



WASHINGTON
COURTS

SUMMARY
of Selected
2004 LEGISLATION
of Interest to the Courts

MAY 2004

To obtain this publication in an alternative format, please contact the
Administrative Office of the Courts, Publications Department,
1206 Quince Street SE, Olympia, WA 98504-1170
Phone: 360-753-3365 Fax: 360-586-8869

We are pleased to present a ***Summary of Selected 2004 Legislation of Interest to the Courts*** and hope it will be useful to implement bills that impact your court. During the 2004 Legislative session, the Legislature and Governor enacted nearly 75 bills that affect the courts and are of general interest to the legal community.

Brief descriptions of these measures follow, arranged alphabetically according to bill subjects. Designators indicate whether the measure is of primary interest to judges and/or court managers in appellate (A), superior (S), juvenile (J), or district/municipal courts (D/M). Following each bill summary is a section that outlines implementation plans to be undertaken by the Administrative Office of the Courts (AOC) and/or the courts. Click on **Bill Text** under each bill number to go directly to the bill's main page. If you scroll to the bottom of the page, you can click on the PDF document of your choice.

The effective date of bills is June 10, 2004, unless otherwise noted at the end of the bill summary. Any bills which had partial vetoes by the Governor are indicated next to the bill number. For details on vetoes, please go to the Legislative website at: <http://www.leg.wa.gov>.

A list of AOC "bill trackers" is provided below. Please contact the tracker directly if you have questions about a particular bill, or you may call Janet McLane at 360-705-5305, or Jeff Hall at 360-357-2131 for general legislative inquiries.

BILL TRACKERS

YVONNE PETTUS ; Appellate court legislation; fiscal notes yvonne.pettus@courts.wa.gov	(360) 705-5314
DOUG HAAKE ; District and municipal court legislation douglas.haake@courts.wa.gov	(360) 705-5226
JANET SKREEN ; Juvenile and family court legislation janet.skreen@courts.wa.gov	(360) 705-5252
REGINA MCDougall ; Juvenile offender legislation regina.mcdougall@courts.wa.gov	(360) 705-5337
RICK NEIDHARDT ; Superior court civil legislation rick.neidhardt@courts.wa.gov	(360) 357-2125
LYNNE ALFASSO ; Superior court criminal legislation lynne.alfasso@courts.wa.gov	(360) 357-2157
GIL AUSTIN ; Superior court legislation gil.austin@courts.wa.gov	(360) 705-5228
BRIAN BACKUS ; Public Disclosure; JISTechnology legislation brian.backus@courts.wa.gov	(360) 705-5320
JANET McLANE ; Fiscal notes; court data and statistics janet.mclane@courts.wa.gov	(360) 705-5305
JEFF HALL ; Board for Judicial Administration Legislative Liaison jeff.hall@courts.wa.gov	(360) 357-2131
JENNIFER O'HERN ; Fiscal Note Coordinator jennifer.ohern@courts.wa.gov	(360) 705-5307

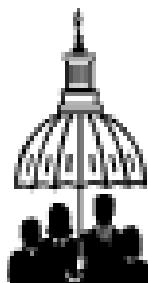
Legislative Summary

May 2004



Inside this issue:

Civil Jurisdiction	4
Court Funding & Fees	5
Criminal Jurisdiction	5
Family and Juvenile Law	10
Infractions	12
Judicial Elections	12
Probate/Guardianship	13
Retirement	13
Technology	13
Bill to RCW Table	14



***** *2004 Legislative Summary* *****

**CIVIL
JURISDICTION**

ATTORNEY FEES (S,D)
SSB 6527
[Bill Text](#)

Chapter 123, Laws 2004

Increases statutory attorney fees to \$200.

Plaintiffs in district court must receive an award of over \$50 in order to recover attorney fees. If the plaintiff receives an award of over \$50 but less than \$200, attorney fees are \$125.

**COMMERCIAL DRIVERS'
LICENSES** (S,D,M)
SHB 2532

[Bill Text](#)

Chapter 187, Laws 2004

Provides that the RCW 46.20.038 (10)(b) stay of suspension, revocation or denial does not apply to commercial drivers' licenses (Section 1).

Provides that CDL holders are not eligible for deferred findings. (Section 10).

CONDOMINIUM LITIGATION
2ESSB 5536 (S,D)

[Bill Text](#)

Chapter 201, Laws 2004

Requires that litigation over condominium warranties be preceded by mediation if one party so elects (see Article XV) and also by arbitration under certain circumstances (see Article XVI). The substantially prevailing party in arbitration or judicial proceedings may recover

reasonable attorney fees (see Article XVII). Superior court presiding judges may be called on to appoint mediators or arbitrators if the parties cannot agree on them (see Articles XV and XVI).

**INTEREST RATE ON TORT
JUDGMENTS** (S)

HB 2485

[Bill Text](#)

Chapter 185, Laws 2004

Reduces the interest rate applied to judgments in tort cases. The new rate is two points over the federal 26-week T-bill rate (instead of the higher of 12% or four points over the T-bill rate). Because recent 26-week T-bill rates have been approximately 1%, the current interest rate is changing from 12% to approximately 3%.

