

**NEW SECTION.** Sec. 12. 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.

Passed the Senate April 23, 1985.

Passed the House April 12, 1985.

Approved by the Governor May 20, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 20, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to portions of Section 3(1)(a) through (h) of Engrossed Substitute Senate Bill No. 4399 entitled:

"AN ACT Relating to creating a local governance study commission."

I fully support the purpose of this legislation. I believe that it is now timely for the State, in cooperation with local government representatives, to undertake a comprehensive review of the State's assignment of various public service responsibilities, authorities and funding sources among counties, cities and special districts. Much of the rationale for the current allocation of responsibilities and authorities may now be outmoded due to the changes that have occurred over time in population growth and settlement patterns. The proposed Local Governance Study Commission represents a useful opportunity to recommend needed changes to State policies, statutes, and the constitution, which better serve current public service requirements, and which more appropriately define the roles and activities of cities, counties and special districts, as well as their interrelationship to one another.

However, language contained in Section 3(1)(a) through (h) of this bill directs the Governor to appoint to the Commission twenty-one persons who are nominated by certain specified organizations related to local governance. While I concur with the appropriateness of placing representatives of the named organizations on the Commission, I believe this language precludes gubernatorial discretion and negates the Governor's appointment authority.

Therefore, in order to preserve the Governor's appointment prerogatives, I have vetoed the language that requires the Governor to appoint the nominees of specified organizations. I will, of course, honor the spirit of the vetoed language when making my appointments.

With the exception of portions of Section 3(1)(a) through (h), ESSB 4399 is approved."

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## CHAPTER 389

[Senate Bill No. 4155]

### COURT COSTS—COLLECTION AND REMITTANCE

AN ACT Relating to court costs; amending RCW 10.01.160, 27.24.070, 3.46.120, 3.50-.100, 3.62.010, 3.62.040, 10.82.070, 35.20.220, 36.18.025, and 2.42.050; adding new sections to chapter 2.42 RCW; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 96, Laws of 1975-'76 2nd ex. sess. and RCW 10.01.160 are each amended to read as follows:

(1) The court may require a convicted defendant to pay costs.

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear may be included in costs the court may require a convicted defendant to pay.

(3) The court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(4) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the court which sentenced him for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or his immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under RCW 10.01.170.

Sec. 2. Section 1, chapter 249, Laws of 1953 as last amended by section 310, chapter 258, Laws of 1984 and RCW 27.24.070 are each amended to read as follows:

In each county pursuant to this chapter, the county treasurer shall deposit in the county or regional law library fund a sum equal to seven dollars for every new probate or civil (~~(matter)~~) filing fee, including appeals, (~~(fited with)~~) collected by the clerk of the superior court and three dollars for every (~~(civil action commenced)~~) fee collected for the commencement of a civil action in district court for the support of the law library in that county or the regional law library to which the county belongs: PROVIDED, That upon a showing of need the seven dollar contribution may be increased up to nine dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies.

Sec. 3. Section 46, chapter 299, Laws of 1961 as last amended by section 303, chapter 258, Laws of 1984 and RCW 3.46.120 are each amended to read as follows:

(1) All money received by the clerk of a municipal department including penalties, fines, bail forfeitures, fees and costs, except those costs specified in RCW 4.84.010 or otherwise provided for by statute, assessed and collected in whole or in part by the court shall be paid by the clerk to the city treasurer.

(2) The city treasurer shall remit monthly (~~(thirty-five)~~) thirty-two percent of the money received under this section, other than for parking infractions, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

Sec. 4. Section 59, chapter 299, Laws of 1961 as last amended by section 304, chapter 258, Laws of 1984 and RCW 3.50.100 are each amended to read as follows:

(1) Costs in civil and criminal actions may be imposed as provided in district court. All fees, costs except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute, 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 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-five))~~) thirty-two percent of the money received under this section, other than for parking infractions, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

Sec. 5. Section 106, chapter 299, Laws of 1961 as last amended by section 306, chapter 258, Laws of 1984 and RCW 3.62.020 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, all costs except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute, fees, fines, forfeitures and penalties assessed and collected in whole or in part by district courts, except 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 division of municipal corporations, noting the information necessary for crediting of such funds as required by law.

(2) The county treasurer shall remit (~~((thirty-five))~~) thirty-two percent of the money received under subsection (1) of this section to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the 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.

Sec. 6. Section 108, chapter 299, Laws of 1961 as last amended by section 307, chapter 258, Laws of 1984 and RCW 3.62.040 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, all costs except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute, 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-five)~~) thirty-two percent of the money received under this section, other than for parking infractions, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the 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.

Sec. 7. Section 3, page 421, Laws of 1873 as last amended by section 313, chapter 258, Laws of 1984 and RCW 10.82.070 are each amended to read as follows:

(1) All sums of money derived from costs except those costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute, fines, penalties, and forfeitures imposed or collected, in whole or in part, by a superior court for violation of orders of injunction, mandamus and other like writs, for contempt of court, or for breach of the penal laws shall be paid in cash by the person collecting the same, within twenty days after the collection, to the county treasurer of the county in which the same have accrued.

