventh year and ending with the twentieth year after said thirty day period, together with interest upon the unpaid installments at the bond rate, and that in each year after the said thirty day period, to and including the tenth year thereafter, one installment of interest on the principal sum of said assessment shall be paid and collected, and that, beginning with the eleventh year after said thirty day period, one installment of the principal, together with the interest due thereon and on all installments thereafter to become due, shall be paid and collected in the same manner as shall be provided by law and the resolutions and ordinances of such city for the collection of assessments for such improvements in cases where no bonds are issued.

In all cases of improvements authorized in this chapter, where, at the time this chapter shall become effective, the notice by the city treasurer of the assessment for such improvement shall not have been published, the city council or other legislative body of such city may by

ordinance or resolution provide for the issuance and sale of bonds for such improvement and for the payment of such assessments in installments.

[1925 ex.s. c 115 § 2; 1915 c 154 § 13; RRS § 9265.]

RCW 8.12.430 Notice to pay--Due date of installments--Penalty--Interest.

Whenever the assessment for any such improvement shall be payable in installments, the owner of any lot, tract, or parcel of land or other property charged with any such assessment may pay the assessment or any portion thereof, without interest, within thirty days after such notice of the assessment.

The city treasurer shall, as soon as the certified copy of the assessment roll has been placed in his hands for collection, publish a notice in the official newspaper of the city for two consecutive daily or two consecutive weekly issues, that the roll is in his hands for collection and that any assessment thereon or any portion of any such assessment may be paid at any time within thirty days from the date of the first publication of the notice without penalty, interest or costs, and the unpaid balance, if any, may be paid in equal annual installments, or any such assessment may be paid at any time after the first thirty days following the date of the first publication of the notice by paying the entire unpaid portion thereof with all penalties and costs attached, together with all interest thereon to the date of delinquency of the first installment thereof next falling due.

The notice shall further state that the first installment of the assessment shall become due and payable during the thirty day period succeeding a date one year after the date of first publication of the notice, and annually thereafter each succeeding installment shall become due and payable in like manner.

If the whole or any portion of any assessment remains unpaid after the first thirty day period herein provided for, interest upon the whole unpaid sum shall be charged at the bond rate, and each year thereafter one of the installments, together with interest due upon the whole of the unpaid balance, shall be collected, except that where the assessment is payable in twenty years, installments of interest only shall be collected for the first ten years, as provided in RCW 8.12.420.

Any installment not paid prior to the expiration of the thirty day period during which the installment is due and payable, shall thereupon become delinquent. All delinquent installments shall be subject to a charge of five percent penalty levied upon both principal and interest due on the installments, and all delinquent installments, except installments of interest when the assessment is payable in twenty years, as provided in RCW 8.12.420, shall, until paid, be subject to a charge for interest at the bond rate.

The bonds herein provided for shall not be issued prior to twenty days after the expiration of the thirty days first above mentioned, but may be issued at any time thereafter. In all cases where any sum is paid as herein provided, the same shall be paid to the city treasurer, or to the officer whose duty it is to collect the assessments, and all sums so paid shall be applied solely to the payment of the awards, interest and costs of the improvements or the redemption of the bonds

issued therefor.

[1985 c 469 § 4; 1925 ex.s. c 115 § 3; 1915 c 154 § 14; RRS § 9266.]

RCW 8.12.440 Bond owner may enforce collection.

If the city shall fail, neglect or refuse to pay said bonds or to promptly collect any such assessments when due, the owner of any such bonds may proceed in his own name to collect such assessment and foreclose the lien thereof in any court of competent jurisdiction, and shall in addition to the principal of such bonds and interest thereon, recover five percent of such sum, together with the costs of such suit. Any number of owners of such bonds for any single improvement may join as plaintiffs and any number of owners of the property on which the same are a lien may be joined as defendants in such suit.

[1983 c 167 § 14; 1915 c 154 § 15; RRS § 9267.]

Notes:

Rules of court: CR 17 through 25.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 8.12.450 Bondholder's remedy limited to assessments.

Neither the holder nor owner of any bond issued under the authority of this chapter shall have any claim therefor against the city by which the same is issued, except from the special assessment made for the improvement for which such bond was issued, but his remedy in case of nonpayment, shall be confined to the enforcement of such assessments. A copy of this section shall be plainly written, printed or engraved on each bond so issued.

[1915 c 154 § 16; RRS § 9268.]

RCW 8.12.460 Payment of bonds--Call--Notice.

The city treasurer shall pay the interest on the bonds authorized to be issued by this chapter out of the respective local improvement funds from which they are payable. Whenever there shall be sufficient money in any local improvement fund against which bonds have been issued under the provisions of this chapter, over and above sufficient for the payment of interest on all unpaid bonds, to pay the principal of one or more bonds, the treasurer shall call in and pay such bonds. The bonds shall be called in and paid in their numerical order, commencing with number one. The call shall be made by publication in the city official newspaper in its first publication following the delinquency of the installment of the assessment or as soon thereafter as is practicable, and shall state that bonds No. (giving the serial numbers of the bonds called) will be paid on the day the next interest payments on the bonds shall become due, and interest on the bonds shall cease upon such date.

[1985 c 469 § 5; 1983 c 167 § 15; 1915 c 154 § 18; RRS § 9270.]

Notes:

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

DELINQUENCY--REDEMPTION

RCW 8.12.470 Enforcement of collection--Interest on delinquency.

Wherever any assessment or installment thereof shall become delinquent, the city treasurer shall enforce the collection thereof in the same manner as provided in chapter 9, Laws of 1933 [as codified in chapter 35.50 RCW], or such other laws as may be hereafter enacted for the foreclosure of delinquent local (physical) improvement assessments. All assessments or installments unpaid at the expiration of the time fixed herein for the payment of the same, shall bear interest at the rate of ten percent per annum, from said date until paid.

[1947 c 152 § 1; 1915 c 154 § 7; 1907 c 153 § 34; Rem. Supp. 1947 § 9248. Prior: 1905 c 55 § 34; 1893 c 84 § 34.]

RCW 8.12.480 Assessment fund to be kept separate.

All moneys collected by the treasurer upon assessments under this chapter shall be kept as a separate fund and shall be used for no other purpose than the redemption of warrants or bonds drawn or issued against the fund.

[1907 c 153 § 42; RRS § 9257. Prior: 1905 c 55 § 42; 1893 c 84 § 42.]

RCW 8.12.490 Record of payment and redemption.

Whenever before the sale of any property the amount of any assessment thereon, with interest and costs accrued thereon, shall be paid to the treasurer, he shall thereupon mark the same paid, with the date of payment thereof on the assessment roll, and whenever after sale of any property for any assessments, the same shall be redeemed, he shall thereupon enter the same redeemed with the date of such redemption on such record. Such entry shall be made on the margin of the record opposite the description of such property.

[1907 c 153 § 43; RRS § 9258. Prior: 1905 c 55 § 43; 1893 c 84 § 43.]

RCW 8.12.500 Liability of treasurer.

If the treasurer shall receive any moneys for assessments, giving a receipt therefor, for any property and afterwards return the same as unpaid, or shall receive the same after making such return, and the same be sold for assessment which has been so paid and receipted for by himself or his clerk or assistant, he and his bond shall be liable to the holder of the certificate given to the purchaser at the sale for the amount of the face of the certificate, and a penalty of fifteen percent additional thereto besides legal interest, to be demanded within two years from the date of the sale and recovered in any court having jurisdiction of the amount, and the city shall in no case be liable to the holder of such certificate.

[1907 c 153 § 44; RRS § 9259. Prior: 1905 c 55 § 44; 1893 c 84 § 44.]

MISCELLANEOUS PROVISIONS

RCW 8.12.510 Reassessment.

If any assessment be annulled or set aside by any court, or be invalid for any cause, a new assessment may be made, and return and like notice given and proceedings had as herein required in relation to the first; and all parties in interest shall have the like rights, and the city council or other legislative body, and the superior court, shall perform the like duties and have like power in relation to any subsequent assessment as are hereby given in relation to the first assessment.

[1907 c 153 § 45; RRS § 9260. Prior: 1905 c 55 § 45; 1893 c 84 § 45.]

RCW 8.12.520 Lien of assessment--Enforcement by civil action.

All the assessments levied by any city under this chapter shall, from the date of the judgment confirming the assessment be a lien upon the real estate upon which the same may be imposed, and such lien shall continue until such assessments are paid; if any proceedings taken for the enforcement thereof, shall be held void or invalid, such city shall provide by ordinance for new proceedings and a new sale for the enforcement thereof in like manner as hereinbefore provided; and in addition to the remedy hereinbefore provided, any city may enforce such lien by civil action in any court of competent jurisdiction in like manner and with like effect as actions for the foreclosure of mortgage.

[1907 c 153 § 46; RRS § 9261. Prior: 1905 c 55 § 46; 1893 c 84 § 46.]

Notes:

Foreclosure actions, real estate mortgages: Chapter 61.12 RCW.

RCW 8.12.530 Discontinuance of proceedings.

At any time within six months from the date of rendition of the last judgment awarding compensation for any such improvement in the superior court, or if appellate review is sought, then within two months after the final determination of the proceeding in the supreme court or the court of appeals, any such city may discontinue the proceedings by ordinance passed for that purpose before making payment or proceeding with the improvement by paying or depositing in court all taxable costs incurred by any parties to the proceedings up to the time of such discontinuance. If any such improvement be discontinued, no new proceedings shall be undertaken therefor until the expiration of one year from the date of such discontinuance.