**MODIFYING JUROR
PAYMENT PROVISIONS**

SB 6261 (All)

[Bill Text](#)

Chapter 127, Laws 2004

Amends statutory language to clarify that jurors are eligible to receive "expense payments" rather than "compensation" for their service. This has the effect of allowing federal employees to retain expense payments for jury service, rather than being required to remit juror "compensation" to the federal government for tax purposes.

**NON-ECONOMIC
DAMAGES—ADVISORY
SCHEDULES FOR JURORS**
ESHB 2459 (S,D)

[Bill Text](#)

Chapter 276, Laws of 2004

Creates a task force that will study the use of advisory schedules of non-economic damages in medical malpractice cases. The schedule would be given to jurors (or judges in bench trials) in order to inform, but not control, their decision-making. The stated intent is to increase the predictability and proportionality of damage settlements and awards. The task force will consist of two superior court judges, four legislators, two consumers, and several experts in various fields of medicine, law, economics, actuarial science, and insurance. The report is due in October 2005. Staffing will be provided by the Office of Financial Management, with assistance from AOC and legislative staff.

Effective Date: April 1, 2004.

**OBESITY LAWSUITS—
TORT REFORM** (S,D)
SSB 6601

[Bill Text](#)

Chapter 139, Laws 2004

Protects restaurants and other food industry groups from most civil liability for obesity-related medical conditions. It does not appear, however, that any obesity lawsuits have ever been filed in our state.

***** 2004 Legislative Summary *****

RECEIVERSHIPS**SSB 6189**[Bill Text](#)**Chapter 165, Laws 2004**

Modernizes Washington's out-dated and seldom-used receivership statutes. The legislation was drafted by the WSBA with the intent of creating a comprehensive and easily discernible set of standards that will allow for greater use of receiverships. Most of the changes involve either codifying older case law or incorporating provisions from the federal bankruptcy code (e.g., temporary stays and other asset-liquidation provisions). Changes include: codifying the powers and duties of receivers; creating a temporary stay of certain creditor actions; more clearly distinguishing between general liquidating receiverships and temporary custodial receiverships; establishing a comprehensive claims procedure and priority system; gathering into a single statute all the grounds under which a receivership may be created; clarifying the bond requirements; and eliminating inconsistencies.

REPLEVIN**SHB 1867**[Bill Text](#)**Chapter 74, Laws of 2004**

Makes minor changes to replevin procedures. The bill removes a provision that required courts to hold show cause hearings within 10 to 25 days, makes an exception to the plaintiff's bond requirement,

(S)

subjects defendants to contempt if they violate a court order requiring them to turn over property, and allows these court orders to be enforced in other counties.

SMALL CLAIMS**HB 1572**[Bill Text](#)**Chapter 70, Laws 2004**

Provides for recovery of costs incurred in enforcing small claims judgments. Costs include reasonable attorney's fees.

VENUE FOR CHALLENGES TO WAC RULES**HB 2598**[Bill Text](#)**Chapter 30, Laws 2004**

Expands superior court venue for actions challenging WAC rules, temporarily. For people living or working within Division III, actions may be brought in the counties of Spokane, Yakima, or Thurston. For people living or working in the northern part of Division I, actions may be brought in the counties of Whatcom or Thurston. The act expires in four years, allowing for a trial period to evaluate its merits.

(S,D)**COURT FUNDING & FEES****AUTHORIZING A VOTED PROPERTY TAX LEVY FOR CRIMINAL JUSTICE PURPOSES****(S,D)****HB 2519**[Bill Text](#)**Chapter 80, Laws 2004**

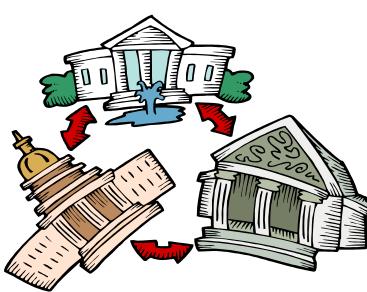
Authorizes counties with a population of 90,000 or less to impose a new multi-year regular property tax of 50 cents per thousand dollars of assessed property value, subject to approval by a super majority of voters for criminal justice purposes.

Effective Date: July 1, 2004.

CRIMINAL JURISDICTION**ADMISSIBILITY OF DUI TESTS****SHB 3055****(S,D,M)**[Bill Text](#)**Chapter 68, Laws 2004**

Modifies required implied consent warnings (Section 2).

Provides that upon a prima facie showing of specified elements, viewed in light most favorable to the plaintiff or prosecutor, DUI tests are to be admitted. Challenges to reliability or accuracy will be determined by the fact finder and go to weight of the evidence (Section 4).



