

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, MARCH 16, 2012
9:00 A.M.**

**AOC SEATAC OFFICE
18000 INTERNATIONAL BOULEVARD, SUITE 1106
SEATAC, WASHINGTON**

Board for Judicial Administration Membership

VOTING MEMBERS:

Chief Justice Barbara Madsen, Chair
Supreme Court

Judge Chris Wickham, Member Chair
Superior Court Judges' Association
Thurston County Superior Court

Judge Marlin J. Appelwick
Court of Appeals, Division I

Judge Ronald Culpepper
Superior Court Judges' Association
Pierce County Superior Court

Judge Deborah Fleck
Superior Court Judges' Association
King County Superior Court

Judge Janet Garrow
District and Municipal Court Judges'
Association
King County District Court

Judge Laura Inveen, President
Superior Court Judges' Association
King County Superior Court

Judge Jill Johanson
Court of Appeals, Division II

Judge Teresa Kulik
Court of Appeals, Division III

Judge Michael Lambo
District and Municipal Court Judges'
Association
Kirkland Municipal Court

Judge Jack Nevin
District and Municipal Court Judges'
Association
Pierce County District Court

Justice Susan Owens
Supreme Court

Judge Kevin Ringus
District and Municipal Court Judges'
Association
Fife Municipal Court

Judge Scott Sparks
Superior Court Judges' Association
Kittitas County Superior Court

Judge Gregory Tripp, President
District and Municipal Court Judges'
Association
Spokane County District Court

NON-VOTING MEMBERS:

Mr. Stephen Crossland, President
Washington State Bar Association

Judge Sara Derr, President-Elect
District and Municipal Court Judges'
Association
Spokane County District Court

Mr. Jeff Hall
State Court Administrator

Ms. Paula Littlewood, Executive Director
Washington State Bar Association

Judge Craig Matheson, President-Elect
Superior Court Judges' Association
Benton and Franklin Superior Courts

Ms. Michele Radosevich, President-Elect
Washington State Bar Association

Judge Ann Schindler, Presiding Chief Judge
Court of Appeals, Division I



Board for Judicial Administration (BJA)

Friday, March 16, 2012 (9:00 a.m. – 12:00 p.m.)

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

AGENDA

1. Call to Order	Chief Justice Barbara Madsen Judge Chris Wickham	9:00 a.m.
2. Welcome and Introductions	Chief Justice Barbara Madsen Judge Chris Wickham	9:00 a.m.
Action Items		
3. February 17, 2012 Meeting Minutes Action: Motion to approve the minutes of the February 17, 2012 meeting	Chief Justice Barbara Madsen Judge Chris Wickham	9:05 a.m. Tab 1
4. Therapeutic Courts Action: Motion to approve the therapeutic courts resolution	Judge Harold Clarke	9:10 a.m. Tab 2
5. Budget Process Action: Motion to approve the proposed budget process	Mr. Jeff Hall	9:20 a.m. Tab 3
Reports and Information		
6. BJA Public Trust and Confidence Committee	Justice Mary Fairhurst	9:30 a.m. Tab 4
7. Legislative Report	Ms. Mellani McAleenan	9:50 a.m. Tab 5
8. Study of Filing Fees	Chief Justice Barbara Madsen Mr. Jeff Hall	10:00 a.m. Tab 6
Break		10:30 a.m.
9. COSCA Resolutions	Ms. Mellani McAleenan	10:50 a.m. Tab 7

10. Task Force on Race and the Criminal Justice System Recommendations	Mr. Jeff Hall	11:05 a.m. Tab 8
11. Other Business Next meeting: April 20 Beginning at 9:00 a.m. at the AOC SeaTac Office, SeaTac	Chief Justice Barbara Madsen Judge Chris Wickham	11:30 a.m.
12. Adjourn		12:00 p.m.
<p>Persons with a disability, who require accommodation, should notify Beth Flynn at 360-357-2121 or beth.flynn@courts.wa.gov to request or discuss accommodations. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested.</p>		



Board for Judicial Administration (BJA)

Friday, February 17, 2012 (9:00 a.m. – 3:00 p.m.)

AOC, 1112 Quince St SE, Olympia, Washington

MEETING MINUTES

Members Present:

Chief Justice Barbara Madsen, Co-Chair
Judge Chris Wickham, Member Chair
Judge Marlin Appelwick
Mr. Stephen Crossland
Judge Ronald Culpepper
Judge Sara Derr
Judge Deborah Fleck
Judge Janet Garrow
Mr. Jeff Hall
Judge Laura Inveen
Judge Jill Johanson
Judge Teresa Kulik (by phone)
Judge Michael Lambo
Ms. Paula Littlewood
Judge Craig Matheson
Judge Jack Nevin
Judge Kevin Ringus
Judge Ann Schindler
Judge Gregory Tripp

Guests Present:

Mr. Jim Bamberger
Mr. M. Wayne Blair
Ms. Bonnie Bush (by phone)
Ms. Darby DuComb
Justice Steven González
Ms. Joanne Moore
Ms. Leslie Savina
Judge Mary Yu

AOC Staff Present:

Ms. Beth Flynn
Mr. Steve Henley
Mr. Dirk Marler
Ms. Mellani McAleenan
Mr. Ramsey Radwan

The meeting was called to order by Chief Justice Madsen.

Implementation of GR 34

Judge Yu was involved with the drafting of GR 34 when she was the Chair of the Superior Court Judges' Association (SCJA) Rules Committee. At the time, there was concern by some judges regarding whether or not they could waive fees in civil cases and they wanted to create some rules and practices. GR 34 was adopted in 2008 and the rule directed the Administrative Office of the Courts (AOC) to create pattern forms related to GR 34. The intent of GR 34 was to promote access to courts and remove financial impediments for those without financial resources and also an attempt to have some uniformity across the state.

Judge Yu is asking for the BJA's assistance with the implementation of GR 34 in a way that is clear and uniform throughout the state.

29 of 39 counties were surveyed regarding their compliance with GR 34. Smaller counties are in complete compliance. Below are some of the results of the survey:

- It is the experience of many civil legal aid providers that locally-created forms that deviate from the AOC pattern forms are being created by local courts.
- Some courts have rejected the AOC forms.
- Deferral of payments and payment plans have been established.
- Some courts are imposing fees for services.
- Some waivers are not being granted despite the poverty of the applicant.

Judge Yu gave some examples of actual court cases showing how courts around the state are implementing GR 34 in a non-uniform manner.

Judge Yu would like the BJA to consider the following:

- Approval of a resolution that would express a commitment to the full intent of GR 34.
- A letter from the BJA to each judicial officer outlining concerns related to GR 34 and a brief discussion of the spirit and intent of the rule.
- A letter from the BJA to presiding judges requesting assistance in achieving full compliance.
- A letter to the clerks of each county concerning fees for services and multi-layered systems for waivers.
- Judicial education focused on assessing poverty and understanding federal guidelines, sensitivity training on poverty and the connection to domestic violence, and implementation of GR 34.

The survey focused on superior courts because of dissolutions. Judge Yu does not know if the scope and depth of the problem is the same in the district and municipal courts.

The presentation by Judge Yu was followed by a discussion regarding practices in courts. Some of the comments were:

- It was thought that courts had the discretion to come up with payment plans to pay the fees.
- Most courts do not have financial screeners, they do them on the fly and the pattern forms do not screen very well.
- If GR 34 is mandatory, instead of an authorization, it would not be a problem to comply. Judge Yu explained that she wanted the rule to be discretionary.
- It was pointed out that in some cases, once the dissolution is complete, the fees can be paid. Judge Yu responded that she does not think a total fee shifting occurs in the majority of cases.

It was moved by Judge Fleck and seconded by Judge Tripp that the BJA convene a work group to discuss the GR 34 compliance issues brought up by Judge Yu and to draft some proposals, which do not have to be based on Judge Yu's suggestions, to deal with the compliance issues. The motion carried.

The work group should be broad-based with varying opinions. Proposed work group members are: Judge Yu, Justice González, Mr. Blair, Judge Fleck, Mr. Bamberger (to provide assistance), Ms. Littlewood and Ms. Savina. In addition, the work group membership should include a County Clerk and a District and Municipal Court Judges' Association (DMCJA) representative. Interested members can contact Chief Justice Madsen or Judge Wickham if they would like to participate in the work group.

It is expected that the work group will report to the BJA in April.

December 9, 2011 BJA Meeting Minutes

It was moved by Judge Ringus and seconded by Judge Lambo to approve the December 9, 2011 BJA meeting minutes. The motion carried.

Regional Courts Work Group

Judge Derr reported that the last meeting of the Regional Courts Work Group was held in January. During that meeting the group decided to apply for a State Justice Institute (SJI) grant to fund a study of existing Washington State court models. Data gathering is very important and at a minimum the study will look at court models that have been identified as 1) using the district court as a hub, 2) multiple municipal courts working together, and 3) one other district court model which has not yet been determined.

There is a need for some governance at a regional court but the group could not agree on what the governance should look like.

Judge Derr asked that the BJA approve the work group's approach—not necessarily the details but the overall concept and philosophy and grant implementation.

There was a question about the amount of court staff time that would be devoted to data collection during the study of existing court models. Mr. Hall responded that the study would turn to local courts to verify their staffing levels and get copies of their budgets. He is hoping that the impact on the local staff will not be too great. Staff time will most likely be spent on confirming information and maybe taking a few follow-up phone calls.

It was moved by Judge Schindler and seconded by Judge Inveen to approve the proposed direction and recommendation by the Regional Courts Work Group. The motion carried.

Trial Court Operations Funding Committee (TCOFC) Appointments

In December the BJA approved a revamped TCOFC charter. It is now time to fill the committee and Ms. McAleenan provided a membership list for the BJA's approval. The BJA needs to determine a term start date and the length of the terms are listed on the recommended membership list. There are one and two year terms and after this first group of members, all the terms will be for two years.

It was moved by Judge Ringus and seconded by Judge Garrow to approve the appointment to the Trial Court Operations Funding Committee of the committee members provided, with the terms indicated, and a start date of January 1, 2012. The motion carried.

Legislative Report

The full legislative report is located behind Tab 5 and includes all of the bills the BJA has taken a position on this session or last session if the bills remained active. In terms of policy legislation there are not many that the BJA has concerns about. Ms. McAleenan provided information about the following bills:

- HB 2196 – Collaborative Law Act – the Washington State Bar Association (WSBA) is working on an amendment to remove the provisions relating to the governance of the practice of law and the BJA will support the amendment.
- The traffic infraction surcharge fee bill died but it could be used to help balance the budget and be resurrected.
- 2SSB 6292 – Juvenile Records Access – This bill died but prior to that it was amended to eliminate fiscal impact.
- SB 6025 – District Court Judge Retirement Age Bill – This bill is still alive. Representative Jamie Pedersen gave it a hearing yesterday and it is on the executive session list so hopefully he has plans to pass it out of committee.
- The ethics in public service bill was amended on the floor in a manner that will impact judicial branch employees. Mr. Marler and Ms. McAleenan met with the committee chair, Representative Sam Hunt, this morning regarding amendments. Representative Hunt stated the amendments could be given to him but he didn't think the bill will move. The bill will be heard at 1:30 p.m. on Monday.

The House Republican budget will be released at noon today. The House Democrats will release their budget on Tuesday at noon and the Senate will release their budget after the House Democrats. So far, good things are being said about the budget. There could be a JSTA fee increase in order to backfill the budget cuts.

DWLS 3 Reform Bill

Ms. DuComb presented information about reforming the law related to driving while license suspended third degree (DWLS 3). Some of the points Ms. DuComb brought up during her presentation were:

- The most common reason for DWLS 3 filings is simply the failure to pay traffic infraction fines. There is no correlation between the failure to pay and public safety.
- 43% of the DWLS 3 filings are made up of African-Americans.
- In Washington State, 83.5% of us drive to work so a driver's license is critical for most workers. The working poor need to be street legal so they can drive to work, school, for health care, and the grocery store. Suspending a driver's license for non-driving reasons is not useful. We need to change our policy.
- DWLS 3 makes up 50% of the King County docket. Almost \$300,000 was spent in King County on DWLS 3 cases in 2006. King County stopped prosecuting most DWLS 3

cases in 2010 and saved over \$200,000/year. It is estimated that if Washington stops prosecuting most DWLS 3 cases the state could save over \$7 million a year. DWLS 3 would still be filed but not for non-payment of infractions for non-moving violations. The state would still suspend for moving violations. SB 6234 is pending now in the Legislature and it addresses this issue.

Below are some of the comments related to DWLS 3:

- There are currently services in place in local courts to deal with alternatives to DWLS 3. Some examples are diversion, community service, payment plans, etc. This is an issue of responsibility and accountability. The DMCJA will not vote to support the bill.
- Most people have two to three speeding tickets throughout their entire lives. Others have traffic issues two to three pages long because they just ignore the fines. What is criminal is when people ignore the order not to drive their car. The cost to fill up a car with gas is more than paying the fine. They are choosing not to pay their fines.
- There are negative consequences for being too poor to pay traffic infractions. Why do we continue prosecuting DWLS 3 cases?
- It is a real problem having a criminal record simply because a person did not pay his/her traffic ticket.
- Good arguments can be made about the responsibilities of drivers, issues of poverty, and issues of transportation. This is a no-win all around. It is really important for the Legislature to look at this issue in these tough economic times. The Legislature has to decide, frankly, how important the money is and how humane their laws should be.
- The BJA is in the best position to tell the Legislature how their laws are working because judges are in the trenches. The better question is if the BJA should start looking at issues like this when they are brought to the BJA's attention? Should the judiciary take the opportunity to proffer viewpoints? It is not a matter of if the BJA agrees or not but the information should be provided.

Role of the BJA

The role of the BJA has been something Chief Justice Madsen has wanted to discuss since she became Chief. She wants to find out if there is an appetite for a more robust or enhanced role of the BJA. What is it that the BJA should be doing and should the BJA be doing more or doing it in another way?

Judge Wickham stated that being a decentralized court system makes speaking with one voice necessary. This is the beginning of the conversation of the role of the BJA and he is hoping to get the conversation going so that it might be continued in an extended meeting in the future.

History of the BJA: Mr. Hall gave a brief history of BJA. The BJA was created in 1981 and in 1986 the current BJA rule was created. The Justice, Efficiency and Accountability (JEA) Commission created the BJA of today. The JEA Commission reinforced the governance versus representative role and defined the allegiance of BJA members to the judiciary at large. BJA members represent the entire judiciary, not just their court levels.

To date, the BJA primarily develops policy issues and works through the Legislature to pass legislation.

Chief Justice Madsen stated that as opposed to being proactive, the BJA has been reactive. The BJA has run some initiatives but has not done a particularly great job in all the areas the BJA was intended to work on. Should the BJA head in a different direction?

Comments from Associations: Judge Schindler commented that the judiciary does need to speak with one voice and understand what the competing demands and requirements are for all of the court levels.

Judge Inveen stated that she would like to see more substantive issues on the agenda, not just a reporting out from month to month.

Judge Tripp said he is glad to have a seat at this table. The BJA plays a very important role and the DMCJA thinks the BJA serves a purpose. Some DMCJA members have commented that the BJA is sort of like a board of directors but does not have any authority. The BJA should continue to review matters that affect all court levels and everyone needs to continue to work together.

Mr. Bamberger said that the BJA is a relative and significant body and substantive meetings are held in the framework of a subtle understanding of what the branch is and what the branch's mission is. He is of the belief that the BJA is but a shadow of what it could be. It has a responsibility to be more than just a single voice to promote justice. The BJA should set the policy initiatives to drive where the justice system goes. He is glad the BJA is having this conversation because it is time to reassess the objectives of the BJA.

Mr. Blair has been on many, work groups, task forces, commissions, and committees. He first served on the BJA in 1995 and other than a small break has been on it since then. He thinks the Legislature listens to this body when it functions in a policy-making manner and it has an enormous amount of influence. One of the issues that needs to be addressed is the relationship between the BJA and the Supreme Court. It has not been a difficult issue in the past because it has worked out relatively well but it has the potential to be decisive. What should the relationship be? Washington Courts 2000 is the task force that reconstituted the BJA and they started out in an attempt to unify the court system and the Chief Justice was going to run things. They did not get very far down that road and determined that it was better to be a collegial body.

