

recreation.

NEW SECTION. Sec. 2. The provisions of this 1972 amendatory act are intended to be remedial and procedural and shall be construed to apply retroactively.

NEW SECTION. Sec. 3. This 1972 amendatory 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 Senate January 31, 1972.

Passed the House February 12, 1972.

Approved by the Governor February 19, 1972.

Filed in Office of Secretary of State February 21, 1972.

CHAPTER 57

[Senate Bill No. 56]

JURIES--COMPOSITION, VERDICTS, FEES, PROCEDURE

AN ACT Relating to juries; amending section 4, chapter 48, Laws of 1891, and RCW 2.36.050; amending section 1, chapter 43, Laws of 1903 as last amended by section 2, chapter 304, Laws of 1961 and RCW 4.44.100; amending section 185, page 164, Laws of 1854 as last amended by section 206, Code of 1881 and RCW 4.44.120; amending section 1, chapter 36, Laws of 1895 and RCW 4.44.380; amending section 2, chapter 36, Laws of 1895 and RCW 4.44.390; and amending section 36.18.020, chapter 4, Laws of 1963 as last amended by section 1, chapter 32, Laws of 1970 ex. sess. and RCW 36.18.020.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 4, chapter 48, Laws of 1891 and RCW 2.36.050 are each amended to read as follows:

A petit jury is a body of men twelve or less in number in the superior court and six in number in courts of justices of the peace; drawn in the superior court by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact; but in a justice's court the jury is drawn according to the mode specially provided for such court

Sec. 2. Section 1, chapter 43, Laws of 1903 as last amended by section 2, chapter 304, Laws of 1961 and RCW 4.44.100 are each amended to read as follows:

In all civil actions triable by a jury in the superior court any party to the action may, at or prior to the time the case is called to be set for trial, serve upon the opposite party or his attorney, and file with the clerk of the court a statement of

himself, or attorney, that he elects to have such case tried by jury. If such a statement is served and filed, any party may likewise state that he elects to have a jury of twelve persons. Unless such statement is filed and a jury fee paid as provided by law, the parties shall be deemed to have waived trial by jury, and ~~((consented to a trial by the court))~~ if such a statement is served and filed, unless a jury of twelve persons is so requested and such additional fee as may be required by law therefor is paid by the party requesting same, the parties shall be deemed to have waived a trial by a jury of twelve persons and the jury shall consist of six persons: PROVIDED, That, in the superior courts of counties of the first class such parties shall serve and file such statement, in manner herein provided, at any time not later than two days before the time the case is called to be set for trial.

Sec. 3. Section 185, page 164, Laws of 1854 as last amended by section 206, Code of 1881 and RCW 4.44.120 are each amended to read as follows:

When the action is called for trial, the clerk shall prepare separate ballots, containing the names of the jurors summoned, who have appeared and not been excused, and deposit them in a box. He shall ~~((then))~~ draw ~~((from the box twelve names, and the persons whose names are drawn shall constitute the jury. If the ballots become exhausted, before the jury is complete, or if from any cause, a juror or jurors be excused or discharged, the sheriff, under the direction of the court, shall summon from the bystanders, citizens of the county, as many qualified persons as may be necessary to complete the jury. Whenever it shall be requisite for the sheriff to summon more than one person at a time from the bystanders or body of the county, the names of the talesmen shall be returned to))~~ the required number of names for purposes of voir dire examination. Any necessary additions to the panel shall be drawn from the clerk's list of qualified jurors. The clerk ~~((, who))~~ shall thereupon ~~((write the names upon))~~ prepare separate ballots and deposit ~~((the same))~~ them in the trial jury box, and draw such ballots separately therefrom, as in the case of the regular panel. The jury shall consist of ~~((twelve))~~ 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 ~~((any number))~~ 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.

Sec. 4. Section 1, chapter 36, Laws of 1895 and RCW 4.44.380 are each amended to read as follows:

In all trials by juries of ~~((twelve))~~ six in the superior court, except criminal trials, when ~~((ten))~~ 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 ~~((twelve))~~ 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.

Sec. 5. Section 36.18.020, chapter 4, Laws of 1963 as last amended by section 1, chapter 32, Laws of 1970 ex. sess. and RCW 36.18.020 are each amended to read as follows:

Clerks of superior courts shall collect the following fees for their official services:

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of twenty-five dollars.

(2) Any party filing the first or initial paper on an appeal from justice court or on any civil appeal, shall pay, when said paper is filed, a fee of twenty-five dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a justice court in the county of issuance, shall pay at the time of filing, a fee of five dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of ~~((fifty))~~ twenty-five dollars ~~((,and))~~ if the demand is for a jury of twelve the fee shall be fifty dollars. If, after a party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors. In the event that the case is settled out of court and the court is notified not less than twenty-four hours prior to the time that such case is called to be heard upon trial, such fee shall be returned to such party by the clerk.

(6) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in his office for which no other charge is provided by law, the clerk shall collect two dollars.

(7) For preparing, transcribing or certifying any instrument on file or ~~((of))~~ of record in his office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(8) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(9) For the filing of an affidavit for garnishment, a fee of five dollars shall be charged.

(10) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(11) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of twenty-five dollars: PROVIDED, HOWEVER, A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated.

(12) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, there shall be paid a fee of twenty-five dollars.

(13) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(14) For the preparation of a passport application there shall be a fee of two dollars.

(15) Upon conviction or plea of guilty or upon failure to prosecute his appeal from a lower court as provided by law, a defendant in a criminal case shall be liable for a fee of twenty-five dollars.

(16) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1970, shall be completed and governed by the fee schedule in effect as of January 1, 1970: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

Sec. 6. Section 2, chapter 36, Laws of 1895 and RCW 4.44.390 are each amended to read as follows:

When the verdict is returned into court either party may poll the jury, and if ((ten of the jurors) the number of jurors required for verdict answer that it is the verdict said verdict shall stand. In case ((ten of the jurors) 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.

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