

Title 2

COURTS OF RECORD

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Chapter 2.04 RCW SUPREME COURT

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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 herself, or before the supreme court, or before any superior court of the state, or any judge thereof. [2011 c 336 § 8; 1890 p 322 § 6; RRS § 1.]

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.

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.]

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

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

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.]

Rules of court: *SAR-Rule 4.*

Legal holidays: RCW 1.16.050.

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 atten-

dants, 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 or her disbursed on proper vouchers, and accounted for by him or her in annual settlements with the governor. [2011 c 336 § 9; 1973 c 106 § 1; 1955 c 38 § 1; 1890 p 322 § 4; RRS § 3.]

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.]

Rules of court: *SAR-Rule 5.*

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.]

Rules of court: *SAR-Rule 2.*

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.]

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.]

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.

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.]

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

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.]

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.

Additional notes found at www.leg.wa.gov

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.]

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.]

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 or her 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. [2011 c 336 § 10; 1909 c 24 § 4, part; RRS § 9.]

Rules of court: *SAR 4.*

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.]

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

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.]

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.

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.]

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

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.]

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

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

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.]

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.

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.]

Rules of court: *SAR—Rule 3.*

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.]

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

(2016 Ed.)

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

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.]

Rules of court: *SAR 21.*

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

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

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

Washington court reports commission: RCW 2.32.160.

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.]

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 eight 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 three 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. [2009 c 77 § 1; 1999 c 75 § 1; 1993 c 420 § 1; 1989 c 328 § 10; 1977 ex.s. c 49 § 1; 1969 ex.s. c 221 § 2.]

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

Judicial position contingent on funding—2009 c 77: "The judicial position created by *section 1, chapter 77, Laws of 2009 shall become effective only if that position is specifically funded and is referenced by division and district in an omnibus appropriations act." [2009 c 77 § 2.]

***Reviser's note:** The judicial position created by section 1, chapter 77, Laws of 2009 was not referenced in a 2009 omnibus appropriations act.

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.

Additional notes found at www.leg.wa.gov

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.]

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

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.]

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.]

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

Additional notes found at www.leg.wa.gov

(2016 Ed.)

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.

The court may establish rules supplementary to and not in conflict with rules of the supreme court. [2007 c 34 § 1; 1987 c 43 § 1; 1984 c 258 § 91; 1971 c 41 § 1; 1969 ex.s. c 221 § 4.]

Additional notes found at www.leg.wa.gov

2.06.045 When open for transaction of business. See RCW 2.04.030.

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 or her position was created. [2011 c 336 § 11; 1969 ex.s. c 221 § 5.]

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.]

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

Additional notes found at www.leg.wa.gov

2.06.064 Reimbursement of expenses for travel to and from division headquarters. The court of appeals is authorized to adopt rules providing for the reimbursement of work-related travel expenses from a judge's customary residence to the division headquarters of the court and back. Judges elected from or residing in the county in which the division is headquartered are not eligible for reimbursement under this section. The rates of reimbursement are as set forth in RCW 43.03.050 and 43.03.060. [2007 c 34 § 2.]

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

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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.]

Additional notes found at www.leg.wa.gov

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.]

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.]

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

Additional notes found at www.leg.wa.gov

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.]

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.]

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 or she was elected. [2011 c 336 § 12; 1969 ex.s. c 221 § 9.]

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.]

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.]

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.]

Judge pro tempore appointments: RCW 2.56.170.

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 pro-

vided 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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Court filing fees: RCW 36.18.020.

Family court: Chapter 26.12 RCW.

Judiciary and judicial power: State Constitution Art. 4.

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.]

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

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.]

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).

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.]

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).

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.]

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

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.]

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.]

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.

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.]

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 notes found at www.leg.wa.gov

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 ten judges of the superior court; in the county of Grays Harbor three judges of the superior court; in the county of Kitsap eight judges of the superior court; in the county of Kittitas two judges of the superior court; in the county of Lewis three judges of the superior court. [2003 c 96 § 1; 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.]

Adjustment in judicial services: See note following RCW 2.08.065.

Additional notes found at www.leg.wa.gov

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, four 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, four judges of the superior court. [2013 c 210 § 1; 2005 c 95 § 1; 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.]

Additional judicial position in Whatcom county subject to approval and agreement—2013 c 210: "The additional judicial position created by section 1 of this act in Whatcom county becomes effective only if 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 the additional judicial position as provided by statute." [2013 c 210 § 2.]

Additional notes found at www.leg.wa.gov

2.08.064 Judges—Benton, Franklin, Clallam, Jefferson, Snohomish, Asotin, Columbia, Garfield, Cowlitz,

(2016 Ed.)

Klickitat, and Skamania counties. There shall be in the counties of Benton and Franklin jointly, seven judges of the superior court; in the county of Clallam, three 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, five judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court. [2013 c 142 § 1; 2006 c 20 § 1; 2003 c 96 § 2; 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.]

Additional judicial position in Benton and Franklin counties subject to approval and agreement—2013 c 142: "The additional judicial position created by section 1 of this act in Benton and Franklin counties jointly becomes effective only if the counties, through their duly constituted legislative authority, 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 of the additional judicial position as provided by statute." [2013 c 142 § 2.]

Additional judicial positions in Clallam and Cowlitz counties subject to approval and agreement—2006 c 20: "The additional judicial positions created by section 1 of this act in Clallam and Cowlitz counties are 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 existing and additional judicial positions as provided by statute and the state Constitution." [2006 c 20 § 2.]

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.

Additional notes found at www.leg.wa.gov

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, three 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; in the county of San Juan, one judge of the superior court; and in the county of Island, two judges of the superior court. [2014 c 169 § 1; 2007 c 95 § 1; 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.]

Additional judicial position subject to approval and agreement—2014 c 169: "The additional judicial position created by section 1 of this act in Mason county becomes effective only if the county, through its duly con-

stituted 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." [2014 c 169 § 2.]

Additional judicial positions subject to approval and agreement—2007 c 95: "The two judicial positions serving San Juan and Island counties jointly are allocated to Island county effective the date upon which the judge for San Juan county superior court assumes office. The additional judicial position created by section 1 of this act is allocated to San Juan county and becomes effective only if:

(1) San Juan 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; and

(2) Island county, through its duly constituted legislative authority, documents its approval and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the two judicial positions currently serving San Juan and Island counties jointly as provided by state law or the state Constitution." [2007 c 95 § 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.]

Additional notes found at www.leg.wa.gov

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.]

Vacancy, how filled: RCW 2.08.120.

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.]

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.

2.08.080 Oath of office. Every judge of a superior court shall, before entering upon the duties of his or her office, take and subscribe an oath that he or she 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 or her 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. [2011 c 336 § 13; 1971 c 81 § 5; 1890 p 344 § 15; RRS § 11051.]

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

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.]

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.

Additional notes found at www.leg.wa.gov

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.]

Distribution of work of courts by chief justice: RCW 2.56.040.

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.]

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 or her residence to the other county or counties in his or her district and return. [2011 c 336 § 14; 1975-76 2nd ex.s. c 34 § 1.]

Additional notes found at www.leg.wa.gov

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.]

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

Vacancies resulting from additional judgeships: RCW 2.08.069.

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 supe-

rior 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 or she directs the superior judge to whom the same is addressed to hold such session of the superior court, and the period during which he or she is to hold such session. Thereupon it shall be the duty of the superior judge so requested, and he or she 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. [2011 c 336 § 15; 1893 c 43 § 1; RRS § 27. Prior: 1890 p 343 § 10.]

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

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 or she is hereby empowered, if he or she deem it consistent with the state of judicial business in the county or counties whereof he or she is a superior judge (and in such case it shall be his or her 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 or she may deem necessary by the state of judicial business in the county or counties whereof he or she is a superior judge. [2011 c 336 § 16; 1893 c 43 § 2; RRS § 28. Prior: 1890 p 343 § 10.]

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.]

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 or she shall hold such sessions reimbursement for subsistence, lodging,

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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 or her by such judge of a statement of such expenses, verified by his or her affidavit, issue to such judge a certificate that he or she is entitled to the amount thereof; and upon presentation of such certificate to the auditor of such county he or she shall draw a warrant on the current expense fund of such county for the amount in favor of such judge. [2011 c 336 § 17; 1981 c 186 § 3; 1893 c 43 § 4; RRS § 30. Prior: 1890 p 329 § 4.]

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

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 either: (1) 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; or (2) pursuant to supreme court rule, any sitting elected judge. Any action in the trial of such cause shall have the same effect as if it was made by 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 or her 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 a court of the state of Washington, shall receive a compensation of one-two hundred 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 full-time judge of a court of the state of Washington shall receive no compensation as judge pro tempore. A judge who is an active part-time judge of a court of the state of Washington may receive compensation as a judge pro tempore only when sitting as a judge pro tempore during time for which he or she is not compensated as a part-time judge. 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, provided that a retired justice or judge may decline to accept compensation. [2005 c 142 § 1; 2003 c 247 § 1; 2002 c 137 § 1; 1987 c 73 § 1; 1971 c 81 § 6; 1967 c 149 § 1; 1890 p 343 § 11; RRS § 40.]

Judges pro tempore: State Constitution Art. 4 § 7. appointments: RCW 2.56.170.

Additional notes found at www.leg.wa.gov

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.]

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

2.08.190 Powers of judge in counties of his or her district. Any judge of the superior court of the state of Washington shall have power, in any county within his or her district: (1) To sign all necessary orders and papers in probate matters pending in any other county in his or her 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 or her district; (3) to decide and rule upon all motions, demurrers, issues of fact, or other matters that may have been submitted to him or her 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. [2011 c 336 § 18; 1901 c 57 § 1; RRS § 41.]

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 or her 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. [2011 c 336 § 19; 1901 c 57 § 2; RRS § 42.]

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

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.]

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

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

Venue: Chapter 4.12 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 or her executed according to law. [2011 c 336 § 20; 1891 c 45 § 5; RRS § 35.]

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.]

[Title 2 RCW—page 12]

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.

2.08.240 Limit of time for decision. Every case submitted to a judge of a superior court for his or her decision shall be decided by him or her 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 or she is to decide shall commence at the time the cause is submitted upon such rehearing, and upon willful failure of any such judge so to do, he or she shall be deemed to have forfeited his or her office. [2011 c 336 § 21; 1890 p 344 § 12; RRS § 39.]

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

Payment of county's portion: RCW 2.08.100.

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.]

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

Chapter 2.10 RCW JUDICIAL RETIREMENT SYSTEM

Sections

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2.10.900	Construction—Domestic relations terms—2009 c 521.

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.]

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.]

2.10.030 Definitions. (1) "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.

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

(3) "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.

(4) "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.

(5) "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).

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

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

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

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

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

(11) "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.

(12) "Surviving spouse" means the surviving widow or widower or surviving state registered domestic partner of a judge. "Surviving spouse" does not include the divorced spouse of a judge or an individual whose state registered domestic partnership with the judge has been terminated, dissolved, or invalidated. [2009 c 521 § 6; 1997 c 88 § 5; 1988 c 109 § 1; 1971 ex.s. c 267 § 3.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.

Additional notes found at www.leg.wa.gov

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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.]

Transfers to system, prior service credit: RCW 2.10.220.

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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 1st 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 or her 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 or her own personal default or individual failure to perform his or her duties as such member and to exercise reasonable diligence in providing for safeguarding of the funds and assets of the system. [2011 c 336 § 22; 1971 ex.s. c 267 § 7.]

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 treasurer's service fund pursuant to RCW 43.08.190.

(3) 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. [2012 c 187 § 16; 1991 sp.s. c 13 § 114; 1981 c 3 § 22; 1973 1st ex.s. c 103 § 1; 1971 ex.s. c 267 § 8.]

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.]

Additional notes found at www.leg.wa.gov

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 or her 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. [2011 c 336 § 23; 1971 ex.s. c 267 § 9.]

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

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.]

Additional notes found at www.leg.wa.gov

2.10.110 Service retirement allowance. A member upon retirement for service shall receive a monthly retirement allowance computed according to his or her completed years of service, as follows: Ten years, but less than fifteen years, three percent of his or her final average salary for each year of service; fifteen years and over, three and one-half percent of his or her 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 or her final salary except as increased as a result of the cost of living increases as provided by this chapter. [2011 c 336 § 24; 1971 ex.s. c 267 § 11.]

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 or she has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his or her 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 retire-

ment under subsection (1) of this section. [2011 c 336 § 25; 1982 c 18 § 1; 1971 ex.s. c 267 § 12.]

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

2.10.130 Retirement for disability allowance. Upon a judge being retired for disability as provided in RCW 2.10.120, he or she shall receive from the fund an amount equal to one-half of his or her final average salary. [2011 c 336 § 26; 1971 ex.s. c 267 § 13.]

2.10.140 Survivor's benefits. (1) A surviving spouse of any judge holding such office, or if he or she dies after having retired and who, at the time of his or her 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 or she been retired on the date of his or her 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). [2011 c 336 § 27; 1988 c 109 § 7; 1984 c 37 § 2; 1971 ex.s. c 267 § 14.]

Additional notes found at www.leg.wa.gov

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

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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.]

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

Additional notes found at www.leg.wa.gov

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 ben-

efit 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.]

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 firefighters' 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.]

Additional notes found at www.leg.wa.gov

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 firefighter 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.]

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

Additional notes found at www.leg.wa.gov

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.]

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.]

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 whether the same be in actual possession of the person or be deposited or loaned.

(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. [2012 c 159 § 17; 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.]