Mr. Crossland said that his perspective of the BJA as a bar member and a member of the public is that it is really important to realize how collegial and intelligently the issues are discussed. The role that the BJA can play is vitally important to the trust and confidence of the judiciary. He applauds the BJA for stepping back and reevaluating the role of the board.

Ms. Littlewood stated that outside the judiciary the BJA is perceived as the governing council for the judicial branch but as Judge Tripp pointed out, the BJA does not have the authority to be the governing body. For the WSBA, every year the BOG turns over and the BJA has similar turnover. However, the BJA seems to operate more like a group of delegates rather than as a board. She also observed that outside the judiciary there is a perception that the Supreme Court is the head of the judiciary and the Chief Justice speaks for the courts.

Discussion: Judge Garrow has been on the BJA for more than a year and thinks it would be very helpful to have an orientation for new BJA members. She thought sharing the agendas and minutes with all members of the judiciary would help keep them advised regarding what the BJA is doing. Judge Garrow is supportive of long-range planning for the judicial branch.

Judge Fleck stated that the BJA and its members have addressed significant issues since the BJA was restructured, including among them considering and approving the work of the Time for Trial Task Force rewriting the speedy trial rule, the intensive work on Project 2001, with the legislative and constitutional changes that were recommended, the two year Trial Court Funding Task Force effort by over 100 individuals leading to the Justice in Jeopardy Initiative and the more recent efforts to develop and recommend the adoption of GR 31A addressing public access to court administrative records. She mentioned that when she was co-chair of the BJA and chair of its Long-range Planning Committee, that committee took two years just to develop the long-range plan for the BJA itself. She believes that the judicial branch is the cornerstone of our democracy and that the BJA as the deliberative, policy-making body of the branch, is critical to making the judicial branch accessible and efficient for everyone.

Judge Appelwick has had a unique experience with the BJA. He had the privilege of meeting with each court level representative and being a referee during court-level disagreements. He has attended BJA meetings off and on since 1985. From the legislative side, when the associations were at odds the way the disagreements played out created very lasting memories. In his view, the BJA is not currently a team—there are multiple teams in the room. It is more like a meeting of the warlords. No one is unpleasant about it but if the point of BJA is that it is running the judiciary, it is not treated that way. The members are meeting to protect their territory. Also, the BJA does not do much other than hear reports and he feels there is not much that is relevant to the appellate courts much of the time. Judge Appelwick thinks it is important to meet and share, but the BJA needs to be much more proactive. He believes one problem is that there is no one person who is in charge. If there was a more developed agenda, the BJA could play to those issues. To the extent that the BJA is visible as a board or branch, it needs to be for justice, as good stewards of taxpayer dollars, and for public safety. The BJA should not be more visible on salaries, benefits, and retirement issues than the previous issues. Taxpayers do not necessarily perceive judges as underpaid and overworked. He feels that the BJA can do a lot more than is currently being done collectively or individually.

Strategic Planning: Chief Justice Madsen stated that long-range planning is critical to being proactive. Currently, the direction the BJA is going in is being driven from the outside. The BJA is in the best position to know what the challenges are and what needs to be overcome. It is always deenergizing to be told what to do from the outside. Long-range planning is a way to think about who the BJA is, where the BJA wants to be, where the BJA wants to go and what the BJA can accomplish.

Mr. Henley reported that the Washington court system resembles a basic court model with four levels with several agencies plugged in. With people at the top, it becomes assumed that the people at the top run the courts which is not true. In order to avoid being in the position of being reactive as a branch, there has to be a vision of where the branch wants to be further down the road which results in how everyone else reacts to the branch.

A group has been convened to plan to plan as a branch of government. The judicial branch strategic planning group is comprised of members from various court levels. They will decide the mission, purpose and vision of the judicial branch.

Judge Garrow moved and Judge Fleck seconded that the BJA support the plan to plan group going forward. The motion carried.

The idea of a retreat in the spring was discussed and it would include a broad range of people to come together and start the process of determining the role of the BJA.

Judge Fleck moved and Garrow seconded to hold a BJA retreat to continue the role of the BJA discussion. Mr. Bamberger and Ms. Moore should be included along with a representative from the County Clerks. The Motion carried.

Budget Process

As a result of the two budget development process review meetings held last fall, Mr. Hall would like to know if the BJA wants to have a role in the vetting of projects included in the AOC budget such as projects recommended by the TCOFC, SCJA, DMCJA, Washington Association of Juvenile Court Administrators (WAJCA), and Washington State Association of County Clerks (WSACC).

The proposed role the BJA would play in the budget process is that the BJA would be presented with AOC budget proposals and make recommendations to the Supreme Court regarding the inclusion of the AOC proposals in the judicial branch budget request. The BJA would be advisory to the Supreme Court.

It was moved by Judge Inveen and seconded by Judge Appelwick that the BJA participate in the proposed budget review process with the idea that there will be some wordsmithing of the process that was presented. The motion carried.

The BJA will vote on the process after the language is finalized.

Therapeutic Courts

Ms. McAleenan said that the therapeutic courts resolution, submitted on behalf of the Association of Drug Court Professionals, will be an action item for next month. The resolution was sent to the BJA Executive Committee pursuant to the BJA resolution guidelines. There were only a few responses but there were no issues with the resolution. It is possible the BJA will want to create a more overarching framework.

If any BJA members are interesting in wordsmithing the resolution they should contact Judge Harold Clarke and he can submit a revised version of the resolution next month.

Part-time Municipal Courts in Washington

About this time last year the AOC submitted a public records request to cities asking how their courts are organized, what is the role of the presiding judge, if the court is independent, and if

there are local fees or assessments. Mr. Marler highlighted some of the things that were discovered when reviewing the information received from the cities.

- Several cities permit a reduction in the judicial salary during the term of office, many pay hourly, and off-bench activity may not be compensated.
- Most cities have four-year judicial terms, several are on different cycles, others are month-to-month and some are four-year terms but with annual renewal.
- Many provisions regarding judicial discipline/removal mirror RCW 3.50.095 but few reference the Commission on Judicial Conduct and some are problematic.
- Many ordinances and contracts give pro tem appointment authority to mayors and city managers.
- Most cities acknowledge some presiding judge role although there are some exceptions.
- Many court administrators and staff report to executive branch officials. Staff in many small courts serve multiple roles simultaneously.
- Many city organizational charts do not show an independent judiciary, judges are rarely acknowledged as leading a branch of government, and some show no court staff.
- There were few examples of local costs or fees not specified in statute.

Some suggestions for improving the way part-time municipal courts operate are:

- Review and revise ordinances and contracts to not allow compensation to be diminished during a term of service, include four-year appointments, the presiding judge will appoint pro tems and the role of the Commission on Judicial Conduct is recognized.
- Review local costs, fees and assessments.
- Consider repealing RCW 3.50.095 regarding removal of municipal court judges and amending RCW 3.50.090 to clarify authority when there is no judge available to name a pro tem.
- Consider amending GR 29.
- The BJA/DMCJA could assist judges with their councils and executives, mentor/coach new judges and educate the legal profession about the administrative role.

Mr. Hall stated that the AOC originally requested the information from the cities because there were issues that came up on an ad hoc basis at the AOC over time and AOC wanted to determine if the issues were ad hoc or systemic.

The AOC will follow-up with the cities and send individual letters to each judge and jurisdiction and let them know what was identified at individual courts.

Other Business

By consensus it was decided that the March BJA meeting would be held at 9 a.m. at SeaTac.

There being no further business, the meeting was adjourned.

Recap of Motions from February 17, 2012 meeting

Motion Summary	Status
Convene a work group to discuss the GR 34 compliance issues and draft some proposals	Passed
December 9 BJA Meeting Minutes	Passed
Approve the proposed direction and recommendation by the Regional Courts Work Group	Passed
Approve the appointment of the committee members to the Trial Court Operations Funding Committee	Passed
Support the plan to plan group going forward	Passed
Hold a BJA retreat to continue the role of the BJA discussion	Passed
The BJA will participate in the proposed budget review process	Passed

Action Items updated for February 17, 2012 meeting

<u>December 9, 2012 Meeting Minutes</u> <ul style="list-style-type: none"> Send the approved minutes to Camilla Faulk for the En Banc binders and post the approved minutes online 	Done
<u>Implementation of GR 34</u> <ul style="list-style-type: none"> Create work group to discuss how to move forward on this. Do not have to start with Judge Yu's proposal but can use the ideas she presented and come up with other ideas. Work group would consist of Judge Yu, Justice González, Wayne Blair, Judge Fleck, Jim Bamberger, Leslie Savina (NW Justice Project), Clerk's Office rep., DMCJA rep., and Paula Littlewood. Interested members can contact Chief Justice Madsen or Judge Wickham. 	
<u>Trial Court Operations Funding Committee Appointments</u> <ul style="list-style-type: none"> The committee list was approved with a start date of January 1, 2012. Mail letters of appointment. 	Done
<u>Role of the BJA</u> <ul style="list-style-type: none"> Hold a retreat to continue the discussion of the role of the BJA. Jim Bamberger and Joanne Moore want to be included and the Clerks need to be included. 	Working on dates/locations
<u>Budget Process</u> <ul style="list-style-type: none"> The BJA will participate in the budget review process but there will be some wordsmithing by the SCJA to the budget process document. 	This is on the March agenda for action
<u>Therapeutic Courts</u> <ul style="list-style-type: none"> Put on the March agenda. Members interested in wordsmithing the resolution should contact Judge Clarke. 	Done
<u>March BJA Meeting</u> <ul style="list-style-type: none"> The March meeting will be held at SeaTac and begin at 9 a.m. 	Reserved room

RESOLUTION of the BOARD FOR JUDICIAL ADMINISTRATION
of the State of Washington
On Drug Courts and Other Problem-Solving Courts

WHEREAS, Drug Courts have proven to be a highly effective strategy for reducing alcohol and other drug use and recidivism among criminal offenders with chemical dependency and addiction problems; and

WHEREAS, in addition to Drug courts, the principles and methods of Problem-Solving Courts¹ have been shown to offer a very promising strategy for addressing a wide variety of other case types in which addiction, mental health or other behavioral issues are a significant causative factor; and

WHEREAS, broad support exists, both in Washington and other states, for the principles and methods commonly used in Problem-Solving Courts, including ongoing judicial leadership, integration of treatment services with judicial case processing, close monitoring of and immediate response to behavior, multidisciplinary involvement, and collaboration with community-based and government organizations; and

WHEREAS, through the efforts of the National Association of Drug Court Professionals (NADCP), the National Drug Court Institute, the National Center for State Courts and others, drug court research has resulted in many areas of consensus regarding the best practices for drug courts; and

WHEREAS, the Race and Criminal Justice Task Force² has recommended that Washington Courts expand the use of Therapeutic (i.e., Problem-Solving) Courts as one way to address racial disparity in the administration of justice in criminal cases,

NOW THEREFORE BE IT RESOLVED that the Board for Judicial Administration strongly supports Problem-Solving Courts in general and Drug Courts in particular; and

BE IT FURTHER RESOLVED that the Board for Judicial Administration commits to:

- 1) Support the development and expansion of Drug Courts and other Problem-Solving Courts in Washington.
- 2) Advocate for adequate funding for these courts.
- 3) Develop, identify and adopt best practices and promising practices in Drug Courts and other Problem-Solving Courts.
- 4) Collect data through the Washington State Center for Court Research on Drug Courts and other Problem-Solving Courts to evaluate and monitor outcomes and performance.
- 5) Support appropriate training for judicial officers and staff on the principles and methods of Drug Courts and other Problem-Solving Courts.
- 6) Ensure the education of law students, lawyers and judges concerning the existence and principles of Drug Courts and other Problem-Solving Courts.

¹ Problem-Solving Courts are also often referred to as Therapeutic Courts.

² The Task Force is a collaborative effort by Washington's three law schools, initiated by the Seattle University School of Law's Korematsu Center.

Introduction

Budget Development Process Review Meetings

September 29, 2011

While the objective of the budget development process review meeting held on September 29, 2011, was to focus solely on the future process, the group did note that the immediacy of the 2011 special session, as well as the 2012 regular session, makes it incumbent upon us to address the process by which we handle the rapidly changing ideas, suggestions and options being offered by the Legislature.

October 24, 2011

Based upon feedback received during the September 29, 2011, meeting, proposals were developed for responding to legislative budget actions that will impact the AOC and the judicial branch budgets. Exhibits 1 and 2 describe the process agreed upon in the October 24, 2011, meeting for use during the 2011 special and 2012 regular legislative sessions.

In addition, discussion was held and agreement was reached on the process that will be used for future budget development, review and submittal purposes. Exhibits 3 and 4 describe that process.

Also included in these materials are a draft budget development calendar and a flow chart describing the budget development process.

Exhibit 1

Legislative Actions that Impact the AOC Budget

Prior to formulating a decision regarding all questions and budget reduction or change actions proposed by the Legislature as they relate to AOC, the Chief Justice will, on an ad hoc basis, seek advice from the BJA Executive Committee.

The Chief Justice or AOC staff will initiate calls with the BJA Executive Committee as issues, questions, or proposals relating to the AOC budget are received. If deemed necessary, regularly scheduled calls may be held. Calls may also be initiated by group members as necessary. The group will attempt to reach consensus; however, if consensus cannot be reached, members agree to accept and support the final decision.

It is expected that members of the BJA Executive Committee represent the interests of the judiciary when providing advice to the Chief Justice regarding questions and budget reduction or change actions related to the AOC budget.

It is expected that member organizations grant BJA Executive Committee members authority to provide advice to the Chief Justice based upon the best interests of the judiciary when discussing AOC budget reduction or change actions.

BJA Executive Committee Members

Chief Justice Barbara Madsen	BJA Chair
Judge Christopher Wickham	BJA Member-chair
Judge Ann Schindler	COA Chief Presiding Judge or designee
Judge Laura Inveen	SCJA President or designee
Judge Gregory Tripp	DMCJA President or designee
Jeff Hall	Administrative Office of the Courts
Stephen Crossland	WSBA President or designee
Judge Craig Matheson	SCJA President-elect
Judge Sara Derr	DMCJA President-elect

Staff Support

Ramsey Radwan	Director, Management Services AOC
Mellani McAleenan	Associate Director, BJA

Exhibit 2

Legislative Actions that Impact the Judicial Branch Budget

Prior to formulating a decision regarding all questions and budget reduction or change actions proposed by the Legislature as they relate to branch-wide issues, the Chief Justice will, on an ad hoc basis, seek advice from the BJA Executive Committee, the State Law Librarian, the Director of the Office of Civil Legal Aid, and the Director of the Office of Public Defense.

The Chief Justice or AOC staff will initiate calls as issues, questions, or proposals relating to the branch budget are received. If deemed necessary, regularly scheduled calls may also be held. Calls may also be initiated by group members as necessary.

After decisions regarding particular issues have been made, it is expected that group members will support and advocate for those decisions.

Group members may solicit input from others; however, the member seeking input shall be the sole representative during the calls noted above. In addition, all written information or advice shall be compiled and conveyed by the group member seeking input from others. Calls will be limited to the persons or the designees of the positions noted below.

Members

Chief Justice Barbara Madsen	Supreme Court Budget Committee
Judge Christopher Wickham	BJA Member-Chair
Judge Ann Schindler	COA Chief Presiding Judge or designee
Judge Laura Inveen	SCJA President or designee
Judge Gregory Tripp	DMCJA President or designee
Jeff Hall	Administrative Office of the Courts
Stephen Crossland	WSBA President or designee
Kay Newman	State Law Library
Jim Bamberger	Office of Civil Legal Aid
Joanne Moore	Office of Public Defense

Staff Support

Ramsey Radwan	Director, Management Services AOC
Mellani McAleenan	Associate Director, BJA

Exhibit 3

Future Budget Development Process

All externally generated (e.g. BJA, TCOFC, SCJA, DMCJA, WAJCA, County Clerks) budget requests, whether for new programs, enhancements to existing programs, or for restoration of funding, will be routed through the Board for Judicial Administration (BJA) for recommendation to the Supreme Court Budget Committee (SCBC).

BJA budget process:

Any budget proposal impacting the AOC budget shall be submitted to the AOC for consideration by the BJA in February or March of each year. The BJA will review the preliminary budget requests and provide comments to the requesting entities.