***** *2004 Legislative Summary* *****

**ALCOHOL RELATED
OFFENSES (S,D,M)**

SHB 2660

[Bill Text](#)

Chapter 95, Laws 2004

Extends Ignition Interlock requirements to additional types of alcohol-related offenses (Section 1).

Clarifies (Section 13) that violation of any single mandatory probation condition requires the court to advise DOL of the violation and impose 30 days jail, which may not be suspended or deferred.

**ANIMAL CRUELTY (J,D,M)
SSB 6560**

[Bill Text](#)

Chapter 220, Laws 2004

Creates the new crime of unlawful use of a hook. The use of a hook that pierces the flesh of a bird or mammal constitutes animal cruelty. The unlawful use of a hook is a gross misdemeanor.

*Effective Date: March 29, 2004.
Courts must update law tables
on any non-JIS local systems.
AOC will update JIS law tables.*

**CRIMINAL
IMPERSONATION
SB 6177 (S,D,M)**

[Bill Text](#)

Chapter 11, Laws 2004

Elevates criminal impersonation in the first degree to a class C felony. Elevates criminal impersonation in the second degree to a gross misdemeanor.

Effective Date: July 1, 2004.

*Courts should update law tables
on any non-JIS local systems.
AOC will update JIS law tables.*

**CRIMINAL IMPERSONATION
OF A VETERAN (D,M)**

ESSB 5861

[Bill Text](#)

Chapter 124, Laws 2004

Adds impersonating a military veteran or active duty member as a method of committing criminal impersonation 2.

Effective Date: July 1, 2004.

*Courts should update law tables
on any non-JIS local systems.
AOC will update JIS law tables.*

CYBERSTALKING (S,D,M)

ESHB 2771

[Bill Text](#)

Chapter 94, Laws 2004

Establishes the new crime of cyberstalking. A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to the other person or a third party via the internet or electronic mail:

- Using lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act;
- Anonymously or repeatedly whether or not conversation occurs; or
- Threatening to inflict injury on the person or property of the person contacted or any

member of his or her family or household.

The crime will generally be a gross misdemeanor. However, cyberstalking is a Class C felony if:

- The offender has a previous conviction for any of several listed crimes, including stalking, harassment, and telephone harassment, against the same victim, members of the victim's family, or persons named in a no-contact or no-harassment order; or
- The offender committed the crime by threatening to kill another person.

Effective Date: March 24, 2004.

*Courts must update law tables on
any non-JIS local systems and
AOC will update JIS law tables.*

**DOMESTIC VIOLENCE
OFFENDER ASSESSMENT
SSB 6384 (S,D,M)**

[Bill Text](#)

Chapter 15, Laws 2004

Establishes a new penalty of up to \$100 for anyone convicted of a crime involving domestic violence. All court levels may impose this penalty. *The act encourages judges to solicit input from the victim in assessing the ability of the offender to pay the penalty, including information about the family's financial circumstances.*

The revenue collected must be used to fund domestic violence programs and prosecutions. In cities and counties without domestic violence programs,

***** *2004 Legislative Summary* *****

revenues may be used to contract with community domestic violence programs. The revenue is intended to supplement, not replace, existing funding for domestic violence programs. Revenue may not be used for indigent criminal defense.

The revenue collected is not subject to remittance requirements or the PSEA assessment.

The Pattern Forms Committee will be reviewing judgment and sentence forms to determine whether any revisions are necessary as a result of this act. The Administrative Office of the Courts will make the necessary changes to the Judicial Information System (JIS).

**INTEREST ON LEGAL FINANCIAL OBLIGATIONS
SSB 5168 (All)**

[Bill Text](#)

Chapter 121, Laws 2004

Allows the court to reduce or waive the interest on legal financial obligations (LFOs), other than interest on restitution. When the offender has made a "good faith effort" to pay his or her LFOs, the offender may petition the court for relief. A "good faith effort" means the offender has either paid the principal amount in full or has made 24 consecutive payments under his or her payment agreement with the court, excluding any automatic deductions taken by the Department of Corrections. The offender's petition to the court

for relief must show 1) a good faith effort to pay, 2) the hardship caused by the accrual of interest, 3) the unlikelihood that the offender will be able to pay the accrued amount owing and 4) that a reduction or waiver of interest will allow the offender to pay the remaining amount owed in full. The court may reduce (but not waive) the amount of interest owed on restitution after the principal amount has been paid.

The bill also clarifies that the court may issue a certificate of discharge to an offender who is not under the supervision of the department of corrections, so long as the county clerk provides proof to the court that the LFOs have been satisfied and the offender provides proof to the court that the sentence requirements have been completed.

The county clerk may access the records of the employment security department to verify employment or income, seek assignment of wages or for other purposes related to the collection of LFOs.

This act applies to both adult and juvenile offenders.

The Administrative Office of the Courts will make the necessary changes to the Judicial Information System (JIS.) The Pattern Forms Committee will review the criminal and juvenile forms for any necessary changes.