Additional notes found at www.leg.wa.gov

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.]

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.]

Additional notes found at www.leg.wa.gov

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.]

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 or her entitlement to retirement benefits under any of the provisions of this chapter, he or she shall upon request therefor be repaid from the judicial retirement fund an amount equal to the amount of his or her 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 or her membership therein under the provisions of chapter 41.40 RCW, may reinstate his or her 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) of this section 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) of this section 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 or her payment into the judicial retirement fund of a sum equal to five percent of his or her 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. [2011 c 336 § 28; 1980 c 7 § 1; 1971 ex.s. c 267 § 22.]

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

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.]

Additional notes found at www.leg.wa.gov

2.10.900 Construction—Domestic relations terms—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 5.]

Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: "(1) Sections 5 through 8, 79, 87 through 103, 107, 151, 173 through 175, and 190 through 192 of this act take effect January 1, 2014.

(2) Sections 165 and 166 of this act take effect August 1, 2009." [2009 c 521 § 201.]

Chapter 2.12 RCW

RETIREMENT OF JUDGES—RETIREMENT SYSTEM

Sections

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2.12.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Judicial retirement system—1971 act: Chapter 2.10 RCW.

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

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 or her 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 or her 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 or her affidavit, fixing a date when he or she desires his or her retirement to commence, one copy of which the director shall forthwith file with the administrator for the courts. The notice shall state his or her name, the court or courts of which he or she has served as judge, the period of service thereon and the dates of such service. [2011 c 336 § 29; 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.]

Additional notes found at www.leg.wa.gov

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 or her 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. [2011 c 336 § 30; 1971 c 30 § 2; 1961 c 286 § 1.]

Additional notes found at www.leg.wa.gov

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 or she shall receive in addition to any other pension benefits to which he or she may be entitled under this chapter, an additional pension benefit based upon one-eighteenth of his or her salary for each year of full service after eighteen years, provided his or her total pension shall not exceed seventy-five percent of the monthly salary he or she was receiving as a judge at the time of his or her retirement. [2011 c 336 § 31; 1971 c 30 § 3; 1961 c 286 § 2.]

Additional notes found at www.leg.wa.gov

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 or she has become physically or otherwise permanently incapacitated for the full and efficient performance of the duties of his or her 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 or her behalf and which shall set forth his or her name, the office then held, the court or courts of which he or she has served as judge, the period of service thereon, the dates of such service and the reasons why he or she believes himself or herself to be, or why they believe him or her 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 or her office, and if the governor shall approve such report, he or she shall file the report, with his or her 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 or she 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. [2011 c 336 § 32; 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.]

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

Additional notes found at www.leg.wa.gov

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 surviv-

ing 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.]

Additional notes found at www.leg.wa.gov

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 or her retirement or at the end of the term immediately prior to his or her retirement if his or her retirement was made after expiration of his or her term or at the time of his or her death if he or she 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. [2011 c 336 § 33; 1971 c 81 § 7; 1969 ex.s. c 202 § 1.]

2.12.037 Adjustment of pension of retired judges or widows or widowers.

(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 or her widow or widower 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. [2012 c 117 § 1; 1970 ex.s. c 96 § 1.]

2.12.040 Service after retirement. If any retired judge shall accept an appointment or an election to a judicial office,

he or she shall be entitled to receive the full salary pertaining thereto, and his or her retirement pay under this chapter shall be suspended during such term of office and his or her salary then received shall be subject to contribution to the judges' retirement fund as provided in this chapter. [2011 c 336 § 35; 1955 c 38 § 6; 1943 c 37 § 1; 1937 c 229 § 4; Rem. Supp. 1943 § 11054-4.]

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.]

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 adjust-

ment. 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.]

Additional notes found at www.leg.wa.gov

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.]

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.]

Additional notes found at www.leg.wa.gov

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 or her hereunder and place the proceeds thereof in the judges' retirement fund for disbursement as authorized in this chapter. [2011 c 336 § 36; 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.]

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

Additional notes found at www.leg.wa.gov

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 whether the same be in actual possession of the person or be deposited or loaned 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. [2012 c 159 § 18; 1991 c 365 § 19; 1989 c 360 § 23; 1987 c 326 § 18; 1982 1st ex.s. c 52 § 32.]

Additional notes found at www.leg.wa.gov

2.12.100 Transfer of membership from Washington public employees' retirement system to judges' retirement system—Authorized—Procedure. Any member of

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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 or her entitlement to retirement benefits under any of the provisions of chapter 2.12 RCW, he or she shall upon request therefor be repaid from the judges' retirement fund an amount equal to the amount of his or her 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. [2011 c 336 § 37; 1970 ex.s. c 96 § 2.]

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.]

2.12.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 7.]

Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.

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—Exemption from taxation and judicial process—Assignability—Exceptions.
2.14.110	Payment of contributions upon member's death.
2.14.115	Discontinuing plan contributions—One-time irrevocable election.
2.14.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

***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.

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

2.14.100 Contributions—Distribution upon member's separation—Exemption from taxation and judicial process—Assignability—Exceptions. (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, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever and is not assignable, except as is otherwise specifically provided in this section.

(3) If a judgment, decree or other order, including a court-approved property settlement agreement, that relates to the provision of child support, spousal maintenance, or the marital property rights of a spouse or former spouse, child, or other dependent of a member is made pursuant to the domestic relations law of the state of Washington or such order issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state, then the amount of the member's accumulated contributions shall be paid in the manner and to the person or persons so directed in the domestic relations order. However, this subsection does not permit or require a benefit to be paid or to be provided that is not otherwise available under the terms of this chapter or any rules adopted under this chapter. The administrator for the courts shall establish reasonable procedures for determining the status or any such decree or order and for effectuating distribution pursuant to the domestic relations order.

(4) The administrator for the courts may pay from a member's accumulated contributions the amount that the administrator finds is lawfully demanded under a levy issued by the internal revenue service with respect to that member or is sought to be collected by the United States government under a judgment resulting from an unpaid tax assessment against the member. [2007 c 108 § 1; 1988 c 109 § 21.]

Additional notes found at www.leg.wa.gov

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, subject to the provisions of chapter 26.16 RCW, 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 administrative office of 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. [2007 c 108 § 2; 2005 c 282 § 1; 1996 c 42 § 1; 1988 c 109 § 22.]

Additional notes found at www.leg.wa.gov

2.14.115 Discontinuing plan contributions—One-time irrevocable election. Beginning January 1, 2007, through December 31, 2007, any member of the public employees' retirement system eligible to participate in the judicial retirement account plan under this chapter may make a one-time irrevocable election, filed in writing with the member's employer, the department of retirement systems, and the administrative office of the courts, to discontinue future contributions to the judicial retirement account plan in lieu of prospective contribution and benefit provisions under chapter 189, Laws of 2006. [2006 c 189 § 1.]

Effective date—2006 c 189: "This act takes effect January 1, 2007." [2006 c 189 § 20.]

2.14.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 8.]

Effective dates—2009 c 521 §§ 5-8, 79, 87-103, 107, 151, 165, 166, 173-175, and 190-192: See note following RCW 2.10.900.

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.

Administrator for the courts: Chapter 2.56 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 superior court judges' association of the state of Washington. [2016 c 179 § 2; 1933 ex.s. c 58 § 1; RRS § 11051-1.]

Findings—Purpose—2016 c 179: "The legislature finds and declares as follows:

(1) The legislature established the superior court judges' association statutorily in 1933, enacting what is now chapter 2.16 RCW. The purpose of this act is to render consistent the usage of the association's name, amending two sections to remove inconsistent uses of the association's name.

(2) For decades, the association has operated as the superior court judges' association. The association has been referred to by that name in numerous statutes, including: RCW 2.32.180 (which has used that name since 1957); RCW 2.56.150 (which has used that name since 1996); RCW 7.68.801 (which has used that name since 2013); RCW 9.94A.8673 (which has used that name since 2008); RCW 26.19.025 (which has used that name since 2007); RCW 70.96A.350 (which has used that name since 2002); and RCW 74.13.368 (which has used that name since 2009). In at least one instance in 2011, the association sued under the name superior court judges' association. Although the legislature initially used a variant of the name in its 1933 act and such a variation appears in one other statute, through long and regular usage, the association has come to be known as the superior court judges' association." [2016 c 179 § 1.]

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.]

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.]

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.

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.]

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.]

*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.
2.20.030	Issuance of search warrants by district and municipal court judges.

Municipal judges as magistrates: RCW 35.20.020, 35.20.250.

Preliminary hearings: Chapter 10.16 RCW.

[Title 2 RCW—page 24]

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.]

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.]

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

2.20.030 Issuance of search warrants by district and municipal court judges. Any district or municipal court judge, in the county in which the offense is alleged to have occurred, may issue a search warrant for any person or evidence located anywhere within the state. [2014 c 93 § 2.]

Finding—Intent—2014 c 93: "The legislature finds that recent decisions of the United States supreme court and the Washington state supreme court require law enforcement to obtain the review of a neutral and disinterested magistrate and the issuance of a search warrant more frequently before proceeding with a criminal investigation. The legislature intends to accommodate this requirement by creating effective and timely access to magistrates for purposes of reviewing search warrant applications across the state of Washington. This act does not change the legal standards for issuing a search warrant or the legal standards for review of an issued search warrant." [2014 c 93 § 1.]

Chapter 2.24 RCW

COURT COMMISSIONERS AND REFEREES

Sections

2.24.010	Appointment of court commissioners, criminal 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.

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.

2.24.010 Appointment of court commissioners, criminal commissioners—Qualifications—Term of office. (1) 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.

(2)(a) There may be appointed in counties with a population of more than four hundred thousand, by the presiding judge of the superior court having jurisdiction therein, one or more attorneys to act as criminal commissioners to assist the superior court in disposing of adult criminal cases. Such criminal commissioners shall have power, authority, and jurisdiction, concurrent with the superior court and the judges thereof, in adult criminal cases, to preside over arraignments,

(2016 Ed.)

preliminary appearances, initial extradition hearings, and noncompliance proceedings pursuant to RCW 9.94A.6333 or 9.94B.040; 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; accept waivers of the right to speedy trial; and authorize and issue search warrants and orders to intercept, monitor, or record wired or wireless telecommunications or for the installation of electronic taps or other devices to include, but not be limited to, vehicle global positioning system or other mobile tracking devices with all the powers conferred upon the judge of the superior court in such matters.

(b) The county legislative authority must approve the creation of criminal commissioner positions. [2013 c 27 § 3; 2009 c 140 § 1; 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.]

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 or her ability. [2011 c 336 § 38; 1909 c 124 § 5; RRS § 88.]

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.]

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.

(2016 Ed.)

(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.6333 or 9.94B.040; 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. [2009 c 28 § 1; 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.]

Effective date—2009 c 28: "This act takes effect August 1, 2009." [2009 c 28 § 43.]

Powers of commissioner under juvenile court act: RCW 13.04.030.

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

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 courthouse.
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.
2.28.200	Signage concerning assaults in court facilities during court proceedings.
2.28.210	Court consultation of judicial information system—Disclosure to parties.

Justice without unnecessary delay: State Constitution Art. 1 § 10.

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.]

Compelling attendance of witnesses: Chapter 5.56 RCW.

Oaths, who may administer: RCW 5.28.010.

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.]

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.

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 or she is a member in any of the following cases:

(1) In an action, suit, or proceeding to which he or she is a party, or in which he or she is directly interested.

(2) When he or she was not present and sitting as a member of the court at the hearing of a matter submitted for its decision.

(3) When he or she 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 or she 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 subsections (3) and (4) of this section, 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. [2011 c 336 § 39; 1971 c 81 § 11; 1895 c 39 § 1; 1891 c 54 § 3; RRS § 54.]

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.]

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

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

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.]

2.28.060 Judicial officers—Powers. Every judicial officer has power:

(1) To preserve and enforce order in his or her immediate presence and in the proceedings before him or her, when he or she is engaged in the performance of a duty imposed upon him or her by law;

(2) To compel obedience to his or her lawful orders as provided by law;

(3) To compel the attendance of persons to testify in a proceeding pending before him or her, in the cases and manner provided by law;

(4) To administer oaths to persons in a proceeding pending before him or her, and in all other cases where it may be necessary in the exercise of his or her powers and the performance of his or her duties. [2011 c 336 § 40; 1955 c 38 § 13; 1891 c 54 § 6; RRS § 57.]

Compelling attendance of witnesses: Chapter 5.56 RCW.

Oaths, who may administer: RCW 5.28.010.

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.]

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.

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.]

Who may take acknowledgments: RCW 64.08.010.

2.28.090 Powers of inferior judicial officers. Every other judicial officer may, within the county, city, district, or precinct in which he or she is chosen:

(1) Exercise the powers mentioned in RCW 2.28.080 (1) through (3);

(2) Exercise any other power and perform any other duty conferred or imposed upon him or her by other statute. [2011 c 336 § 41; 1891 c 54 § 9; RRS § 60.]

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 or her discretion, may provide in his or her proclamation that such holiday shall not be applicable to the courts of or within the state. [2011 c 336 § 42; 1986 c 219 § 1; 1933 c 54 § 1;

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1927 c 51 § 2; RRS § 64. Prior: 1891 c 41 § 2; Code 1881 § 1267.]

Courts to be open except on nonjudicial days: State Constitution Art. 4 § 6 (Amendment 28).

Legal holidays: RCW 1.16.050.

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.]