The BJA will hold an annual budget meeting in April or May for presentation, discussion and formulation of a recommendation to the SCBC. Fully developed decision packages shall be available for review by judicial branch entities prior to the budget presentation meeting. Budget decision packages must be prioritized.

The BJA will communicate recommendations to the Supreme Court Budget Committee and the requesting entities.

The BJA shall develop recommendations consistent with the Board's duties enumerated in BJAR 4 (c) and (d).

The BJA will offer advice to the entities requesting budget changes regarding whether or not the request should be modified or move forward to the SCBC. The BJA may not, however, require the modification of budget requests or prevent entities from forwarding requests to the SCBC. The Supreme Court Budget Committee will give substantial deference to the recommendations offered by the BJA regarding each budget request. If an entity chooses not to follow recommendations offered by the BJA, the entity shall notify the BJA of its intended actions.

All final decision packages are due to the AOC in July.

In August, the Supreme Court Budget Committee will hold one or two meetings (depending upon volume) for presentation, information gathering, and discussion with all parties invited. All fully developed budget proposals submitted to the SCBC will be included in the presentation meeting.

The Supreme Court Budget Committee will then make its recommendations to the full court in September or October regarding which budget packages should be transmitted to the Governor for the annual budget submission to the Legislature. For items not included in the budget submission, the Supreme Court may make

recommendations to the requestor as to whether the request should be pursued through the regular legislative and budgetary processes.

Throughout the budget process, communications, discussions, and deliberations, shall be informed by the commonly held values of comity and a united judiciary, speaking with one voice.

Exhibit 4

Future Budget Development Process

Budget requests initiated by the Supreme Court, State Law Library, Court of Appeals, Office of Civil Legal Aid and the Office of Public Defense, whether for new programs, enhancements to existing programs, or for restoration of funding, will be routed through the Supreme Court Budget Committee (SCBC) for consideration.

The SCBC will:

- Require that any budget proposals be submitted for initial consideration, on forms developed and approved by AOC, in February or March of each year.

- Hold a budget meeting to review, discuss and formulate recommendations for consideration by the full court.

All final decision packages will be due to AOC in July.

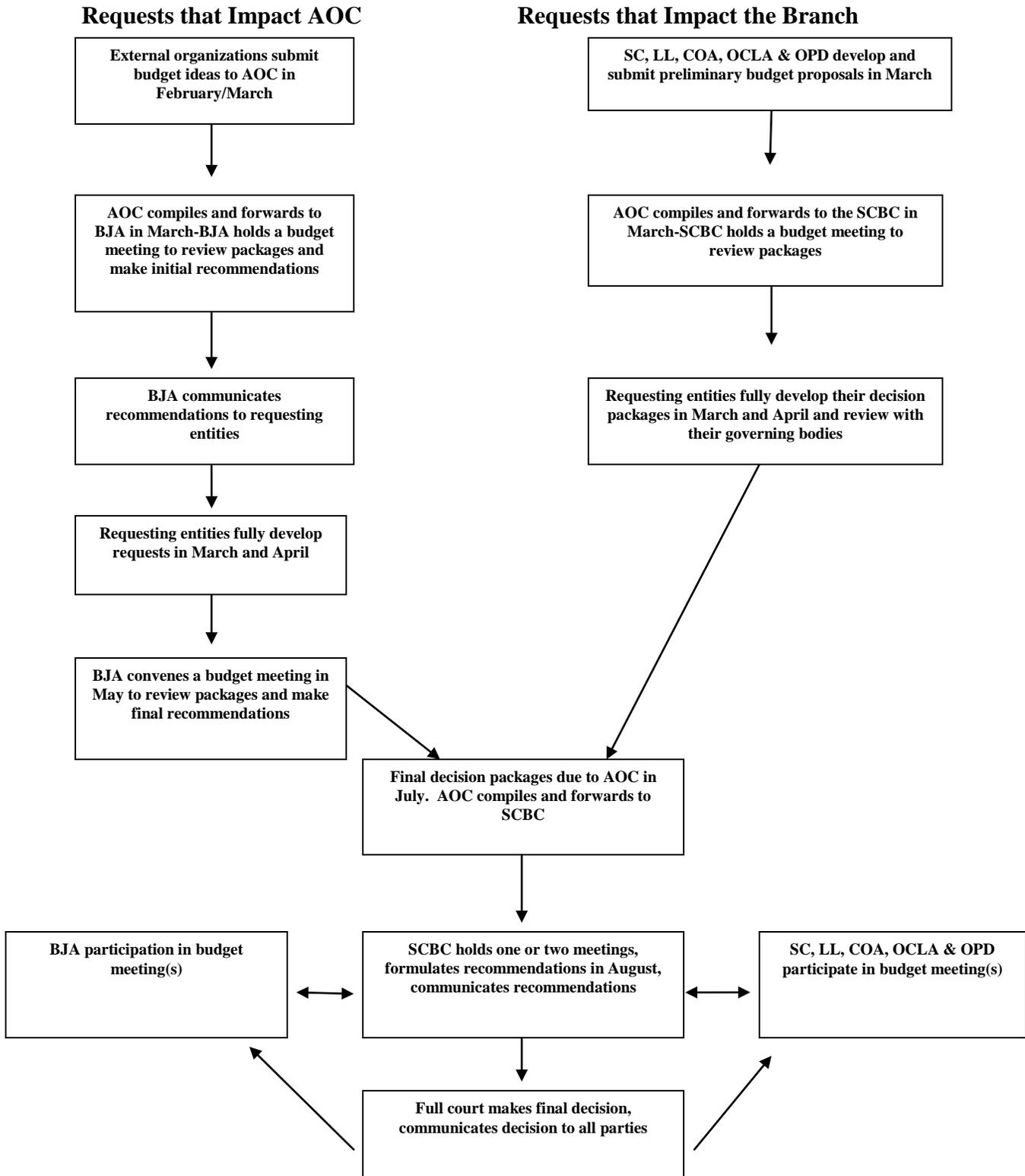
In August, the Supreme Court Budget Committee will hold one or two meetings (depending upon volume) for presentation, information gathering, and discussion with all parties invited. All fully developed budget proposals submitted to the SCBC will be included in the presentation meeting.

The Supreme Court Budget Committee will then make its recommendations to the full court in September or October regarding which budget packages should be submitted to the Legislature.

**Future Budget Development Process
Draft Calendar of Events
Budget Requests that Impact the AOC Budget**

Initial requests to AOC	Mid-February
AOC compiles initial requests and forwards to BJA for the March meeting	March
BJA reviews requests and provides recommendations to requestors	March
Requests are fully developed	March and April
Fully developed requests presented at BJA	May
BJA reviews requests and provides recommendations to requestors; BJA provides recommendations to the Supreme Court Budget Committee	June
Approved requests due to AOC	July
AOC compiles requests and forwards to the SCBC	July
SCBC holds one or two presentation meetings	August
SCBC forwards recommendations to full court; SCBC communicates recommendations to requestors	August/September
Full court makes final decision; full court communicates decisions to all parties	September/October

Flowchart-Future Budget Development Process



**Report to the Board for Judicial Administration on the
Public Trust and Confidence Committee's 2010 and 2011 Completed Projects:**

The Completed Projects

Each completed project was selected by the Public Trust and Confidence Committee (PT&C) members as a priority to increasing the level of public trust and confidence in the court system. PT&C subcommittees were established for each project.

1. **Spanish Editions of the Superior, District and Municipal Court Self-Represented Best Practices Handouts (2011)**. This subcommittee was co-chaired by Ms. Theresa Ewing, Clerk of the Thurston County District Court, and Ms. Margaret Fisher of the Administrative Office of the Courts (AOC), with members Ms. Kay Newman and Honorable Kathy Martin. The subcommittee worked with Ms. Katrin Johnson, AOC, to prepare translations of existing English versions of the self-represented handouts into Spanish. Great numbers of non-English speakers are using the court system. These handouts will assist them in reducing confusion about court processes and terminology.
2. **Survey on Use of Senior Volunteers in Courts (2011)**. This subcommittee was co-chaired by Ms. Pam Inglesby and Ms. Marilyn Finsen, with members Ms. Kirsten Barron and Judge Laurel Siddoway. The subcommittee conducted a survey of court administrators and clerks to determine how many courts were using seniors as volunteers. They showed 30 percent of surveyed courts do use senior volunteers in a variety of capacities, and all recommend them. The survey questioned whether there were any possible concerns over seniors replacing employees who had lost jobs, but no concerns were expressed.
3. **Continued to Participate in the Legislative Scholars Program (2011)**. This subcommittee was co-chaired by Ms. Judi Best and Judge Elizabeth Martin, with members Justice Mary Fairhurst, Mr. David Johnson, Judge Elizabeth Stephenson, and Judge N. Scott Stewart. The subcommittee supported a repetition of the 2010 BJA-approved project to add one day to the existing Legislative Scholars Program hosted by the State Legislature. The additional eight hours provide information to teachers about how the judicial branch relates to the legislative branch, including presentations on judicial interpretation of legislative intent, court decisions on the State Constitution, and presentations on the Washington courts and jurisdiction.
4. **Handling Attacks on the Judiciary (2011)**. This subcommittee was co-chaired by Ms. Judi Best and Judge Elizabeth Martin, with members Justice Mary Fairhurst, Mr. David Johnson, Honorable Michael Killian, Judge Elizabeth Stephenson, and Judge N. Scott Stewart. The subcommittee investigated existing resources available to assist judicial officers unfairly attacked in the

media. It heard advice from the communications director at the Legislature who handles that job for the legislative branch.

5. **Updated Past PT&C Project: Frequently Asked Questions (2011).** This subcommittee was co-chaired by Ms. Theresa Ewing and Ms. Margaret Fisher, with members Ms. Kay Newman and Honorable Kathy Martin. The subcommittee examined and updated the frequently asked questions (FAQ) handout produced in the past by PT&C.

Personas que se auto representan en los Tribunales Municipales

INFORMACIÓN PARA LITIGANTES PRO SE

Comprender y navegar el proceso jurídico no es fácil y hasta puede resultar frustrante, sobre todo para las personas que se encargan de su propia representación jurídica (los litigantes pro se). Los tribunales estatales y locales tienen reglas extensas con las que debe cumplir toda persona que comparece ante el Tribunal Municipal. La siguiente información puede resultar útil para aclarar algunas de las dudas de la auto representación.

PROCEDIMIENTOS TÍPICOS EN LOS TRIBUNALES MUNICIPALES

Órdenes de protección y de restricción: Los distintos condados tienen diferentes procedimientos para órdenes de protección y de restricción. Comuníquese con el tribunal superior, de distrito o municipal local para información sobre los procedimientos en su condado.

Infracciones: Una infracción es un acto prohibido por ley que no se define jurídicamente como un delito. El tribunal impone una sanción monetaria cuando se comete una infracción. Como las infracciones no son quebrantamientos del código penal, el juez no puede imponerle al acusado una pena de cárcel. Las personas acusadas de infracciones pueden escoger ser representadas por un abogado pero no tienen derecho a un abogado asignado por el tribunal.

Existen tres formas de responder a una citación por una infracción. Las instrucciones aparecen al dorso de la citación. Usted puede pedir una audiencia de mitigación para admitir haber cometido la infracción y explicar la situación al juez. El juez luego puede reducir la multa. Usted puede también pedir una audiencia de impugnación para manifestar que no cometió la infracción. Por último, puede simplemente pagar la multa. Algunas personas pueden calificar para un fallo diferido, con el cual se puede conseguir que se desestime una infracción de tránsito. Debe solicitar la audiencia dentro de los 15 días a partir de la fecha en que se emitió la citación. El no responder conlleva una cuota obligatoria adicional de \$52.00. Para la mayoría de las infracciones de tránsito, se informa al Departamento de Licencias si la persona no responde, lo cual puede ser fundamento para la suspensión de la licencia de conducir. Las infracciones de estacionamiento y las infracciones fotografiadas no forman parte de su historial de conductor, independientemente del tipo de audiencia que usted escoja. Algunos tribunales pueden permitir que la infracción se resuelva por correo o por correo electrónico.

Cargos penales: Es importante que las personas acusadas de delitos busquen representación jurídica. Si se le acusa de un delito, se enfrenta a una posible pena de cárcel, multas y otras consecuencias importantes. Usted tiene derecho a tener un abogado presente en cada audiencia. Si considera que no tiene los recursos para contratar un abogado, el tribunal puede asignar un abogado para que lo represente a expensas públicas. Un abogado defensor penal puede proteger sus derechos y

representarlo completamente en todas las posibles audiencias, y puede darle asesoría sobre las opciones disponibles para su caso.

-Más información al dorso-

VOCABULARIO IMPORTANTE:

1. **Calendario o lista de causas**
(*calendar*): Lista de casos señalados para una audiencia en el tribunal.
2. **Citatorio**
(*summons*): Notificación de comparecencia obligatoria en el tribunal.
3. **Demanda/citación**
(*complaint/citation*): Un documento que da inicio a un proceso penal.
4. **Ex parte**
(*ex parte*): Una expresión en latín que denota una acción realizada para una sola parte, o a nombre de ella, o a solicitud de ella, sin notificación a la parte contraria.
5. **Orden**
(*order*): Una instrucción o mandato dictado por un tribunal y asentado en las actas del tribunal.
6. **Petición**
(*motion*): Un pedido escrito presentado por una parte al tribunal, en que se solicita una orden para conceder cierto beneficio.
7. **Pro se**
(*pro se*): Una expresión en latín que significa "por sí mismo" (se refiere a las personas que se auto representan).
8. **Solicitud**
(*petition*): Una solicitud formal escrita, a veces llamada un pedimento, presentada al tribunal en que se solicita cierto recurso disponible de acuerdo a la ley.

CÓMO VESTIR Y COMPORTARSE EN EL TRIBUNAL

El tribunal es un lugar respetuoso y formal, donde usted desea presentar su versión del asunto y prevalecer. Vístase, hable, y pórtese como corresponde:

1. Lleve ropa limpia y en buen estado que no llame excesivamente la atención.
2. No lleve sombrero, gorra, pantalón corto, camisa que deje al descubierto la cintura, camiseta sin mangas u otra ropa reveladora. Pueden existir excepciones para la indumentaria religiosa.
3. Apague los teléfonos celulares y buscapersonas (pagers).
4. Hable clara y respetuosamente. Diríjase al juez, no a la parte contraria.
5. Vaya al grano. No se deje ir por las ramas. Trate únicamente los temas que el juez va a decidir.
6. No mastique chicle, grite, diga groserías, ni emplee lenguaje inapropiado.
7. Póngase en el lugar del juez ante quien alguien comparece para solicitar un fallo favorable. ¿Cómo quisiera usted que la persona se portara para que usted pudiera evaluar los hechos de manera justa y sin distracciones?

NÚMEROS DE TELÉFONO Y SITIOS DE INTERNET ÚTILES

1. Información jurídica: www.WashingtonLawHelp.org o bien en www.lawforwa.org
2. Formularios en línea: www.courts.wa.gov/forms
3. Reglas de los tribunales estatales y locales: www.courts.wa.gov/court-rules/
4. El sitio de internet de su tribunal local.

Los integrantes del personal del tribunal no son abogados y la ley les prohíbe dar asesoría legal.

El personal del tribunal no puede decirle si sus documentos están llenados correctamente.

Usted puede ver o hablar con un juez de su caso únicamente cuando comparece ante el juez en el tribunal.

Personas que se representan a sí mismas en el Tribunal de Distrito

INFORMACIÓN PARA LITIGANTES PRO SE

Comprender y navegar el proceso jurídico no es fácil y hasta puede resultar frustrante, sobre todo para las personas que se encargan de su propia representación jurídica (los litigantes pro se). Los tribunales estatales y locales tienen reglas extensas con las que debe cumplir toda persona que comparece ante el Tribunal de Distrito. La siguiente información puede resultar útil para aclarar algunas de las dudas de la auto representación.

