

The term of office of directors of districts of the second class shall begin, and the board shall organize, as provided in RCW (~~(29-13-050)~~) 28A-.57.322. At the first meeting of the members of the board they shall elect a chairman from among their number who shall serve for a term of one year or until his successor is elected. The school district superintendent as defined in RCW 28A.01.100 shall serve as secretary to the board. Whenever a district shall be without the services of such a superintendent and the business of the district necessitates action thereby, the board shall appoint any member thereof to carry out the superintendent's powers and duties for the district.

Passed the House February 15, 1988.

Passed the Senate March 9, 1988.

Approved by the Governor March 22, 1988.

Filed in Office of Secretary of State March 22, 1988.

## CHAPTER 188

[Substitute House Bill No. 1460]

### JURIES AND JURORS

AN ACT Relating to jury selection and summoning; amending RCW 2.36.010, 2.36.050, 2.36.063, 2.36.070, 2.36.093, 2.36.100, 2.36.110, 2.36.130, 8.04.080, 10.27.020, 10.27.040, and 36.24.020; adding new sections to chapter 2.36 RCW; creating new sections; repealing RCW 2.36.060, 2.36.090, 2.36.140, 2.36.160, 12.12.040, 12.12.060, and 12.12.100; prescribing penalties; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. 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.

Sec. 2. Section 1, chapter 48, Laws of 1891 and RCW 2.36.010 are each amended to read as follows:

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

(1) A jury is a body of (~~(men)~~) 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.

((~~(2)~~)) (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, as compiled by each county auditor pursuant to the provisions of chapter 29.07 RCW. The list shall specify each voter's name, residence address, and precinct as shown on the original registration card of each qualified voter. 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 the period of time a person is required to serve as a juror. A jury term shall begin on the first Monday of each month and shall end on the Saturday immediately preceding the first Monday of each month, unless changed by the court. A jury term may be extended by the court if necessary for the administration of justice.

(11) "Jury panel" means those persons randomly selected for jury service for a particular jury term.

Sec. 3. Section 4, chapter 48, Laws of 1891 as last amended by section 6, chapter 162, Laws of 1980 and RCW 2.36.050 are each amended to read as follows:

~~((A petit jury is a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction; drawn in the superior court and in courts of limited jurisdiction by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.))~~ 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 ~~((judge or judges))~~ 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.

NEW SECTION. Sec. 4. A new section is added to chapter 2.36 RCW to read as follows:

The county auditor shall prepare and file with the superior court at least annually, at a time or times set forth in an order of the judges of the superior court from the original registration files of voters of the county a list of all registered voters. The list may be divided into the respective voting precincts.

The superior court upon receipt of the list of registered voters filed by the county auditor shall use that list as the jury source list and shall compile a master jury list from the source 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.

Upon receipt of amendments to the list of registered voters from the county auditor the superior court may update the jury source list and master jury list as maintained by the county clerk accordingly.

Sec. 5. Section 1, chapter 13, Laws of 1973 2nd ex. sess. and RCW 2.36.063 are each amended to read as follows:

The judge or judges of the superior court of any county may(~~(, if they so choose, by local superior court rule,)~~) employ a properly programmed electronic data processing system or device to (~~(make random selection of jurors as required by RCW 2.36.060.~~

~~Upon determination that such system shall be employed, the judge or judges of the superior court shall direct the county auditor to provide the names and other information concerning all registered voters which have been filed with him by the registrar of voters pursuant to RCW 2.36.060.~~

~~In those counties employing the electronic data processing random selection method, the judge or judges of the superior court may determine that fair and random selection may be achieved without division of the county into three or more jury districts. Upon such determination, the judge or judges shall, during the month of July each year, order a master jury list to be selected by an unrestricted random sample from the names of all registered voters filed with the county auditor, without regard to location of precinct.~~