[1988 c 202 § 11; 1971 c 81 § 40; 1915 c 154 § 21; 1907 c 153 § 49; RRS § 9274. Prior: 1905 c 55 § 48; 1893 c 84 § 48.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.12.540 Subsequent compensation for property taken or damaged.

If any city has heretofore taken or shall hereafter take possession of any land or other property, or has damaged or shall hereafter damage the same for any of the public purposes mentioned in this chapter, or for any other purpose within the authority of such city or town, without having made just compensation therefor, such city or town may cause such compensation to be ascertained and paid to the persons entitled thereto by proceedings taken in accordance with the provisions of this chapter, and the payment of such compensation and costs as shall be adjudged in favor of the persons entitled thereto in such proceedings shall be a defense to any other action for the taking or damaging of such property.

[1907 c 153 § 53; RRS § 9278. Prior: 1905 c 55 § 52; 1893 c 84 § 52.]

RCW 8.12.550 Regrade assessments.

If any street, avenue or alley, or the right to use and control the same for purposes of public travel, shall belong to any city and such city shall establish a grade therefor, which grade requires any cut or fill, damaging abutting property, the damages to arise from the making of such grade may be ascertained in the manner provided in this chapter, but such city may provide that the compensation to be made for such damage, together with the accruing costs, shall be added to the cost of the labor and material necessary for the grading thereof, and shall be paid by assessment upon the property within the local assessment district defined by law or the charter or ordinances of such city in the same manner and to the same extent as other expenses of such improvement are assessed and collected. In such cases it shall not be necessary to procure the appointment of commissioners to take the other proceedings herein provided for making such assessments, but all the proceedings for the assessment and collection of such damages and costs, shall, if so ordained by such city, be governed by the charter provisions, law or ordinances in force in such city for the assessment and collection of the costs of such improvements upon property locally benefited thereby: PROVIDED, HOWEVER, That this section shall not apply to the original grading of such street, avenue or alley.

[1909 c 80 § 1; 1907 c 153 § 48; RRS § 9273. Prior: 1905 c 55 § 47; 1893 c 84 § 47.]

RCW 8.12.560 Construction as to second class cities.

In so far as this chapter relates to cities of the second class, this chapter shall not be deemed to be exclusive or as repealing or superseding any existing law relative to such cities, covering any subject covered by this chapter, but as to such cities, this chapter shall be construed as conferring additional powers and additional remedies, to those now provided by law.

[1907 c 153 § 56; RRS § 9279.]

Notes:

Second class cities, specific powers enumerated: RCW 35.23.440(45).

RCW 8.12.570 Condemnation for military purposes.

See RCW 8.04.170.

RCW 8.12.580 Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

See RCW 8.25.270.

**Chapter 8.16 RCW
EMINENT DOMAIN BY SCHOOL DISTRICTS**

Sections

8.16.010	Condemnation authorized for schoolhouse sites.
8.16.020	Petition--Contents.
8.16.030	Notice of petition--Service.
8.16.040	Adjournment of proceedings--Further notice.
8.16.050	Hearing--Finding of necessity--Setting for trial.
8.16.060	Impaneling of jury.
8.16.070	Trial--View by jury.
8.16.080	Verdict.
8.16.090	Ten jurors may render verdict.
8.16.100	Waiver of jury.
8.16.110	Judgment--Payment of award--Decree of appropriation.
8.16.120	Costs.
8.16.130	Appellate review.
8.16.140	Appeal does not delay possession if award paid.
8.16.150	Designation of parties--Fees.
8.16.160	Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

Notes:

Acres limitation with respect to district's power of eminent domain: RCW 28A.335.220.

Additional provisions relating to eminent domain proceedings: Chapter 8.25 RCW.

RCW 8.16.010 Condemnation authorized for schoolhouse sites.

Whenever any school district shall select any real estate as a site for a schoolhouse, or as additional grounds to an existing schoolhouse site, within the district, and the board of school directors of such district and the owner or owners of the site or any part thereof, or addition thereto selected, shall be unable to agree upon the compensation to be paid by such school district to the owner or owners thereof, such school district shall have the right to take and acquire title to such real estate for use as a schoolhouse site or additional site, upon first paying to

the owner or owners thereof therefor the value thereof, to be ascertained in the manner hereinafter provided.

[1909 p 372 § 1; 1903 c 111 § 1; RRS § 906.]

RCW 8.16.020 Petition--Contents.

The board of directors of the school district shall present to the superior court of the state of Washington in and for the county wherein is situated the real estate desired to be acquired for schoolhouse site purposes, a petition, reciting that the board of directors of such school district have selected certain real estate, describing it, as a schoolhouse site, or as additional grounds to an existing site, for such school district; that the site so selected, or some part thereof, describing it, belongs to a person or persons, naming him or them, that such school district has offered to give the owner or owners thereof therefor dollars, and that the owner of such real estate has refused to accept the same therefor; that the board of school directors of such school district and the said owner or owners of such real estate are unable to agree upon the compensation to be paid by such school district to the owner or owners of such real estate therefor, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money by such school district to such owner or owners for the taking of such real estate for the use as a schoolhouse site for such school district; or in case a jury be waived in the manner provided by law in other civil actions in courts of record, then that the compensation to be made as aforesaid, be ascertained and determined by the court, or judge thereof.

[1909 p 372 § 2; 1903 c 111 § 2; RRS § 907.]

RCW 8.16.030 Notice of petition--Service.

A notice, stating the time and place when and where such petition shall be presented to the court, or the judge thereof, together with a copy of such petition, shall be served on each and every person named therein as owner, or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such notice shall be signed by the prosecuting attorney of the county wherein the real estate sought to be taken is situated, and may be served in the same manner as summons in a civil action in such superior court is authorized by law to be served.

[1909 p 373 § 3; 1903 c 111 § 3; RRS § 908.]

Notes:

Publication of notice in eminent domain proceedings: RCW 4.28.120.

RCW 8.16.040 Adjournment of proceedings--Further notice.

The court may, upon application of the petitioner or of any owner of said real estate, or any person interested therein, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interests may be affected by

such proceedings.

[1909 p 373 § 4; 1903 c 111 § 4; RRS § 909.]

RCW 8.16.050 Hearing--Finding of necessity--Setting for trial.

At the time and place appointed for the hearing of such petition, or to which the same may have been adjourned, if the court shall find that all parties interested in such real estate sought to be taken have been duly served with notice and a copy of the petition as above prescribed, and shall further find that such real estate sought to be taken is required and necessary for the purposes of a schoolhouse site, or as an addition to a schoolhouse site, for such school district, the court shall make an order reciting such findings, and shall thereupon set the hearing of such petition down for trial by a jury, as other civil actions are tried, unless a jury is waived in the manner provided by law in other civil actions.

[1909 p 373 § 5; RRS § 910. Prior: 1903 c 111 § 5.]

RCW 8.16.060 Impaneling of jury.

The jury impaneled to hear the evidence and determine the compensation to be paid to the owner or owners of such real estate desired for such schoolhouse site purpose shall consist of twelve persons unless a less number be agreed upon, and shall be selected, impaneled and sworn in the same manner that juries in other civil actions are selected, impaneled and sworn, provided a juror may be challenged for cause on the ground that he is a taxpayer of the district seeking the condemnation of any real estate.

[1909 p 373 § 6; 1903 c 111 § 6; RRS § 911.]

Notes:

Juries, civil actions, selection, impaneling and swearing of: Chapters 2.36, 4.44 RCW.

Juries in courts of limited jurisdiction: RCW 2.36.050.

RCW 8.16.070 Trial--View by jury.

A judge of the superior court shall preside at the trial and witnesses may be examined in behalf of either party to the proceedings, as in other civil actions, and upon the request of all the parties interested in such proceedings the court shall cause the jury impaneled to hear the same, to view the premises sought to be taken, and upon the request of any less number of the persons interested in the proceedings, the court may cause the jury to view the premises, pending the hearing of the case.

[1909 p 374 § 7; 1903 c 111 § 7; RRS § 912.]

Notes:

Trial, civil actions, view by jury: RCW 4.44.270.

RCW 8.16.080 Verdict.

Upon the close of the evidence, and the argument of counsel, the court shall instruct the jury as to the matters submitted to them, and the law pertaining thereto, whereupon the jury shall retire and deliberate and determine upon the amount of compensation in money that shall be paid to the owner or owners of the real estate sought to be taken for such schoolhouse site purposes therefor, which shall be the amount found by the jury to be the fair and full value of such premises; and when the jury shall have determined upon their verdict, they shall return the same to the court as in other civil actions.

[1909 p 374 § 8; 1903 c 111 § 8; RRS § 913.]

Notes:

Trial, civil actions, rendering of verdict: Chapter 4.44 RCW.

RCW 8.16.090 Ten jurors may render verdict.

When ten of the jurors agree upon a verdict, the verdict so agreed upon shall be signed by the foreman, and the verdict so agreed upon shall be and stand as the verdict of the jury.

[1909 p 374 § 9; 1903 c 111 § 9; RRS § 914.]

Notes:

Verdict, civil actions, ten jurors may render: RCW 4.44.380.

RCW 8.16.100 Waiver of jury.

In case a jury is waived, the compensation that shall be paid for the premises taken shall be determined by the court and the proceedings shall be the same as in the trial of issues of fact by the court in other civil actions.

[1909 p 374 § 10; 1903 c 111 § 10; RRS § 915.]

RCW 8.16.110 Judgment--Payment of award--Decree of appropriation.