PROCEDIMIENTOS TÍPICOS EN EL TRIBUNAL DE DISTRITO

Demandas de menor cuantía: Las demandas de menor cuantía se entablan para recuperar montos inferiores a \$5000. La persona que presenta una demanda de este tipo contra otra persona se denomina la parte demandante. El departamento de lo civil del Tribunal de Distrito de su condado cuenta con información escrita sobre casos de demandas de menor cuantía, incluyendo información sobre costos y un formulario de Aviso de Demanda de Menor Cuantía que usted puede llenar para su caso. Es importante seguir las instrucciones del tribunal. El Tribunal de Distrito de su condado puede tener también información impresa o en línea sobre el Tribunal de Menor Cuantía. SI USTED NO RESPONDE de manera oportuna a un citatorio por una demanda de este tipo, el juez puede ordenar que usted pague el monto solicitado más las cuotas de presentación y los costos de notificación oficial de documentos. Algunos tribunales exigen que se celebre una audiencia de mediación o una comparecencia preliminar con ambas partes antes de programar la fecha de juicio. Los procedimientos para demandas de menor cuantía varían según el condado. Si la parte demandante prevalece en su demanda, tiene la responsabilidad de cobrar el dinero que el juez concede.

Cambio de nombre: Toda persona que desea cambiar su nombre o el nombre de un menor puede presentar una solicitud al Tribunal de Distrito. El tribunal provee información sobre los procedimientos para cambio de nombre, las cuotas de presentación a cobrar, y los formularios requeridos. Luego se debe presentar una petición escrita ante el Tribunal de Distrito con las razones para el cambio de nombre. El tribunal programa una audiencia en la cual la petición se somete a consideración. El tribunal, en el ejercicio de su discreción, puede conceder la petición de cambio de nombre. No se permiten cambios de nombre para propósitos ilícitos o fraudulentos.

Las peticiones para cambio de nombre se deben presentar en el Tribunal Superior cuando la persona que solicita el cambio de nombre es víctima de violencia doméstica y desea que el expediente del cambio de nombre quede bajo sello debido a temor razonable por la seguridad de la persona o de un menor de edad.

Órdenes de protección y de restricción: Los distintos condados tienen diferentes procedimientos para las órdenes de protección y de restricción. Comuníquese con el tribunal superior, de distrito, o municipal local para información sobre los procedimientos en su condado.

Infracciones: Una infracción es un acto prohibido por ley que no se define jurídicamente como un delito. El tribunal impone una sanción monetaria cuando se comete una infracción. Como las infracciones no son quebrantamientos del código penal, el juez no puede imponerle al acusado una pena de cárcel. Las personas acusadas de infracciones pueden escoger ser representadas por un abogado, pero no tienen derecho a un abogado asignado por el tribunal.

Existen varias formas de responder a una citación por una infracción. Las instrucciones aparecen al dorso de la citación. El no responder dentro de los 15 días a partir de la fecha en que se expide la citación conlleva una cuota obligatoria adicional de \$52.00. Para la mayoría de las infracciones de tránsito, se informa al Departamento de Licencias si la persona no responde, lo cual puede ser fundamento para la suspensión de la licencia de conducir. Las infracciones de estacionamiento y las infracciones fotografiadas no formarán parte de su historial de conductor, independientemente del tipo de audiencia que usted escoja. Algunos tribunales pueden permitir que la infracción se resuelva por correo o por correo electrónico.

Cargos penales: Es importante que las personas acusadas de delitos busquen representación jurídica. Si se le acusa de un delito, se enfrenta a una posible pena de cárcel, multas y otras consecuencias importantes. Usted tiene derecho a tener un abogado presente en cada comparecencia ante el tribunal. Si considera que no tiene los recursos para contratar un abogado, el tribunal puede asignar un abogado para que lo represente a expensas públicas. Un abogado defensor penal puede proteger sus derechos y representarlo completamente en todas las posibles audiencias y puede darle asesoría sobre las opciones disponibles para su caso.

-Más información al dorso-

VOCABULARIO IMPORTANTE:

- 1. Calendario o lista de causas**
(*calendar*): Lista de casos señalados para una audiencia en el tribunal.
- 2. Demanda/citación**
(*complaint/citation*): Un documento que da inicio a un proceso penal o un caso civil.
- 3. Ex parte**
(*ex parte*): Una expresión en latín que denota una acción realizada para una sola parte, o a nombre de ella, o a solicitud de ella, sin notificación a la parte contraria.
- 4. Mediación**
(*mediation*): Una reunión con un tercero neutral y capacitado que trabaja con las partes contrarias para llegar a una resolución aceptable para ambas partes.
- 5. Orden**
(*order*): Una instrucción o mandato dictado por un tribunal y asentado en las actas del tribunal.
- 6. Petición**
(*motion*): Un pedido formal, típicamente por escrito, presentado por una parte al tribunal, en que se solicita una orden para conceder cierto beneficio; un pedido formal y escrito presentado al tribunal.
- 7. Pro se**
(*pro se*): Una expresión en latín que significa "por sí mismo" (se refiere a las personas que se auto representan).
- 8. Solicitud**
(*petition*): Una solicitud formal escrita, a veces llamada un pedimento, presentada al tribunal en que se solicita cierto recurso disponible de acuerdo a la ley.

CÓMO VESTIR Y COMPORTARSE EN EL TRIBUNAL

El tribunal es un lugar respetuoso y formal, donde usted desea presentar su versión del asunto y prevalecer. Vístase, hable, y pórtese como corresponde:

1. Lleve ropa limpia y en buen estado que no llame excesivamente la atención.
2. No lleve sombrero, gorra, pantalón corto, camisa que deje al descubierto la cintura, camiseta sin mangas u otra ropa reveladora. Pueden existir excepciones para la indumentaria religiosa.
3. Apague los teléfonos celulares y buscapersonas (pagers).
4. Hable clara y respetuosamente. Diríjase al juez, no a la parte contraria.
5. Vaya al grano. No se deje ir por las ramas. Trate únicamente los temas que el juez va a decidir.
6. No mastique chicle, grite, diga groserías, ni emplee lenguaje inapropiado.

7. Póngase en el lugar del juez ante quien alguien comparece para solicitar un fallo favorable. ¿Cómo quisiera usted que la persona se portara para que usted pudiera evaluar los hechos de manera justa y sin distracciones?

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4. El sitio de internet de su tribunal local.

Los integrantes del personal del tribunal no son abogados, y la ley les prohíbe dar asesoría legal.

El personal del tribunal no puede decirle si sus documentos están llenados correctamente.

Usted puede ver o hablar con un juez de su caso únicamente cuando comparece ante el juez en el tribunal.

Personas que se auto representan en procedimientos civiles en el Tribunal Superior

INFORMACIÓN PARA LITIGANTES PRO SE

Comprender y navegar el proceso jurídico no es fácil y hasta puede resultar frustrante, sobre todo para las personas que se encargan de su propia representación jurídica (los litigantes pro se). Los tribunales estatales y locales tienen reglas extensas (vea E. 5) con las que debe cumplir toda persona que comparece ante el Tribunal Superior. Aunque una hoja informativa no puede decirle todo lo que necesita saber, esperamos que la siguiente información resulte útil para aclarar algunas de las dudas de la auto representación.

A. USTED DESEA INICIAR UNA ACCIÓN EN CONTRA DE OTRA PERSONA. Si usted inicia una acción, se le considera la parte solicitante, la parte demandante o la parte actora.

1. Antes de poder hacer cualquier cosa en el tribunal, usted debe llenar los documentos, presentar su caso, y pagar una cuota de presentación (la Secretaría del Juzgado le puede informar cuáles son las formas de pago aceptadas):

Obtenga los formularios correctos (si existen) en línea o de la Secretaría.

Los primeros formularios que usted debe llenar (con bolígrafo o a máquina, no con lápiz) son una "Solicitud" y un "Citorio" para un caso en el Tribunal de Familias, o bien una "Demanda" y un "Citorio" para un caso civil. El caso comienza cuando usted presenta estos formularios al tribunal y cumple con la notificación oficial de la parte demandada.

Recuerde siempre su número de caso y guárdelo en sus registros (por ejemplo, 06-2-12345-7).

Debe notificar a la parte contraria (a través de las fuerzas del orden público, un proceso civil u otro adulto que no sea usted) y obtener una declaración o comprobante de notificación para mostrar que cumplió con este requisito.

Ahora le toca esperar. Si la parte contraria **NO RESPONDE** dentro del plazo establecido, la parte contraria técnicamente se encuentra en estado de incumplimiento, aunque usted todavía debe obtener una orden judicial que indique este incumplimiento. Es asimismo necesario presentar las órdenes finales en el tribunal, que concuerden con la solicitud o demanda que usted presentó.

Si la parte contraria responde a tiempo, es necesario cumplir con otros procedimientos, tales como peticiones o un juicio, hasta que usted y la otra parte resuelvan el caso.

En la mayoría de los calendarios de peticiones (las listas de causas que un juez va a escuchar), es obligatorio confirmar que usted asistirá a la audiencia. Si existe este requisito, la confirmación se debe hacer antes de la audiencia. Llame al Tribunal Superior de su condado para informarse acerca de los requisitos específicos.

2. Para entablar una acción o agregar documentos al expediente, la Secretaría acepta únicamente documentos originales con firmas originales. Asegúrese de traer copias de los documentos que va a presentar para fines de conformidad (para que los documentos concuerden con los originales) para la notificación, sus registros personales y para el juez. Las copias para el juez son obligatorias en la mayoría de los condados. Llame al Tribunal Superior de su condado para informarse acerca de los requisitos específicos.

3. Una vez que usted entrega documentos a la Secretaría para que se presenten al tribunal, la ley exige que la Secretaría le cobre por las copias de documentos en su expediente. La cuota es de \$0.50 por página por copias no certificadas de documentos escritos y \$0.25 por página por copias no certificadas de documentos en formato electrónico. Las copias certificadas cuestan \$5.00 para la primera página y \$1.00 por página para las demás páginas del mismo documento (no de su expediente completo) sin importar en qué formato exista el original.

4. NO ES NECESARIO firmar los documentos frente al Secretario. Puede firmarlos antes.

5. Llene todos los documentos o formularios clara y completamente, con bolígrafo o a máquina, no con lápiz.

B. USTED DESEA DEFENDERSE DE UNA ACCIÓN INICIADA POR OTRA PERSONA. Si otra persona ha iniciado una acción en contra de usted, a usted se le considera la parte demandada o requerida.

1. Su respuesta o contestación a la solicitud entablada en su contra la debe presentar a la Secretaría dentro del plazo establecido en el citatorio. ASEGÚRESE de cumplir con la notificación de la parte contraria, enviándole una copia.

2. Una vez que usted ha respondido, la otra parte tiene la obligación de notificarle de cualquier futuro procedimiento.

3. Si usted NO RESPONDE en forma oportuna a un citatorio, se le puede considerar en estado de incumplimiento y puede perder el derecho a que un juez escuche su versión de los hechos.

C. VOCABULARIO IMPORTANTE. Conviene conocer los siguientes términos:

- | | |
|--|---|
| 1. Calendario o lista de causas
(<i>calendar</i>): | Lista de casos señalados para una audiencia en el tribunal. |
| 2. Citatorio y demanda
(<i>summons and complaint</i>): | Dos documentos separados que se presentan juntos para iniciar una demanda civil. |
| 3. Citatorio y solicitud
(<i>summons and petition</i>): | Dos documentos separados que se presentan juntos para iniciar una acción en el tribunal de familias. |
| 4. Conferencia de resolución
(<i>settlement conference</i>): | Una reunión de todas las partes con el juez en su despacho con el fin de llegar a un acuerdo después de |

que se ha presentado una respuesta y NO EXISTE un acuerdo sobre todos los puntos.

5. **Conformar**
(*conform*): Medida tomada para lograr que un documento concuerde con el original.
6. **Copias para el juez**
(*bench copies*): Copias para el juez de cualquier petición, declaración u orden propuesta ante el tribunal para una audiencia. Estas copias se deben entregar antes del MEDIODÍA del día PREVIO A la audiencia.
7. **Ex parte**
(*ex parte*): Una expresión en latín que denota una acción realizada para una sola parte, o a nombre de ella o a solicitud de ella, sin notificación a la parte contraria.
8. **Litigante**
(*litigant*): Un término general que significa una de las partes (la parte demandante o demandada) en una acción jurídica.
9. **Orden**
(*order*): Una instrucción o mandato dictado por un tribunal y asentado en las actas del tribunal.
10. **Petición**
(*motion*): Un pedido escrito presentado por una parte al tribunal, en que se solicita una orden para conceder cierto beneficio.
11. **Pro se**
(*pro se*): Una expresión en latín que significa "por sí mismo" (se refiere a las personas que se auto representan).
12. **Programar una audiencia**
(*note the matter*): Llenar un documento llamado la Nota de Audiencia para programar un caso en el calendario. Esto se hace por escrito, nunca por teléfono.
13. **Solicitud**
(*petition*): Una solicitud formal escrita, a veces llamada un pedimento, presentada al tribunal en que se solicita cierto recurso disponible de acuerdo a la ley.

D. CÓMO VESTIR Y COMPORTARSE EN EL TRIBUNAL

El tribunal es un lugar respetuoso y formal, donde usted desea presentar su versión del asunto y prevalecer. Vístase, hable, y pórtese como corresponde:

1. Lleve ropa limpia y en buen estado que no llame excesivamente la atención.
2. No lleve sombrero, gorra, pantalón corto, camisa que deje al descubierto la cintura, camiseta sin mangas, u otra ropa reveladora. Pueden existir excepciones para la indumentaria religiosa.
3. Apague los teléfonos celulares y buscapersnas (pagers).
4. Hable clara y respetuosamente. Diríjase al juez, no a la parte contraria.

5. Vaya al grano. No se deje ir por las ramas. Trate únicamente los temas que el juez va a decidir.

6. No mastique chicle, grite, diga groserías, ni emplee lenguaje inapropiado.

7. Póngase en el lugar del juez ante quien alguien comparece para solicitar un fallo favorable. ¿Cómo quisiera usted que la persona se portara para que usted pudiera evaluar los hechos de manera justa y sin distracciones?

E. NÚMEROS DE TELÉFONO Y SITIOS DE INTERNET ÚTILES

1. Oficina Administrativa de los Tribunales (AOC, por las siglas en inglés): 360-753-3360

Internet: www.courts.wa.gov

2. Proyecto de Justicia del Noroeste/CLEAR: 1-888-201-1014

Internet: www.nwjustice.org

3. Información jurídica: www.WashingtonLawHelp.org o bien en www.lawforwa.org

4. Formularios en línea: www.courts.wa.gov/forms

5. Reglas de los tribunales estatales y locales: www.courts.wa.gov/court_rules/

Los Facilitadores del Juzgado ofrecen servicios de ayuda con ciertos asuntos de derecho familiar tales como el divorcio (disolución), la paternidad o la tutela de parte de alguien que no sea el padre o la madre. Comuníquese con el tribunal superior local o con la Oficina Administrativa de los Tribunales para más información.

Los integrantes del personal del tribunal no son abogados y la ley les prohíbe dar asesoría legal.

El personal de la Secretaría del Juzgado no puede decirle si sus documentos están llenados correctamente.

Usted puede ver o hablar con un juez de su caso únicamente cuando comparece ante el juez en el tribunal.

Comité de Confianza Pública de la AOC



Board for Judicial Administration Legislative Report - 2012 *Sine Die*

Special Session

The Legislature adjourned their 2012 60-day regular session on Thursday, March 8th without passing the supplemental budget necessary to maintain a balanced budget. Governor Gregoire called the Legislature back into special session beginning Monday, March 12th. By law, the Governor can only convene a special session for 30 days, but the Legislature can adjourn in less than that if they get their work done early. Legislative leadership devoted the first week of special session to “5 Corners” negotiations that will shape this session, which is to be devoted to passing a supplemental budget. Legislators who are not leadership or budget negotiators are not expected to return to Olympia until next week at the earliest. According to Attorney General McKenna, legislators have been in session more than 211 days since December 10, 2010 – over 46% of the time. This new special session is the third legislative session since December 2011, and the three combined would total more than a regular 105-day session if they use the full 30 days.

Budget

Both currently active budget drafts treat the judicial branch similarly, and we have no reason at this time to believe that a final budget will look dramatically different from one of these drafts.

Senate Floor Budget (03/02/12)

The budgets for the Supreme Court, Court of Appeals, Office of Civil Legal Aid, Office of Public Defense, and the Commission on Judicial Conduct are not reduced in the Senate floor budget proposal. The Law Library budget is reduced by \$1 million in state general fund (SGF) and backfilled with \$1 million in Judicial Information System (JIS) account funding. Becca/Truancy are not reduced in the Senate floor proposal. The AOC agency reduction is backfilled with JSTA funds.