**FORENSIC COMPETENCY AND SANITY EVALUATIONS
E2SSB 5216 (S,D,M)**

[Bill Text](#)

Chapter 9, Laws 2004

Provides that a signed order for a mental evaluation serves as authority for the evaluator to access medical records.

If the parties agree, the court may order evaluation by a single evaluator. If the defendant is being held, and the parties agree, the court may order the evaluation to be conducted at the jail or other detention facility.

MOTION PICTURES (J,D,M)

SB 6378

[Bill Text](#)

Chapter 119, Laws of 2004

Creates the new offense of unauthorized recording of a motion picture in a movie theater, a gross misdemeanor.

Courts must update law tables on any non-JIS local systems. AOC will update JIS law tables.

OFFENDERS/TREATMENT ORDERS (S,D)

E2SSB 6358

[Bill Text](#)

Chapter 166, Laws of 2004

Improves the sharing of information between the Department of Corrections (DOC), treatment providers and offenders with treatment orders.

The act also clarifies the standards for civil commitments by specifying that persons who are developmentally disabled,

***** 2004 Legislative Summary *****

impaired by chronic alcoholism or drug abuse, or suffering from dementia are not precluded from civil commitment because their mental disorder is caused by one of these conditions.

When a court issues an order for mental health or chemical dependency treatment, including orders issued under chapter 71.05 RCW (civil mental health commitments) and chapter 70.96A RCW (court-ordered chemical dependency treatment) the order must contain a statement that if the person is, or becomes, subject to DOC supervision, the person must notify his or her treatment provider and the person's mental health or chemical dependency treatment information must be shared with DOC. When a person is convicted in superior court, the judgment and sentence must contain an equivalent statement.

An offender with no history of one or more violent acts, as defined in RCW 71.05.020, may petition to be relieved from the obligation to share treatment information as required by the act. The court may grant the request if the court finds, for good cause, that the public safety is not enhanced by the sharing of the offender's information.

Most provisions of this act take effect on July 1, 2004. The Pattern Forms Committee will determine whether any changes to the Judgment and Sentence Form, and any other forms, are necessary as a result of this act. Court orders containing

provisions for mental health or chemical dependency treatment should include the statement that if the person subject to the order is, or becomes subject to, supervision by the Department of Corrections, the person must notify the treatment provider and the person's mental health information must be shared with the Department of Corrections for the duration of the offender's incarceration and supervision.

**SERIOUS OFFENSES;
RESTORATION OF
COMPETENCY (All)
*E2SSB 6274***
**Bill Text (Partial Veto)
Chapter 157, Laws 2004**

Amends Chapter 10.77 RCW to meet two objectives: (1) to satisfy the criteria set forth by the U.S. Supreme Court in the case of *Sell v. U.S.*, 539 U.S. 166 (2003) to order involuntary medication for the purpose of competency restoration, and (2) to clarify the law after the decision in *Born v. Thompson*, 117 Wn.App. 57 (2003), in which the court interpreted the term "non-fatal injuries" in the context of competency evaluations and restoration to be equivalent to "serious bodily injury." This act clarifies that the term "non-fatal injuries" means physical pain or injury, illness, or an impairment of physical condition, consistent with the definition of "bodily injury" in RCW 9A.04.110.

For purposes of determining whether a court may order involuntary medication to restore or maintain a

defendant's competency, the act specifies which offenses are "serious offenses." If a defendant is charged with a crime that is not labeled a "serious offense," the court may determine that, under the facts of the case, the offense is serious if it meets the criteria in the act.

Release of mental health information to a court in which there is a pending motion for involuntary medication to restore competency is mandatory.

The Governor vetoed section 6 of the bill, which would have required DSHS to study and identify in its budget request the need, options and plans to address the increasing needs for capacity in the forensic units of the state hospitals.

Effective Date: March 26, 2004.

**SEX CRIMES AGAINST
MINORS (S)
*ESHB 2400***
**Bill Text (Partial Veto)
Chapter 176, Laws 2004**

Revises the Special Sex Offender Sentencing Alternative (SSOSA) in several respects:

A. Eligibility for SSOSA

The eligibility criteria for SSOSA are made more stringent. The following persons are ineligible for SSOSA:

- Persons with adult convictions for violent offenses committed within five years of the current offense;
- Persons who caused substantial bodily harm to

***** 2004 Legislative Summary *****

- the victim; and
- Persons who had no connection with the victim other than the offense itself.

B. Deciding Whether to Grant a SSOSA

The proposed treatment plan must identify behaviors or activities that are precursors to the offender's offense cycle.

The court must consider the following factors when deciding whether to grant a SSOSA sentence:

- Whether the offender had multiple victims;
- Whether the offender is amenable to treatment. An admission to the offense, by itself, does not constitute amenability to treatment;
- The risk the offender poses to the community, the victim, or persons similarly situated to the victim; and
- Whether the alternative is too lenient in light of the extent and circumstances of the offense.