Upon the verdict of the jury, or upon the determination by the court of the compensation to be paid for the property sought to be taken as herein provided, judgment shall be entered against such school district in favor of the owner or owners of the real estate sought to be taken, for the amount found as compensation therefor, and upon the payment of such amount by such school district to the clerk of such court for the use of the owner or owners of, and the persons interested in the premises sought to be taken, the court shall enter a decree of appropriation of the real estate sought to be taken, thereby vesting the title to the same in such school district; and a certified copy of such decree of appropriation may be filed in the office of the county auditor of the county wherein the real estate taken is situated, and shall be recorded by such auditor like a deed of real estate, and with like effect. The money so paid to the clerk of the court shall be by him paid to the person or persons entitled thereto, upon the order of the court.

[1909 p 374 § 11; 1903 c 111 § 11; RRS § 916.]

Notes:

Recording of deeds of real estate: Title 65 RCW.

RCW 8.16.120 Costs.

All the costs of such proceedings in the superior court shall be paid by the school district initiating such proceedings.

[1909 p 375 § 12; 1903 c 111 § 12; RRS § 917.]

RCW 8.16.130 Appellate review.

Either party may seek appellate review of the judgment for compensation awarded for the property taken, entered in the superior court, to the supreme court or the court of appeals of the state within sixty days after the entry of the judgment, and such review shall bring before the supreme court or the court of appeals the justness of the compensation awarded for the property taken, and any error occurring on the hearing of such matter, prejudicial to the party appealing: PROVIDED, HOWEVER, That if the owner or owners of the land taken accepts the sum awarded by the jury or court, he or they shall be deemed thereby to have waived appellate review.

[1988 c 202 § 12; 1971 c 81 § 41; 1909 p 375 § 13; RRS § 918. Prior: 1903 c 111 § 13.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.16.140 Appeal does not delay possession if award paid.

An appeal from such judgment by the owner or owners of the land sought to be taken, shall not have the effect to preclude the school district from taking possession of the premises sought, pending the appeal, provided the amount of the judgment against the school district shall have been paid in to the clerk of the court, as hereinbefore provided.

[1909 p 375 § 14; 1903 c 111 § 14; RRS § 919.]

RCW 8.16.150 Designation of parties--Fees.

In all proceedings under this chapter the school district seeking to acquire title to real estate for a schoolhouse site, shall be denominated plaintiff, and all other persons interested therein shall be denominated defendants; and in all such proceedings the clerk of the superior court wherein any such proceeding is brought shall charge nothing for his services, except in taking an appeal from the judgment entered in the superior court.

[1909 p 375 § 15; 1903 c 111 § 15; RRS § 920.]

RCW 8.16.160 Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

See RCW 8.25.270.

**Chapter 8.20 RCW
EMINENT DOMAIN BY CORPORATIONS**

Sections

8.20.010	Petition for appropriation--Contents.
8.20.020	Notice--Contents--Service--Publication.
8.20.060	Adjournment of proceedings--Further notice.
8.20.070	Adjudication of public use or private way of necessity.
8.20.080	Trial, how conducted.
8.20.090	Judgment--Decree of appropriation--Recording.
8.20.100	Payment of damages--Effect--Appellate review.
8.20.110	Claimants, payment of--Conflicting claims.
8.20.120	Appellate review.
8.20.130	Prosecution of work pending appeal--Bond.
8.20.140	Appropriation of railway right-of-way through canyon, pass, or defile.
8.20.150	Prior entry with consent--Condemnation avoids ouster.
8.20.160	Three-year occupancy--Condemnation avoids ouster.
8.20.170	Suit for compensation by owner equivalent to condemnation.
8.20.180	Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

Notes:

Additional provisions relating to eminent domain proceedings: Chapter 8.25 RCW.

Corporations, certain types: RCW 81.36.010.

Corporations conveying water: RCW 90.16.100.

Easements over public lands: Chapter 79.36 RCW.

Electric light and power companies: RCW 80.32.060 through 80.32.080.

Eminent domain affecting corporations other than municipal: State Constitution Art. 12 § 10.

Gas and oil pipelines: RCW 81.88.020.

Grade crossing eliminations, appropriation for: RCW 81.53.180.

Mining companies: RCW 78.04.010.

Railroad companies, appropriation by: RCW 81.36.010.

Railroads, rights of way: RCW 81.52.040, 81.53.180.

State university--Rights-of-way to railroads: RCW 28B.20.330.

Street and electric railroads: RCW 81.64.040.

Telecommunications companies: RCW 80.36.010, State Constitution Art. 12 § 19.

Underground natural gas storage: RCW 80.40.030, 80.40.040.

Water power companies: RCW 90.16.030.

RCW 8.20.010 Petition for appropriation--Contents.

Any corporation authorized by law to appropriate land, real estate, premises or other property for right-of-way or any other corporate purposes, may present to the superior court of the county in which any land, real estate, premises or other property sought to be appropriated shall be situated, or to the judge of such superior court in any county where he has jurisdiction or is holding court, a petition in which the land, real estate, premises or other property sought to be appropriated shall be described with reasonable certainty, and setting forth the name of each and every owner, encumbrancer or other person or party interested in the same, or any part thereof, so far as the same can be ascertained from the public records, the object for which the land is sought to be appropriated, and praying that a jury be impaneled to ascertain and determine the compensation to be made in money, irrespective of any benefit from any improvement proposed by such corporation, to such owner or owners, respectively, and to all tenants, encumbrancers and others interested, for the taking or injuriously affecting such lands, real estate, premises or other property, or in case a jury be waived as in other civil cases in courts of record in the manner prescribed by law, then that the compensation to be made, as aforesaid, be ascertained and determined by the court, or judge thereof.

[1890 p 294 § 1. Prior: 1888 p 58 § 1; RRS § 921.]

RCW 8.20.020 Notice--Contents--Service--Publication.

A notice, stating briefly the objects of the petition, and containing a description of the land, real estate, premises or property sought to be appropriated, and stating the time and place, when and where the same will be presented to the court, or the judge thereof, shall be served on each and every person named therein as owner, encumbrancer, tenant, or otherwise interested therein, at least ten days previous to the time designated in such notice for the presentation of such petition. Such service shall be made by delivering a copy of such notice to each of the persons or parties so named therein, if a resident of the state; or, in case of the absence of such person or party from his or her usual place of abode, by leaving a copy of such notice at his or her usual place of abode; or, in case of a foreign corporation, at its principal place of business in this state, with some person of more than sixteen years of age. In case of domestic corporations, such service shall be made upon the president, secretary or other director or trustee of such corporation. In case of persons under the age of eighteen years, on their guardians, or in case no guardian shall have been appointed, then on the person who has the care and custody of such person; in case of idiots, lunatics or distracted persons, on their guardian, or in case no guardian shall have been appointed, then on the person in whose care or charge they are found. In case the land, real estate, premises or other property sought to be appropriated is state, school or county land, the notice shall be served on the auditor of the county in which the land, real estate, premises or other property sought to be appropriated is situated. In all cases where the owner or person claiming an interest in such real or other property, is a nonresident of this state, or where the residence of such owner or person is unknown, and an affidavit of the agent or attorney of the corporation shall be filed that such owner or person is a nonresident of this state, or that after diligent inquiry his residence is unknown, or cannot be ascertained by such deponent, service

may be made by publication thereof in any newspaper published in the county where such lands are situated once a week for two successive weeks; and in case no newspaper is published in said county, then such publication may be had in a newspaper published in the county nearest to the county in which lies the land sought to be appropriated. And such publication shall be deemed service upon each of such nonresident person or persons whose residence is unknown. Such notice shall be signed by the president, manager, secretary or attorney of the corporation; and in case the proceedings provided for in RCW 8.20.010 through 8.20.140 are instituted by the owner or any other person or party interested in the land, real estate, or other property sought to be appropriated, then such notice shall be signed by such owner, person or party interested, or his, her or its attorney. Such notice may be served by any competent person eighteen years of age or over. Due proof of the service of such notice by affidavit of the person serving the same, or by the printer's affidavit of publication, shall be filed with the clerk of such superior court before or at the time of the presentation of such petition. Want of service of such notice shall render the subsequent proceedings void as to the person not served, but all persons or parties having been served with notice as herein provided, either by publication or otherwise, shall be bound by the subsequent proceedings. In all other cases not otherwise provided for, service of notices, orders and other papers in the proceedings authorized by RCW 8.20.010 through 8.20.140 may be made as the superior court or the judge thereof may direct.

[1971 ex.s. c 292 § 9; 1890 p 295 § 2; RRS § 922. Prior: 1888 p 58 § 2. Formerly RCW 8.20.020, 8.20.030, 8.20.040, 8.20.050.]

Notes:

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.

Publication of

legal notices: Chapter 65.16 RCW.

notice in eminent domain proceedings: RCW 4.28.120.

Service of process where state land is involved: RCW 8.28.010.

RCW 8.20.060 Adjourment of proceedings--Further notice.

The court or judge may, upon application of the petitioner or of any owner or party interested, for reasonable cause, adjourn the proceedings from time to time, and may order new or further notice to be given to any party whose interest may be affected.

[1890 p 297 § 3; RRS § 924. Prior: 1888 p 60 § 3.]

RCW 8.20.070 Adjudication of public use or private way of necessity.