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 or her from time to time, as may be necessary, unless otherwise expressly provided by law. [2011 c 336 § 43; 1891 c 54 § 10; RRS § 66.]

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.]

Rules of court: *Section superseded by CR 6(c). See comment by court after CR 6(c).*

2.28.139 County to furnish courthouse. The county in which the court is held shall furnish the courthouse, a jail or suitable place for confining prisoners, books for record, stationery, lights, wood, attendance, and other incidental expenses of the courthouse and court which are not paid by the United States. [Code 1881 § 2111; 1869 p 421 § 10; 1863 p 425 § 11; RRS § 4034.]

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.]

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.]

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.]

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 or her to the court from which he or she is entitled to receive subsistence, lodging, and compensation for his or her services pursuant to RCW 2.04.250 and 2.06.160 as now or hereafter amended. [2011 c 336 § 44; 1975-'76 2nd ex.s. c 34 § 2.]

Additional notes found at www.leg.wa.gov

2.28.200 Signage concerning assaults in court facilities during court proceedings. (1) Signage shall be posted notifying the public of the possible enhanced penalties under chapter 256, Laws of 2013.

(2) The signage shall be prominently displayed at any public entrance to a courtroom.

(3) The administrative office of the courts shall develop a standard signage form notifying the public of the possible enhanced penalties under chapter 256, Laws of 2013. [2013 c 256 § 3.]

2.28.210 Court consultation of judicial information system—Disclosure to parties. (1) Before granting an order under any of the following titles of the laws of the state of Washington, the court may consult the judicial information system or any related databases, if available, to determine criminal history or the pendency of other proceedings involving the parties:

(a) Granting any temporary or final order establishing a parenting plan or residential schedule or directing residential placement of a child or restraining or limiting a party's contact with a child under Title 26 RCW;

(b) Granting any order regarding a vulnerable child or adult or alleged incapacitated person irrespective of the title or where contained in the laws of the state of Washington;

(c) Granting letters of guardianship or administration or letters testamentary under Title 11 RCW;

(d) Granting any relief under Title 71 RCW;

(e) Granting any relief in a juvenile proceeding under Title 13 RCW; or

(f) Granting any order of protection, temporary order of protection, or criminal no-contact order under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.50, or 26.52 RCW.

(2) In the event that the court consults such a database, the court shall disclose that fact to the parties and shall disclose any particular matters relied upon by the court in rendering the decision. Upon request of a party, a copy of the document relied upon must be filed, as a confidential document, within the court file, with any confidential contact

information such as addresses, phone numbers, or other information that might disclose the location or whereabouts of any person redacted from the document or documents. [2016 c 89 § 1; 2015 c 140 § 1.]

Chapter 2.30 RCW THERAPEUTIC COURTS

Sections

2.30.010	Findings—Scope of therapeutic court programs.
2.30.020	Definitions.
2.30.030	Therapeutic courts authorized—Establishment of processes—Determination of eligibility—Persons not eligible—Use of best practices—Dependency matters—Foreign law limitations.
2.30.040	Funding—Federal funding—Use of state moneys.
2.30.050	Courts authorized to work cooperatively.
2.30.060	Authorization for therapeutic courts existing on July 24, 2015.

2.30.010 Findings—Scope of therapeutic court programs. (1) The legislature finds that judges in the trial courts throughout the state effectively utilize what are known as therapeutic courts to remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or other issues before the court. Trial courts have proved adept at creative approaches in fashioning a wide variety of therapeutic courts addressing the spectrum of social issues that can contribute to criminal activity and engagement with the child welfare system.

(2) The legislature further finds that by focusing on the specific individual's needs, providing treatment for the issues presented, and ensuring rapid and appropriate accountability for program violations, therapeutic courts may decrease recidivism, improve the safety of the community, and improve the life of the program participant and the lives of the participant's family members by decreasing the severity and frequency of the specific behavior addressed by the therapeutic court.

(3) The legislature recognizes the inherent authority of the judiciary under Article IV, section 1 of the state Constitution to establish therapeutic courts, and the outstanding contribution to the state and local communities made by the establishment of therapeutic courts and desires to provide a general provision in statute acknowledging and encouraging the judiciary to provide for therapeutic court programs to address the particular needs within a given judicial jurisdiction.

(4) Therapeutic court programs may include, but are not limited to:

(a) Adult drug court;

(b) Juvenile drug court;

(c) Family dependency treatment court or family drug court;

(d) Mental health court, which may include participants with developmental disabilities;

(e) DUI court;

(f) Veterans treatment court;

(g) Truancy court;

(h) Domestic violence court;

(i) Gambling court;

(j) Community court;

(k) Homeless court;

(l) Treatment, responsibility, and accountability on campus (Back on TRAC) court. [2015 c 291 § 1.]

Conflict with federal requirements—2015 c 291: "If any part of this act 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 act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2015 c 291 § 14.]

2.30.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well-established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in this section.

(2) "Evidence-based" means a program or practice that: (a) Has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome; or (b) may be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(3) "Government authority" means prosecutor or other representative initiating action leading to a proceeding in therapeutic court.

(4) "Participant" means an accused person, offender, or respondent in the judicial proceeding.

(5) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in this subsection but does not meet the full criteria for evidence-based.

(6) "Specialty court" and "therapeutic court" both mean a court utilizing a program or programs structured to achieve both a reduction in recidivism and an increase in the likelihood of rehabilitation, or to reduce child abuse and neglect, out-of-home placements of children, termination of parental rights, and substance abuse and mental health symptoms among parents or guardians and their children through continuous and intense judicially supervised treatment and the appropriate use of services, sanctions, and incentives.

(7) "Therapeutic court personnel" means the staff of a therapeutic court including, but not limited to: Court and clerk personnel with therapeutic court duties, prosecuting attorneys, the attorney general or his or her representatives, defense counsel, monitoring personnel, and others acting within the scope of therapeutic court duties.

(8) "Trial court" means a superior court authorized under Title 2 RCW or a district or municipal court authorized under Title 3 or 35 RCW. [2015 c 291 § 2.]

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Conflict with federal requirements—2015 c 291: See note following RCW 2.30.010.

2.30.030 Therapeutic courts authorized—Establishment of processes—Determination of eligibility—Persons not eligible—Use of best practices—Dependency matters—Foreign law limitations. (1) Every trial and juvenile court in the state of Washington is authorized and encouraged to establish and operate therapeutic courts. Therapeutic courts, in conjunction with the government authority and subject matter experts specific to the focus of the therapeutic court, develop and process cases in ways that depart from traditional judicial processes to allow defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or involvement in the child welfare system in exchange for resolution of the case or charges. In criminal cases, the consent of the prosecutor is required.

(2) While a therapeutic court judge retains the discretion to decline to accept a case into the therapeutic court, and while a therapeutic court retains discretion to establish processes and determine eligibility for admission to the therapeutic court process unique to their community and jurisdiction, the effectiveness and credibility of any therapeutic court will be enhanced when the court implements evidence-based practices, research-based practices, emerging best practices, or promising practices that have been identified and accepted at the state and national levels. Promising practices, emerging best practices, and/or research-based programs are authorized where determined by the court to be appropriate. As practices evolve, the trial court shall regularly assess the effectiveness of its program and the methods by which it implements and adopts new best practices.

(3) Except under special findings by the court, the following individuals are not eligible for participation in therapeutic courts:

(a) Individuals who are currently charged or who have been previously convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030;

(b) Individuals who are currently charged with an offense alleging intentional discharge, threat to discharge, or attempt to discharge a firearm in furtherance of the offense;

(c) Individuals who are currently charged with or who have been previously convicted of vehicular homicide or an equivalent out-of-state offense; or

(d) Individuals who are currently charged with or who have been previously convicted of: An offense alleging substantial bodily harm or great bodily harm as defined in RCW 9A.04.110, or death of another person.

(4) Any jurisdiction establishing a therapeutic court shall endeavor to incorporate the therapeutic court principles of best practices as recognized by state and national therapeutic court organizations in structuring a particular program, which may include:

(a) Determining the population;

(b) Performing a clinical assessment;

(c) Developing the treatment plan;

(d) Monitoring the participant, including any appropriate testing;

(e) Forging agency, organization, and community partnerships;

(f) Taking a judicial leadership role;
 (g) Developing case management strategies;
 (h) Addressing transportation, housing, and subsistence issues;

(i) Evaluating the program;

(j) Ensuring a sustainable program.

(5) Upon a showing of indigence under RCW 10.101.010, fees may be reduced or waived.

(6) The department of social and health services shall furnish services to therapeutic courts addressing dependency matters where substance abuse or mental health are an issue unless the court contracts with providers outside of the department.

(7) Any jurisdiction that has established more than one therapeutic court under this chapter may combine the functions of these courts into a single therapeutic court.

(8) Nothing in this section prohibits a district or municipal court from ordering treatment or other conditions of sentence or probation following a conviction, without the consent of either the prosecutor or defendant.

(9) No therapeutic or specialty court may be established specifically for the purpose of applying foreign law, including foreign criminal, civil, or religious law, that is otherwise not required by treaty.

(10) No therapeutic or specialty court established by court rule shall enforce a foreign law, if doing so would violate a right guaranteed by the Constitution of this state or of the United States. [2015 c 291 § 3.]

Conflict with federal requirements—2015 c 291: See note following RCW 2.30.010.

2.30.040 Funding—Federal funding—Use of state moneys. Jurisdictions may seek federal funding available to support the operation of its therapeutic court and associated services and must match, on a dollar-for-dollar basis, state moneys allocated for therapeutic courts with local cash or in-kind resources. Moneys allocated by the state may be used to supplement, not supplant other federal, state, and local funds for therapeutic courts. However, until June 30, 2016, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a therapeutic court authorized under this chapter. [2015 c 291 § 4.]

Conflict with federal requirements—2015 c 291: See note following RCW 2.30.010.

2.30.050 Courts authorized to work cooperatively. Individual trial courts are authorized and encouraged to establish multijurisdictional partnerships and/or interlocal agreements under RCW 39.34.180 to enhance and expand the coverage area of the therapeutic court. Specifically, district and municipal courts may work cooperatively with each other and with the superior courts to identify and implement nontraditional case processing methods which can eliminate traditional barriers that decrease judicial efficiency. [2015 c 291 § 6.]

Conflict with federal requirements—2015 c 291: See note following RCW 2.30.010.

2.30.060 Authorization for therapeutic courts existing on July 24, 2015. Any therapeutic court meeting the

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definition of therapeutic court in RCW 2.30.020 and existing on July 24, 2015, continues to be authorized. [2015 c 291 § 7.]

Conflict with federal requirements—2015 c 291: See note following RCW 2.30.010.

Chapter 2.32 RCW

COURT CLERKS, REPORTERS, AND BAILIFFS

Sections

2.32.050	Powers and duties of court clerks.
2.32.070	Fees—Supreme court clerk, clerks of court of appeals.
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.
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2.32.170	Commission—Powers.
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2.32.210	Court reporter salaries—Expenses.
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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.

County clerk is clerk of superior court: State Constitution Art. 4 § 26.

Election of county clerk: Chapter 36.16 RCW.

Fees: RCW 36.18.020.

Oath and bond of county clerk: RCW 36.16.040 through 36.16.060.

Powers and duties of county clerk: Chapter 36.23 RCW.

Salary of county clerk: Chapter 36.17 RCW.

Trust fund: RCW 36.48.090.

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 or she is clerk:

(1) To keep the seal of the court and affix it in all cases where he or she 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 or her 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 or she 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 or her;

(8) To exercise the powers and perform the duties conferred and imposed upon him or her elsewhere by statute;

(9) In the performance of his or her 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. [2011 c 336 § 45; 1981 c 277 § 1; 1971 c 81 § 12; 1891 c 57 § 3; RRS § 77. Prior: Code 1881 §§ 2180, 2182, 2184.]

Rules of court: SAR 16.

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.]

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.]

"Folio" defined: RCW 1.16.040.

Additional notes found at www.leg.wa.gov

2.32.090 Clerk not to practice law. Each clerk of a court is prohibited during his or her continuance in office from acting, or having a partner who acts, as an attorney of the court of which he or she is clerk. [2011 c 336 § 46; 1891 c 57 § 5; RRS § 81. Prior: Code 1881 § 2183; 1854 p 367 § 10.]

Rules of court: SAR 16(3).

2.32.110 Reporter's duties. He or she shall prepare such decisions for publication by giving the title of each case,

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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 or she shall prepare a full and comprehensive index to each volume, and prefix a table of cases reported. [2011 c 336 § 47; 1890 p 320 § 2; RRS § 11059.]

Rules of court: SAR 17.

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.]

Rules of court: SAR 17.

Publication of supreme court opinions: State Constitution Art. 4 § 21.

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 or she must make the corrections or alterations accordingly. [2011 c 336 § 48; 1890 p 320 § 4; RRS § 11061.]

Rules of court: SAR 17.

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 or her possession not exceeding sixty days. [2011 c 336 § 49; 1890 p 320 § 5; RRS § 11062.]

2.32.160 Washington court reports commission. 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 Washington court reports commission, 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 chair 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. [2011 c 336 § 50; 2005 c 190 § 1; 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.]

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

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.]

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.]

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.]

Additional notes found at www.leg.wa.gov

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 or she 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 or her attorney, request the services of the official reporter, the presiding judge shall grant such request, or upon his or her 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 or her 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. [2011 c 336 § 51; 1983 c 3 § 1; 1913 c 126 § 2; RRS § 42-2.]