The court must give great weight to the victim's opinion. *If the court orders a sentence that is contrary to the victim's opinion, the court must state its reasons in writing.*

C. Terms of a SSOSA Sentence

As a condition of the suspended sentence, the court must impose a term of incarceration of up to 12 months or the maximum of the standard range, whichever is less. The court may increase this term of incarceration up to the statutory maximum sentence for the crime for aggravating

circumstances. The term may not be reduced by earned release credits and may be served in partial confinement. *The court must also order prohibitions and affirmative conditions regarding known behaviors or activities that serve as precursors to the offender's offense cycle.*

The maximum term for the initial treatment is increased from three years to five years. The treatment provider that provided the offender's initial examination may not be the same provider that provides treatment to the offender during the SSOSA sentence, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical (*this provision is the only SSOSA change that applies to juveniles tried as adults*).

D. Supervision of SSOSA Offenders

The court must conduct a hearing on the offender's progress in treatment at least once a year. The court must provide notice and the opportunity to be heard at the hearing to the victim. The court may modify community custody terms, including crime-related prohibitions and affirmative conditions relating to behaviors or activities that serve as precursors to the offender's offense cycle, or revoke the suspended sentence at the hearing.

Upon a second violation of a prohibition against precursor behaviors or activities, the DOC must refer the offender back to the court and recommend revocation of the suspended sentence.

E. Treatment Termination

The court must provide notice and the opportunity to be heard at the treatment termination hearing to the victim. The court may order another evaluation prior to the hearing, which may not be performed by the same treatment provider who provided treatment to the offender, unless the court has ordered written findings that such an evaluation is in the best interest of the victim and that a successful evaluation of the offender could otherwise be impractical.

The provision allowing the state to pay for the evaluation if the offender is indigent is removed.

After the treatment termination hearing, the court may extend treatment in two year increments.

F. Miscellaneous

The Sentencing Guidelines Commission is directed to examine the following issues:

- Eligibility for SSOSA;
- Minimum terms of incarceration;
- Appropriate conditions or restrictions that should be placed on SSOSA offenders; and
- Standards for SSOSA revocation.

The sentencing provisions of this bill are effective July 1, 2005 (all others effective June 10, 2004.)

***** 2004 Legislative Summary *****

The Pattern Forms Committee will review its Judgment and Sentence form to determine if any changes need to be made. Courts should note that they are responsible for sending notice to the victim of annual treatment review hearings and the treatment termination hearing.

**STOLEN MERCHANDISE
PALLETS (S,D,M)**

SB 6338

[Bill Text](#)

Chapter 122, Laws 2004

Creates a defense to theft of pallets, or possessing stolen property, that the defendant is a pallet recycler or repairer who received the pallets in the ordinary course of its business.

Requires drafting of a WPIC.

**WEAPONS IN
COURTHOUSE BUILDINGS (All)**

[Bill Text](#)

Chapter 16, Laws 2004

Amends RCW 9.41.300 (6)(b) to prohibit a law enforcement officer from possessing a weapon in the courthouse when the law enforcement officer is present in the courthouse as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010.

Courts should notify local law enforcement of statutory change. Revise local court security policy as necessary.



**FAMILY AND
JUVENILE LAW**

**DEPENDENCY CASE
CONFERENCES (S,J)**

ESSB 6642

[Bill Text](#)

Chapter 147, Laws 2004

Provides that, following shelter care and no later than thirty days prior to fact-finding, the department shall convene a case conference as required in the shelter care order to develop and specify a written service agreement to include the expectations of both the department and the parent regarding voluntary services for the parent. Shelter care orders shall include the requirement for a case conference. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the case conference requirement in the shelter care order.

Provides that, if a case conference is ordered, the shelter care order shall include notice to all parties of the date, time, and location of the case conference.

Authorizes the court to order a conference or meeting as an alternative to the case conference so long as the conference or meeting ordered by the court meets all requirements under RCW 13.34.067.

Provides that the act shall be null and void if appropriations are not approved.

AOC will review pattern forms for possible revisions.

Effective Date: July 1, 2004.

FAMILY DECISION

MEETINGS

(S,J)

2SB 3085

[Bill Text](#)

Chapter 182, Laws 2004

Finds that engaging families in decision making for their children who are involved in the child welfare system generally improves outcomes for the children. By January 1, 2005, DSHS shall consider options for the use of family decision meetings when a child is involved in the child welfare system, develop strategies for implementing a statewide policy of meaningful family involvement within existing resources, and present implementation recommendations to the legislature. Family decision meetings are defined as a family-focused intervention facilitated by dedicated professional staff and may include family group conferences, family mediation, and family support meetings, among others.

***** *2004 Legislative Summary* *****

**FAMILY VISITATION FOR
DEPENDENT CHILDREN**
SB 6643 (S,J)
[Bill Text](#)

Chapter 146, Laws 2004

Declares that visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Provides that visitation shall not be limited as a sanction for a parent's failure to comply with orders or services where the health, safety, or welfare of the child is not at risk. Provides that the court and the agency should rely upon community resources, relatives, and foster parents, for transportation and supervision within available resources and if the child's safety would not be compromised. Provides that the court may order expert evaluations that may be performed by mutually agreed upon appointed evaluators. If no agreement can be reached, the court shall select the expert evaluator. Directs the department, in consultation with the court and other stakeholders, to develop consistent policies and protocols concerning visitation to be implemented consistently statewide.