House Budget (03/07/12)

The budgets for the Administrative Office of the Courts, Court of Appeals, Office of Public Defense, and the Commission on Judicial Conduct are not reduced in the House floor budget proposal. The Law Library budget is reduced by \$1.450 million in state general fund (SGF) and backfilled with \$1.450 million in Judicial Information System (JIS) account funding. \$50,000 of JIS funding is also provided for a study of the Law Library’s operations. Becca/Truancy are reduced by \$1,341,000.

Bills of Interest

SHB 2196 – Uniform Collaborative Law Act

Summary – Adopts the Uniform Collaborative Law Act as drafted by the Uniform Law Commission. The original bill included all of the provisions; the amended version removes the provisions better suited to court rule.

BJA position – Concerns – Support WSBA’s efforts to remove the provisions governing the practice of law.

Status – Bill did not pass. WSBA is considering the submission of a proposed rule to the Supreme Court.

SHB 2357 – Sales & Use Tax for Chemical Dependency, Mental Health Treatment, Therapeutic Courts

Summary – A county with a population larger than 25,000 and a city with a population over 30,000 may use up to 50 percent of the mental health/chemical dependency sales and use tax to supplant existing funds in the first three calendar years in which the tax is imposed. Up to 25 percent may be used to supplant existing funds in the fourth and fifth years in which the tax is imposed. This new supplant timeline applies to jurisdictions imposing the tax after December 31, 2011. (Allows Tacoma to have the same authority as jurisdictions currently imposing the tax.)

BJA Position – Support

Status – Delivered to Governor

HB 2535 – Juvenile Gang Court

Summary – Authorizes counties to establish and operate juvenile gang courts, where juvenile offenders involved in criminal gangs may receive evidence-based services designed to reduce gang-related offenses while under continuous court supervision.

BJA Position – No position on bill but would like to see overarching enabling legislation for therapeutic courts rather than myriad rules as each new specialty court is added.

Status – Delivered to Governor

SHB 2541 – Sealing Juvenile Records

Summary – One of two bills resulting from the Juvenile Records Task Force. Requires the court to set a date for an administrative hearing, within 30 days of the juvenile's eighteenth birthday, to enter an order sealing a successfully completed deferred disposition. Requires the court to grant a motion to seal a successfully completed deferred disposition which was vacated prior to the effective date of this act, if the person is 18 years or older when the motion to seal is made.

BJA Position – No position

Status – Delivered to Governor

HB 2542 – Juvenile Records Access

Summary – The second of two bills resulting from the Juvenile Records Task Force. Provides that juvenile offender records are confidential, unless the juvenile has been charged with a serious violent offense or the court, after a hearing, has ordered that the records be open to public inspection. Provides that confidential juvenile records may not be published or distributed.

BJA Position – No Position

Status – Bill did not pass

SHB 2668 – Bail Practices

Summary – This bill represents the unanimous recommendations from the bail workgroup and did not include a required minimum bail premium. Amends the licensing and professional conduct requirements of bail bond agents. Defines the circumstances under which a bail bond agent can surrender a person under their bond. Requires a court to provide a surety with notice of a defendant's failure to appear within 14 days.

BJA Position – Support

Status – Bill did not pass

SSB 6025 – District Judge Retirement Age

Summary – Under the original bill, a district judge must retire from judicial office at the expiration of the judge's term of office in which the judge attains the age of 75 years. In the amended bill, the retirement age is eliminated.

BJA Position – Support

Status – Bill did not pass

E2SSB 6284 – Civil Traffic Infractions

Summary – Limits the requirement that the Department of Licensing (DOL) suspend a person's driving privilege for failure to respond to a notice of traffic infraction, failure to appear at a requested hearing, violation of a written promise to appear in court, or failure to comply with the terms of an infraction to traffic infractions for a "moving violation." Requires the DOL, in consultation with the Administrative Office of the Courts, to adopt and maintain a rule defining the term "moving violation."

BJA Position – No Position

Status – Delivered to Governor

SB 6389 – Crime Victims' Services

Summary – A fee of \$10 must be added to every traffic infraction. Revenue from this fee must be deposited in the crime victims' services account.

BJA Position – Oppose

Status – Bill did not pass but could be considered necessary to implement the budget because funding was assumed in the original Senate budget draft.

SSB 6494 – Becca/Truancy

Summary – The maximum age of a child at which a school district may be legally required to file a truancy petition is lowered from 17 to 16 years of age. Court jurisdiction is not required to terminate when a child turns 17, nor is a school district precluded from filing a truancy petition. The truancy petition must include information describing the child's current academic status in school. A court may not issue a bench warrant for a child for failure to appear at an initial truancy hearing, but may enter a default order assuming jurisdiction over the child. After the court assumes jurisdiction, the school district must periodically update the court about the child's academic status in school at a schedule to be determined by the court, with the first report to be received no later than three months from the date at which the court assumes jurisdiction.

BJA Position – Not reviewed by BJA. Supported by SCJA.

Status – Delivered to Governor, reduction is assumed in House budget draft.

SB 6511 – Court Procedures for Review of Petitions for Protection Orders

Summary – The rules of evidence must be strictly observed in a hearing on a petition for a protection order. The parties and any witnesses must be placed under oath prior to testimony. The judge must disclose to all parties any information other than personally identifying information which the judge reviews from any criminal or civil database related to the petition.

BJA Position – Oppose

Status – Bill did not pass but a workgroup is being created. Judge Chris Wickham and Judge Steve Brown will participate.

ESB 6608 – Judicial Stabilization Trust Account Surcharge

Summary – The temporary surcharges, other than the surcharge for small claims actions, are all increased by \$10. The surcharges still sunset on July 1, 2013.

BJA Position – Support with concerns relative to the extensive use of user fees to fund the judicial branch.

Status – Delivered to Governor, funding is assumed in both current budget drafts.

All BJA positions, Current as of March 13, 2012

Strike = Dead Bills

Bill	Description	Date	Position	Hearings / Comments
HB 1245 5630	Municipal court judges Changing the election and appointment provisions for municipal court judges. H Judiciary - Leg Link	01/09/2012	Request	BJA will not pursue this bill this year. Mellani will so inform the sponsors and committee chairs.
HB 2177	Child sexual exploitation Protecting children from sexual exploitation. H subst for - Leg Link Del to Gov	01/09/2012	No Position	H- Public Safety & Emergency Preparedness 01/11/2012 at 13:30 BJA takes no position at this time. SCJA will inform BJA if the position should be reconsidered.

HB 2195	Depositions & discovery act Enacting the uniform interstate depositions and discovery act. Del to Gov - Leg Link	01/23/2012	No Position	H- Judiciary 01/09/2012 at 13:30
		01/17/2012	Under Review	
		01/09/2012	Under Review	To be reconsidered next week. Mellani will inform the clerks of the bill.
HB 2196	Collaborative law act Adopting the uniform collaborative law act. H subst for - Leg Link	01/17/2012	Concerns	H- Judiciary 01/09/2012 at 13:30 BJA will support the WSBA's floor amendment to remove the provisions relating to the governance of the practice of law. Mellani will check with the supreme court regarding their interest in a court rule proposal.
		01/09/2012	Concerns	BJA takes the position of concerns at this time but the bill is subject to further review next week after Nan has had the opportunity to weigh in.
HB 2357	Sales & use tax/mental health Concerning sales and use tax for chemical dependency, mental health treatment, and therapeutic courts. H subst for - Leg Link Del to Gov	01/23/2012	Support	H- Ways & Means 01/23/2012 at 15:30 Mellani will sign in at hearings
HB 2399	State law library Transferring jurisdiction of the state law library to the University of Washington. H SGTribalAff - Leg Link	01/23/2012	Watch	H- State Government & Tribal Affairs 01/25/2012 at 08:00 Referred by SCJA. LL and UW to take lead on this issue
HB 2423	Bail for felony offenses Addressing bail for felony offenses. H Pub Safety - Leg Link	01/23/2012	Support	H- Public Safety & Emergency Preparedness 01/25/2012 at 13:30 Mellani will sign in at hearing
HB 2535	Juvenile gang court Creating a juvenile gang court. Del to Gov - Leg Link	01/23/2012	No Position	H- Early Learning & Human Services 01/24/2012 at 13:30 No position on bill, would like to see overarching enabling statute for therapeutic courts generally rather than myriad rules as each new specialty court is added.
		01/17/2012	Under Review	Trial court associations should look at this bill and the veterans' court in relation to how therapeutic courts should proliferate, in general. BJA will review next week.
HB 2541	Sealing juvenile records Concerning the sealing of juvenile records. H subst for - Leg Link Del to Gov	01/23/2012	No Position	H- Early Learning & Human Services 01/24/2012 at 13:30
		01/17/2012	Under Review	BJA would like to hear from the trial court associations and will review next week.

HB 2542	Juvenile records access Making juvenile records confidential. H Gen Gov Apps - Leg Link	01/23/2012	No Position	H- Early Learning & Human Services 01/24/2012 at 13:30 But support amendment to address concern about availability for risk assessment and future proceedings.
		01/17/2012	Under Review	BJA would like to hear from the trial court associations and will review next week.
HB 2547 6404	Veterans' courts Authorizing the establishment and use of veterans' courts. H Judiciary - Leg Link	01/23/2012	No Position	No position on bill, would like to see overarching enabling statute for therapeutic courts generally rather than myriad rules as each new specialty court is added.
		01/17/2012	Under Review	Trial court associations should look at this bill and the juvenile gang court in relation to how therapeutic courts should proliferate, in general. BJA will review next week.
HB 2661	Election of judges Concerning the election of judges. H Judiciary - Leg Link	01/23/2012	Oppose	
HB 2668	Bail practices Addressing bail practices. H subst for - Leg Link	01/23/2012	Support	H- Public Safety & Emergency Preparedness 01/25/2012 at 13:30 Mellani will sign in at hearing
HB 2711	Language access providers Narrowing the definition of language access providers. H Ways & Means - Leg Link	01/30/2012	Support	H- Labor & Workforce Development 01/30/2012 at 18:00 Support clarification of law regarding court interpreters. Sign in support on 2(10)(b)
S 4103.1	Concerning the screening of tenants - Leg Link	01/30/2012	Oppose	Sign in opposed if bill gets a hearing.
HJR 4203 8204	Retirement age for judges Eliminating the mandatory retirement age for judges. H Judiciary - Leg Link	01/09/2012	Support	Regarding 4203, 8204, 5147, 5323, 6025, 8200 - BJA supports but prefers the bill to extend retirement to the end of the current term. BJA is appropriately concerned about budget impacts so supports the policy but not necessarily the timing. BJA supports the DMCJA bill that will not have a fiscal impact. Mellani will so testify in Senate Judiciary.
SSB 5019	Nonconviction records Concerning the privacy of nonconviction records. S HumServ/Corr - Leg Link	01/11/2012	Oppose	S - Human Services & Corrections 01/13/2011 at 10:00 Upon consultation with JISC DD Committee, BJA would prefer the creation of a task force to work through the issues in this bill during the interim rather than rushing through it this session.
		01/09/2012	Oppose	Oppose as written but Mellani will make overture to proponents regarding possibility for negotiation.

SB 5055	Probate/pers. representative Regulating the notice of appointment of a personal representative in probate proceedings. S Judiciary - Leg Link	01/09/2012	No Position	S - Judiciary 01/14/2011 at 13:30 SCJA will take the lead on this bill.
SB 5147	Retirement age for judges Removing the mandatory retirement age for judges. S Judiciary - Leg Link	01/09/2012	Support	S - Judiciary 01/11/2012 at 13:30 Regarding 4203, 8204, 5147, 5323, 6025, 8200 - BJA supports but prefers the bill to extend retirement to the end of the current term. BJA is appropriately concerned about budget impacts so supports the policy but not necessarily the timing. BJA supports the DMCJA bill that will not have a fiscal impact. Mellani will so testify in Senate Judiciary.
SB 5323	Retirement of judges Modifying retirement provisions for judges. S Judiciary - Leg Link	01/09/2012	Support	S - Judiciary 01/11/2012 at 13:30 Regarding 4203, 8204, 5147, 5323, 6025, 8200 - BJA supports but prefers the bill to extend retirement to the end of the current term. BJA is appropriately concerned about budget impacts so supports the policy but not necessarily the timing. BJA supports the DMCJA bill that will not have a fiscal impact. Mellani will so testify in Senate Judiciary.
SB 5989	Child sexual exploitation Restricting access to evidence in prosecutions of sexual exploitation of children. S Judiciary - Leg Link	01/23/2012	Concerns	Referred by SCJA. Concerns re conflict with court rule
SB 6025	District judge retirement age Eliminating the mandatory retirement provision for district judges. S subst for - Leg Link	01/09/2012	Support	S - Judiciary 01/11/2012 at 13:30 Regarding 4203, 8204, 5147, 5323, 6025, 8200 - BJA supports but prefers the bill to extend retirement to the end of the current term. BJA is appropriately concerned about budget impacts so supports the policy but not necessarily the timing. BJA supports the DMCJA bill that will not have a fiscal impact. Mellani will so testify in Senate Judiciary.
SB 6071	Vacating records Concerning the vacation of records. S Judiciary - Leg Link	01/17/2012	No Position	S - Judiciary 01/18/2012 at 13:30
SB 6284 2680	Civil traffic infractions Reforming Washington's approach to certain nonsafety civil traffic infractions by authorizing a civil collection process for unpaid traffic fines and removing the requirement for law enforcement intervention for the failure to appear and pay a traffic ticket. S subst for - Leg Link Del to Gov	01/23/2012	Under Review	S - Judiciary 01/25/2012 at 13:30 Ask Darby to come to BJA meeting

SB 6291	Sealing juvenile records Concerning the sealing of juvenile records. S 2nd Reading - Leg Link	01/23/2012	No Position	S - Human Services & Corrections 01/20/2012 at 08:00
		01/17/2012	Under Review	BJA would like to hear from the trial court associations and will review next week.
SB 6292 2SSB 6292	Juvenile records access Making juvenile records confidential. S Rules 2 - Leg Link	01/23/2012	No Position	S - Human Services & Corrections 01/20/2012 at 08:00 But support amendment to address concern about availability for risk assessment and future proceedings.
		01/17/2012	Under Review	BJA would like to hear from the trial court associations and will review next week.
		02/08/2012	No Position	Bill has been amended to eliminate fiscal impact, focuses instead on diversion.
SB 6321 SSB 6321 2564	Sealing records/housing opps Facilitating the sealing of certain unlawful detainer and protection order records to protect housing opportunities. S 2nd Reading - Leg Link	01/30/2012	Oppose	S - Judiciary 01/31/2012 at 10:00 Sign in
		01/23/2012	Under Review	Ask for association and DD Committee feedback and review next week.
		01/17/2012	Under Review	BJA would like to hear from the trial court associations and JISC DD Committee and will review next week.
		02/08/2012	Watch	Bill has been amended to prohibit certain action by landlords rather than focusing on the court records.
SB 6389	Crime victims' services acct Creating the crime victims' services account. S Rules 2 - Leg Link	01/23/2012	Oppose	S - Human Services & Corrections 01/31/2012 at 13:30 Very complicated accounting, convoluted system
SB 6511	Protection order petitions Concerning court procedures for review of petitions for protection orders. S HumServ/Corr - Leg Link	02/08/2012	Oppose	S - Human Services & Corrections 02/02/2012 at 10:00 Bill is not moving. Chair Hargrove asked sponsor to convene informal workgroup during interim.
		01/30/2012	Oppose	Anne will draft letter for BJA
ESB 6608 2798	Judicial stabil. trust acct. Changing judicial stabilization trust account surcharges. S 2nd Reading - Leg Link Del to Gov	02/27/2012	Support	S - Ways & Means 02/27/2012 at 13:30 Referred by SCJA and DMCJA. Support but be clear about the concerns re "user fee justice."

SJR 8200	Retirement of judges Amending the Washington state Constitution so that judges may retire at the expiration of his or her term of office after attaining the mandatory retirement age. S Judiciary - Leg Link	01/09/2012	Support	S - Judiciary 01/11/2012 at 13:30 Regarding 4203, 8204, 5147, 5323, 6025, 8200 - BJA supports but prefers the bill to extend retirement to the end of the current term. BJA is appropriately concerned about budget impacts so supports the policy but not necessarily the timing. BJA supports the DMCJA bill that will not have a fiscal impact. Mellani will so testify in Senate Judiciary.
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Board for Judicial Administration Filing Fee Workgroup Charter

Charge:

The Filing Fee Workgroup is created as an *ad hoc* workgroup of the Board for Judicial Administration (BJA) to review the existing fee structure for civil cases in Washington State courts and other jurisdictions and to make recommendations to the BJA regarding whether changes should be made to the current structure.