2.32.210 Court reporter 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 or her actual and necessary expenses of transportation and living expenses when he or she goes on official business to a county of his or her judicial district other than the county in which he or she resides, from the time he or she leaves his or her place of residence until he or she returns thereto, said expense to be paid by the county to which he or she 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 or her own automobile for the purpose of such transportation, he or she 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 or her 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. [2011 c 336 § 52; 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.]

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 or she may appoint a person qualified under RCW 2.32.180. [2011 c 336 § 53; 1957 c 244 § 3; 1951 c 210 § 2; 1945 c 24 § 2; Rem. Supp. 1945 § 42-3a.]

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.]

2.32.240 Transcript of testimony—Fee—Forma pauperis. 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 or her attorney, request a transcript, the official reporter employed by the court or other certified court reporter, or an authorized transcriptionist, 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, except for transcripts requested for an appellate case. The fees of the official reporter employed by the court or other certified court reporter, or authorized transcriptionist, as defined by supreme court rule, 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 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 employed by the court or other certified court reporter, or an authorized transcriptionist, which transcript fee therefor shall be paid by the state upon submission of appropriate vouchers to the clerk of the supreme court. [2016 c 74 § 1; 2011 c 336 § 54; 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.]

Indigent party—State to pay costs and fees incident to review by supreme court or court of appeals: RCW 4.88.330.

Additional notes found at www.leg.wa.gov

2.32.250 Transcript accorded verity. The report of the official reporter employed by the court or other certified court reporter, or authorized transcriptionist, when transcribed and certified as being a correct transcript of the stenographic notes or electronically recorded 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. [2016 c 74 § 2; 1913 c 126 § 6; RRS § 42-6.]

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 or her 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. [2011 c 336 § 55; 1913 c 126 § 7; RRS § 42-7.]

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.]

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.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

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.]

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.]

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.]

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.]

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.]

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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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 two weeks for counties with a jury source list that has at least seventy thousand names and one month for counties with a jury source list of less than seventy thousand names, 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 one week for counties with a jury source list that has at least seventy thousand names, and two weeks for counties with a jury source list of less than seventy thousand names, except to complete a trial to which the juror was assigned during the service period.

(12) "Jury panel" means those persons randomly selected for jury service for a particular jury term. [2015 c 7 § 1; 1993 c 408 § 4; 1992 c 93 § 1; 1988 c 188 § 2; 1891 c 48 § 1; RRS § 89.]

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.]

Additional notes found at www.leg.wa.gov

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.]

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Courts of limited jurisdiction: Chapter 3.02 RCW.

Additional notes found at www.leg.wa.gov

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

(2016 Ed.)

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 consolidated technology services agency not later than March 1st 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 consolidated technology services agency. The consolidated technology services agency 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 consolidated technology services agency shall be in an electronic format mutually agreed upon by the superior court requesting it and the consolidated technology services agency. 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 consolidated technology services agency 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 consolidated technology services agency shall provide counties that elect to receive a jury source list merged by the consolidated technology services agency 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. [2015 c 225 § 1; 2011 1st sp.s. c 43 § 812; 1993 c 408 § 3.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Additional notes found at www.leg.wa.gov

2.36.055 Jury source list—Jury assignment areas—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.

In a county with more than one superior court facility and a separate case assignment area for each court facility, the jury source list may be divided into jury assignment areas that consist of registered voters and licensed drivers and identicard holders residing in each jury assignment area. Jury assignment area boundaries may be designated and adjusted by the administrative office of the courts based on the most current United States census data at the request of the majority of the judges of the superior court when required for the efficient and fair administration of justice.

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. [2005 c 199 § 2; 1993 c 408 § 5; 1988 c 188 § 4.]

Findings—Intent—2005 c 199: "The legislature finds that superior courts with more than one superior court facility are asking some jurors to travel excessively long distances to attend court proceedings. In these cases, the legislature further finds that consideration of a juror's proximity to a particular courthouse can be accommodated while continuing to provide proportionate jury source list representation from distinctive groups within the community. The legislature intends to lessen the burdens borne by jurors fulfilling their civic duties by providing a mechanism that narrows the geographic area from which the jurors are drawn while maintaining a random and proportionate jury pool." [2005 c 199 § 1.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Additional notes found at www.leg.wa.gov

2.36.057 Expanded jury source list—Court rules.

The supreme court is requested to adopt court rules 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 consolidated technology services agency. 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. [2015 3rd sp.s. c 1 § 401; 2015 c 225 § 2; 1993 c 408 § 1.]

Effective date—2015 3rd sp.s. c 1 §§ 401-405, 409, 411, and 412: "Sections 401 through 405, 409, 411, and 412 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 take effect July 24, 2015." [2015 3rd sp.s. c 1 § 603.]

Additional notes found at www.leg.wa.gov

2.36.0571 Jury source list—Master jury list—Adoption of rules for implementation of methodology and standards by agencies. The secretary of state, the department of

licensing, and the consolidated technology services agency 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. [2015 3rd sp.s. c 1 § 402; 2015 c 225 § 3; 1993 c 408 § 2.]

Effective date—2015 3rd sp.s. c 1 §§ 401-405, 409, 411, and 412: See note following RCW 2.36.057.

Additional notes found at www.leg.wa.gov

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Additional notes found at www.leg.wa.gov

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Additional notes found at www.leg.wa.gov

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Additional notes found at www.leg.wa.gov

2.36.072 Determination of juror qualification—Written or electronic declaration. (1) Each court shall establish a means to preliminarily determine by a written or

electronic 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.

(2) An electronic signature may be used in lieu of a written signature.

(3) "Electronic signature" means an electric sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(4) 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. [2009 c 330 § 1; 1993 c 408 § 9.]

Additional notes found at www.leg.wa.gov

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 one week 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. [2015 c 7 § 3; 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.]

Additional notes found at www.leg.wa.gov

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

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. [2013 c 246 § 1; 1993 c 408 § 8; 1992 c 93 § 4; 1990 c 140 § 1; 1988 c 188 § 9.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Additional notes found at www.leg.wa.gov

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 one week 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. [2015 c 7 § 2; 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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

Additional notes found at www.leg.wa.gov

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

2.36.150 Juror expense payments—Reimbursement by state—Pilot projects. Jurors shall receive for each day's attendance, besides mileage at the rate determined under RCW 43.03.060, the following expense payments:

(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 expense payments paid to jurors shall be determined by the county legislative authority and shall be uniformly applied within the county.

For the fiscal year ending June 30, 2007, jurors participating in pilot projects in superior, district, and municipal courts may receive juror fees of up to sixty-two dollars for each day of attendance in addition to mileage reimbursement at the rate determined under RCW 43.03.060. [2006 c 372 § 903; 2004 c 127 § 1; 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.]

Severability—Effective date—2006 c 372: See notes following RCW 73.04.135.

[Title 2 RCW—page 38]

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

Travel expense in lieu of mileage in certain cases: RCW 2.40.030.

Additional notes found at www.leg.wa.gov

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.]

Legislative findings—Severability—Effective date—1988 c 188: See notes following RCW 2.36.010.

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.]

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.

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.

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.

(2016 Ed.)

Prior: 1903 c 151 § 1, part; 1893 p 421 § 1, part; Code 1881 § 2086, part.]

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

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.]

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 or her own county, and entitled to mileage, in lieu thereof he or she may at his or her option receive his or her 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 or her mileage and per diem; and he or she 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 or she 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. [2011 c 336 § 56; Code 1881 § 2109; 1869 p 419 § 7; 1863 p 424 §§ 6, 8; RRS §§ 509, 4230.]

County officers—Expenses: RCW 42.24.090.

Juror expense payments: RCW 2.36.150.

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.

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 of interpreter—Responsibility for compensation—Reimbursement.
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.

Rules of court: ER 604.

(2016 Ed.)

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.]

Additional notes found at www.leg.wa.gov

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.]

Rules of court: ER 604.

Additional notes found at www.leg.wa.gov

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.]

2.42.120 Appointment of interpreter—Responsibility for compensation—Reimbursement. (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.

(7) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where a qualified interpreter is appointed for a hearing impaired person by a judicial officer in a proceeding before a court under subsection (1), (2), or (3) of this section in compliance with the provisions of RCW 2.42.130 and 2.42.170. [2008 c 291 § 2; 1985 c 389 § 12.]

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 cer-

tified 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.]

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.]

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.]

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.]

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.]

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—Reimbursement.
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.
2.43.090	Language assistance plan—Required for each trial court—Submission of plan to interpreter commission—Report.

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.]

Additional notes found at www.leg.wa.gov

2.43.020 Definitions. As used in this chapter:

(1) "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.

(2) "Certified interpreter" means an interpreter who is certified by the administrative office of the courts.

(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) "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.

(5) "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.

(2016 Ed.)

(6) "Registered interpreter" means an interpreter who is registered by the administrative office of the courts. [2010 c 190 § 2; 2005 c 282 § 2; 1989 c 358 § 2. Formerly RCW 2.42.210.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Additional notes found at www.leg.wa.gov

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 administrative office of 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 administrative office of 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. [2005 c 282 § 3; 1990 c 183 § 1; 1989 c 358 § 3. Formerly RCW 2.42.220.]

Additional notes found at www.leg.wa.gov

2.43.040 Fees and expenses—Cost of providing interpreter—Reimbursement. (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.

(5) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where an interpreter is appointed by a judicial officer in a proceeding before a court at public expense and:

(a) The interpreter appointed is an interpreter certified by the administrative office of the courts or is a qualified interpreter registered by the administrative office of the courts in a noncertified language, or where the necessary language is not certified or registered, the interpreter has been qualified by the judicial officer pursuant to this chapter;

(b) The court conducting the legal proceeding has an approved language assistance plan that complies with RCW 2.43.090; and

(c) The fee paid to the interpreter for services is in accordance with standards established by the administrative office of the courts. [2008 c 291 § 3; 1989 c 358 § 4. Formerly RCW 2.42.230.]

Additional notes found at www.leg.wa.gov

2.43.050 Oath. (1) Upon certification or registration and every two years thereafter, certified or registered interpreters 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. The administrative office of the courts shall maintain a record of the oath in the same manner that the list of certified and registered interpreters is maintained.

(2) Before any person serving as an interpreter for the court or agency begins to interpret, the appointing authority shall require the interpreter to state the person's name on the record and whether the person is a certified or registered interpreter. If the interpreter is not a certified or registered interpreter, the interpreter must submit the interpreter's qualifications on the record.

(3) Before beginning to interpret, every interpreter appointed under this chapter shall take an oath unless the interpreter is a certified or registered interpreter who has taken the oath within the last two years as required in subsec-

tion (1) of this section. The oath must affirm 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. [2010 c 190 § 1; 1989 c 358 § 5. Formerly RCW 2.42.240.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

2.43.070 Testing, certification of interpreters. (1) Subject to the availability of funds, the administrative office of the courts shall establish and administer a comprehensive testing and certification program for language interpreters.

(2) The administrative office of 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 administrative office of the courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The administrative office of 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 administrative office of the courts shall compile, maintain, and disseminate a current list of interpreters certified by the office.

(6) The administrative office of the courts may charge reasonable fees for testing, training, and certification. [2005 c 282 § 4; 1989 c 358 § 7. Formerly RCW 2.42.260.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

2.43.090 Language assistance plan—Required for each trial court—Submission of plan to interpreter commission—Report. (1) Each trial court organized under this title and Titles 3 and 35 RCW must develop a written language assistance plan to provide a framework for the provi-

sion of interpreter services for non-English-speaking persons accessing the court system in both civil and criminal legal matters. The language assistance plan must include, at a minimum, provisions addressing the following:

(a) Procedures to identify and assess the language needs of non-English-speaking persons using the court system;

(b) Procedures for the appointment of interpreters as required under RCW 2.43.030. Such procedures shall not require the non-English-speaking person to make the arrangements for the interpreter to appear in court;

(c) Procedures for notifying court users of the right to and availability of interpreter services. Such information shall be prominently displayed in the courthouse in the five foreign languages that census data indicates are predominate in the jurisdiction;

(d) A process for providing timely communication with non-English speakers by all court employees who have regular contact with the public and meaningful access to court services, including access to services provided by the clerk's office;

(e) Procedures for evaluating the need for translation of written materials, prioritizing those translation needs, and translating the highest priority materials. These procedures should take into account the frequency of use of forms by the language group, and the cost of orally interpreting the forms;

(f) A process for requiring and providing training to judges, court clerks, and other court staff on the requirements of the language assistance plan and how to effectively access and work with interpreters; and

(g) A process for ongoing evaluation of the language assistance plan and monitoring of the implementation of the language assistance plan.

(2) Each court, when developing its language assistance plan, must consult with judges, court administrators and court clerks, interpreters, and members of the community, such as domestic violence organizations, pro bono programs, courthouse facilitators, legal services programs, and/or other community groups whose members speak a language other than English.

(3) Each court must provide a copy of its language assistance plan to the interpreter commission established by supreme court rule for approval prior to receiving state reimbursement for interpreter costs under this chapter.

(4) Each court receiving reimbursement for interpreter costs under RCW 2.42.120 or 2.43.040 must provide to the administrative office of the courts by November 15, 2009, a report detailing an assessment of the need for interpreter services for non-English speakers in court-mandated classes or programs, the extent to which interpreter services are currently available for court-mandated classes or programs, and the resources that would be required to ensure that interpreters are provided to non-English speakers in court-mandated classes or programs. The report shall also include the amounts spent annually on interpreter services for fiscal years 2005, 2006, 2007, 2008, and 2009. The administrative office of the courts shall compile these reports and provide them along with the specific reimbursements provided, by court and fiscal year, to the appropriate committees of the legislature by December 15, 2009. [2008 c 291 § 1.]