(2) The county treasurer shall remit monthly (~~(thirty-five)~~) thirty-two percent of the money received under this section to the state treasurer for deposit as provided under RCW 43.08.250 and shall deposit the remainder as provided by law.

(3) All fees, fines, forfeitures and penalties collected or assessed by a justice 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. All fees, fines, forfeitures, and penalties collected or assessed by a superior court in cases on appeal from a lower court shall be remitted to the municipal or district court from which the cases were appealed.

Sec. 8. Section 35.20.220, chapter 7, Laws of 1965 as last amended by section 319, chapter 258, Laws of 1984 and RCW 35.20.220 are each amended to read as follows:

(1) The chief clerk, under the supervision and direction of the court administrator of the municipal court, shall have the custody and care of the

books, papers and records of said court; he shall be present by himself or deputy during the session of said court, and shall have the power to swear all witnesses and jurors, and administer oaths and affidavits, and take acknowledgments. He shall keep the records of said court, and shall issue all process under his hand and the seal of said court, and shall do and perform all things and have the same powers pertaining to his office as the clerks of the superior courts have in their office. He shall receive all fines, penalties and fees of every kind, and keep a full, accurate and detailed account of the same; and shall on each day pay into the city treasury all money received for said city during the day previous, with a detailed account of the same, and taking the treasurer's receipt therefor.

(2) The city treasurer shall remit monthly (~~((thirty=five))~~) thirty-two percent of the money received under this section, other than for parking infractions and costs awarded to prevailing parties under RCW 4.84.010, 36.18.040, or other similar statute, to the state treasurer. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the money received under this section shall be retained by the city and deposited as provided by law.

Sec. 9. Section 2, chapter 20, Laws of 1972 ex. sess. as amended by section 322, chapter 258, Laws of 1984 and RCW 36.18.025 are each amended to read as follows:

~~((Thirty=five))~~ Thirty-two percent of the money received from filing fees paid pursuant to RCW 36.18.020, as now or hereafter amended, shall be transmitted by the county treasurer each month to the state treasurer for deposit in the public safety and education account established under RCW 43.08.250.

NEW SECTION. Sec. 10. Sections 2 through 9 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 July 1, 1985.

NEW SECTION. Sec. 11. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Hearing impaired person" means a person who, because of a hearing impairment, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, or hard of hearing.

(2) "Qualified interpreter" means an interpreter who is certified by the registry of interpreters for the deaf with the certificate level specified below and who meets the requirements of section 13 of this act.

(a) For judicial proceedings involving a class A felony, use of the services of a qualified interpreter holding the specialist certificate-legal is required.

(b) For other judicial, quasi-judicial, or administrative proceedings, use of the services of a qualified interpreter holding the specialist certificate-legal, master's comprehensive skills certificate, or comprehensive skills certificate is required.

(c) For programs and activities other than judicial or administrative proceedings, the services of a qualified interpreter holding a partial certification shall be required. Efforts to obtain the services of a qualified interpreter holding the master's comprehensive certificate or comprehensive skills certificate shall be made before obtaining the services of a qualified interpreter holding the interpreting certificate and/or the transliterating certificate.

(4) "Intermediary interpreter" means a hearing impaired interpreter who is certified by the registry of interpreters for the deaf with a reverse skills certificate, who meets the requirements of section 13 of this act, 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.

(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.

NEW SECTION. Sec. 12. (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.

NEW SECTION. Sec. 13. (1) If a qualified interpreter for a hearing impaired person is required, the appointing authority shall request a qualified 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 of interpreters certified 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 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.

NEW SECTION. Sec. 14. 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.

NEW SECTION. Sec. 15. (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.

NEW SECTION. Sec. 16. (1) A qualified 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 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.

NEW SECTION. Sec. 17. A qualified 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.

NEW SECTION. Sec. 18. 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.

NEW SECTION. Sec. 19. Sections 11 through 18 of this act are each added to chapter 2.42 RCW.

Sec. 20. Section 5, chapter 22, Laws of 1973 and RCW 2.42.050 are each amended to read as follows:

Every qualified interpreter appointed (~~((pursuant to))~~) under this chapter in a judicial or administrative proceeding shall, before (~~((entering upon his duties as such))~~) beginning to interpret, take an oath that (~~((he will make))~~) a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which (~~((said))~~) the person understands, and that (~~((he))~~) the interpreter will repeat the statements of (~~((said))~~) the person being examined to the court or other agency conducting the proceedings, in the English language, to the best of (~~((his))~~) the interpreter's skill and judgment.

Passed the Senate April 23, 1985.

Passed the House April 16, 1985.

Approved by the Governor May 20, 1985.

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