At the time and place appointed for hearing said petition, or to which the same may have been adjourned, if the court or judge thereof shall have satisfactory proof that all parties interested in the land, real estate, premises, or other property described in said petition, have been duly served with said notice as above prescribed, and shall be further satisfied by competent proof that the contemplated use for which the land, real estate, premises or other property sought to be appropriated is really a public use, or is for a private use for a private way of necessity, and

that the public interest requires the prosecution of such enterprise, or the private use is for a private way of necessity, and that the land, real estate, premises or other property sought to be appropriated are required and necessary for the purposes of such enterprise, the court or judge thereof may make an order, to be recorded in the minutes of said court, directing that a jury be summoned, or called, in the manner provided by law, to ascertain the compensation which shall be made for the land, real estate, premises or other property sought to be appropriated, unless a jury be waived as in other civil cases in courts of record, in the manner prescribed by law.

[1927 c 88 § 1; 1897 c 46 § 1; 1890 p 297 § 4; RRS § 925. Prior: 1888 p 60 § 4.]

Notes:

Juries, civil actions, selection, impaneling and swearing of: Chapters 2.36, 4.44 RCW.

Private ways of necessity: Chapter 8.24 RCW.

RCW 8.20.080 Trial, how conducted.

A judge of the superior court shall preside at the trial which shall be held at such time as the court or the judge thereof may direct, at the courthouse in the county where the land, real estate, premises or other property sought to be appropriated is situated, and the jurors at such trial shall make in each case a separate assessment of damages which shall result to any person, corporation or company, or to the state, or to any county, by reason of the appropriation and use of such land, real estate, premises or other property by such corporation as aforesaid for any and all corporate purposes, and shall ascertain, determine and award the amount of damages to be paid to said owner or owners respectively, and to all tenants, encumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property for the purpose of such enterprise, irrespective of any benefit from any improvement proposed by such corporation. Upon the trial, witnesses may be examined in behalf of either party to the proceedings as in civil actions; and a witness served with a subpoena in such proceedings shall be punished for failure to appear at such trial, or for perjury, as upon a trial of a civil action. Upon the verdict of the jury, judgment shall be entered for the amount of the damages awarded to such owner or owners respectively, and to all tenants, encumbrancers and others interested, for the taking or injuriously affecting such land, real estate, premises or other property. In case a jury is waived as in civil cases in courts of record in the manner prescribed by law, the compensation to be paid for the property sought to be appropriated shall be ascertained and determined by the court or the judge thereof, and the proceedings shall be the same as in trials of an issue of fact by the court.

[1890 p 297 § 5; RRS § 926.]

Notes:

Witnesses in civil actions

compelling attendance: Chapter 5.56 RCW.

examination: Title 5 RCW.

RCW 8.20.090 Judgment--Decree of appropriation--Recording.

At the time of rendering judgment for damages, whether upon default or trial, if the damages awarded be then paid, or upon their payment, if not paid at the time of rendering such judgment, the court or judge thereof shall also enter a judgment or decree of appropriation of the land, real estate, premises, right-of-way or other property sought to be appropriated, thereby vesting the legal title to the same in the corporation seeking to appropriate such land, real estate, premises, right-of-way or other property for corporate purposes. Whenever said judgment or decree of appropriation shall affect lands, real estate or other premises, a certified copy of such judgment or decree of appropriation may be filed for record in the office of the auditor of the county where the said land, real estate or other premises are situated, and shall be recorded by said auditor like a deed of real estate and with like effect. If the title to said land, real estate, premises or other property attempted to be acquired is found to be defective from any cause, the corporation may again institute proceedings to acquire the same, as in RCW 8.20.010 through 8.20.140 provided.

[1891 c 46 § 1; 1890 p 298 § 6; RRS § 927.]

Notes:

Rules of court: CR 54, 58.

Recording of deeds of real estate: Title 65 RCW.

RCW 8.20.100 Payment of damages--Effect--Appellate review.

Upon the entry of judgment upon the verdict of the jury or the decision of the court or judge thereof, awarding damages as hereinbefore prescribed, the petitioner, or any officer of, or other person duly appointed by said corporation, may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said superior court, to be paid out under the direction of the court or judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs, to any land, real estate, premises or other property mentioned in said petition, such corporation shall be released and discharged from any and all further liability therefor, unless upon appellate review the owner or other person or party interested shall recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court, and the costs of appellate review: PROVIDED, That in case of review by the supreme court or the court of appeals of the state by any party to the proceedings, the money so paid into the superior court by such corporation as aforesaid, shall remain in the custody of said court until the final determination of the proceedings by the said supreme court or the court of appeals.

[1988 c 202 § 13; 1971 c 81 § 42; 1890 p 299 § 7; RRS § 929.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.20.110 Claimants, payment of--Conflicting claims.

Any person, corporation, state or county, claiming to be entitled to any money paid into court, as provided in RCW 8.20.010 through 8.20.140 may apply to the court therefor, and upon furnishing evidence satisfactory to the court that he or it is entitled to the same, the court shall make an order directing the payment to such claimant the portion of such money as he or it shall be found entitled to; but if, upon application, the court or judge thereof shall decide that the title to the land, real estate, premises or other property specified in the application of such claimant was in such condition as to require that an action be commenced to determine the conflicting claims thereto, he shall refuse such order until such action is commenced and the conflicting claims to such land, real estate, premises or other property be determined according to law.

[1890 p 299 § 8; RRS § 930. Prior: 1888 p 61 § 8.]

RCW 8.20.120 Appellate review.

Either party may seek appellate review of the judgment for damages entered in the superior court within thirty days after the entry of judgment as aforesaid and such review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the review: PROVIDED, HOWEVER, That no bond shall be required of any person interested in the property sought to be appropriated by such corporation, but in case the corporation appropriating such land, real estate, premises or other property is appellant, it shall give a bond like that prescribed in RCW 8.20.130, to be executed, filed and approved in the same manner: AND PROVIDED FURTHER, That if the owner of the land, real estate, premises or other property accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively appellate review, and final judgment by default may be rendered in the superior court as in other cases.

[1988 c 202 § 14; 1971 c 81 § 43; 1890 p 300 § 9; RRS § 931. Prior: 1888 p 61 § 9.]

Notes:

Severability--1988 c 202: See note following RCW 2.24.050.

RCW 8.20.130 Prosecution of work pending appeal--Bond.

The construction of any railway surface tramway, elevated cable tramway, or canal, or the prosecution of any works or improvements by any corporation as aforesaid shall not be hindered, delayed or prevented by the prosecution of the appeal of any party to the proceedings: PROVIDED, The corporation aforesaid shall execute and file with the clerk of the court in which the appeal is pending a bond to be approved by said clerk, with sufficient sureties, conditioned that the persons executing the same shall pay whatever amount may be required by the judgment of the court therein, and abide any rule or order of the court in relation to the matter in controversy.

[1897 c 46 § 2; 1890 p 300 § 10; RRS § 932. Prior: 1888 p 62 § 10.]

RCW 8.20.140 Appropriation of railway right-of-way through canyon, pass, or defile.

Any railroad company whose right-of-way passes through any canyon, pass or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass or defile for the purpose of its road in common with the road first located or the crossing of other railroads at grade, and any railroad company authorized by law to appropriate land, real estate, premises or other property for right-of-way or any other corporate purpose may present a petition, in the manner and form hereinbefore provided, for the appropriation of a right-of-way through any canyon, pass or defile for the purpose of its road where right-of-way has already been located, condemned or occupied by some other railroad company through such canyon, pass or defile for the purpose of its road, and thereupon, like proceedings shall be had upon such petition as herein provided in other cases; and at the time of rendering judgment for damages, whether upon default or trial, the court or judge thereof shall enter a judgment or decree authorizing said railroad company to occupy and use said right-of-way, roadbed and track, if necessary, in common with the railroad company or companies already occupying or owning the same, and defining the terms and conditions upon which the same shall be so occupied and used in common.

[1890 p 301 § 12; RRS § 933.]

RCW 8.20.150 Prior entry with consent--Condemnation avoids ouster.

No corporation authorized by law to condemn property for public use, which has heretofore entered or shall hereafter enter upon property for a public use with the consent of the record owner or the person or corporation in possession, shall be ousted from such possession or prevented from continuing the putting of such property to public use if before entry of judgment of ouster it shall institute proceedings in condemnation to acquire such property for public use, and shall thereafter prosecute the same in good faith and pay any compensation which may be awarded therein.

[1927 c 219 § 1; RRS § 921-1.]

Notes:

Severability--1927 c 219: "If any section, provision or clause in this act be adjudged invalid the remainder of the act shall nevertheless remain valid." [1927 c 219 § 4.] This applies to RCW 8.20.150 through 8.20.170.

RCW 8.20.160 Three-year occupancy--Condemnation avoids ouster.

No corporation which shall have been or shall be in possession of property put to public use for three or more years, and while continuing to put such property to public use shall be ousted therefrom or prevented from continuing such use if prior to the entry of any judgment of ouster it shall institute condemnation proceedings to acquire such property for public use, and shall thereafter prosecute the same in good faith and pay any compensation awarded therein.

[1927 c 219 § 2; RRS § 921-2.]

RCW 8.20.170 Suit for compensation by owner equivalent to condemnation.

Nothing in RCW 8.20.150 through 8.20.170 shall prevent the owner of any such property suing for and recovering compensation for such property without instituting suit or proceedings to oust such corporation therefrom, and upon payment of the amount awarded such owner title to the property shall vest in such corporation as effectually as if acquired by proceedings in condemnation.

[1927 c 219 § 3; RRS § 921-3.]

RCW 8.20.180 Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

See RCW 8.25.270.

**Chapter 8.24 RCW
PRIVATE WAYS OF NECESSITY**

Sections

8.24.010	Condemnation authorized--Private way of necessity defined.
8.24.015	Joinder of surrounding property owners authorized.
8.24.025	Selection of route--Criteria.
8.24.030	Procedure for condemnation--Fees and costs.
8.24.040	Logging road must carry products of condemnees.
8.24.050	Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

Notes:

Additional provisions relating to eminent domain proceedings: Chapter 8.25 RCW.