(2016 Ed.)

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.

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.

Salaries of trust company or national bank not allowed fee for probating estate: RCW 11.36.010.

2.44.010 Authority of attorney. An attorney and counselor has authority:

(1) To bind his or her client in any of the proceedings in an action or special proceeding by his or her 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 her, or signed by the party against whom the same is alleged, or his or her attorney;

(2) To receive money claimed by his or her 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. [2011 c 336 § 57; Code 1881 § 3280; 1863 p 404 § 6; RRS § 130.]

2.44.020 Appearance without authority—Procedure. If it be alleged by a party for whom an attorney appears, that he or she 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 or her act; it may also summarily, upon motion, compel the attorney to repair the injury to either party consequent upon his or her assumption of authority. [2011 c 336 § 58; Code 1881 § 3281; 1863 p 405 § 7; RRS § 131.]

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 or she appears, and until he or she does so, may stay all proceedings by him or her on behalf of the party for whom he or she assumes to appear. [2011 c 336 § 59; Code 1881 § 3282; 1863 p 405 § 8; RRS § 132.]

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 or her 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. [2011 c 336 § 60; Code 1881 § 3283; 1863 p 405 § 9; RRS § 133.]

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 or she shall be bound to recognize the former attorney. [2011 c 336 § 61; Code 1881 § 3284; 1863 p 405 § 10; RRS § 134.]

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 or she was acting as attorney, must, at least twenty days before any further proceedings against him or her, be required by the adverse party, by written notice, to appoint another attorney, or to appear in person. [2011 c 336 § 62; Code 1881 § 3285; 1863 p 405 § 11; RRS § 135.]

Chapter 2.48 RCW STATE BAR ACT

Sections

2.48.010	Objects and powers.
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2.48.210	Oath on admission.
2.48.220	Grounds of disbarment or suspension.
2.48.230	Code of ethics.

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.

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.]

Additional notes found at www.leg.wa.gov

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.]

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.]

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.]

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.]

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.]

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.]

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.]

Rules of court: *See Rules for Lawyer Discipline, also Admission to Practice Rules.*

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.]

Qualifications for admission to practice as prescribed by Rules of court: Admission to Practice Rules.

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 or she applies for admission to practice law in the state of Washington, still in the armed forces of the United States, he or she may establish the requirements of the proviso in RCW 2.48.070 by a letter or certificate from his or her commanding officer and by the certificates of at least two active members of the Washington state bar association. [2011 c 336 § 63; 1945 c 181 § 2; Rem. Supp. 1945 § 138-7B.]

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 or she applies for admission to practice law in the state of Washington, no longer in the armed forces of the United States, he or she may establish the requirements of the proviso in RCW 2.48.070 as follows:

- (1) If he or she 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 or she shall have been an officer, by an affidavit showing that he or she 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. [2011 c 336 § 64; 1945 c 181 § 3; Rem. Supp. 1945 § 138-7C.]

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.]

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.]

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.]

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.]

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 or her credited to the general fund. [2011 c 336 § 65; 1933 c 94 § 11; RRS § 138-11.]

Rules of court: *Admission—APR 3(d).*

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 or her 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. [2011 c 336 § 66; 1933 c 94 § 12; RRS § 138-12.]

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.]

Additional notes found at www.leg.wa.gov

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.]

***Reviser's note:** 1997 c 58 § 886 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.]

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

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 or she 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. [2011 c 336 § 67; 1933 c 94 § 13; RRS § 138-13.]

Rules of court: *Admission—APR 5.*

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)(a) Unlawful practice of law is a crime. A single violation of this section is a gross misdemeanor.

(b) Each subsequent violation of this section, whether alleged in the same or in subsequent prosecutions, is a class C felony punishable according to chapter 9A.20 RCW.

(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. [2003 c 53 § 2; 2001 c 310 § 2. Prior: 1995 c 285 § 26; 1989 c 117 § 13; 1933 c 94 § 14; RRS § 138-14.]

Rules of court: *RLD 1.1(h).*

(2016 Ed.)

Intent—2003 c 53: "The legislature intends by this act to reorganize criminal provisions throughout the Revised Code of Washington to clarify and simplify the identification and referencing of crimes. It is not intended that this act effectuate any substantive change to any criminal provision in the Revised Code of Washington." [2003 c 53 § 1.]

Purpose—2001 c 310: "The purpose of this act is to respond to *State v. Thomas*, 103 Wn. App. 800, by reenacting and ranking, without changes, legislation relating to the crime of unlawful practice of law, enacted as sections 26 and 27, chapter 285, Laws of 1995." [2001 c 310 § 1.]

Practicing law with disbarred attorney: RCW 2.48.220(9).

Additional notes found at www.leg.wa.gov

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.]

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.

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.]

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.

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 or her business except from him or her or with his or her 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 person's cause for lucre or malice. So help me God. [2013 c 23 § 1; 1921 c 126 § 12; RRS § 139-12. Prior: 1917 c 115 § 14.]

Rules of court: *Admission—APR 5(c) and (d).*

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 or her admission to practice:

(1) His or her conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence.

(2) Willful disobedience or violation of an order of the court requiring him or her to do or forbear an act connected with, or in the course of, his or her profession, which he or she ought in good faith to do or forbear.

(3) Violation of his or her oath as an attorney, or of his or her duties as an attorney and counselor.

(4) Corruptly or willfully, and without authority, appearing as attorney for a party to an action or proceeding.

(5) Lending his or her 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 or her 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 or her 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 or her 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. [2011 c 336 § 68; 1921 c 126 § 14; 1909 c 139 § 7; RRS § 139-14.]

Rules of court: *RLD 1.1.*

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.]

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.
2.50.020	Public interest.
2.50.040	Declaration of necessity by board of county commissioners.
2.50.050	Legal aid bureau defined.
2.50.060	Board of governors—Authority.
2.50.070	Legal aid county committee created.
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2.50.130	Revocation of declaration of necessity.
2.50.140	Washington State Bar Association not restricted.
2.50.150	Certain other acts not applicable.
2.50.160	Chapter not exclusive—Counties authorized to provide legal aid.

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.]

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.]

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.]

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.]

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.]

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 chair, a judge of the superior court of the county, and an active member of the Washington state bar association, resident in the county. [2011 c 336 § 69; 1939 c 93 § 7; RRS § 10007-207. Formerly RCW 74.36.070.]

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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 or her 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. [2011 c 336 § 70; 1939 c 93 § 8; RRS § 10007-208. Formerly RCW 74.36.080.]

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.]

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.]

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.]

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.]

Reviser's note: 1937 c 180 § 17 was repealed by 1939 c 216 § 35.

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.]

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.]

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.]

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.]

Reviser's note: 1937 c 180 § 6 was repealed by 1939 c 216 § 35.

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 2.53 RCW CIVIL LEGAL AID

Sections

2.53.005	Findings.
2.53.010	Civil legal aid oversight committee.
2.53.020	Office of civil legal aid—Director's duties.
2.53.030	Public funds appropriated for civil representation of indigent persons—Use—Distribution formula—Audit—Rules.
2.53.045	Fund distribution for attorneys appointed in dependency proceedings.
2.53.900	Effective date—2005 c 105.

2.53.005 Findings. The legislature finds that the provision of civil legal aid services to indigent persons is an important component of the state's responsibility to provide for the proper and effective administration of civil and criminal justice. The legislature further finds that state-funded legal aid services should be administered by an independent office of civil legal aid located within the judicial branch and subject to formal continuing oversight that includes bipartisan legislative representation. [2005 c 105 § 1.]

2.53.010 Civil legal aid oversight committee. (1) There is created a civil legal aid oversight committee consisting of the following members:

(a) Three persons appointed by the supreme court from a list of nominees submitted by the access to justice board, one of whom at the time of appointment is income eligible to receive state-funded civil legal aid;

(b) Two persons appointed by the board for judicial administration;

(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 Washington state bar association; and

(e) One person appointed by the governor.

(2) During the term of his or her appointment, an appointee may not be employed by a state-funded legal aid provider.

(3) Members shall each serve a three-year term, subject to renewal for no more than one additional three-year term. The oversight committee shall develop rules that provide for the staggering of terms so that, after the first three years of the committee's existence, the terms of one-third of the members expire each year. Members of the oversight committee receive no compensation for their services as members of the oversight committee, but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

(4) The oversight committee shall: Oversee the activities of the office of civil legal aid created in RCW 2.53.020; review the performance of the director of the office of civil legal aid; and may, from time to time, make recommendations to the supreme court, the access to justice board, and the legislature regarding the provision of civil legal aid funded through RCW 2.53.030. [2005 c 105 § 4.]

2.53.020 Office of civil legal aid—Director's duties. (1) There is created an office of civil legal aid as an independent agency of the judicial branch.

(2) Activities of the office of civil legal aid shall be carried out by a director of civil legal aid services. The director of civil legal aid services shall be appointed by the supreme court from a list of three names forwarded by the access to justice board. Qualifications for the director include admission to practice law in this state for at least five years; experience in representation of low-income people in civil matters, which experience may be in the form of volunteer representation; knowledge of and demonstrated commitment to promoting access to the civil justice system for indigent persons; 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 oversight committee.

(3) The director shall:

(a) Contract with one or more qualified legal aid providers to provide civil legal aid services authorized by RCW 2.53.030;

(b) Monitor and oversee the use of state funding to ensure compliance with this chapter;

(c) Report quarterly to the civil legal aid oversight committee established in RCW 2.53.010 and the supreme court's access to justice board on the use of state funds for legal aid; and report biennially on the status of access to the civil justice system for low-income people eligible for state-funded legal aid; and

(d) Submit a biennial budget request.

(4) The office shall not provide direct representation of clients. [2005 c 105 § 5.]

2.53.030 Public funds appropriated for civil representation of indigent persons—Use—Distribution formula—Audit—Rules. (1)(a) The legislature recognizes the ethical obligation of attorneys to represent clients without interference by third parties in the discharge of professional obligations to clients. However, to ensure the most beneficial use of state resources, the legislature finds that it is within the authority of the legislature to specify the categories of legal cases in which qualified legal aid programs may provide civil representation with state moneys. Accordingly, moneys appropriated for civil legal representation shall not be used for legal representation that is either outside the scope of this section or prohibited by this section.

(b) Nothing in this section is intended to limit the authority of existing entities, including but not limited to the Washington state bar association, the public disclosure commission, the state auditor, and the federal legal services corporation to resolve issues within their respective jurisdictions.

(2) Any money appropriated by the legislature for civil representation of indigent persons shall be administered by the office of civil legal aid established under RCW 2.53.020, and shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance and health care, (c) housing and utilities, (d) social security, (e) mortgage foreclosures, (f) home protection bankruptcies, (g) consumer fraud and unfair sales practices, (h) rights of residents of long-term care facilities, (i) wills, estates, and living wills, (j) elder abuse, and (k) guardianship.

(3) For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation incorporated

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and operating exclusively in Washington which has received basic field funding for the provision of civil legal aid to indigents from the federal legal services corporation or that has received funding for civil legal aid for indigents under this section before July 1, 1997.

(4) When entering into a contract with a qualified legal aid provider under this section, the office of civil legal aid shall require the provider to provide legal aid in a manner that maximizes geographic access throughout the state.

(5) Funds distributed to qualified legal aid programs under this section may not be used directly or indirectly for:

(a) Lobbying.

(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, rule-making activity, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient of funds under this section.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee.

(b) Grass roots lobbying. For purposes of this section, "grass roots lobbying" means preparation, production, or dissemination of information the purpose of which is to encourage the public at large, or any definable segment thereof, to contact legislators or their staff in support of or in opposition to pending or proposed legislation; or contribute to or participate in a demonstration, march, rally, lobbying campaign, or letter writing or telephone campaign for the purpose of influencing the course of pending or proposed legislation.

(c) Class action lawsuits.

(d) Participating in or identifying the program with prohibited political activities. For purposes of this section, "prohibited political activities" means (i) any activity directed toward the success or failure of a political party, a candidate for partisan or nonpartisan office, a partisan political group, or a ballot measure; (ii) advertising or contributing or soliciting financial support for or against any candidate, political group, or ballot measure; or (iii) voter registration or transportation activities.

(e) Representation in fee-generating cases. For purposes of this section, "fee-generating" means a case that might reasonably be expected to result in a fee for legal aid if undertaken by a private attorney. The charging of a fee pursuant to

subsection (6) of this section does not establish the fee-generating nature of a case.

A fee-generating case may be accepted when: (i) The case has been rejected by the local lawyer referral services or by two private attorneys; (ii) neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; (iii) after consultation with the appropriate representatives of the private bar, the program has determined that the type of case is one that private attorneys do not ordinarily accept, or do not accept without prepayment of a fee; or (iv) the director of the program or the director's designee has determined that referral of the case to the private bar is not possible because documented attempts to refer similar cases in the past have been futile, or because emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(f) Organizing any association, union, or federation, or representing a labor union. However, nothing in this subsection (5)(f) prohibits the provision of legal aid to clients as otherwise permitted by this section.

(g) Representation of undocumented aliens.

(h) Picketing, demonstrations, strikes, or boycotts.