Requires the department to report to the legislature by January 1, 2005.

ICWA NOTICE PROVISIONS
SHB 3051 (S,J)
[Bill Text](#)

Chapter 64, Laws 2004

Strengthens the Indian Child Welfare Act (ICWA) notice provisions in nonparental custody, adoption, dependency, and child in need of services (CHINS) actions. When the petitioner (or the court, in dependency and CHINS actions) knows or has reason to know that an Indian child is involved, the petitioner must provide notice by certified mail to the child's parent or Indian custodian, and to the agent(s) designated by Indian tribes affiliated with the child. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice shall be given to the Secretary of the Interior. Every adoption order or decree shall contain a finding whether ICWA applies, and where ICWA applies, the decree or order must contain a finding that all ICWA notice and evidentiary requirements have been satisfied. No adoption termination, relinquishment, or placement proceeding shall be held until at least 10 days after the tribe's receipt of notice. Upon the tribe's request, the court shall grant the tribe up to 20 additional days to prepare for such proceedings.

AOC will review pattern forms for possible revision.

**JUVENILE PENALTIES FOR
ANIMAL CRUELTY** (S,J)
SSB 6105
[Bill Text](#)

Chapter 117, Laws 2004

Provides that the court may require that a juvenile offender convicted of animal cruelty in the first degree (RCW 16.52.205) submit to a mental health evaluation to determine if the juvenile would benefit from treatment and such intervention would promote community safety. After considering the evaluation results, the court may order the juvenile to attend treatment to address issues pertinent to the offense, as a condition of community supervision. A conviction under RCW 16.52.205 shall not be vacated upon completion of all terms of the order of deferral, pursuant to the provisions of RCW 13.40.127(9).

Effective Date: July 1, 2004.

**SEALING JUVENILE
RECORDS** (S,J)
ESHB 3078
[Bill Text](#)

Chapter 42, Laws 2004

Shortens time frames for sealing juvenile records, from ten to five years for class B offenses other than sex offenses; and from five years to two years for class C offenses other than sex offenses. For gross misdemeanors and misdemeanors, and for diversions, juvenile records may be sealed if the person has spent two consecutive years in the community without committing an offense that results in a

***** 2004 Legislative Summary *****

conviction; the provision that the person is at least eighteen years old has been removed.

AOC will ensure that the Judicial Information System provides prosecutors access to information on the existence of sealed juvenile records.

VICTIMS OF JUVENILE OFFENDERS' CRIMES
ESSB 6472 (S,J)
[Bill Text](#)

Chapter 120, Laws 2004

Provides opportunities for victim participation in the juvenile justice process, and ensures that the victim bill of rights is fully observed.

Provides that, in assessing diversion agreement community and financial restitution, the court officer shall consult with the juvenile's custodial parent(s) or guardian. To the extent possible, the court officer shall advise the victims of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community.

Authorizes the court to relieve the juvenile of the requirement to pay restitution to the victim or the insurance provider if the juvenile reasonably satisfies the court that s/he does not have the means and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay restitution, the court may order appropriate community restitution.

Effective Date: July 1, 2004.

by DOL at time vehicle registration is renewed.

INFRACTIONS

ISSUANCE OF INFRACTIONS (D,M)

HB 2583

[Bill Text](#)

Chapter 43, Laws 2004

Allows law enforcement agencies to issue notices of infraction using an electronic device, providing a printed copy to the offender. Allows electronic filing of traffic infraction notice with court.

Courts should contact local law enforcement agencies to determine if electronic citations will be implemented.

AOC will continue development of electronic citation interface project. Contact Randy McKown for information on project status (360) 705-5245.

Effective Date: July 1, 2004.

JUDICIAL ELECTIONS

CHANGING THE GENERAL ELECTION BALLOT FOR THE OFFICE OF JUDGE OF THE DISTRICT COURT (D)

SB 6518

[Bill Text](#)

Chapter 75, Laws 2004

Provides that if, during the primary election for the office of Judge of the District Court, a candidate receives a majority of the votes cast, only the name of that candidate is printed on the general election ballot.

Effective Date: July 1, 2004.



PHOTO TOLL ENFORCEMENT (D,M)

HB 2475

[Bill Text](#)

Chapter 231, Laws 2004

Authorizes photo enforcement of toll violations. Citation is to the registered owner who is presumed to have been in control of the vehicle when the offense was committed. The bill does not change revenue splits. Enforcement of failure to pay is

***** 2004 Legislative Summary *****

**PROBATE/
GUARDIANSHIP**

ESTATE ADJUDICATION

SHB 2904 (S)

[Bill Text](#)

Chapter 193, Laws 2004

Requires that when no personal representative has been appointed for an estate, the person obtaining the adjudication of testacy, intestacy or heirship has 30 days to provide notice of the adjudication to the Washington Department of Social and Health Services' Office of Financial Recovery along with the decedent's name and social security number. Any person paying, delivering, transferring, or issuing property to the heir of an estate is not released from liability for assets transferred from the estate for four months after providing notice of adjudication.