Adjudication of public use or private way of necessity: RCW 8.20.070.

RCW 8.24.010 Condemnation authorized--Private way of necessity defined.

An owner, or one entitled to the beneficial use, of land which is so situate with respect to the land of another that it is necessary for its proper use and enjoyment to have and maintain a private way of necessity or to construct and maintain any drain, flume or ditch, on, across, over or through the land of such other, for agricultural, domestic or sanitary purposes, may condemn and take lands of such other sufficient in area for the construction and maintenance of such private way of necessity, or for the construction and maintenance of such drain, flume or ditch, as the case may be. The term "private way of necessity," as used in this chapter, shall mean and include a right of way on, across, over or through the land of another for means of ingress and

egress, and the construction and maintenance thereon of roads, logging roads, flumes, canals, ditches, tunnels, tramways and other structures upon, over and through which timber, stone, minerals or other valuable materials and products may be transported and carried.

[1913 c 133 § 1; RRS § 936-1. Prior: 1895 c 92 § 1. Formerly RCW 8.24.020, part.]

RCW 8.24.015 Joinder of surrounding property owners authorized.

In any proceeding for the condemnation of land for a private way of necessity, the owner of any land surrounding and contiguous to the property which land might contain a site for the private way of necessity may be joined as a party.

[1988 c 129 § 1.]

RCW 8.24.025 Selection of route--Criteria.

If it is determined that an owner, or one entitled to the beneficial use of land, is entitled to a private way of necessity and it is determined that there is more than one possible route for the private way of necessity, the selection of the route shall be guided by the following priorities in the following order:

- (1) Nonagricultural and nonsilvicultural land shall be used if possible.
- (2) The least-productive land shall be used if it is necessary to cross agricultural land.
- (3) The relative benefits and burdens of the various possible routes shall be weighed to establish an equitable balance between the benefits to the land for which the private way of necessity is sought and the burdens to the land over which the private way of necessity is to run.

[1988 c 129 § 2.]

RCW 8.24.030 Procedure for condemnation--Fees and costs.

The procedure for the condemnation of land for a private way of necessity or for drains, flumes or ditches under the provisions of this chapter shall be the same as that provided for the condemnation of private property by railroad companies, but no private property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid as provided in the case of condemnation by railroad companies.

In any action brought under the provisions of this chapter for the condemnation of land for a private way of necessity, reasonable attorneys' fees and expert witness costs may be allowed by the court to reimburse the condemnee.

[1988 c 129 § 3; 1913 c 133 § 2; RRS § 936-2. Prior: 1895 c 92 § 2.]

Notes:

Condemnation by corporations: Chapter 8.20 RCW.

Railroads--Corporate powers and duties: RCW 81.36.010.

Special railroad eminent domain proceedings:

appropriation of railway right-of-way through canyon, pass or defile: RCW 8.20.140.

extensions, branch lines: RCW 81.36.060.
railroad crossings: RCW 81.53.180.
spur tracks--Limit as to eminent domain: RCW 81.52.040.
state university--Rights-of-way to railroads: RCW 28B.20.330.

RCW 8.24.040 Logging road must carry products of condemnees.

That any person or corporation availing themselves of the provisions of this chapter for the purpose of acquiring a right-of-way for a logging road, as a condition precedent, contract and agree to carry and convey over such roads to either termini thereof any of the timber or other produce of the lands through which such right is acquired at any and all times, so long as said road is maintained and operated, and at reasonable prices; and a failure so to do shall terminate such right-of-way. The reasonableness of the rate shall be subject to determination by the utilities and transportation commission.

[1913 c 133 § 3; RRS § 936-3. Prior: 1895 c 92 § 3.]

RCW 8.24.050 Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

See RCW 8.25.270.

Chapter 8.25 RCW

ADDITIONAL PROVISIONS APPLICABLE TO EMINENT DOMAIN PROCEEDINGS

Sections

- 8.25.010 Pretrial statement of compensation to be paid in event of settlement.
- 8.25.020 Payment to defray costs of evaluating offer--Amount.
- 8.25.070 Award of attorney's fees and witness fees to condemnee--Conditions to award.
- 8.25.073 Award of costs in air space corridor acquisitions--Conditions.
- 8.25.075 Costs--Award to condemnee or plaintiff--Conditions.
- 8.25.120 Conclusions of appraisers--Order for production and exchange between parties.
- 8.25.200 Acquisition of property subject to unpaid or delinquent local improvement assessments--Payment.
- 8.25.210 Special benefits to remaining property--Purpose.
- 8.25.220 Special benefits to remaining property--Options--Election by owner--Consent to creation of lien.
- 8.25.230 Special benefits to remaining property--Satisfaction or release of lien--Trial--Expiration of lien by operation of law.
- 8.25.240 Special benefits to remaining property--Judgment--Maximum amounts--Offsets--Interest.
- 8.25.250 Special benefits to remaining property--Attorney fees--Witness fees.
- 8.25.260 Special benefits to remaining property--Lien foreclosure proceedings--Stay.
- 8.25.270 Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.
- 8.25.280 Valuation of public water systems.

Notes:

Publication of notice: RCW 4.28.120.

RCW 8.25.010 Pretrial statement of compensation to be paid in event of settlement.

In all actions for the condemnation of property, or any interest therein, at least thirty days prior to the date set for trial of such action the condemnor shall serve a written statement showing the amount of total just compensation to be paid in the event of settlement on each condemnee who has made an appearance in the action.

[1965 ex.s. c 125 § 1.]

RCW 8.25.020 Payment to defray costs of evaluating offer--Amount.

There shall be paid by the condemnor in respect of each parcel of real property acquired by eminent domain or by consent under threat thereof, in addition to the fair market value of the property, a sum equal to the various expenditures actually and reasonably incurred by those with an interest or interests in said parcel in the process of evaluating the condemnor's offer to buy the same, but not to exceed a total of seven hundred fifty dollars. In the case of multiple interests in a parcel, the division of such sum shall be determined by the court or by agreement of the parties.

[1999 c 52 § 1; 1967 ex.s. c 137 § 1; 1965 ex.s. c 125 § 2.]

RCW 8.25.070 Award of attorney's fees and witness fees to condemnee--Conditions to award.

(1) Except as otherwise provided in subsection (3) of this section, if a trial is held for the fixing of the amount of compensation to be awarded to the owner or party having an interest in the property being condemned, the court shall award the condemnee reasonable attorney's fees and reasonable expert witness fees in the event of any of the following:

(a) If condemnor fails to make any written offer in settlement to condemnee at least thirty days prior to commencement of said trial; or

(b) If the judgment awarded as a result of the trial exceeds by ten percent or more the highest written offer in settlement submitted to those condemnees appearing in the action by condemnor in effect thirty days before the trial.

(2) The attorney general or other attorney representing a condemnor in effecting a settlement of an eminent domain proceeding may allow to the condemnee reasonable attorney fees.

(3) Reasonable attorney fees and reasonable expert witness fees authorized by this section shall be awarded only if the condemnee stipulates, if requested to do so in writing by the condemnor, to an order of immediate possession and use of the property being condemned within thirty days after receipt of the written request, or within fifteen days after the entry of an order adjudicating public use whichever is later and thereafter delivers possession of the property to the condemnor upon the deposit in court of a warrant sufficient to pay the amount offered as

provided by law. In the event, however, the condemnor does not request the condemnee to stipulate to an order of immediate possession and use prior to trial, the condemnee shall be entitled to an award of reasonable attorney fees and reasonable expert witness fees as authorized by subsections (1) and (2) of this section.

(4) Reasonable attorney fees as authorized in this section shall not exceed the general trial rate, per day customarily charged for general trial work by the condemnee's attorney for actual trial time and his or her hourly rate for preparation. Reasonable expert witness fees as authorized in this section shall not exceed the customary rates obtaining in the county by the hour for investigation and research and by the day or half day for trial attendance.

(5) In no event may any offer in settlement be referred to or used during the trial for any purpose in determining the amount of compensation to be paid for the property.

[1984 c 129 § 1; 1971 ex.s. c 39 § 3; 1967 ex.s. c 137 § 3.]

Notes:

Court appointed experts: Rules of court: ER 706.

RCW 8.25.073 Award of costs in air space corridor acquisitions--Conditions.

A superior court having jurisdiction of a proceeding instituted by a condemnor to acquire an air space corridor together with other property rights shall award the condemnee costs including reasonable attorney fees and reasonable expert witness fees, subject to the provisions of subsection (4) of RCW 8.25.070, if--

(1) there is a final adjudication that the condemnor cannot acquire the air space corridor or other property rights by condemnation; or

(2) the proceeding is abandoned by the condemnor.

[1971 ex.s. c 39 § 2.]

RCW 8.25.075 Costs--Award to condemnee or plaintiff--Conditions.

(1) A superior court having jurisdiction of a proceeding instituted by a condemnor to acquire real property shall award the condemnee costs including reasonable attorney fees and reasonable expert witness fees if:

(a) There is a final adjudication that the condemnor cannot acquire the real property by condemnation; or

(b) The proceeding is abandoned by the condemnor.

(2) In effecting a settlement of any claim or proceeding in which a claimant seeks an award from an acquiring agency for the payment of compensation for the taking or damaging of real property for public use without just compensation having first been made to the owner, the attorney general or other attorney representing the acquiring agency may include in the settlement amount, when appropriate, costs incurred by the claimant, including reasonable attorneys' fees and reasonable expert witness fees.