(i) Engaging in inappropriate solicitation. For purposes of this section, "inappropriate solicitation" means promoting the assertion of specific legal claims among persons who know of their rights to make a claim and who decline to do so. Nothing in this subsection precludes a legal aid program or its employees from providing information regarding legal rights and responsibilities or providing information regarding the program's services and intake procedures through community legal education activities, responding to an individual's specific question about whether the individual should consult with an attorney or take legal action, or responding to an individual's specific request for information about the individual's legal rights or request for assistance in connection with a specific legal problem.

(j) Conducting training programs that: (i) Advocate particular public policies; (ii) encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes, or demonstrations; or (iii) attempt to influence legislation or rule making. Nothing in this subsection (5)(j) precludes representation of clients as otherwise permitted by this section.

(6) The office of civil legal aid may establish requirements for client participation in the provision of civil legal aid under this section, including but not limited to copayments and sliding fee scales.

(7)(a) Contracts entered into by the office of civil legal aid with qualified legal aid programs under this section must specify that the program's expenditures of moneys distributed under this section:

(i) Must be audited annually by an independent outside auditor. These audit results must be provided to the office of civil legal aid; and

(ii) Are subject to audit by the state auditor.

(b)(i) Any entity auditing a legal aid program under this section shall have access to all records of the legal aid program to the full extent necessary to determine compliance with this section, with the exception of confidential informa-

tion protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct.

(ii) The legal aid program shall have a system allowing for production of case-specific information, including client eligibility and case type, to demonstrate compliance with this section, with the exception of confidential information protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct. Such information shall be available to any entity that audits the program.

(8) The office of civil legal aid must recover or withhold amounts determined by an audit to have been used in violation of this section.

(9) The office of civil legal aid may adopt rules to implement this section. [2005 c 105 § 3; 1997 c 319 § 2; 1995 c 399 § 62; 1992 c 54 § 4. Formerly RCW 43.08.260.]

Intent—1997 c 319: "It is the intent of the legislature to promote the provision of civil legal services to indigent persons, subject to available funds. To the extent that funds are appropriated for civil legal services for the indigent, the legislature intends that civil legal services be offered within an oversight framework that ensures accountability." [1997 c 319 § 1.]

Additional notes found at www.leg.wa.gov

2.53.045 Fund distribution for attorneys appointed in dependency proceedings. (1) Money appropriated by the legislature for legal services provided by an attorney appointed pursuant to RCW 13.34.100 must be administered by the office of civil legal aid established under RCW 2.53.020.

(2) The office of civil legal aid may enter into contracts with the counties to disburse state funds for an attorney appointed pursuant to RCW 13.34.100. The office of civil legal aid may also require a county to use attorneys under contract with the office for the provision of legal services under RCW 13.34.100 to remain within appropriated amounts.

(3) Prior to distributing state funds under subsection (2) of this section, the office of civil legal aid must verify that attorneys providing legal representation to children under RCW 13.34.100 meet the standards of practice, voluntary training, and caseload limits developed and recommended by the statewide children's representation work group pursuant to section 5, chapter 180, Laws of 2010. Caseload limits described in this subsection must be determined as provided in RCW 13.34.100(6)(c)(ii). [2014 c 108 § 3.]

Finding—Construction—Effective date—2014 c 108: See notes following RCW 13.34.100.

2.53.900 Effective date—2005 c 105. 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, 2005. [2005 c 105 § 9.]

Chapter 2.56 RCW

ADMINISTRATOR FOR THE COURTS

Sections

2.56.010	Office created—Appointment of administrator.
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.
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2.56.050	Judges, clerks, other officers, to comply with requests of administrator.
2.56.060	Annual conference of judges—Judge's expenses.
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2.56.090	Disbursement of appropriated funds.
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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.
2.56.180	Family law handbook.
2.56.190	Legal financial obligations—Collection—Distribution of funds.
2.56.200	Performance audits.
2.56.210	Court access and accommodations coordinator—Duties.
2.56.220	Family and juvenile court improvement grant program—Creation—Purpose.
2.56.230	Family and juvenile court improvement grant program—Application process—Program standards.
2.56.240	Reconciling duplicate or conflicting no-contact or protection orders.
2.56.250	Revocation of concealed pistol licenses—Information transmittal—Work group.
2.56.900	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

Best practices model for relicensing diversion programs, develop recommendations for: RCW 46.20.341.

2.56.010 Office created—Appointment of administrator. There shall be a state office to be known as the administrative office of the courts. The executive officer of the administrative office of the courts is the administrator for the courts, who shall be appointed by and hold office at the pleasure of the supreme court of this state. The administrator's salary shall be fixed by the supreme court. [2005 c 282 § 5; 1984 c 20 § 1; 1979 ex.s. c 255 § 7; 1974 ex.s. c 156 § 1; 1969 c 93 § 1; 1957 c 259 § 1.]

Additional notes found at www.leg.wa.gov

2.56.020 Appointment, compensation of assistants—Administrator, assistants not to practice law. (1) 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 performance of the power and duties vested in the administrative office of the courts.

(2) Neither the administrator nor any assistant shall engage in the private practice of law except as otherwise provided for in this section.

(3) Except as provided in subsection (4) of this section, nothing in this section prohibits the administrator or any assistant from:

(a) Performing legal services for himself or herself or his or her immediate family; or

(b) Performing legal services of a charitable nature.

(4) The legal services identified in subsection (3) of this section may not be performed if they would interfere with the

duties of the administrator or any assistant and no services that are performed shall be deemed within the scope of employment. [2005 c 282 § 6; 1957 c 259 § 2.]

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 court judge positions under an objective workload analysis. The results of the objective workload 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 an objective workload analysis become the basis for creating additional district and superior 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 statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, 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 statewide;

(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;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21) Administer the family and juvenile court improvement grant program;

(22)(a) Administer and distribute amounts appropriated under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a dis-

trict court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met;

(23) Subject to the availability of funds specifically appropriated therefor, assist courts in the development and implementation of language assistance plans required under RCW 2.43.090. [2009 c 479 § 2. Prior: 2008 c 291 § 4; 2008 c 279 § 3; 2007 c 496 § 302; prior: 2005 c 457 § 7; 2005 c 282 § 7; 2002 c 49 § 2; 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.]

Effective date—2009 c 479: "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, 2009." [2009 c 479 § 76.]

Part headings not law—2007 c 496: See note following RCW 26.09.002.

Intent—2005 c 457: See note following RCW 43.08.250.

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.

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.]

Ethnic and cultural diversity—Development of curriculum for understanding—Training: RCW 43.101.280.

Additional notes found at www.leg.wa.gov

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, 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. [2010 1st sp.s. c 7 § 61; 1993 c 415 § 2.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

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.]

2.56.032 Youth-level secure detention data—Uniform data standards—Annual reports. (1)(a) To accurately track the extent to which courts order youth into a secure detention facility in Washington state for the violation of a court order related to a truancy, at-risk youth, or a child in need of services petition, all juvenile courts shall transmit youth-level secure detention data to the administrative office of the courts.

(b) Data may either be entered into the statewide management information system for juvenile courts or securely transmitted to the administrative office of the courts at least monthly. Juvenile courts shall provide, at a minimum, the name and date of birth for the youth, the court case number assigned to the petition, the reasons for admission to the juvenile detention facility, the date of admission, the date of exit, and the time the youth spent in secure confinement.

(c) Courts are also encouraged to report individual-level data reflecting whether a detention alternative, such as electronic monitoring, was used, and the time spent in detention alternatives.

(d) The administrative office of the courts and the juvenile court administrators must work to develop uniform data standards for detention.

(2) The administrative office of the courts shall deliver an annual statewide report to the legislature that details the number of Washington youth who are placed into detention facilities during the preceding calendar year. The first report shall be delivered by March 1, 2017, and shall detail the most serious reason for detention and youth gender, race, and ethnicity. The report must have a specific emphasis on youth who are detained for reasons relating to a truancy, at-risk youth, or a child in need of services petition. [2016 c 205 § 19.]

2.56.040 Distribution of work of courts by chief justice. The chief justice shall consider all recommendations of the administrator for the assignment of judges, and, in the discretion of the chief justice, 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 the chief justice for sufficient cause. [2005 c 182 § 1; 1957 c 259 § 4.]

Visiting judge: RCW 2.08.140 through 2.08.170, 2.08.200.

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.]

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.]

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

Additional notes found at www.leg.wa.gov

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 or she 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. [2011 c 336 § 71; 1981 c 186 § 4; 1957 c 259 § 7.]

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.]

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

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.]

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.]

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.

2.56.120 Judicial impact notes—Establishment of procedure—Legislator may request—Copies to be filed.

(1) The administrative office of 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 administrative office of 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 administrative office of 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 administrative office of 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. [2005 c 282 § 8; 1986 c 158 § 1; 1984 c 258 § 604.]

Additional notes found at www.leg.wa.gov

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.]

Intent—1993 c 415: See note following RCW 2.56.031.

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.]

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 statewide 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 statewide 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 administrator 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 administrator must accept and obtain comments from parties designated in subsection (3) of this section. [2005 c 282 § 9; 1996 c 249 § 3.]

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

Additional notes found at www.leg.wa.gov

2.56.160 Processing of warrants pilot program. The administrator for the courts shall establish a pilot program for the efficient statewide 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.]

Additional notes found at www.leg.wa.gov

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.]

2.56.180 Family law handbook. (1) The administrative office of the courts shall create a handbook explaining the sections of Washington law pertaining to the rights and responsibilities of marital partners to each other and to any children during a marriage and a dissolution of marriage. The handbook may also be provided in videotape or other electronic form.

(2) The handbook created under subsection (1) of this section shall be provided by the county auditor when an individual applies for a marriage license under RCW 26.04.140.

(3) The handbook created under subsection (1) of this section shall also be provided to the petitioner when he or she files a petition for dissolution, and to the respondent, unless the respondent did not file a response, notice of appearance, or any other paper in the case or did not appear in court. The administrative office of the courts shall on an annual basis reimburse the counties for each copy of the handbook that is distributed directly to family law parties under this section, provided that the county submits documentation of the number of handbooks distributed on an annual basis.

(4) The information contained in the handbook created under subsection (1) of this section shall be reviewed and updated annually. The handbook must contain the following information:

(a) Information on prenuptial agreements as contracts and as a means of structuring financial arrangements and other aspects of the marital relationship;

(b) Information on shared parental responsibility for children, including establishing a residential schedule for the child in the event of the dissolution of the marriage;

(c) Information on notice requirements and standards for parental relocation;

(d) Information on child support for minor children;

(e) Information on property rights, including equitable distribution of assets and premarital and postmarital property rights;

(f) Information on spousal maintenance;

(g) Information on domestic violence, child abuse, and neglect, including penalties;

(h) Information on the court process for dissolution;

(i) Information on the effects of dissolution on children;

(j) Information on community resources that are available to separating or divorcing persons and their children. [2007 c 496 § 202; 2005 c 282 § 10; 2003 c 225 § 1; 2002 c 49 § 3.]

Effective dates—2007 c 496 §§ 201, 202, 204, and 501: See note following RCW 26.12.260.

(2016 Ed.)

Part headings not law—2007 c 496: See note following RCW 26.09.002.

Additional notes found at www.leg.wa.gov

2.56.190 Legal financial obligations—Collection—Distribution of funds. By October 1, 2003, and annually thereafter, the administrative office of the courts shall distribute such funds to counties for county clerk collection budgets as are appropriated by the legislature for this purpose, using the funding formula recommended by the Washington association of county officials. The administrative office of the courts shall not deduct any amount for indirect or direct costs, and shall distribute the entire amount appropriated by the legislature to the counties for county clerk collection budgets. The administrative office of the courts shall report on the amounts distributed to counties to the appropriate committees of the legislature no later than December 1, 2003, and annually thereafter.

The administrative office of the courts may expend for the purposes of billing for legal financial obligations, such funds as are appropriated for the legislature for this purpose. [2003 c 379 § 21.]

Intent—Purpose—2003 c 379 §§ 13-27: See note following RCW 9.94A.760.

Additional notes found at www.leg.wa.gov

2.56.200 Performance audits. The office of the administrator for the courts is encouraged to conduct performance audits of courts under the authority of the supreme court, in conformity with criteria and methods developed by the board for judicial administration that have been approved by the supreme court. In developing criteria and methods for conducting performance audits, the board for judicial administration is encouraged to consider quality improvement programs, audits, and scoring. The judicial branch is encouraged to submit the results of these efforts to the chief justice of the supreme court or his or her designee, and with any other applicable boards or committees established under the authority of the supreme court to oversee government accountability. [2005 c 385 § 10.]

Findings—2005 c 385: See note following RCW 43.09.430.

2.56.210 Court access and accommodations coordinator—Duties. (1) Washington state courts are required by chapter 49.60 RCW, the law against discrimination, and by 42 U.S.C. Sec. 12101 et seq., the Americans with disabilities act, to provide equal access to persons with disabilities. To assist the courts to comply with these laws, the administrative office of the courts shall, subject to the availability of funds appropriated for this purpose, create the position of court access and accommodations coordinator.

(2) The coordinator shall:

(a) Review the needs of courts statewide for training and other assistance required to provide access and accommodation for persons with disabilities;

(b) Provide guidance and assistance upon request;

(c) Identify appropriate assistive devices and establish a system to improve courts' access to such devices.

(3) In carrying out the duties under this section, the coordinator shall consult with persons with disabilities, and shall facilitate communication between the administrative office

of the courts and such persons and their representative groups. [2008 c 148 § 1.]

2.56.220 Family and juvenile court improvement grant program—Creation—Purpose. Subject to the availability of funds appropriated therefor, the family and juvenile court improvement grant program is created.