~~In those counties employing the electronic data processing random selection method, if the judge or judges of the superior court determine that the jury district procedure required for noncomputer jury selection is to be followed, the judge or judges shall divide the county into not less than three jury districts pursuant to RCW 2.36.060. The judge or judges shall during the month of July each year, order a master jury list to be selected by an unrestricted random sample from the names of all registered voters filed with the county auditor. Such list must contain as nearly as possible an equal number of jurors from each jury district.~~

~~The master jury list randomly selected shall contain names of a sufficient number of qualified voters to serve as jurors until the first day of August of the next calendar year, and shall be certified and filed with the county clerk. At any time the judge or judges may add to the jury list in the random selection manner by data process device as approved by the judge or judges. A certified list of the added names shall be filed with the county clerk.)~~ compile the master jury list and to randomly select jurors from the master jury list.

NEW SECTION. Sec. 6. A new section is added to chapter 2.36 RCW to read as follows:

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. 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.

Sec. 7. Section 1, chapter 57, Laws of 1911 as last amended by section 1, chapter 203, Laws of 1975 1st ex. sess. and RCW 2.36.070 are each amended to read as follows:

~~((No))~~ A person shall be competent to serve as a juror in the ~~((superior or courts of the))~~ state of Washington unless ~~((he be))~~ that person:

- ~~(1) ((an elector and taxpayer of the state;~~
- ~~(2) a resident of the county in which he is called for service for more than one year preceding such time;~~
- ~~(3) in full possession of his faculties and of sound mind. PROVIDED; That a person shall not be precluded from the list of prospective jurors because of loss of sight in any degree. Sound mind, as used in this section, shall mean the necessary mental process utilized in reasoning to a logical conclusion, and~~
- ~~(4) able to read and write the English language))~~ 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.

Sec. 8. Section 2, chapter 13, Laws of 1973 2nd ex. sess. and RCW 2.36.093 are each amended to read as follows:

At such time as the judge or judges of ~~((the superior))~~ any court of any county shall deem that the public business requires a jury term to be

held, ~~((he or they))~~ the judge or judges shall direct ~~((the county clerk to select jurors))~~ that a jury panel be selected and summoned to serve for the ensuing jury term ~~((, pursuant to RCW 2.36.090. In any county in which the judge or judges have chosen to employ the electronic data process random selection method as provided for in RCW 2.36.063, the county clerk shall within the first fifteen days of the calendar month preceding the month on which the jurors are to be called to serve, cause the names of the jurors to be selected from the master list of prospective jurors for the year placed on file in his office:~~

The name of a person once selected for a jury term shall be excluded from selection of jurors for subsequent terms in that jury year unless otherwise ordered by the judge or judges of superior court. ~~PROVIDED, That at any time or for any period or periods of time, the judge or judges may direct by rule or order that all or any number or proportion of the jurors thereafter to be selected shall be selected to serve for two successive terms, to the end that not all of the jurors serving during a given period shall cease their service at the same time.~~

It shall be the duty and responsibility of the judge or judges of the superior court to insure that such electronic data processing system or device is employed so as to insure continued random selection of the master jury list and jurors. ~~To that end, the judge or 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 RCW 2.36.063 and 2.36.093 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 jurors is achieved))~~ or terms.

NEW SECTION. Sec. 9. A new section is added to chapter 2.36 RCW to read as follows:

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. In courts of limited jurisdiction summons shall be issued by the court. Upon the agreement of the courts, the superior court may summon jurors for any and all courts in the county or judicial district.

Sec. 10. Section 7, chapter 57, Laws of 1911 as last amended by section 1, chapter 181, Laws of 1983 and RCW 2.36.100 are each amended to read as follows:

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, prior jury service ~~((twice))~~ once in the last ~~((five))~~ two years, or any reason deemed sufficient by the court for a period of time the court deems necessary. An excuse for prior service ~~((shall apply only in class AA and class A~~

counties, and)) 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 ((or)) , in the United States District Court, or on a jury of inquest.