Membership:

Membership will consist of the following:

- One member nominated by the Superior Court Judges' Association
- One member nominated by the District & Municipal Court Judges' Association
- One member nominated by the Supreme Court and Court of Appeals
- One member nominated by the Washington State Association of County Clerks
- Two members nominated by the Washington State Bar Association
 - One member representing the plaintiffs' bar
 - One member representing the civil defense bar
- One member nominated by the Washington State Association of Counties
- One member nominated by the Access to Justice Board
- Two members nominated by the Washington State House of Representatives
 - One member representing the democratic caucus
 - One member representing the republican caucus
- Two members nominated by the Washington State Senate
 - One member representing the democratic caucus
 - One member representing the republican caucus

AOC Staff:

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2011-2012 Policy Paper

Courts Are Not Revenue Centers



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Principle 7: <i>The proceeds from fees, costs and fines should not be earmarked for the direct benefit of any judge, court official, or other criminal justice official who may have direct or indirect control over cases filed or disposed in the judicial system. All funds collected from fees, costs and fines should be deposited to the account of the governmental source providing the court’s funding.</i>	11
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If the right to obtain justice freely is to be a meaningful guarantee, it must preclude the legislature from raising general welfare through charges assessed to those who would utilize our courts.

– Supreme Court of Texas

I. INTRODUCTION

A quarter of a century ago the Conference of State Court Administrators adopted a set of standards¹ (hereinafter referenced as the “1986 Standards”) related to court filing fees, surcharges and miscellaneous fees in response to a burgeoning reliance upon courts to generate revenue to fund both the courts and other functions of government. The issue of court revenue - and the relationship of that revenue to funding the courts - remains fresh and relevant and warrants a renewed examination and restatement of the previously adopted standards, couched here as “principles.”

The intersection of court revenues and court funding is complex and includes constitutional, statutory and case law mandates and restraints governing access to justice, governmental revenues, and appropriate uses of court-generated revenue:

- A variety of vehicles to deliver court revenue that are difficult to define consistently and that present different problems or issues depending upon the type of case (civil, criminal or traffic);
- The tension between the public benefit courts provide to society as a whole and the private benefit which inures to individual litigants; and
- The economic and fiscal pressures and practical realities that face legislative bodies and court leadership.

Court leaders must navigate among the particular historical, political and budgetary realities that face the courts and legislative bodies and serve as the backdrop to every new and increased fee or cost in their individual states. For revenue sources attached to civil cases, court leaders must advocate for the principles of access to justice, the balance of public good and private benefit in establishing court fees,

and restricting revenue generation to court purposes only. In criminal cases, court leaders have a responsibility not only to ensure that judicial orders are enforced - *i.e.*, fees and fines are collected² - but also to ensure that the system does not impose unreasonable financial obligations assessed to fund other governmental services. In traffic infractions, whether characterized as criminal or civil, court leaders face the greatest challenge in ensuring that fines, fees, and surcharges are not simply an alternate form of taxation.

Court leaders must work toward uniformity across their state and be the experts on the typically complex scheme of fees and costs that currently exists, while seeking a more principled and transparent approach.

II. TERMINOLOGY AND DEFINITIONS

There is wide variation among the states (and sometimes within a state) as to the terms used to describe court revenue vehicles and the particular meaning associated with the term in differing circumstances. This paper re-adopts the definitions from the 1986 Standards as listed below, with an additional definition for “Fines and Penalties.” These terms, as they appear in this paper, are therefore consistent with the following definitions, with the exception of the civil and criminal case law discussions where the terms are used within the context of their meaning in the particular state in which the case arose.

Fees: Amounts charged for the performance of a particular court service and that are disbursed to a governmental entity. These fees are specified by an authority at a fixed amount.

¹ Standards Relating to Court Costs: Fees, Miscellaneous Charges and Surcharges and A National Survey of Practice, Conference of State Court Administrators, June, 1986. NCSC KF 8995 C6 1986 C.4

² “As State Courts Face Cuts, a New Push to Squeeze Defendants,” New York Times, April 6, 2009; available at <http://www.nytimes.com/2009/04/07/us/07collection.html> ; last visited Dec. 30, 2010.

Miscellaneous Charges: Amounts assessed that ultimately compensate individuals or non-court entities for services relating to the process of litigation. These amounts often vary from case to case based on the services provided.

Surcharges: Amounts added to fines, fees, or court costs that are used for designated purposes or are deposited into the general fund.

Court Costs: Amounts assessed against a party or parties in litigation. Such amounts are determined on a case-by-case basis and vary in relation to the activities involved in the course of litigation. Court costs include fees, miscellaneous charges and surcharges.

Fines and Penalties: Amounts assessed to penalize an individual or organization for violating a provision of law or rule following conviction or other adjudicatory decision by a judicial officer.

III. RELEVANT CASE LAW – FILING FEES

Access to the courts is a fundamental right. In *Boddie v. Connecticut*, the Supreme Court of the United States held unconstitutional a state statute requiring payment of fees before commencing a divorce action. The Court found that barring access of indigent persons through the imposition of a filing fee was inconsistent with the obligations imposed under the due process clause of the Fourteenth Amendment.³

Beyond this basic precept, the thrust of the case law concerning civil filing fees is that such fees may be imposed only to fund programs directly involving judicial services. When the connection between fees imposed and judicial services administered is slight, courts generally find that an unreasonable burden is placed upon the litigant, particularly in those states that have a constitutional “open courts” provision.⁴

³ *Boddie v. Connecticut*, 401 U.S. 371 (1971)

⁴ E.g., Oklahoma Constitution, Article II § 6, states: “The courts of justice of the State shall be open to every person, and speedy and certain remedy afforded for every wrong and for every injury to person, property, or reputation; and right and justice shall be administered with sale, denial, or prejudice.”

Thirty-eight states currently have open courts provisions within their constitutions.⁵ The general purpose of such provisions is to ensure that citizens are not “arbitrarily deprived of effective remedies designed to protect basic individual rights.”⁶ In most of these states, the open courts provision is interpreted to prohibit “filing fees that go to fund general welfare programs, and not court-related services.”⁷

For example, in a Texas Supreme Court case, *LeCroy v. Hanlon*, the court held that “filing fees that go to state general revenues . . . are unreasonable impositions on the state constitutional right of access to the courts. Regardless of its size, such a filing fee is unconstitutional for filing fees cannot go for non-court-related purposes.”⁸ The court in *LeCroy* based its analysis on an Illinois Supreme Court case that examined whether a \$5 fee charged for divorce proceedings could go to finance a statewide domestic violence shelter program. The Illinois high court had held that such a fee was unconstitutional because it “had no relation to the judicial services rendered and was assessed to provide general revenue.”⁹ The court explained that

[c]ourt filing fees and taxes may be imposed only for purposes relating to the operation and maintenance of the court . . .

Dissolution-of-marriage petitioners should not be required as a condition to filing, to support a general welfare program that relates neither to their litigation nor to the court system. If the right to obtain justice freely is to be a meaningful guarantee, it must preclude the legislature from raising general welfare through charges assessed to those who would utilize our courts . . . [I]f domestic violence services are deemed sufficiently court related to validate the funding scheme, countless other social

⁵ Erin K. Burke, *Note: Utah's Open Courts: Will Hikes in Civil Filing Fees Restrict Access to Justice?*, 2010 UTAH L. REV. 201, 201 n.1; *Berry v. Beech Aircraft Corp.*, 717 P.2d 670, 674 (Utah 1985).

⁶ *Berry*, 717 P.2d at 675; *State v. Saunders*, 25 A. 588, 589 (N.H. 1889) (“The incidental right to an adequate remedy for the infringement of a right derived from the unwritten law, is coeval with the right of which it is an incident.”)

⁷ *LeCroy v. Hanlon*, 713 S.W.2d 335, 341 (Tex. 1986) (“Nearly all states with similar open courts provisions have held that filing fees that go to fund general welfare programs, and not court-related services, are unconstitutional.”)

⁸ *Id.* at 342.

⁹ *Id.* at 341.

welfare programs would qualify for monies obtained by taxing litigants.¹⁰

The Louisiana Supreme Court reached a similar conclusion in *Safety Net for Abused Persons v. Segura*, invalidating a statute that imposed filing fees in all civil suits to fund a family violence program.¹¹ The court held that fees assessed must be for services that bear a “logical connection to the judicial system.”¹² If a program is not “part of the judicial branch, serves no judicial or even quasi-judicial function, and is not a program administered by the judiciary, [then] it is not a link in the chain of the justice system.”¹³ The court elaborated that “clerks of courts should not be made tax collectors for our state, nor should the threshold to our justice system be used as a toll booth to collect money for random programs created by the legislature.”¹⁴

The Supreme Court of Oklahoma has also held that its open courts provision¹⁵ is violated if portions of court costs are deposited into accounts to fund non-judicial programs with “no relation to the services being provided or to the maintenance of the courts.”¹⁶ In that case, the challenged fee assessments included costs in adoption cases deposited for the Voluntary Registry and Confidential Intermediary program and the Mutual Consent Voluntary Registry, costs in civil cases deposited for the Child Abuse Multidisciplinary Account, and a cost credited to the Office of the Attorney General Victim Services Unit.¹⁷ Because the programs were “not for the maintenance or support of the court system, nor [meant to] defray [the] expenses of the [judiciary],” the court concluded: “they do not serve a judicial or even a quasi-judicial function.”¹⁸ The programs were “social welfare programs under the operation of the executive branch of government;” and “the funding of these programs through the use of fees imposed on litigants [is] impermissible.”¹⁹

The Oklahoma court clarified that the imposition of court costs on a litigant does not violate the open courts provision if they are “uniform, reasonable and related to the services provided,”²⁰ explaining that

[T]he purpose of the court fees is to reimburse the state for money that otherwise would have to be appropriated for the maintenance of the courts. The legislature may impose court costs and not violate the open access or sale of justice clause when such costs are in the nature of reimbursement to the state for services rendered by the courts. The connection between filing fees and the services rendered by the courts or maintenance of the courts is thus established.²¹

A number of state courts agree that directing civil filing fees into general welfare funds violates the open courts provisions. There are, however, exceptions to this trend. The Alabama Supreme Court²² declined to invalidate a statute that imposed a \$50 civil jury trial fee, a portion of which was directed into a general state fund. The court held that “neither the jury trial fee, nor that portion of it that is paid directly into the general fund, is an unconstitutional tax on the right to litigate or on the right to a jury trial in a civil case.”²³ The court reasoned that “[t]he guarantee of a right to trial by jury is not a guarantee of the ‘right to litigate without expense’; therefore, requiring the payment of a reasonable jury fee is not an infringement on the right to a trial by jury.”²⁴

The Florida Supreme Court has also upheld statutes directing portions of civil filing fees to a general revenue fund. There, the court held that “[d]irecting a portion of the filing fees to the general revenue fund for further appropriation is an accounting mechanism reasonably related to the governmental purpose of funding the administration of justice.”²⁵ Specifically, the court found that “the Legislature would be using the filing fees to fund the administration of justice if it funds the justice system

¹⁰ Id. at 1351.

¹¹ Id. at 1042. The invalidated statute also provided for the imposition of a \$3.00 cost on all criminal cases. (See LA R.S. 13:1906 B.)

¹² *Safety Net for Abused Persons v. Segura*, 692 So.2d 1038, 1044 (La. 1997).

¹³ Id.

¹⁴ Id. at 1042.

¹⁵ See fn. 9.

¹⁶ *Fent v. State ex. Rel. Dept. of Human Services*, 236 P.3d 61, 70 (Okla. 2010).

¹⁷ Id. at 64.

¹⁸ *Fent* at 69.

¹⁹ Id.

²⁰ Id. at 66.

²¹ Id.

²² “That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay.” Alabama Const. Art. I, Sec. 13.

²³ *Fox v. Hunt*, 619 So. 2d 1364, 1367 (Ala. 1993).

²⁴ *Fox*, 619 So. 2d at 1366.

²⁵ *Crist v. Ervin*, No. SC10-1317, 2010 Fla. LEXIS 1858, at *4 (Fla. Nov. 4, 2010).

at a level at least equal to the amount of filing fees that is commingled with other state money in the general revenue fund.”²⁶

Variations are also found in those courts whose state constitutions do not include open courts provisions, such as Arizona. There, a state court of appeals upheld a statute requiring parties in a marriage dissolution action to pay fees that went towards funding a domestic violence shelter and a child abuse prevention and treatment group.²⁷ When the appellant argued that the statute was unconstitutional, the court responded, “Arizona has no comparable [open courts] provision” that relates to an individual’s “right to obtain justice freely,”²⁸ nor a requirement that such court “fees be used only for court-related programs.”²⁹

As a policy matter, some commentators have raised concerns related to the impact of mounting filing fees. Such fees, for example, may be seen as thwarting the judicial function as a viable alternative to less civilized dispute resolution:

the costs to the justice system may be higher if the alternative to resolution of disputes through the courts ... [is] illegal forms of dispute resolution ... [such as] self-help or street justice. Indeed, the Open Courts Provision itself seeks to secure a basic principle of justice that will, in the end, deter persons wronged by others from resorting to self-help and the inevitable violence that ensues when people take the law into their own hands rather than seeking judicial remedies. We ought to remember that access to the courts for the protection of rights and the settlement of disputes is one of the most important factors in the maintenance of a peaceable and well-ordered society.³⁰

Critiques of civil filing fees in federal court may also be analogous, as one writer describes a potential consequence of using access fees as a means of caseload diversion:

It is reasonable to assume that the more money one has, the lower the value, or utility, she will ascribe to each particular dollar; thus, the marginal utility of dollars declines as the amount involved increases. Access fees, therefore, constitute a decidedly inefficient gauge to determine the utility of a suit to the litigant. The use of access fees as entry barriers could very well press litigants with “high utility value” stakes out, while leaving those with lower utility values in.³¹

Policy implications aside, it is clear that a number of state courts carefully scrutinize the use and allocation of filing fees to determine their constitutionality. Many courts, as shown, require that such fees be directed in large part, if not entirely, to court-related purposes. And yet, it is not always clear what exactly “court-related purposes” entail.

The Louisiana Supreme Court offered a broad definition in *Safety Net*, requiring that fees assessed be for services that have a “logical connection to the judicial system,” or that bear a “relationship to the nature of the filing against which it is assessed.”³² Similarly, the Texas Supreme Court held that “[c]harging litigants that are able to pay a reasonable fee for judicial support services does not violate the open courts provision. [T]hey are permitted because they go for court-related purposes.”³³

In a more recent decision, the Louisiana high court relied on the state Judicial Council’s General Guidelines Regarding the Evaluation of Requests for Court Costs and Fees (promulgated in 2004) to determine what might fall under “court costs” and “court-related operational costs.”³⁴ Under those guidelines (further discussed in Part VI), a fee is

a charge or cost . . . that is used to defray the operational costs of the courts or the court-related operational costs of the clerks of court or other court-related functions, and that has been authorized by state law to be collected from a person either filing a document in any civil or criminal proceeding with the clerk of court, appearing in a civil matter before a court, failing to fulfill a condition of

²⁶ *Crist*, 2010 Fla. LEXIS 1858, at *10.

²⁷ *Browning v. Corbett*, 734 P.2d 1030, 1031-1032 (Ariz. App. 1986).

²⁸ *Id.* at 1033.

²⁹ *Id.*

³⁰ *Burke*, 2010 UTAH L. REV. at 220 (quotations omitted).

³¹ Martin D. Beier, *Economics Awry: Using Access Fees for Caseload Diversion*, 138 U. PA. L. REV. 1175, 1193-94 (1990).

³² *Safety Net*, 692 So. 2d at 1044.

³³ *LeCroy*, 713 S.W.2d 335, 342-43 (citations omitted).