(3) A superior court rendering a judgment for the plaintiff awarding compensation for the

taking or damaging of real property for public use without just compensation having first been made to the owner shall award or allow to such plaintiff costs including reasonable attorney fees and reasonable expert witness fees, but only if the judgment awarded to the plaintiff as a result of trial exceeds by ten percent or more the highest written offer of settlement submitted by the acquiring agency to the plaintiff at least thirty days prior to trial.

(4) Reasonable attorney fees and expert witness fees as authorized in this section shall be subject to the provisions of subsection (4) of RCW 8.25.070 as now or hereafter amended.

[1977 ex.s. c 72 § 1; 1971 ex.s. c 240 § 21.]

Notes:

Severability--1971 ex.s. c 240: See RCW 8.26.900.

RCW 8.25.120 Conclusions of appraisers--Order for production and exchange between parties.

After the commencement of a condemnation action, upon motion of either the condemnor or condemnee, the court may order, upon such terms and conditions as are fair and equitable the production and exchange of the written conclusions of all the appraisers of the parties as to just compensation owed to the condemnee, as prepared for the purpose of the condemnation action, and the comparable sales, if any, used by such appraisers. The court shall enter such order only after assurance that there will be mutual, reciprocal and contemporaneous disclosures of similar information between the parties.

[1969 ex.s. c 236 § 8.]

RCW 8.25.200 Acquisition of property subject to unpaid or delinquent local improvement assessments--Payment.

See RCW 79.44.190.

RCW 8.25.210 Special benefits to remaining property--Purpose.

It is the purpose of *this 1974 act to provide procedures whereby more just and equitable results are accomplished when real property has been condemned for a highway, road, or street and an award made which is subject to a setoff for benefits inuring to the condemnee's remaining land.

[1974 ex.s. c 79 § 1.]

Notes:

***Reviser's note:** "this 1974 act" consists of RCW 8.25.210, 8.25.220, 8.25.230, 8.25.240, 8.25.250, and 8.25.260.

RCW 8.25.220 Special benefits to remaining property--Options--Election by owner--Consent to creation of lien.

Whenever land, real estate, premises or other property is to be taken or damaged for a highway, road, or street and the amount offered as just compensation includes a setoff in recognition of special benefits accruing to a remainder portion of the property the property owner shall elect one of the following options:

(1) Trial on the question of just compensation which shall finally determine the amount of just compensation; or

(2) Acceptance of the offered amount as a final determination of just compensation; or

(3) Demand the full amount of the fair market value of any property taken plus the amount of damages if any caused by such acquisition to a remainder of the property without offsetting the amount of any special benefits accruing to a remainder of the property as those several amounts are agreed to by the parties; or

(4) Demand a trial before a jury unless jury be waived to establish the fair market value of any property taken and the amount of damages if any caused by such acquisition to a remainder of the property without offsetting the amount of any special benefits accruing to a remainder of the property.

The selection of the option set forth in subsections (3) or (4) of this section is subject to the consent by the property owner to the creation and recording of a lien against the remainder in the amount of the fair market value of any property taken plus the amount of damages caused by such acquisition to the remainder of the property without offsetting the amount of any special benefits accruing to a remainder of the property, plus interest as it accrues.

[1974 ex.s. c 79 § 2.]

RCW 8.25.230 Special benefits to remaining property--Satisfaction or release of lien--Trial--Expiration of lien by operation of law.

A lien established as provided in RCW 8.25.220 shall be satisfied or released by:

(1) Agreement between the parties to that effect; or

(2) Payment of the lien amount plus interest at the rate of five percent per annum; or

(3) Payment of the amount of offsetting special benefits as established pursuant to RCW 8.25.220(3) plus interest at the rate of five percent per annum within four years of the date of acquisition; or

(4) Satisfaction of a judgment lien entered as a result of a trial before a jury unless jury be waived to establish the change in value of the remainder of the original parcel because of the construction of the project involved: PROVIDED, That if the result of the trial is to find no special benefits then the lien is extinguished by operation of law. Trial may be had on the petition of any party to the superior court of the county wherein the subject remainder lies after notice of intent to try the matter of special benefits has been served on all persons having an interest in the subject remainder. Such notice shall be filed with the clerk of the superior court and personally served upon all persons having an interest in the subject remainder. Filing a notice of intent to try the matter of special benefits shall be accompanied by a fee in the amount paid when filing a petition in condemnation.

(5) Upon expiration of six years time from the date of acquisition without commencement of proceedings to foreclose the lien or try the matter of special benefits to the remainder of the property, the lien shall terminate by operation of law.

[1974 ex.s. c 79 § 3.]

RCW 8.25.240 Special benefits to remaining property--Judgment--Maximum amounts--Offsets--Interest.

A judgment entered as a result of a trial on the matter of special benefits shall not exceed the previously established sum of (1) the fair market value of any property taken; (2) the amount of damages if any to a remainder of the property, without offsetting against either of them the amount of any special benefits accruing to a remainder of the property; (3) the interest at five percent per annum accrued thereon to the date of entry of the judgment.

[1974 ex.s. c 79 § 4.]

RCW 8.25.250 Special benefits to remaining property--Attorney fees--Witness fees.

Attorney fees and expert witness fees of the condemnee may be allowed by the attorney general or other attorney representing a condemnor to the extent provided in RCW 8.25.070 and shall be awarded by the court as authorized by this section to the extent provided in RCW 8.25.070 for trial and trial preparation: (1) In the event a trial is held as authorized by RCW 8.25.220 except the judgment awarded to the condemnor must exceed by ten percent or more the highest written offer in settlement of the issue to be determined by trial submitted by the condemnor to those condemnees appearing in the action at least thirty days prior to commencement of the trial; (2) in the event of a trial on the matter of special benefits as authorized by RCW 8.25.230(4) except the judgment awarded to the condemnor must be no more than ninety percent of the lowest written offer in settlement submitted by the condemnor to the condemnees appearing in the action at least thirty days prior to commencement of the trial on the matter of special benefits.

[1974 ex.s. c 79 § 5.]

RCW 8.25.260 Special benefits to remaining property--Lien foreclosure proceedings--Stay.

A condemnor may foreclose the lien authorized by RCW 8.25.220 by bringing an action and applying for summary judgment pursuant to civil rule 56 and may execute first upon the remainder property but such proceedings shall not be commenced before five years time has passed from the date of acquisition by the condemnor. A property owner may stay proceedings to enforce the lien authorized by RCW 8.25.220 by commencement of an action to try the matter of special benefits.

[1974 ex.s. c 79 § 6.]

RCW 8.25.270 Appointment of guardian ad litem for minors, alleged incapacitated persons--Protection of interests.

When it appears in any petition or otherwise at any time during the proceedings for condemnation brought pursuant to chapters 8.04, 8.08, 8.12, 8.16, 8.20, and 8.24 RCW that any minor, or alleged incapacitated person is interested in any property that is to be taken or damaged, the court shall appoint a guardian ad litem for the minor or alleged incapacitated person to appear and assist in the person's defense, unless a guardian or limited guardian has previously been appointed, in which case the duty to appear and assist shall be delegated to the properly qualified guardian or limited guardian. The court shall make such orders or decrees as it shall deem necessary to protect and secure the interest of the minor or alleged incapacitated person.

[1996 c 249 § 6; 1977 ex.s. c 80 § 12.]

Notes:

Intent--1996 c 249: See note following RCW 2.56.030.

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 8.25.280 Valuation of public water systems.

Consistent with standard appraisal practices, the valuation of a public water system as defined in RCW 70.119A.020 shall reflect the cost of system improvements necessary to comply with health and safety rules of the state board of health and applicable regulations developed under chapter 43.20, 43.20A, or 70.116 RCW.

[1990 c 133 § 9.]

Notes:

Findings--Severability--1990 c 133: See notes following RCW 36.94.140.

**Chapter 8.26 RCW
RELOCATION ASSISTANCE--REAL PROPERTY ACQUISITION POLICY**

Sections

8.26.010	Purposes and scope.
8.26.020	Definitions.
8.26.035	Payment for moving and related expenses.
8.26.045	Payment for replacement housing for homeowners.
8.26.055	Payment for replacement housing for tenants and others.
8.26.065	Relocation assistance advisory services.
8.26.075	Assurance of availability of housing--Exceptions.
8.26.085	Lead agency's rule-making authority--Compliance date.
8.26.095	Contracts for services--Use of services of other agencies.
8.26.105	Use of funds.
8.26.115	Relocation assistance payments not income or resources.

8.26.180	Acquisition procedures.
8.26.190	Acquisition of buildings, structures, and improvements.
8.26.200	Expenses incidental to transfer of right, title, or interest to the acquiring agency.
8.26.205	Effect on certain property acquisitions.
8.26.210	Award of costs, attorney's fees, witness fees--Conditions.
8.26.900	Severability--1971 ex.s. c 240.
8.26.901	Severability--Conflict with federal requirements--1988 c 90.
8.26.910	Effective date--1971 ex.s. c 240.

RCW 8.26.010 Purposes and scope.

(1) The purposes of this chapter are:

(a) To establish a uniform policy for the fair and equitable treatment of persons displaced as a direct result of public works programs of the state and local governments in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons;

(b) To encourage and expedite the acquisition of real property for public works programs by agreements with owners, to reduce litigation and relieve congestion in the courts, to assure consistent treatment for owners affected by state and local programs, and to promote public confidence in state and local land acquisition practices.