Sec. 11. Section 3, chapter 191, Laws of 1925 ex. sess. and RCW 2.36.110 are each amended to read as follows:

It shall be the duty of a ((superior)) 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.

Sec. 12. Section 6, chapter 57, Laws of 1911 and RCW 2.36.130 are each amended to read as follows:

If for any reason the jurors drawn for service upon a ((petit)) 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 ((the superior)) any court may ((draw)) direct the random selection and summoning from the master jury list such additional names as they may consider necessary((, and the persons whose names are so drawn shall thereupon be summoned to serve as jurors forthwith. The judge or judges drawing such additional names, may, in his or their discretion, order and direct that, of such additional jurors, only those living nearest to the county seat or most conveniently reached and found shall be at first summoned by the sheriff, and at any time when a sufficiency of such persons has been summoned and produced in court, such judge or judges may, in his or their discretion, order and direct the sheriff not to summon the remainder of the additional jurors so drawn. By stipulation or agreement made in open court as a part of the record, the parties to any action may agree that an open venire may be issued to make up a jury in that action, and upon order of the court approving such stipulation and directing the number of jurors to be drawn, the clerk shall issue an open venire, and the sheriff shall fill the same by summoning from the bystanders, or elsewhere, a sufficient number of persons to fill the open venire)).

NEW SECTION. Sec. 13. A new section is added to chapter 2.36 RCW to read as follows:

(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.

**NEW SECTION.** Sec. 14. A new section is added to chapter 2.36 RCW to read as follows:

A person summoned for jury service who intentionally fails to appear as directed shall be guilty of a misdemeanor.

Sec. 15. Section 3, chapter 213, Laws of 1955 and RCW 8.04.080 are each amended to read as follows:

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 ~~((the sheriff to summon))~~ 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 third class county or lesser classification, the costs of such special jury for the trial of such condemnation cases only shall be borne by the state.

Sec. 16. Section 2, chapter 67, Laws of 1971 ex. sess. and RCW 10-27.020 are each amended to read as follows:

For the purposes of this chapter:

(1) The term "court" shall mean any superior court in the state of Washington.

(2) The term "public attorney" shall mean the prosecuting attorney of the county in which a grand jury or special grand jury is impaneled; the attorney general of the state of Washington when acting pursuant to RCW 10.27.070(9) and, the special prosecutor appointed by the governor, pursuant to RCW 10.27.070(10), and their deputies or special deputies.

(3) The term "indictment" shall mean a written accusation found by a grand jury.

(4) The term "principal" shall mean any person whose conduct is being investigated by a grand jury or special inquiry judge.

(5) The term "witness" shall mean any person summoned to appear before a grand jury or special inquiry judge to answer questions or produce evidence.

(6) A "grand jury" consists of ~~((not less than))~~ twelve ~~((nor more than seventeen))~~ persons, is impaneled by a superior court and constitutes a part of such court. The functions of a grand jury are to hear, examine and investigate evidence concerning criminal activity and corruption and to take action with respect to such evidence. The grand jury shall operate as a whole and not by committee.

(7) A "special inquiry judge" is a superior court judge designated by a majority of the superior court judges of a county to hear and receive evidence of crime and corruption.

Sec. 17. Section 4, chapter 67, Laws of 1971 ex. sess. and RCW 10-27.040 are each amended to read as follows:

~~((The court shall select the))~~ Members of the grand jury ~~((from either the petit jury panel, or from a grand jury panel of one hundred individuals drawn by lot))~~ shall be selected in the manner provided ~~((for petit jury panels under))~~ in chapter 2.36 RCW ~~((; or from both))~~.

Sec. 18. Section 36.24.020, chapter 4, Laws of 1963 and RCW 36.24-.020 are each amended to read as follows:

Any coroner, in his or her discretion, may hold an inquest if ~~((he))~~ the coroner suspects that the death of a person was unnatural, or violent, or resulted from unlawful means, or from suspicious circumstances, or was of such a nature as to indicate the possibility of death by the hand of the deceased or through the instrumentality of some other person: **PROVIDED,** That, except under suspicious circumstances, no inquest shall be held following a traffic death.