³⁴ *State v. Lanclus*, 980 So. 2d 643, 653 (La. 2008).

release, or meeting a condition of probation or other court order.³⁵

This definition is consistent with a number of other courts' interpretations of "court-related purposes":

- the Illinois Supreme Court held that "court filing fees and taxes may be imposed only for purposes relating to the operation and maintenance of the courts";³⁶
- the Supreme Court of Oklahoma explained that the purpose of court costs is "to reimburse the state for the expenses incurred in providing and maintaining all of the officers and other facilities of the court, and is intended as compensation to the state for services rendered, not by the clerk only, but by the entire court";³⁷ and
- the Florida Supreme Court held that directing portions of filing fees to the law library qualified as a judicial purpose, because "the law library fulfills an important and growing need of practitioners, judges, and litigants. It is essential to the administration of justice today, and it is appropriate that its costs be assessed against those who make use of the court systems of our state."³⁸

Fees dedicated for services such as family violence prevention,³⁹ counseling, marriage preservation, or victim services⁴⁰ are suspect, as they are unrelated to the maintenance and operation of the courts. While states like Florida allow for a *portion* of the fees to go to a general revenue fund,⁴¹ other states, like Texas, do not permit even bifurcated allocation of court fees.⁴²

IV. RELEVANT CASE LAW – CRIMINAL COURT COSTS

Most courts agree that court costs imposed in criminal proceedings must bear a reasonable relationship to the expenses of prosecution. However, courts vary widely in their determination of whether such costs must defray the expenses of defendants' particular prosecutions, or whether those costs might go into a larger fund, the purpose of which is to remedy the cause of the offenses.

In Michigan, Wyoming, and Louisiana, costs may be assessed only against a defendant if used to defray the expenses of the defendant's particular prosecution. An early case from the Michigan Supreme Court found that a \$250 court cost imposed on a defendant for violating the "prohibitory liquor law" was excessive because it bore "no reasonable relation to the expenses actually incurred in the prosecution."⁴³ The Michigan Court of Appeals upheld this reasoning in reference to a more recent statute in *People v. Brown*.⁴⁴ In that case, the court held that "expert witness costs were 'expenses specifically incurred in prosecuting the defendant'" and were thus properly assessed. As summarized in a law review article on Michigan court costs,

Michigan cases indicate that state courts have consistently adhered to the position that where assessed costs are to be paid to the state for public expenditures, the amount assessed must arise out of the particular case before the court and be directly or indirectly related to that particular case.⁴⁵

[C]lerks of court should not be made tax collectors for our state, nor should the threshold to our justice system be used as a toll booth to collect money for random programs created by the legislature.

– Supreme Court of Louisiana

³⁵ "General Guidelines Regarding the Evaluation of Requests for Court Costs and Fees," available at http://www.lasc.org/la_judicial_entities/Judicial_Council/CourtCostGuidelines.pdf.

³⁶ *Crocker*, 459 N.E.2d 1346, 1351.

³⁷ *In re Lee*, 168 P.53, 56 (Okla. 1917).

³⁸ *Farabee v. Board of Trustees*, 254 So.2d 1, 5 (Fla. 1971).

³⁹ *Safety Net*, 692 So.2d at 1044; *Crocker*, 459 N.E.2d at 1351.

⁴⁰ *Fent*, 236 P.3d at 70.

⁴¹ *Crist*, 2010 Fla. LEXIS 1858, at *4 (Fla. Nov. 4, 2010).

⁴² *LeCroy*, 713 S.W.2d at 342.

⁴³ *People v. Wallace*, 222 N.W.698, 699 (Mich. 1929).

⁴⁴ *People v. Brown*, 755 N.W.2d 664, 681 (Mich. Ct. App. 2008).

⁴⁵ Elizabeth Campbell, Tanya Marcum, and Patricia Morris, *Study: The Rationale for Taxing Costs*, 80 U. DET. MERCY L. REV. 205, 209 (2003).

The Wyoming Supreme Court has held that “[c]osts of prosecution do not include the general expense of maintaining a system of courts and administration of justice.”⁴⁶ The Louisiana Supreme Court, guided by its decision in *Safety Net*, invalidated a statute assessing costs against traffic offenders that went into the Greater New Orleans Expressway Commission.⁴⁷ The court held that the statute “bears no relation to an individual’s particular offense and does not help defray the costs of prosecuting that particular individual.”⁴⁸ Similarly, the Texas Court of Criminal Appeals has held that assessments of costs for the establishment and maintenance of a law library were invalid, because “costs in criminal cases are assessed as a part of the punishment for the commission of the offense charged.”⁴⁹

In a somewhat less restrictive approach, the Supreme Court of Virginia sustained an assessment of \$5 against all traffic offenders used to defray the costs of administration of the Division of Motor Vehicles.⁵⁰ The court noted that the Division was statutorily required to maintain records to supply evidence in such cases, and to forward abstracts of these records to the Division Commissioner. As such, the assessment was “directly related to convictions for traffic offenses” and “needed to defray, or to defray partially the expense incurred by the State as a result of a conviction for a traffic offense.”⁵¹

Other states permit directing court costs into more general funds to an even greater extent than that permitted for civil filing fees. As the Arkansas Supreme Court noted, “[t]he decisions elsewhere are not unanimous in deciding to what extent the costs in a criminal case must be directly related to that particular prosecution.”⁵² For example, the Florida Supreme Court has specifically rejected the argument “that costs must be expenses incident to case prosecution.”⁵³

This line of cases generally holds that as long as a criminal assessment is *reasonably related to the costs of administering the criminal justice system*, its imposition will not render the courts “tax gatherers” in violation of the separation of powers doctrine,⁵⁴

and that costs may be imposed without a precise relationship to the actual cost of the particular prosecution.⁵⁵ For example,

- the Arizona Supreme Court upheld a statute requiring defendants convicted of driving while impaired to pay a cost that would go into the Highway Safety Program and the Alcohol and Drug Safety Fund;⁵⁶
- the Oklahoma Court of Criminal Appeals upheld a statute requiring that costs assessed against criminal defendants be paid into a victims’ compensation fund,⁵⁷ as well as a statute requiring that costs assessed against defendants convicted of drug trafficking be forwarded to the Drug Abuse Education and Treatment Fund;⁵⁸ and
- the Florida Supreme Court upheld a \$1 cost assessed against all convicted criminal defendants to be deposited in the state general revenue fund, stating “It is not unreasonable that one who stands convicted of such an offense should be made to share in the improvement of the agencies that society has had to employ in defense against the very acts for which he has been convicted.”⁵⁹

Other courts have held that costs assessed against criminal defendants may be directed into funds that generally address the problem or offense of which the defendant was convicted “[I]t is only fair that those who help create the problem should bear some of the costs of trying to alleviate it in themselves or others.”⁶⁰

In other words, no general principle defines the validity of court costs in criminal cases, and such determinations are instead dependent on state-specific holdings. Despite the existence of decisions requiring more restrictive assessment of costs, those courts that permit the direction of funds into victim compensation and drug treatment seem to allow greater latitude than their civil counterparts, which appear less likely to permit the direction of filing fees into such “non-judicial” uses.

There is a further issue in the criminal context: the differential assessment of costs by locality. Courts

⁴⁶ *Arnold v. State*, 306 P.2d 368, 463 (Wyo. 1957).

⁴⁷ *State v. Lanclos*, 980 So. 2d 643, 645 (La. 2008).

⁴⁸ *Lanclos*, 980 So. 2d at 653.

⁴⁹ *Ex parte Carson*, 159 S.W.2d 126, 129 (Tex. Crim. App. 1942).

⁵⁰ *Carter v. Norfolk*, 147 S.E.2d 139, 140-44 (Va. 1966).

⁵¹ *Carter*, 147 S.E.2d at 144.

⁵² *Broyles v. State*, 688 S.W.2d 290, 291 (Ark. 1985).

⁵³ *State v. Champe*, 373 So. 2d 874, 880 (Fla. 1978).

⁵⁴ *State v. Claborn*, 870 P.2d 169, 173 (Okla. Crim. App. 1994) (emphasis added).

⁵⁵ *Broyles v. State*, 688 S.W.2d at 292.

⁵⁶ *Broyles*, 688 S.W.2d 290, 291 (Ark. 1985).

⁵⁷ *Claborn*, 870 P.2d at 174.

⁵⁸ *State v. Ballard*, 868 P.2d 738, 741 n.1 (Okla. Crim. App. 1994).

⁵⁹ *State v. Young*, 238 So. 2d 589, 590 (Fla. 1970).

⁶⁰ *Ballard*, 868 P.2d at 741 n.1.

have found that “any law which makes the punishment for an offense in one or more counties greater than the punishment of other counties for the same offense is void”⁶¹ because it violates the equal protection and due process clauses of federal and state constitutions. “A law which should prescribe death as the punishment of murder in one county, and imprisonment as the penalty for the same crime in other parts of the State, would be void, because not operating equally upon all inhabitants of the State.”⁶² Equal protection requires that “no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and under like circumstances.”

In 1877, a Missouri Court of Appeals found unconstitutional the fact that one county prescribed longer jail time for the crime of abortion than other counties. “The law highly regards the liberty of the citizen, and the organic law of the State forbids the Legislature to enact that the term of imprisonment for the same offense shall vary in different localities.”⁶³

In *Ex parte Ferguson*, the Texas Court of Criminal Appeals invalidated a statute that assessed a varying fee upon criminal defendants based upon certain county population brackets. The court reasoned that because the statute failed to “give equal protection to all . . . citizens alike,” it deprived them of equal protection and due process.⁶⁴ In *Ex parte Sizemore*, the same court invalidated a portion of a local road law that provided convicts a work allowance (to be credited against their fines and costs) at a rate of \$0.50 per day because it differed from a statewide law providing that such an allowance be \$3.00 per day,⁶⁵ and in *Ex parte Carson*, the court invalidated a statute that provided for a \$1.00 assessment in criminal cases only in counties having eight or more district courts.⁶⁶

More recently, in *State v. Gregori*, the Supreme Court of Missouri rejected a statute that devised varying punishments for the same criminal offense throughout the counties.⁶⁷ The statute provided that 17 year-old children in counties with a population of 50,000 or more were subject to the Juvenile Court

Act, while 17 year-old children in counties with a population less than 50,000 were subject to criminal penalties.⁶⁸ The court explained that the provision denied constitutional protection because it failed to operate “equally upon all inhabitants of the state.”⁶⁹

The Supreme Court of North Carolina invalidated a similar statute that subjected criminal defendants from five particular state counties to a fine, while criminals elsewhere, who committed the same offense, were subject to a fine or imprisonment.⁷⁰ The court reasoned that criminal punishment schemes should “operate uniformly upon persons and property, giving to all under like circumstances equal protection and security.”⁷¹

V. PRINCIPLES WITH COMMENTARY

In adopting the following principles, the Conference clearly acknowledges the tension, and at times, direct conflict, that exists between the themes embodied in the principles and the realities of government, governance, politics, the economy and fiscal practices and policies in each individual state. The principles are intended to serve as guideposts that will direct reasoned and constructive thinking and conversations leading toward balance among the many competing interests and forces that result in the establishment of various revenue vehicles within the court system.

Principle 1: Courts should be substantially funded from general governmental revenue sources, enabling them to fulfill their constitutional mandates. Court users derive a private benefit from the courts and may be charged reasonable fees partially to offset the cost of the courts borne by the public-at-large. Neither courts nor specific court functions should be expected to operate exclusively from proceeds produced by fees and miscellaneous charges.

It is axiomatic that the core functions of our government are supported from basic and general tax revenues. Government exists and operates for the common good based upon a common will to be

⁶¹ *Ex parte Carson*, 159 S.W.2d 126, 130 (Tex. Crim. App. 1942).

⁶² *In re Jilz*, 3 Mo. App. 243, 246 (Mo. Ct. App. 1877).

⁶³ *Jilz*, 3 Mo. App. at 246.

⁶⁴ *Ex parte Ferguson*, 132 S.W.2d 408, 410 (Tex. Crim. App. 1939).

⁶⁵ *Ex parte Sizemore*, 8 S.W.2d 134, 135 (Tex. Crim. App. 1928).

⁶⁶ *Ex parte Carson*, 159 S.W.2d 126, 127 (Tex. Crim. App. 1942).

⁶⁷ *State v. Gregori*, 2 S.W.2d 748 (Mo. 1928).

⁶⁸ *State v. Gregori*, 2 S.W.2d 748 (Mo. 1928).

⁶⁹ *State v. Gregori*, 2 S.W.2d 749 (Mo. 1928).

⁷⁰ *State v. Fowler*, 136 S.E. 709, 711 (N.C. 1927).

⁷¹ *Id.* at 710.

governed, and the expense thereof is borne by general taxation of the governed. Courts, as a core function of government, should be substantially funded by general government revenues. It is as illogical to expect the judiciary to be self-supporting through user fees as it would be to expect the executive or legislative branches of government to be funded through user fees.

However, it is clear that courts also provide a direct private benefit to users of the court system and it is reasonable to expect that they shoulder a portion of the general cost of the litigation, particularly so because certain users are high frequency. Historically, court-related fees have consisted primarily of the fee to initiate a case before the court. These “filing fees” traditionally have been viewed as offsetting the basic cost of case initiation: creating and maintaining the paper file of the court action. Court fees are generally nominal in comparison to the actual cost of providing court services. In an economically efficient system of court fees, the fees would reflect the long-run marginal cost of having a system in place that is capable of processing all cases, and actually litigating at least some small portion.⁷²

In more recent times, courts and legislatures have provided or mandated additional “services” that extend beyond the traditional adversarial adjudicatory model. Courts now frequently offer or mandate mediation services, parenting classes in marriage dissolutions, and procedural assistance to *pro se* litigants, for which the litigant is assessed a miscellaneous charge. These ancillary programs and services are often primarily or wholly supported by the miscellaneous charges assessed against the litigants. This is not inappropriate where the services provided are not precedent to the resolution of a case or where simple fee waiver processes are in place for litigants. However, in determining whether to set a fee and the amount of the fee, the cumulative cost of court fees and the total cost of the service must be thoughtfully balanced.

Principle 2: Fees and miscellaneous charges cannot preclude access to the courts and should be waived for indigent litigants.

⁷² Cabrillo, Francisco, and Sean Fitzpatrick, 2008. *The Economics of Courts and Litigation*. Northhampton, Massachusetts: Edward Elgar.

The need for governmental revenues must be carefully counterbalanced with the public’s access to the courts. By increasing the financial burden of using the courts, excessive fees or miscellaneous charges tend to exclude citizens who have neither the monetary resources available to the wealthy nor the governmental subsidies for the poor. Excessive fees and miscellaneous charges can effectively deny this middle economic income group such fundamental rights as the right to a trial by a jury of one’s peers and the right of equal access to the court system. The Supreme Court of Washington enacted General Rule 34 in response to the growing number of charges litigants face, clearly providing for “a waiver of filing fees or surcharges the payment of which is a condition precedent to a litigant’s ability to secure access to judicial relief from a judicial officer . . .”⁷³ This clear standard implicitly acknowledges that, while fees may be appropriate, they cannot serve as a bar to judicial relief.

*Principle 3: Surcharges should only be used to fund justice system purposes and care must be exercised to ensure the cumulative cost of litigation does not impede access to justice and that the fee and cost structure does not become too complex.*⁷⁴

Surcharges are sometimes used for purposes clearly related to the courts, and sometimes are used for purposes that have no relationship to the operation of the courts or justice system. The latter is inappropriate and the former must be instituted sparingly. If taxation is a prerogative of the legislative branch of government, the practice of earmarking funds escapes the priority-setting process existing in most progressive governmental entities. Neither use should escape the appropriations’ review process nor should the amount of a public good to be provided by such funds be necessarily limited to the amount of revenue generated by a surcharge for the purpose. If the purpose funded by a surcharge is for the greater public good, it should be worthy of consideration of funding from a broader general revenue source through the normal appropriation process.

⁷³ Washington Court Rules, General Rule 34 (http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr34)

⁷⁴ See also <http://www.courts.state.tx.us/oca/debts/pdf/TexasFinancialObligationsInterimReport.pdf> and Justice Center at Council of State Governments, Repaying Debts: http://www.reentrypolicy.org/jc_publications/repaying_debts_full_report

The benefit derived from the efficient administration of justice is not limited to those who utilize the system for litigation, but is enjoyed by all those who would suffer if there were no such system -- the entire body politic. Society as a whole benefits from the very existence of a trusted dispute resolution system with the capability to process all cases timely and bring some fraction of them to trial and continue to develop the common law, or the price of a given crime.