(2) Notwithstanding the provisions and limitations of this chapter requiring a local public agency to comply with the provisions of this chapter, the governing body of any local public agency may elect not to comply with the provisions of RCW 8.26.035 through 8.26.115 in connection with a program or project not receiving federal financial assistance. Any person who has the authority to acquire property by eminent domain under state law may elect not to comply with RCW 8.26.180 through 8.26.200 in connection with a program or project not receiving federal financial assistance.

(3) Any determination by the head of a state agency or local public agency administering a program or project as to payments under this chapter is subject to review pursuant to chapter 34.05 RCW; otherwise, no provision of this chapter may be construed to give any person a cause of action in any court.

(4) Nothing in this chapter may be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately before March 16, 1988.

[1988 c 90 § 1; 1971 ex.s. c 240 § 1.]

Notes:

Section captions--1988 c 90: "Section captions and part divisions in this act do not constitute any part of the law." [1988 c 90 § 19.]

RCW 8.26.020 Definitions.

As used in this chapter:

(1) The term "state" means any department, commission, agency, or instrumentality of the state of Washington.

(2) The term "local public agency" applies to any county, city or town, or other municipal corporation or political subdivision of the state and any person who has the authority to acquire property by eminent domain under state law, or any instrumentality of any of the foregoing.

(3) The term "person" means any individual, partnership, corporation, or association.

(4)(a) The term "displaced person" means, except as provided in (b) of this subsection, any person who moves from real property, or moves his personal property from real property

(i) as a direct result of a written notice of intent to acquire, or the acquisition of, such real property in whole or in part for a program or project undertaken by a displacing agency; or

(ii) on which the person is a residential tenant or conducts a small business, a farm operation, or a business defined in this section, as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, under a program or project undertaken by a displacing agency in any case in which the displacing agency determines that the displacement is permanent.

Solely for the purposes of RCW 8.26.035 (1) and (2) and 8.26.065, the term "displaced person" includes any person who moves from real property, or moves his personal property from real property

(i) as a direct result of a written notice of intent to acquire, or the acquisition of, other real property in whole or in part on which the person conducts a business or farm operation, for a program or project undertaken by a displacing agency; or

(ii) as a direct result of rehabilitation, demolition, or such other displacing activity as the lead agency may prescribe, of other real property on which the person conducts a business or a farm operation, under a program or project undertaken by a displacing agency where the displacing agency determines that the displacement is permanent.

(b) The term "displaced person" does not include:

(i) A person who has been determined, according to criteria established by the lead agency, to be either unlawfully occupying the displacement dwelling or to have occupied the dwelling for the purpose of obtaining assistance under this chapter; or

(ii) In any case in which the displacing agency acquires property for a program or project, any person (other than a person who was an occupant of the property at the time it was acquired) who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project.

(5) The term "business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) For the purchase, sale, lease, and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) Solely for the purposes of RCW 8.26.035, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services

by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(6) The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or for home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(7) The term "comparable replacement dwelling" means any dwelling that is (a) decent, safe, and sanitary; (b) adequate in size to accommodate the occupants; (c) within the financial means of the displaced person; (d) functionally equivalent; (e) in an area not subject to unreasonably adverse environmental conditions; and (f) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(8) For purposes of RCW 8.26.180 through 8.26.200, the term "acquiring agency" means:

(a) A state agency or local public agency that has the authority to acquire property by eminent domain under state law; or

(b) Any state agency, local public agency, or person that (i) does not have the authority to acquire property by eminent domain under state law and (ii) has been designated an "acquiring agency" under rules adopted by the lead agency. However, the lead agency may only designate a state agency, local public agency, or a person as an "acquiring agency" to the extent that it is necessary in order to qualify for federal financial assistance.

(9) The term "displacing agency" means the state agency, local public agency, or any person carrying out a program or project, with federal or state financial assistance, that causes a person to be a displaced person.

(10) The term "federal financial assistance" means a grant, loan, or contribution provided by the United States, except any federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(11) The term "mortgage" means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of this state, together with the credit instruments, if any, secured thereby.

(12) The term "lead agency" means the Washington state department of transportation.

(13) The term "appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

[1988 c 90 § 2; 1972 ex.s. c 34 § 1; 1971 ex.s. c 240 § 2.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

Application--1972 ex.s. c 34: "Sec. 2. The amendatory language contained in section 1 of this 1972 amendatory act shall apply only to persons displaced after the effective date of this 1972 amendatory act [February

20, 1972]." [1972 ex.s. c 34 § 2.]

RCW 8.26.035 Payment for moving and related expenses.

(1) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the displacing agency shall provide for the payment to the displaced person of:

(a) Actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, in accordance with criteria established by the lead agency;

(c) Actual reasonable expenses in searching for a replacement business or farm; and

(d) Actual reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the lead agency, but not to exceed ten thousand dollars.

(2) A displaced person eligible for payments under subsection (1) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (1) of this section may receive an expense and dislocation allowance determined according to a schedule established by the lead agency.

(3) A displaced person eligible for payments under subsection (1) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (1) of this section. The payment shall consist of a fixed payment in an amount to be determined according to criteria established by the lead agency, except that the payment shall be not less than one thousand dollars nor more than twenty thousand dollars. A person whose sole business at the displacement dwelling is the rental of that property to others does not qualify for a payment under this subsection.

[1988 c 90 § 3.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.045 Payment for replacement housing for homeowners.

(1) In addition to payments otherwise authorized by this chapter, the displacing agency shall make an additional payment, not in excess of twenty-two thousand five hundred dollars, to any displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than one hundred and eighty days immediately before the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

(a) The amount, if any, that when added to the acquisition cost of the dwelling acquired by the displacing agency, equals the reasonable and necessary cost of a comparable replacement

dwelling;

(b) The amount, if any, that will compensate the displaced person for any increased mortgage interest costs and other debt service costs that the person is required to pay for financing the acquisition of any such comparable replacement dwelling. This amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage that was a valid lien on the dwelling for not less than one hundred and eighty days immediately before the initiation of negotiations for the acquisition of the dwelling;

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which the person receives final payment from the displacing agency for the acquired dwelling or the date on which the obligation of the displacing agency under RCW 8.26.075 is met, whichever date is later, except that the displacing agency may extend the period for good cause. If the period is extended, the payment under this section shall be based on the costs of relocating the person to a comparable replacement dwelling within one year of that date.

[1988 c 90 § 4.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.055 Payment for replacement housing for tenants and others.

(1) In addition to amounts otherwise authorized by this chapter, a displacing agency shall make a payment to or for a displaced person displaced from a dwelling not eligible to receive a payment under RCW 8.26.045 if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety days immediately before (a) the initiation of negotiations for acquisition of the dwelling, or (b) in any case in which displacement is not a direct result of acquisition, such other event as the lead agency prescribes. The payment shall consist of the amount necessary to enable the person to lease or rent for a period not to exceed forty-two months, a comparable replacement dwelling, but not to exceed five thousand two hundred fifty dollars. At the discretion of the displacing agency, a payment under this subsection may be made in periodic installments. Computation of a payment under this subsection to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

(2) A person eligible for a payment under subsection (1) of this section may elect to apply the payment to a down payment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. The person may, at the discretion of the displacing agency, be eligible under this subsection for the maximum payment allowed under subsection (1) of this section, except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least ninety days but not more than one hundred eighty days immediately before the initiation of negotiations for the acquisition of the dwelling,

the payment shall not exceed the payment the person would otherwise have received under RCW 8.26.045(1) had the person owned and occupied the displacement dwelling one hundred eighty days immediately before the initiation of the negotiations.

[1988 c 90 § 5.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.065 Relocation assistance advisory services.

(1) Programs or projects undertaken by a displacing agency shall be planned in a manner that (a) recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (b) provides for the resolution of the problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion.

(2) Displacing agencies shall ensure that the relocation assistance advisory services described in subsection (3) of this section are made available to all persons displaced by the agency. If the agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency may make available to the person the advisory services.

(3) Each relocation assistance advisory program required by subsection (2) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) Determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

(b) Provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

(c) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

(d) Supply (i) information concerning federal, state, and local programs that may be of assistance to displaced persons, and (ii) technical assistance to the persons in applying for assistance under those programs;

(e) Provide other advisory services to displaced persons in order to minimize hardships to them in adjusting to relocation; and

(f) Coordinate relocation activities performed by the agency with other federal, state, or local governmental actions in the community that could affect the efficient and effective delivery of relocation assistance and related services.

(4) Notwithstanding RCW 8.26.020(4)(b), in any case in which a displacing agency acquires property for a program or project, a person who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project is eligible for advisory services to the extent determined by the displacing agency.

[1988 c 90 § 6.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.075 Assurance of availability of housing--Exceptions.

(1) If a program or project undertaken by a displacing agency cannot proceed on a timely basis because comparable replacement dwellings are not available, and the head of the displacing agency determines that the dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide the dwellings by use of funds authorized for the project. The displacing agency may use this section to exceed the maximum amounts that may be paid under RCW 8.26.045 and 8.26.055 on a case-by-case basis for good cause as determined in accordance with rules adopted by the lead agency.

(2) No person may be required to move from a dwelling on account of any program or project undertaken by a displacing agency unless the displacing agency is satisfied that comparable replacement housing is available to the person.

(3) The displacing agency shall assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a comparable replacement dwelling, except in the case of the following:

(a) A major disaster as defined in section 102(2) of the Federal Disaster Relief Act of 1974;

(b) A national emergency declared by the president; or

(c) Any other emergency that requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

[1988 c 90 § 7.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.085 Lead agency's rule-making authority--Compliance date.