(1) The purpose of the program is to assist superior courts in improving their family and juvenile court systems, especially in dependency cases, with the goals of:

(a) Assuring a stable and well-trained judiciary in family and juvenile law providing consistency of judicial officers hearing all of the proceedings in a case involving one family, especially in dependency cases; and

(b) Ensuring judicial accountability in implementing specific principles and practices for family and juvenile court.

(2) The administrator for the courts shall develop and administer the program subject to requirements in RCW 2.56.230. As part of administering the program, the administrator for the courts shall define appropriate outcome measures, collect data, and gather information from courts receiving grants. [2008 c 279 § 1.]

2.56.230 Family and juvenile court improvement grant program—Application process—Program standards. (1) A superior court may apply for grants from the family and juvenile court improvement grant program by submitting a local improvement plan with the administrator for the courts. To be eligible for grant funds, a superior court's local improvement plan must meet the criteria developed by the administrator for the courts and approved by the board for judicial administration. The criteria must be consistent with the principles adopted for unified family courts. At a minimum, the criteria must require that the court's local improvement plan meet the following requirements:

(a) Commit to a chief judge assignment to the family and juvenile court for a minimum of two years;

(b) Implementation of the principle of one judicial team hearing all of the proceedings in a case involving one family, especially in dependency cases;

(c) Require court commissioners and judges assigned to family and juvenile court to receive a minimum of thirty hours specialized training in topics related to family and juvenile matters within six months of assuming duties in family and juvenile court. Where possible, courts should utilize local, statewide, and national training forums. A judicial officer's recorded educational history may be applied toward the thirty-hour requirement. The topics for training must include:

- (i) Parentage;
- (ii) Adoption;
- (iii) Domestic relations;
- (iv) Dependency and termination of parental rights;
- (v) Child development;
- (vi) The impact of child abuse and neglect;
- (vii) Domestic violence;
- (viii) Substance abuse;
- (ix) Mental health;
- (x) Juvenile status offenses;
- (xi) Juvenile offenders;
- (xii) Self-representation issues;

(xiii) Cultural competency;

(xiv) Roles of family and juvenile court judges and commissioners; and

(d) As part of the application for grant funds, submit a spending proposal detailing how the superior court would use the grant funds.

(2) Courts receiving grant money must use the funds to improve and support family and juvenile court operations based on standards developed by the administrator for the courts and approved by the board for judicial administration. The standards may allow courts to use the funds to:

(a) Pay for family and juvenile court training of commissioners and judges or pay for pro tem commissioners and judges to assist the court while the commissioners and judges receive training;

(b) Increase judicial and nonjudicial staff, including administrative staff to improve case coordination and referrals in family and juvenile cases, guardian ad litem volunteers or court-appointed special advocates, security, and other staff;

(c) Improve the court facility to better meet the needs of children and families;

(d) Improve referral and treatment options for court participants, including enhancing court facilitator programs and family treatment court and increasing the availability of alternative dispute resolution;

(e) Enhance existing family and children support services funded by the courts and expand access to social service programs for families and children ordered by the court; and

(f) Improve or support family and juvenile court operations in any other way deemed appropriate by the administrator for the courts.

(3) The administrator for the courts shall allocate available grant moneys based upon the needs of the court as expressed in their local improvement plan.

(4) Money received by the superior court under this program must be used to supplement, not supplant, any other local, state, and federal funds for the court.

(5) Upon receipt of grant funds, the superior court shall submit to the administrator for the courts a spending plan detailing the use of funds. At the end of the fiscal year, the superior court shall submit to the administrator for the courts a financial report comparing the spending plan to actual expenditures. The administrator for the courts shall compile the financial reports and submit them to the appropriate committees of the legislature. [2008 c 279 § 2.]

2.56.240 Reconciling duplicate or conflicting no-contact or protection orders. (1) The administrative office of the courts shall develop guidelines by December 1, 2011, for all courts to establish a process to reconcile duplicate or conflicting no-contact or protection orders issued by courts in this state.

(2) The guidelines developed under subsection (1) of this section must include:

(a) A process to allow any party named in a no-contact or protection order to petition for the purpose of reconciling duplicate or conflicting orders; and

(b) A procedure to address no-contact and protection order data sharing between court jurisdictions in this state.

(3) By January 1, 2011, the administrative office of the courts shall provide a report back to the legislature concerning the progress made to develop the guidelines required by this section. [2010 c 274 § 310.]

Intent—2010 c 274: See note following RCW 10.31.100.

2.56.250 Revocation of concealed pistol licenses—Information transmittal—Work group. (1)(a) The administrative office of the courts shall, within existing resources, convene a work group to address the issue of transmitting information regarding revocation of concealed pistol licenses, upon the entry of orders issued under chapter 10.99, 26.50, or 26.52 RCW.

(b) The work group must include a superior court judge, a district court judge, a municipal court judge, an attorney whose practice includes a significant amount of time representing defendants in criminal trials, and representatives from the following entities: The Washington state patrol, the Washington association of sheriffs and police chiefs, the prosecuting attorneys association, the department of licensing, and the county clerks. Other members may be added as deemed appropriate by the work group.

(2) The work group shall review the methods currently used to transfer information between the courts, the county clerks, the prosecutors, the department of licensing, the Washington state patrol, and local law enforcement agencies regarding the suspension and revocation of concealed pistol licenses.

(3) The goal of the work group is to identify methods to expedite the transfer of information to enhance the safety of law enforcement and the public.

(4) The work group shall report its recommendations to the affected entities and the legislature not later than December 1, 2010. All agency representatives shall cooperate fully with the work group's efforts. [2010 c 274 § 601.]

Intent—2010 c 274: See note following RCW 10.31.100.

2.56.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 9.]

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.

(2016 Ed.)

2.60.030	Practice and procedure.
2.60.900	Short title.

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.]

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.]

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.

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(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.]

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.

Rules of court: See *Discipline Rules for Judges (DRJ)*.

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.]

Additional notes found at www.leg.wa.gov

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 limited jurisdiction 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 non-lawyers appointed by the governor. The term of each member of the commission shall be four years. [2005 c 15 § 1; 1989 c 367 § 2; 1987 c 186 § 2; 1981 c 268 § 3.]

Additional notes found at www.leg.wa.gov

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.]

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.]

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

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

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.]

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.]

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.]

Additional notes found at www.leg.wa.gov

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.]

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.]

Additional notes found at www.leg.wa.gov

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.]

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 42.56 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 42.56 RCW. [2005 c 274 § 201; 1989 c 367 § 6.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

Additional notes found at www.leg.wa.gov

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.]

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.
2.68.060	Duties of the administrative office of the courts.

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.]

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 administrative office of 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. During the 2011-2013 fiscal biennium, the judicial information system account may be appropriated to support the state law library. During the 2013-2015 fiscal biennium, the judicial information system account may be appropriated to support the information systems and other activities in the administrative office of the courts. [2013 2nd sp.s. c 4 § 950; 2012 2nd sp.s. c 7 § 913. Prior: 2009 c 564 § 1802; 2009 c 564 § 918; 2005 c 282 § 11; 1994 c 8 § 1; 1989 c 364 § 2.]

Effective dates—2013 2nd sp.s. c 4: "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 [June 30, 2013]; except for section 952 of this act which takes effect August 1, 2013, section 968 of this act which takes effect June 30, 2013; sections 978 and 996 of this act which take effect July 28, 2013; and sections 991 and 992 of this act which take effect July 1, 2013." [2013 2nd sp.s. c 4 § 1904.]

Effective date—2012 2nd sp.s. c 7: "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, 2012]." [2012 2nd sp.s. c 7 § 938.]

Effective date—2009 c 564: "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 19, 2009]." [2009 c 564 § 1812.]

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.]

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.]

*Reviser's note: RCW 46.63.110 was amended by 2002 c 279 § 15, changing subsection (2) to subsection (3) and subsection (5) to subsection (6).

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

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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.]

Additional notes found at www.leg.wa.gov

2.68.060 Duties of the administrative office of the courts. The administrative office of the courts, under the direction of the judicial information system committee, shall:

(1) Develop a judicial information system information technology portfolio consistent with the provisions of RCW 43.105.341;

(2) Participate in the development of an enterprise-based statewide information technology strategy;

(3) Ensure the judicial information system information technology portfolio is organized and structured to clearly indicate participation in and use of enterprise-wide information technology strategies;

(4) As part of the biennial budget process, submit the judicial information system information technology portfolio to the chair and ranking member of the ways and means committees of the house of representatives and the senate, the office of financial management, and the consolidated technology services agency. [2015 3rd sp.s. c 1 § 403; 2015 c 225 § 4; 2010 c 282 § 7.]

Effective date—2015 3rd sp.s. c 1 §§ 401-405, 409, 411, and 412: See note following RCW 2.36.057.

Chapter 2.70 RCW OFFICE OF PUBLIC DEFENSE

Sections

2.70.005	Office of public defense established.
2.70.010	Director—Appointment—Qualifications—Salary.
2.70.020	Director—Duties—Limitations.
2.70.025	Director—Indigent defense services—Civil commitment of sexually violent predators.
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.
2.70.060	Parents for parents program—"Child welfare parent mentor" defined.
2.70.070	Parents for parents program—Goal—Structured peer mentoring.
2.70.080	Parents for parents program—Components of program.
2.70.090	Parents for parents program—Funding, administration—Program advisors.
2.70.100	Parents for parents program—Evaluation—Reports to the legislature.
2.70.900	Transfer of certain powers, duties, and functions of the department of social and health services.

2.70.005 Office of public defense established. In order to implement the constitutional and statutory guarantees of counsel and to ensure effective and efficient delivery of indigent defense services funded by the state of Washington, an office of public defense is established as an independent agency of the judicial branch. [2008 c 313 § 2; 1996 c 221 § 1.]

Findings—2008 c 313: "(1) The legislature finds that the office of public defense:

- (a) Operates in an efficient and economical manner, with adequate cost controls in place;
- (b) Meets established goals and targets; and
- (c) Does not substantially duplicate services offered by other agencies or the private sector.

(2) Termination of the office of public defense would have substantial and wide-reaching ramifications on the court system in Washington state. The right to counsel is a constitutional right, and provision of counsel for indigent defendants is a government responsibility." [2008 c 313 § 1.]

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 providing indigent defense services, 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. [2008 c 313 § 3; 1996 c 221 § 2.]

Findings—2008 c 313: See note following RCW 2.70.005.

2.70.020 Director—Duties—Limitations. The director shall:

(1) Administer all state-funded services in the following program areas:

- (a) Trial court criminal indigent defense, as provided in chapter 10.101 RCW;
- (b) Appellate indigent defense, as provided in this chapter;
- (c) Representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092;
- (d) Extraordinary criminal justice cost petitions, as provided in RCW 43.330.190;
- (e) Compilation of copies of DNA test requests by persons convicted of felonies, as provided in RCW 10.73.170;
- (f) Representation of indigent respondents qualified for appointed counsel in sexually violent predator civil commitment cases, as provided in chapter 71.09 RCW;

(2) Submit a biennial budget for all costs related to the office's program areas;

(3) Establish administrative procedures, standards, and guidelines for the office's program areas, including cost-efficient systems that provide for authorized recovery of costs;

(4) Provide oversight and technical assistance to ensure the effective and efficient delivery of services in the office's program areas;

(5) 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;

(6) Collect information regarding indigent defense services funded by the state and report annually to the advisory committee, the legislature, and the supreme court;

(7) Coordinate with the supreme court and the judges of each division of the court of appeals to determine how appellate attorney services should be provided.

(8) The office of public defense shall not provide direct representation of clients. [2012 c 257 § 1; 2008 c 313 § 4; 1996 c 221 § 3.]

Effective date—2012 c 257: "This act takes effect July 1, 2012." [2012 c 257 § 14.]

Findings—2008 c 313: See note following RCW 2.70.005.

2.70.025 Director—Indigent defense services—Civil commitment of sexually violent predators. In providing indigent defense services for sexually violent predator civil commitment cases under chapter 71.09 RCW, the director shall:

(1) In accordance with state contracting laws, contract with persons admitted to practice law in this state and organizations employing persons admitted to practice law in this state for the provision of legal services to indigent persons;

(2) Establish annual contract fees for defense legal services within amounts appropriated based on court rules and court orders;

(3) Ensure an indigent person qualified for appointed counsel has one contracted counsel appointed to assist him or her. Upon a showing of good cause, the court may order additional counsel;

(4) Consistent with court rules and court orders, establish procedures for the reimbursement of expert witness and other professional and investigative costs;

(5) Review and analyze existing caseload standards and make recommendations for updating caseload standards as appropriate;

(6) Annually, with the first report due December 1, 2013, submit a report to the chief justice of the supreme court, the governor, and the legislature, with all pertinent data on the operation of indigent defense services for commitment proceedings under this section, including:

(a) Recommended levels of appropriation to maintain adequate indigent defense services to the extent constitutionally required;

(b) The time to trial for all commitment trial proceedings including a list of the number of continuances granted, the party that requested the continuance, the county where the proceeding is being heard, and, if available, the reason the continuance was granted;

(c) Recommendations for policy changes, including changes in statutes and changes in court rules, which may be appropriate for the improvement of sexually violent predator civil commitment proceedings. [2012 c 257 § 2.]

Effective date—2012 c 257: See note following RCW 2.70.020.

Indigent defense services—Scope of representation: RCW 71.09.045.