WILLS (S)

SB 6121

[Bill Text](#)

Chapter 72, Laws 2004

Authorizes court clerks to accept original wills under seal before the testator's death. Any person who has custody of an original will, who does not have knowledge of the testator's death, may file that will under seal with any court having jurisdiction. While the testator may withdraw the will at any time, any other person may only withdraw the will with a court order showing of good cause.

The clerk's office may unseal the will only upon the request and presentation of a certified copy of the testator's death certificate.

TECHNOLOGY

BIOMETRIC IDENTIFIERS

3SB 5412 (All)

[Bill Text](#)

Chapter 273, Laws 2004

Requires the Department of Licensing to implement a voluntary system to use a biometric identifier to verify the identity of applicants for driver's licenses and identicards in order to reduce identity theft. Raises the minimum civil damages for identity theft from \$500 to \$1,000.

Effective Date: July 1, 2004.



RETIREMENT

SERVICE CREDIT

PURCHASE (All)

HB 2535

[Bill Text](#)

Chapter 172, Laws 2004

Permits members of PERS 2 and 3 who qualify for early retirement or alternate early retirement to purchase up to 5 years of additional service credit. The service credit may be purchased at the time of early retirement at full actuarial cost.

Courts must notify employees.

Effective Date: July 1, 2006.

***** 2004 Legislative Summary *****

Bill To RCW Table - 2003-2004 Biennium

RCW Sections Affected by One or More of the Bills Before the Fifty-Eighth Legislature

HB 1572	12.40.105
SHB 1867	7.64.020
	7.64.035
	7.64.045
SHB 2400	9.92.151
	9.94A.515
	9.94A.670
	9.94A.712
	9.94A.728
SHB 2459	28A.650.035
	9.46.100
	28A.160.195
	28B.102.040
	28B.119.010
	43.83.020
	43.88.030
	43.105.830
	43.105.835
	43.33
	49.70.170
	69.50.520
	74.46.431
	79.90.245
HB 2473	9.41.300
SHB 2475	46.63.140
	46.16.216
	46.20.270
	46.61.690
	46.63
	46.63.030
SHB 2485	4.56.110
	4.56.115
	19.52.025
HB 2519	29A.36.210
	84.52
	84.52.010

SHB 2532	84.52.043
	46.20.308
	46.25
	46.25.010
	46.25.060
	46.25.070
	46.25.080
	46.25.090
	46.25.130
	46.25.160
	46.63.070
HB 2535	41.35
	41.4
HB 2583	7.80.150
	7.84.030
	20.01.482
	46.64.010
	46.64.015
HB 2598	34.05.570
SHB 2660	10.05.140
	46.20.308
	46.20.3101
	46.20.311
	46.20.342
	46.20.380
	46.20.391
	46.20.394
	46.20.400
	46.20.410
	46.20.720
	46.20.740
	46.61.5055
	46.63.020
	46.68.041
	46.68.260
SHB 2771	9.61
	9.94A.515

	9A.46.060
	9A.46.100
SHB 2904	11.28.330
	11.28.340
SHB 3051	13.32A.152
	13.34.040
	13.34.070
	26.10.034
	26.33.040
SHB 3055	46.20.308
	46.20.3101
	46.61.506
SHB 3078	13.50.050
2SHB 3085	74.13
SSB 5168	9.94A.637
	9.94A.760
	9.94A.772
	10.82.090
	50.13.020
2SSB 5216	10.77.060
2SSB 5412	46.20.035
	9.35.020
	46.2
3SSB 5412	9.35.020
	46.2
SB 5536	64.34.100
	64.34.216
	64.34.410
	64.34.425
	64.34.443
	64.34.445
	64.34.450
	64.34.452
SSB 5536	64
	64.34
	64.34.020

***** 2004 Legislative Summary *****

Bill To RCW Table - 2003-2004 Biennium (Continued From Page 14)

RCW Sections Affected by One or More of the Bills Before the Fifty-Eighth Legislature

	64.34.100
	64.34.312
	64.34.324
	64.34.410
	64.34.425
	64.34.445
	64.34.450
	64.34.452
SB 5861	9A.60.040
SSB 5861	9A.60.045
SB 6105	13.40.110
	13.40.127
	13.40.160
SSB 6105	13.40.0357
	13.40.127
SB 6121	11.12
SB 6177	9A.60.040
	9A.60.045
SSB 6189	4.28.081
	4.28.320
	6.25.200
	6.32.100
	6.32.150
	6.32.290
	6.32.300
	6.32.310
	6.32.320
	6.32.330
	6.32.340
	6.32.350
	7.08.010
	7.08.020
	7.08.030
	7.08.050
	7.08.060
	7.08.070
	7.08.080
	7.08.090
	7.08.100
	7.08.110
	7.08.120
	7.08.130
	7.08.140
	7.08.150
	7.08.170
	7.08.180
	7.08.190
	7.08.200