(1) The lead agency, after full consultation with the department of general administration, shall adopt rules and establish such procedures as the lead agency may determine to be necessary to assure:

(a) That the payments and assistance authorized by this chapter are administered in a manner that is fair and reasonable and as uniform as practicable;

(b) That a displaced person who makes proper application for a payment authorized for that person by this chapter is paid promptly after a move or, in hardship cases, is paid in advance; and

(c) That a displaced person who is aggrieved by a program or project that is under the authority of a state agency or local public agency may have his application reviewed by the state agency or local public agency.

(2) The lead agency, after full consultation with the department of general administration, may adopt such other rules and procedures, consistent with the provisions of this chapter, as the lead agency deems necessary or appropriate to carry out this chapter.

(3) State agencies and local public agencies shall comply with the rules adopted pursuant to this section by April 2, 1989.

[1988 c 90 § 8.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.095 Contracts for services--Use of services of other agencies.

In order to prevent unnecessary expenses and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons, a state agency or local public agency may enter into contracts with any individual, firm, association, or corporation for services in connection with this chapter or may carry out its functions under this chapter through any federal or state agency or local public agency having an established organization for conducting relocation assistance programs. The state agency or local public agency shall, in carrying out relocation activities described in RCW 8.26.075, whenever practicable, use the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

[1988 c 90 § 9.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.105 Use of funds.

(1) Funds appropriated or otherwise available to a state agency or local public agency for the acquisition of real property or an interest therein for a particular program or project shall also be available to carry out the provisions of this chapter as applied to that program or project.

(2) No payment or assistance under this chapter may be required to be made to any person or included as a program or project cost under this section, if the person receives a payment required by federal, state, or local law that is determined by the head of the displacing agency to have substantially the same purpose and effect as that payment under this chapter.

[1988 c 90 § 10.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.115 Relocation assistance payments not income or resources.

No payment received by a displaced person under RCW 8.26.035 through 8.26.105 may be considered as income for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law or for the purposes of any income tax or any tax imposed under Title 82 RCW, and the payments shall not be deducted from any amount to which

any recipient would otherwise be entitled under Title 74 RCW.

[1988 c 90 § 11.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.180 Acquisition procedures.

Every acquiring agency shall, to the greatest extent practicable, be guided by the following policies:

(1) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany at least one appraiser of the acquiring agency during his inspection of the property, except that the lead agency may prescribe a procedure to waive the appraisal in cases involving the acquisition of property with a low fair market value.

(3) Before the initiation of negotiations for real property, the acquiring agency shall establish an amount which it believes to be just compensation therefor, and shall make a prompt offer to acquire the property for the full amount so established. In no event shall such amount be less than the agency's approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, will be disregarded in determining the compensation for the property. The acquiring agency shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. Where appropriate the just compensation for the real property acquired, for damages to remaining real property, and for benefits to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the acquiring agency's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(5) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least ninety days written notice of the date by which such move is required.

(6) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the time of condemnation be advanced, on negotiations or

condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(8) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the agency concerned shall offer to acquire that remnant. For the purposes of this chapter, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and that the head of the agency concerned has determined has little or no value or utility.

(10) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his right to receive just compensation for the property, donate the property, any part thereof, any interest therein, or any compensation paid for it to any agency as the person may determine.

[1988 c 90 § 12; 1971 ex.s. c 240 § 18.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.190 Acquisition of buildings, structures, and improvements.

(1) Where any interest in real property is acquired, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from such real property or which is determined to be adversely affected by the use to which such real property will be put.

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired under subsection (1) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant of the lands, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the owner of such building, structure, or improvement.

(3) Payment for such building, structure, or improvement under subsection (1) of this section shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment, the tenant shall assign, transfer, and release all his right, title, and interest in and to such improvements. Nothing with regard to the above-mentioned acquisition of buildings, structures, or other improvements shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of this state.

[1988 c 90 § 13; 1971 ex.s. c 240 § 19.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.200 Expenses incidental to transfer of right, title, or interest to the acquiring agency.

As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, the acquiring agency shall reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses the owner necessarily incurred for:

- (1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the acquiring agency;
- (2) Penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and
- (3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is the earlier.

[1988 c 90 § 14; 1971 ex.s. c 240 § 20.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.205 Effect on certain property acquisitions.

The provisions of RCW 8.26.180, 8.26.190, and 8.26.200 create no rights or liabilities and do not affect the validity of any property acquisitions by purchase or condemnation.

[1988 c 90 § 15.]

Notes:

Section captions--1988 c 90: See note following RCW 8.26.010.

RCW 8.26.210 Award of costs, attorney's fees, witness fees--Conditions.

See RCW 8.25.070, 8.25.075.

RCW 8.26.900 Severability--1971 ex.s. c 240.

If any provision of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

[1971 ex.s. c 240 § 23.]

RCW 8.26.901 Severability--Conflict with federal requirements--1988 c 90.

(1) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

(2) If any part of this chapter is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and that finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

[1988 c 90 § 16.]

RCW 8.26.910 Effective date--1971 ex.s. c 240.

This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1971.

[1971 ex.s. c 240 § 24.]

**Chapter 8.28 RCW
MISCELLANEOUS PROVISIONS**

Sections

8.28.010	Where state land is involved--Service of process--Filing of decree--Duty of land commissioner.
8.28.030	Notice where military land is involved.
8.28.040	Interest on verdict fixed--Suspension during pendency of appeal.
8.28.050	City in adjoining state may condemn watershed property.
8.28.070	Acquisition of property subject to unpaid or delinquent local improvement assessments--Payment.

Notes:

Opening of roads, railroads through cemetery--Consent required: RCW 68.24.180.

Petroleum leases--Rights-of-way over public lands: RCW 79.14.140.

Public lands: Chapter 79.01 RCW.

Water rights

artesian wells, rights-of-way to: RCW 90.36.010.

generally: RCW 90.03.040.

of the United States: RCW 90.40.010.

RCW 8.28.010 Where state land is involved--Service of process--Filing of

decree--Duty of land commissioner.

In all condemnation proceedings brought for the purpose of appropriating any public land owned by the state or in which the state has an interest, service of process shall be made upon the commissioner of public lands.

When in any condemnation proceeding a decree is entered appropriating public lands owned by the state or in which the state has an interest, or any interest in or rights over such lands, it shall be the duty of the plaintiff to cause to be filed in the office of the commissioner of public lands a certified copy of such decree, together with a plat of the lands appropriated and the lands contiguous thereto, in form and substance as prescribed and required by the commissioner of public lands, showing in detail the lands appropriated, and to pay to the commissioner of public lands, or into the registry of the court, the amount of compensation and damages fixed and awarded in the decree. Upon receipt of such decree, plat, compensation and damages, the commissioner of public lands shall examine the same, and if he shall find that the final decree and proceedings comply with the original petition and notice and any amendment duly authorized, and that no additional interest of the state has been taken or appropriated through error or mistake, he shall cause notations thereof to be made upon the abstracts, records and tract books in his office, and shall issue to the plaintiff his certificate, reciting compliance, in substance, with the above requirements, particularly describing the lands appropriated, and shall forthwith transmit the amount received as compensation and damages to the state treasurer, as in the case of sale of land, and the subdivision of land through which any right of way is appropriated shall thereafter be sold or leased subject to the right of way.

[1927 c 255 § 104; RRS § 7797-104. Formerly RCW 8.28.010 and 8.28.020.]

RCW 8.28.030 Notice where military land is involved.

Whenever any land, real estate, premises or other property owned by the state of Washington and used for military purposes shall be involved in or affected by any eminent domain, condemnation, local improvement or other special assessment proceeding whatsoever, in addition to the notices elsewhere provided by law, the officer or board required by law to give notice of such proceedings shall cause to be served upon the adjutant general at least twenty days in advance of any hearing therein, a written notice, setting forth the nature of the proceedings, the description of such state property sought to be involved therein or affected thereby and the amount of the proposed assessment therein.

[1917 c 107 § 125; RRS § 8600.]

Notes:

Condemnation for military purposes: RCW 8.04.170, 8.04.180.

RCW 8.28.040 Interest on verdict fixed--Suspension during pendency of appeal.

Whenever in any eminent domain proceeding, heretofore or hereafter instituted for the taking or damaging of private property, a verdict shall have been returned by the jury, or by the

court if the case be tried without a jury, fixing the amount to be paid as compensation for the property so to be taken or damaged, such verdict shall bear interest at the maximum rate of interest permitted at that time under RCW 19.52.020 from the date of its entry to the date of payment thereof: PROVIDED, That the running of such interest shall be suspended, and such interest shall not accrue, for any period of time during which the entry of final judgment in such proceeding shall have been delayed solely by the pendency of an appeal taken in such proceeding.

[1984 c 129 § 2; 1943 c 28 § 1; Rem. Supp. 1943 § 936-4.]

RCW 8.28.050 City in adjoining state may condemn watershed property.

That any municipal corporation of any state adjoining the state of Washington may acquire title to any land or water right within the state of Washington, by purchase or condemnation, which lies within any watershed from which said municipal corporation obtains or desires to obtain its water supply.

[1909 c 16 § 1; RRS § 9280.]

RCW 8.28.070 Acquisition of property subject to unpaid or delinquent local improvement assessments--Payment.

See RCW 79.44.190.

**Title 9 RCW
CRIMES AND PUNISHMENTS**

Chapters

- 9.01 General provisions.**
- 9.02 Abortion.**
- 9.03 Abandoned refrigeration equipment.**
- 9.04 Advertising, crimes relating to.**
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