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, who shall also appoint the chair of the committee;

(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;

(f) One person appointed by the Washington state association of counties; and

(g) One person appointed by the association of Washington cities.

(2) During the term of his or her appointment, no appointee may: (a) Provide indigent defense services funded by a city, a county, or the state, except on a pro bono basis; (b) serve as a judge except on a pro tem basis or as a court employee; or (c) serve as a prosecutor or prosecutor employee.

(3) Members of the advisory committee shall receive no compensation for their services as members of the committee, but may be reimbursed for travel and other expenses in accordance with state law.

(4) The advisory committee shall:

(a) Meet at least quarterly;

(b) Review at least biennially the performance of the director, and submit each review to the chief justice of the supreme court;

(c) Receive reports from the director;

(d) Make policy recommendations, as appropriate, to the legislature and the supreme court;

(e) Approve the office's budget requests;

(f) Advise the director regarding administration and oversight of the office's program areas; and

(g) Carry out other duties as authorized or required by law. [2008 c 313 § 5; 2005 c 111 § 1; 1996 c 221 § 4.]

Findings—2008 c 313: See note following RCW 2.70.005.

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.]

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 administrative office of 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 administrative office of 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 administrative office of 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.

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(b) Any appropriations made to the supreme court or the administrative office of 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 administrative office of 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 administrative office of 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 administrative office of 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. [2005 c 282 § 12; 1996 c 221 § 6.]

2.70.060 Parents for parents program—"Child welfare parent mentor" defined. For the purposes of RCW 2.70.070 through 2.70.100, "child welfare parent mentor" means a parent who has successfully resolved the issues that led the parent's child into the care of the juvenile dependency court system, resulting in family reunification or another permanency outcome, and who has an interest in working collaboratively to improve the lives of children and families. [2015 c 117 § 2.]

Intent—2015 c 117: "Early outreach and education helps shift the attitudes of parents involved in the dependency court system from anger and resentment to acknowledgment and acceptance, enhances parents' engagement in court-ordered plans in the dependency system, and increases the likelihood of family reunification. The parents for parents program has been shown to increase the number of family reunifications, where appropriate, while decreasing the length of time needed to establish permanence. The program currently exists in nine counties: Grays Harbor/Pacific, King, Kit-

sap, Pierce, Snohomish, Spokane, and Thurston/Mason. It is the legislature's goal to continue to support the program in these counties, standardize the parents for parents curriculum among counties in which it is currently utilized, and replicate the program statewide by the end of the 2019-2021 biennium." [2015 c 117 § 1.]

2.70.070 Parents for parents program—Goal—Structured peer mentoring. (1) The goal of the parents for parents program is to increase the permanency and well-being of children in foster care through peer mentoring that increases parental engagement and contributes to family reunification.

(2) The parents for parents program may provide structured peer mentoring for families entering the dependency court system, administered by child welfare parent mentors. [2015 c 117 § 3.]

Intent—2015 c 117: See note following RCW 2.70.060.

2.70.080 Parents for parents program—Components of program. Subject to the availability of amounts appropriated for this specific purpose, components of the parents for parents program, provided by child welfare parent mentors, may include:

(1) Outreach and support to parents at dependency-related hearings, beginning with the shelter care hearing;

(2) A class that educates parents about the dependency system they must navigate in order to have their children returned, empowers them with tools and resources they need to be successful with their case plan, and provides information that helps them understand and support the needs of their children;

(3) Ongoing individual peer support to help parents involved with the child welfare system;

(4) Structured, curriculum-based peer support groups. [2015 c 117 § 4.]

Intent—2015 c 117: See note following RCW 2.70.060.

2.70.090 Parents for parents program—Funding, administration—Program advisors. (1) Subject to the availability of amounts appropriated for this specific purpose, the parents for parents program shall be funded through the office of public defense and centrally administered through a pass-through to a Washington state nonprofit-lead organization that has extensive experience supporting child welfare parent mentors.

(2) Through the contract with the lead organization, each local program must be locally administered by the county superior court or a nonprofit organization that shall serve as the host organization.

(3) Local stakeholders representing key child welfare systems shall serve as parents for parents program advisors. Examples of local stakeholders include the children's administration, the superior court, attorneys for the parents, assistant attorneys general, and court-appointed special advocates or guardians ad litem.

(4) A child welfare parent mentor lead shall provide program coordination and maintain local program information.

(5) The lead organization shall provide ongoing training to the host organizations, statewide program oversight and coordination, and maintain statewide program information. [2015 c 117 § 5.]

Intent—2015 c 117: See note following RCW 2.70.060.

2.70.100 Parents for parents program—Evaluation—Reports to the legislature. (1) Subject to the availability of amounts appropriated for this specific purpose, a research entity with experience in child welfare research shall conduct an evaluation of the parents for parents program. The evaluation design must meet the standards necessary to determine whether parents for parents can be considered a research-based program.

(2) A preliminary report to the legislature must be provided by December 1, 2016. At a minimum, the preliminary report must include statistics showing rates of attendance at court hearings and compliance with court-ordered services and visitation. The report must also address whether participation in the program affected participants' overall understanding of the dependency court process.

(3) A subsequent report must be delivered to the legislature by December 1, 2019. In addition to the information required under subsection (2) of this section, this report must include statistics demonstrating the effect of the program on reunification rates and lengths of time families were engaged in the dependency court system before achieving permanency. [2015 c 117 § 6.]

Intent—2015 c 117: See note following RCW 2.70.060.

2.70.900 Transfer of certain powers, duties, and functions of the department of social and health services.

(1) All powers, duties, and functions of the department of social and health services and the special commitment center pertaining to indigent defense under chapter 71.09 RCW are transferred to the office of public defense.

(2)(a) The office of public defense may request any written materials in the possession of the department of social and health services and the special commitment center pertaining to the powers, functions, and duties transferred, which shall be delivered to the custody of the office of public defense. Materials may be transferred electronically and/or in hard copy, as agreed by the agencies. 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 department of social and health services for carrying out the powers, functions, and duties transferred shall, on July 1, 2012, be transferred and credited to the office of public defense.

(3) Notwithstanding July 1, 2012, if implementation of office of public defense contracts would result in the substitution of counsel within one hundred eighty days of a scheduled trial date, the director of the office of public defense may continue defense services with existing counsel to facilitate continuity of effective representation and avoid further continuance of a trial. When existing counsel is maintained, payment to complete the trial shall be prorated based on standard contract fees established by the office of public defense under RCW 2.70.025 and, at the director's discretion, may include extraordinary compensation based on attorney documentation. [2012 c 257 § 3.]

Effective date—2012 c 257: See note following RCW 2.70.020.

Chapter 2.72 RCW
OFFICE OF PUBLIC GUARDIANSHIP

Sections

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2.72.005 Intent. In establishing an office of public guardianship, the legislature intends to promote the availability of guardianship services for individuals who need them and for whom adequate services may otherwise be unavailable. The legislature reaffirms its commitment to treat liberty and autonomy as paramount values for all Washington residents and to authorize public guardianship only to the minimum extent necessary to provide for health or safety, or to manage financial affairs, when the legal conditions for appointment of a guardian are met. It does not intend to alter those legal conditions or to expand judicial authority to determine that any individual is incapacitated. [2007 c 364 § 1.]

2.72.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Office" means the office of public guardianship.

(2) "Public guardian" means an individual or entity providing public guardianship services.

(3) "Public guardianship services" means the services provided by a guardian or limited guardian appointed under chapters 11.88 and 11.92 RCW, who is compensated under a contract with the office of public guardianship.

(4) "Long-term care services" means services provided through the department of social and health services either in a hospital or skilled nursing facility, or in another setting under a home and community-based waiver authorized under 42 U.S.C. Sec. 1396n. [2007 c 364 § 2.]

2.72.020 Office of public guardianship created—Appointment of public guardianship administrator. (1) There is created an office of public guardianship within the administrative office of the courts.

(2) The supreme court shall appoint a public guardianship administrator to establish and administer a public guardianship program in the office of public guardianship. The public guardianship administrator serves at the pleasure of the supreme court. [2007 c 364 § 3.]

2.72.030 Public guardianship program—Contracts for public guardianship services—Adoption of eligibility criteria and minimum standards of practice—Duties of office—Report to legislature, study. The public guardianship administrator is authorized to establish and administer a public guardianship program as follows:

(1)(a) The office shall contract with public or private entities or individuals to provide public guardianship services to persons age eighteen or older whose income does not exceed two hundred percent of the federal poverty level

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determined annually by the United States department of health and human services or who are receiving long-term care services through the Washington state department of social and health services. Neither the public guardianship administrator nor the office may act as public guardian or limited guardian or act in any other representative capacity for any individual.

(b) The office is exempt from *RCW 39.29.008 because the primary function of the office is to contract for public guardianship services that are provided in a manner consistent with the requirements of this chapter. The office shall otherwise comply with *chapter 39.29 RCW and is subject to audit by the state auditor.

(c) Public guardianship service contracts are dependent upon legislative appropriation. This chapter does not create an entitlement.

(d) The initial implementation of public guardianship services shall be on a pilot basis in a minimum of two geographical areas that include one urban area and one rural area. There may be one or several contracts in each area.

(2) The office shall, within one year of the commencement of its operation, adopt eligibility criteria to enable it to serve individuals with the greatest need when the number of cases in which courts propose to appoint a public guardian exceeds the number of cases in which public guardianship services can be provided. In adopting such criteria, the office may consider factors including, but not limited to, the following: Whether an incapacitated individual is at significant risk of harm from abuse, exploitation, abandonment, neglect, or self-neglect; and whether an incapacitated person is in imminent danger of loss or significant reduction in public services that are necessary for the individual to live successfully in the most integrated and least restrictive environment that is appropriate in light of the individual's needs and values.

(3) The office shall adopt minimum standards of practice for public guardians providing public guardianship services. Any public guardian providing such services must be certified by the certified professional guardian board established by the supreme court.

(4) The office shall require a public guardian to visit each incapacitated person for which public guardianship services are provided no less than monthly to be eligible for compensation.

(5) The office shall not petition for appointment of a public guardian for any individual. It may develop a proposal for the legislature to make affordable legal assistance available to petition for guardianships.

(6) The office shall not authorize payment for services for any entity that is serving more than twenty incapacitated persons per certified professional guardian.

(7) The office shall monitor and oversee the use of state funding to ensure compliance with this chapter.

(8) The office shall collect uniform and consistent basic data elements regarding service delivery. This data shall be made available to the legislature and supreme court in a format that is not identifiable by individual incapacitated person to protect confidentiality.

(9) The office shall report to the legislature on how services other than guardianship services, and in particular services that might reduce the need for guardianship services, might be provided under contract with the office by Decem-

ber 1, 2009. The services to be considered should include, but not be limited to, services provided under powers of attorney given by the individuals in need of the services.

(10) The office shall require public guardianship providers to seek reimbursement of fees from program clients who are receiving long-term care services through the department of social and health services to the extent, and only to the extent, that such reimbursement may be paid, consistent with an order of the superior court, from income that would otherwise be required by the department to be paid toward the cost of the client's care. Fees reimbursed shall be remitted by the provider to the office unless a different disposition is directed by the public guardianship administrator.

(11) The office shall require public guardianship providers to certify annually that for each individual served they have reviewed the need for continued public guardianship services and the appropriateness of limiting, or further limiting, the authority of the public guardian under the applicable guardianship order, and that where termination or modification of a guardianship order appears warranted, the superior court has been asked to take the corresponding action.

(12) The office shall adopt a process for receipt and consideration of and response to complaints against the office and contracted providers of public guardianship services. The process shall include investigation in cases in which investigation appears warranted in the judgment of the administrator.

(13) The office shall contract with the Washington state institute for public policy for a study. An initial report is due two years following July 22, 2007, and a second report by December 1, 2011. The study shall analyze costs and off-setting savings to the state from the delivery of public guardianship services.

(14) The office shall develop standardized forms and reporting instruments that may include, but are not limited to, intake, initial assessment, guardianship care plan, decisional accounting, staff time logs, changes in condition or abilities of an incapacitated person, and values history. The office shall collect and analyze the data gathered from these reports.

(15) The office shall identify training needs for guardians it contracts with, and shall make recommendations to the supreme court, the certified professional guardian board, and the legislature for improvements in guardianship training. The office may offer training to individuals providing services pursuant to this chapter or to individuals who, in the judgment of the administrator or the administrator's designee, are likely to provide such services in the future.

(16) The office shall establish a system for monitoring the performance of public guardians, and office staff shall make in-home visits to a randomly selected sample of public guardianship clients. The office may conduct further monitoring, including in-home visits, as the administrator deems appropriate. For monitoring purposes, office staff shall have access to any information relating to a public guardianship client that is available to the guardian.

(17) During the first five years of its operations, the office shall issue annual reports of its activities. [2009 c 117 § 1; 2007 c 364 § 4.]

***Reviser's note:** Chapter 39.29 RCW was repealed by 2012 c 224 § 29, effective January 1, 2013. See chapter 39.26 RCW.

2.72.040 Waiver of court costs. The courts shall waive court costs and filing fees in any proceeding in which an incapacitated person is receiving public guardianship services funded under this chapter. [2007 c 364 § 6.]

2.72.050 Administrator may develop rules. The public guardianship administrator may develop rules to implement this chapter. The administrator shall request and consider recommendations from the *advisory committee in the development of rules. [2007 c 364 § 7.]

***Reviser's note:** Section 5, chapter 364, Laws of 2007, which provided for the advisory committee, was vetoed by the governor.