	7.56.110
	7.6
	7.60.010
	7.60.020
	7.60.030
	7.60.040
	7.60.050
	11.64.022
	23.72.010
	23.72.020
	23.72.030
	23.72.040
	23.72.050
	23.72.060
	23B.14.320
	24.03.275
	4.03.280
	24.03.285
	24.03.310
	24.03.315
	24.03.320
	24.06.305
	31.12
	35.07
	35A.15
	87.56.065
	87.56.070
	87.56.080
	87.56.085
	87.56.090
	87.56.100
	87.56.110
	87.56.120
	87.56.130
	87.56.135
	87.56.140
	87.56.145
	87.56.150
	87.56.155
SSB 6261	2.36.150
2SSB 6274	10.77
	10.77.010
SB 6338	71.05.390
	9A.56.020
	9A.56.140
2SSB 6358	4.24

	9.94A
	9.95
	10.77
	70.02.030
	70.48
	70.96A
	71.05
	71.05.040
	71.05.390
	71.05.445
	71.34.225
	72.09
	72.09.585
SB 6378	19
SSB 6384	3.46.120
	3.50.100
	3.62.020
	3.62.040
	3.62.090
	10.82.070
	10.99
	35.20.220
SSB 6472	7.69.030
	7.69A.030
	13.04.040
	13.40.010
	13.40.020
	13.40.080
	13.40.160
	13.40.165
	13.40.190
	13.40.200
SB 6518	29A.36.170
SSB 6527	4.84.080
	12.20.060
SSB 6560	16.52
SSB 6601	7.72
SSB 6642	13.34.062
	13.34.067
	13.34.094
SB 6643	13.34
	13.34.136



**WASHINGTON
COURTS**
ADMINISTRATIVE OFFICE OF THE COURTS

1206 QUINCE STREET SE
P.O. BOX 41170
OLYMPIA, WA 98504-1170

Phone: 360-753-3365

Fax: 360-586-8869

Email: first.lastname@courts.wa.gov

***** *2004 Legislative Summary* *****

**"... TO ADVANCE THE EFFICIENT AND
EFFECTIVE OPERATION OF THE
WASHINGTON JUDICIAL SYSTEM"**
AOC Mission Statement

The Administrative Office of the Courts (AOC) was established by the 1957 Legislature and operates under the direction and supervision of the Chief Justice of the Supreme Court, pursuant to Chapter 2.56 RCW. The AOC is organized into four areas:

- ♦ Administration
- ♦ Information Services Division
- ♦ Judicial Services Division
- ♦ Management Services Division



We're on the Web!
<http://www.courts.wa.gov>

Index

NO.	SUBJECT	PG	NO.	SUBJECT	PG
1572	Small Claims	5	5536	Condominium Litigation	4
1867	Replevin	5	5861	Criminal Impersonation of a Veteran .	6
2400	Sex Crimes Against Minors	8	6105	Juvenile Penalties for Animal Cruelty	11
2459	Non-Economic Damages-Advisory Schedules for Jurors	4	6121	Wills	13
2473	Weapons in Courthouse Buildings	10	6177	Criminal Impersonation.....	6
2475	Photo Toll Enforcement.....	12	6189	Receiverships.....	5
2485	Interest Rate on Tort Judgments	4	6261	Modifying Juror Payment Provisions .	4
2519	Authorizing a Voted Property Tax Levy For Criminal Justice Purposes.....	5	6274	Serious Offenses; Restoration of Competency	8
2532	Commercial Drivers' Licenses	4	6338	Stolen Merchandise Pallets	10
2535	Service Credit Purchase.....	13	6358	Offenders/Treatment Orders	7
2583	Issuance of Infractions	12	6378	Motion Pictures.....	7
2598	Venue For Challenges to WAC Rules	5	6384	Domestic Violence Offender Assessment.....	6
2660	Alcohol Related Offenses.....	6	6472	Victims of Juvenile Offenders' Crimes	12
2771	Cyberstalking	6	6518	Changing the General Election Ballot for the Office of Judge of the District Court	12
2904	Estate Adjudication	13	6527	Attorney Fees	4
3051	ICWA Notice Provisions	11	6560	Animal Cruelty	6
3055	Admissibility of DUI Tests.....	5	6601	Obesity Lawsuits—Tort Reform.....	4
3078	Sealing Juvenile Records.....	11	6642	Dependency Case Conferences.....	10
3085	Family Decision Meetings	10	6643	Family Visitation for Dependent Children.....	11
5168	Interest on Legal Financial Obligations...	7			
5216	Forensic Competency and Sanity Evaluations	7			
5412	Biometric Identifiers.....	13			