The coroner in the county where an inquest is to be convened pursuant to this chapter shall ~~((summon six good and lawful persons to serve as jurors and))~~ notify the superior court to provide persons to serve as a jury of



inquest to hear all the evidence concerning the death and to inquire into and render a true verdict on the cause of death. Jurors shall be selected and summoned in the same manner and shall have the same qualifications as specified in chapter 2.36 RCW. The prosecuting attorney having jurisdiction shall be notified in advance of any such inquest to be held, and at his discretion may be present at and assist the coroner in the conduct of the same. The coroner may adjourn the inquest from time to time as he may deem necessary.

The costs of inquests shall be borne by the county in which the inquest is held.

NEW SECTION. Sec. 19. (1) The judicial council shall direct the office of the administrator for the courts to conduct a study to determine the advisability of using other lists in addition to the jury source list as defined in section 2(8) of this act to expand the source for potential jurors.

(2) The office of the administrator for the courts shall complete its study and the judicial council shall report its findings and recommendations to the house committee on judiciary and senate committee on law and justice no later than January 9, 1989.

(3) This section shall expire on January 9, 1989.

NEW SECTION. Sec. 20. 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.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 57, Laws of 1911, section 1, chapter 26, Laws of 1921, section 1, chapter 191, Laws of 1925, section 1, chapter 238, Laws of 1943, section 1, chapter 287, Laws of 1961, section 1, chapter 92, Laws of 1967, section 1, chapter 135, Laws of 1979 ex. sess. and RCW 2.36.060;

(2) Section 4, chapter 57, Laws of 1911, section 2, chapter 191, Laws of 1925 ex. sess., section 1, chapter 65, Laws of 1965 and RCW 2.36.090;

(3) Section 8, chapter 57, Laws of 1911 and RCW 2.36.140; and

(4) Section 5, chapter 48, Laws of 1891 and RCW 2.36.160.

NEW SECTION. Sec. 22. The following acts or parts of acts are each repealed:

(1) Section 71, page 235, Laws of 1854, section 1771, Code of 1881, section 2, page 118, Laws of 1888 and RCW 12.12.040;

(2) Section 73, page 236, Laws of 1854, section 1773, Code of 1881, section 4, page 119, Laws of 1888, section 1, chapter 119, Laws of 1975 1st ex. sess. and RCW 12.12.060; and

(3) Section 79, page 236, Laws of 1854, section 78, page 348, Laws of 1873, section 1779, Code of 1881 and RCW 12.12.100.

**NEW SECTION.** Sec. 23. 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.

**NEW SECTION.** Sec. 24. 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.

Passed the House March 7, 1988.

Passed the Senate March 4, 1988.

Approved by the Governor March 22, 1988.

Filed in Office of Secretary of State March 22, 1988.

## CHAPTER 189

[Engrossed Substitute Senate Bill No. 6207]

### FOSTER CARE—PLACEMENT OF CHILDREN WITH RELATIVE

AN ACT Relating to foster care; amending RCW 13.34.130; reenacting and amending RCW 74.15.030; and creating a new section.

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

**NEW SECTION.** Sec. 1. The department shall immediately establish an advisory task force to examine current procedures regarding the use of out-of-home placements with relatives, identify barriers to increased and early placement of children with relatives, and recommend procedures to encourage immediate placement of children with relatives, when appropriate, if removal from parental custody is necessary. The task force shall prepare a report which sets forth findings and recommendations and the results of any department innovations or programs which have been implemented to encourage placement of children with relatives. The final report shall be submitted to the legislature prior to December 15, 1988.

Sec. 2. Section 4, chapter 188, Laws of 1984 and RCW 13.34.130 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, as now or hereafter amended, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(2); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already