As one commonly adopted surcharge suggests, it can be appropriate to include a surcharge on filing fees to generate revenue that allows the court to provide for the safety and security of litigants in court facilities. In this instance the litigant is a clear direct beneficiary of the service and the tangential public good, while present, is distant.

There is no bright line rule for policymakers to rely upon in determining whether a particular surcharge is appropriate. A balance must be struck, giving consideration to

- The extent to which a surcharge supports a court-related function;
- The cumulative cost of litigation;
- The overall complexity of the cost and fee structure; and
- Where the service being funded falls on the private good/public good spectrum.

In addition to the general discussion above, increasing attention must be given to the impact of criminal fees and charges on the population re-entering society from incarceration. As part of the reentry movement, the Council of State Governments Justice Center points out that “people released from prisons and jails typically have insufficient resources to pay their debts to their children, victims, and the criminal justice system.”⁷⁵ Other groups have also highlighted this issue:

States have increasingly turned to user fees to fund their criminal justice systems, as well as to provide general budgetary support. States now charge defendants for a wide range of activities including booking

fees, probation supervision, jail stays, and the post-conviction collection of DNA samples. Every stage of the criminal justice process, it seems, is now chargeable to the criminal defendant as a cost. These “user fees” differ from other kinds of court-imposed financial obligations. Unlike fines, whose [*sic*] purpose is to punish, and restitution, whose [*sic*] purpose is to compensate victims, user fees are explicitly intended to raise revenue. Sometimes deployed as an eleventh hour maneuver to close a state budget gap, the decision to raise or create new user fees is rarely made with much deliberation or thought about the consequences.⁷⁶

The proliferation of these fees and costs as chargeable fees and costs included in the judgment and sentence issued as part of the legal financial obligation of the defendant has recast the role of the court as a collection agency for executive branch services.

Principle 4: Fees and costs, however set, should be determined in consultation with the appropriate judicial body, and reviewed periodically to determine if they should be adjusted.

Policy considerations such as types of fee structures and public access are matters of concern to the judiciary, and legislative review of fees and miscellaneous charges must involve the judicial branch as an integral part of the process. Because legislative bodies may be primarily concerned with public funding policies, the judiciary must assume the responsibility for protecting the public’s access to the courts.

Periodic, coordinated review by the legislative and judicial branches should ensure a reasonable level of fees and miscellaneous charges that does not unduly restrict access to the courts but is reflective of the current economy. The review should permit sufficient time to evaluate the impact of previous revisions (if any); to allow the collection and analysis of cost of living and other economic data to

⁷⁵ “Repaying Debts,” Council of State Governments Justice Center, 2007. report summary at p. 2, available at: http://www.reentrypolicy.org/jc_publications/repaying_debts_summary/RepayingDebts_Summary_v18.pdf

⁷⁶ “Criminal Justice Debt: A Barrier to Reentry,” Brennan Center for Justice, 2010; available at http://brennan.3cdn.net/c610802495d901dac3_76m6vqhpy.pdf. See also the ACLU report http://www.aclu.org/files/assets/InForAPenny_web.pdf and the Brennan Center report http://brennan.3cdn.net/c610802495d901dac3_76m6vqhpy.pdf

determine actual and projected changes in these factors; to prepare a documented report and recommendation regarding the existing fee schedule; and to provide advance notice of rate proposed increases to judicial offices, the practicing bar, and the public. Proposed changes in fees should be subject to public review and commentary.

Attention should be given to the reduction of fees and miscellaneous charges when improved procedures have resulted in certain economies. Annual reviews do not allow sufficient time to complete a thoughtful, deliberate process. However, reviews occurring in a time span of every three to five years would allow collection of data and necessary consideration for the decision-making process.

The importance of regular reviews cannot be overstated as it is this process that prevents the erosion of the basis for the fee and miscellaneous charges structure and insures the durability of the system.⁷⁷

Principle 5: Fees and miscellaneous charges should be simple and easy to understand with fee schedules based on fixed or flat rates, and should be codified in one place to facilitate transparency and ease of comprehension.

In many states the only people who fully understand the array of court costs and fees are in the Administrative Office of the Courts, and in some (but possibly not all) clerks' offices. The complexity of statutory drafting tends to exacerbate the complexity of the fees themselves, so that legislators are hard-pressed to grasp either the need for, or cumulative impact of, new proposals for costs and fees. When the system includes surcharges that are event specific, different fees for different case types, local fee options, etc., even the clerk may lack the information or expertise needed to determine accurately and to assess the costs or fees called for by statute in a given case.

A flat or fixed rate is one that consolidates all of the fees itemized for each of the different transactions involving court services into one fee. The flat or fixed fee may vary for different types of cases but should not vary between cases of the same type. There are substantial differences between case processing services provided for a small claims case, a municipal case, a criminal case or a civil case filed

in the general trial jurisdiction. In contrast, an appellate fee providing access to the appellate process may not vary in amount by type of case if the court support service is basically the same for each case filed.

In the first half of the 20th century, most courts used a "step" fee system, which provided various fees for each activity undertaken in a case. In 1943, the Director of the Administrative Office of the U.S. Courts noted the importance of "simplicity" and "uniformity" to any schedule of fees.⁷⁸ A major problem with a "step" fee system is that as the number of fees for different activities increases, calculation of the correct fees becomes more complex, requiring substantial expenditures of effort from all concerned. For that reason, a fixed or flat rate system is recommended.

All schedules of court fees and miscellaneous charges should be set forth in a single location in the laws or court rules of the body having appropriate authority. While each level of court may have its own applicable costs and fees statutes, these should be consistently and uniformly codified within a chapter or a section of the statutes or rules setting out the entire structure of fees and charges in the courts. Establishing court fees or miscellaneous charges without codifying them into one section is confusing and inefficient. Often, statutory enactments or rule revisions go unnoted by clerks who may be isolated and ill equipped to search for new or revised fees and charges. Administrative costs rise with a proliferation of court fee statutes spread over many volumes of law. Revenue for governmental entities is lost as a result of oversight or failure to keep abreast of new enactments.

Principle 6: Optional local fees or miscellaneous charges should not be established.

If a court is established by state constitution and governed by laws passed by the state legislature, it is appropriate that some state funding be provided to fund the court. Local financing contributes to a fragmented court system where "services vary dramatically according to the locality's ability to pay."⁷⁹ Fees and miscellaneous charges should be consistent within a state. Allowing court fees to be

⁷⁷ Op cit., Stott and Ross, p. 39

⁷⁸ U.S. Congress house Committee on the Judiciary. "Fees and Costs in the United States Courts." Hearings before Subcommittee No. 4 of the Committee on the Judiciary. Public Document No. 20, 78th Congress, First Session, November 1943.

⁷⁹ A.B.A., Standards Relating to Court Organization 99 (1974).

established by local governing bodies or by local judges risks the formulation of inconsistent practices among courts of similar jurisdictions. There may be a tendency for locally-funded courts to prioritize local fees over legislative fees, and there is an appearance of conflict when fees fund local programs and the judges order defendants to use those programs. Finally, a judge could use the threat of waiving fees to force local entities to conform to practices or fees schedules that the judge thinks are appropriate.

Courts should have uniform processes and litigants should receive consistent treatment regardless of the court's locality. The amount of fees and miscellaneous charges should be established on a rational basis throughout a state and should not be more or less costly for a litigant simply as a result of venue and jurisdiction.⁸⁰

In criminal cases, differential treatment in different localities by statute is clearly subject to equal protection challenges.

Discretionary charges or local levy charges should be eliminated. If the court is governed by state law, local fees should be prohibited from creating inconsistent costs in different locales. Superfluous charges, which are not easily understood and accepted by the public, erode confidence and should be eliminated.

Principle 7: The proceeds from fees, costs and fines should not be earmarked for the direct benefit of any judge, court official, or other criminal justice official who may have direct or indirect control over cases filed or disposed in the judicial system. All funds collected from fees, costs and fines should be deposited to the account of the governmental source providing the court's funding.

The due process clause of the Fourteenth Amendment guarantees the right to a trial before a disinterested and impartial judicial officer.⁸¹ Consequently, any judicial officer who has control over the processing of cases may be disqualified for holding a pecuniary interest in fees payable by litigants.

For example, in *Ward v. Monroeville*, 409 U.S. 57, 93 S.Ct. 60 (1972), an ordinance authorized the

mayor, who also had wide executive powers, to preside as a judge over certain traffic offenses. A large portion of the Monroeville income was derived from fees, costs, fines, and forfeitures imposed by the mayor in his traffic court. The mayor convicted the petitioner of two offenses and fined him \$100. The petitioner appealed his conviction, arguing that because the mayor was interested in securing revenue, the petitioner was denied his right to a fair and impartial trial. The Supreme Court of the United States agreed, setting out a standard for determining whether due process of law has been denied.

[Every procedure] which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear, and true between the state and the accused denies the latter due process of law.⁸²

The Court, applying this standard, concluded that a possible temptation "exist[s] when [a judicial officer's] responsibilities for village finances may make him partisan to maintain the high level of contribution from the ... court."⁸³ Similarly, an unconstitutional temptation may be created by the practice of earmarking revenue from costs and fees for the direct or indirect benefit of judicial officers that control the disposition of criminal cases.

There is also tension between this principle and the acceptance that surcharges that support court activities are permissible. Arguably, a judge who denies the waiver of a surcharge that funds court security benefits from that security. Again, policymakers must weigh competing values along a continuum when assessing the propriety of surcharges that support court operations. In particular, consideration must be given to the degree to which it appears that an individual judge or court official would benefit from the assessment of the surcharge.

⁸⁰ *Ibid.*, p.10

⁸¹ *Tumey v. Ohio*, 273 U.S. 510, 47 S.Ct. 437 (1927)

⁸² *Ward v. Monroeville*, 409 U.S. 57, 93 S. Ct. 60 (1972)

⁸³ *Id.*

VI. THE WAY FORWARD

According to a 2010 study by the National Center for State Courts, it is “unlikely that there is any single state that could be held out as a model for a budgeting and revenue structure that provides access, adequacy, stability, equity, transparency, and simplicity.”⁸⁴ Addressing these issues is a state-by-state matter – this is one problem that does not lend itself to a national summit – and a national paper can only go so far in prescribing a particular approach.

COSCA advocates that its members:

1. *Make the current system visible.*
Promote accountability and transparency regarding fees and costs within each state by developing and maintaining accurate and understandable information about the current laws, structures and amounts for fees and costs. Once developed, this information should be routinely shared with legislators, the executive branch, and the public. For example, the Texas OCA provides extensive guidance on the state court website, specifically for clerks but available to the public,⁸⁵ and the court administrator used a blog post to provide information on the various bills in 2011 that would increase costs on conviction, advising, for example, that if all seven bills passed, the total for most tickets would increase from \$98 to \$137.⁸⁶
2. *Advocate for a principled approach.*
The factual information regarding fees and costs must be presented within the context of a principled framework that accounts for fiscal realities. The seven principles provide a solid base from which individual states may craft a set of policy principles to frame their unique fee and cost discussions and dialogues. Development of a set of principles that work within the context of each state can best be undertaken by involvement of a workgroup or task force. That also takes into account all the constituencies that are dependent on the current array of dedicated funding streams, and strive to ensure that those

services maintain necessary funding, even if future funding is not through court fees.

Consider the legislative perspective. The dedication of court fees and costs to particular programs raises the same issues that state legislatures confront, on a larger scale, with the practice of earmarking taxes. The National Conference of State Legislatures’ report, “Evaluation of Earmarking,”⁸⁷ suggests that the arguments in favor of earmarking tend to be of limited application to the real world of state taxes and budgets, and that the arguments against earmarking are more powerful. Earmarking hampers legislators’ budgetary control, distorts the distribution of funds among programs, and reduces the flexibility of the revenue structure (which increases the difficulty of adapting budgets to changing conditions). These arguments apply with equal force to the practice of dedicating costs and fees to specific programs. Although many legislators may seek new fees and costs for projects, they should be made cognizant of the inherent problems of dedicating court costs and fees.

Louisiana provides one case study of the effort to take a principled approach.⁸⁸ In 2003, that state’s Judicial Council formed a Court Cost/Fee Committee of its Judicial Council, pursuant to a state statute passed that year requiring consideration by the Council of any proposals for court costs and fees.⁸⁹ The evaluation guidelines developed by that committee include determination of the financial need for the new assessment, analysis of the probable yield, and, most important, a determination of the propriety of the cost or fee.

Among the appropriate purposes for which court costs or fees may be requested are

to support a court or the court system or help defray the court-related operational costs of other agencies;
to support an activity in which there is a reasonable relationship between the fee or court cost imposed and the costs of the administration of justice.⁹⁰

⁸⁴ State of Oregon, Report to the Joint Interim Committee on State Justice System Revenues (National Center for State Courts 2010), on file with author.

⁸⁵ See <http://www.courts.state.tx.us/pubs/pubs-home.asp>.

⁸⁶ See <http://courtex.blogspot.com/2011/03/costs-on-conviction.html>.

⁸⁷ Id.

⁸⁸ There is legislative activity pending that may affect Louisiana’s system.

⁸⁹ See press release at: http://www.lasc.org/press_room/press_releases/2003/2003-14.asp; last viewed May 12, 2011.

⁹⁰ “General Guidelines Relating to the Evaluation of Requests for Court Costs and Fees.” At: http://www.lasc.org/la_judicial_entities/Judicial_Council/CourtCostGuidelines.pdf; last viewed May 12, 2011.

Each state should strive for a revenue structure that provides access, adequacy, stability, equity, transparency and simplicity. Each state's court leadership must moderate or staunch the legislative impulse (and sometimes its own) to add additional and higher fees. On the civil side, court leaders must advocate for the principles of reasonable access to justice, comprehensible and defensible fees, and restricting revenue generation to court purposes only. On the criminal side, court leaders have a responsibility to ensure that judicial orders are followed, but also to ensure that the system is not overloaded with unreasonable financial obligations to fund other governmental services. For both criminal and civil cases, court leaders must work toward uniformity across the state and be the experts on whatever structure currently exists, while seeking a more principled and transparent approach.

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CIVIL FILING FEES IN STATE TRIAL COURTS, JULY, 2011

The Knowledge and Information Services Office (KIS) receives many requests for current information about the filing fees and other court costs that are assessed by state courts.

The attached chart has the most recent, available information on civil filing fees for state trial courts. The categories researched are as follows:

- Civil filing fees;
- Answer fees;
- Small claims fees;
- Small claims answer fees;
- Divorce filing fees;
- Probate filing fees;
- Reference.

Research included searching state and municipal court web sites, reading states' rules of courts, and contacting court administrators. For research on fees in county and/or district courts, the most populous counties in the state were generally used. For Court Type, G means general jurisdiction and L means limited jurisdiction.

Disclaimer:

Please note that this chart is for general comparative use of the basic filing fees charged for specific case type. The actual fees litigants are charged is likely to be substantially higher as the chart makes no effort to document ancillary fees such as service of process costs.

States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
AL - Circuit (1)	G	Up to 50,000: \$206; 50,000+: 306	None	N/A	N/A		\$154 (original filing); \$257 (modification)	N/A	Code of Alabama: Article 3 Costs and Fees in Civil Cases: Section 12-19-71 ; Jefferson County
AL - District (1)	L	\$216 (for which the matter in controversy exceeds \$3,000 but is less than \$10,000)	None	Up to \$1,500: \$51 \$1,500.01-\$3,000: \$125	None	Up to \$3,000	N/A	N/A	
AL - Probate (1)	L	\$15-\$75 depending on type of petition	None	N/A	N/A		N/A	\$45 + \$3 per page over 5 pages	Code of Alabama: Section 12-19-90
AK - Superior	G	\$150	None	N/A	N/A		\$100	\$150	Alaska Rules of Administration: Rule 9 Fee Schedule
AK - District	L	\$90	None	Up to \$2,500: \$40 \$2,500+: \$75	None	Up to \$10,000	N/A	N/A	
AZ - Superior	G	\$196	\$118	N/A	N/A		\$216, initial response \$151	\$146	Arizona Court Filing Fees

AZ - Tax	G	\$181		\$37	None		N/A	N/A	
AZ - Justice	L	\$45	None	\$16	\$13	Up to \$2,500	N/A	N/A	
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
AR - Circuit	G	\$140	None	N/A	N/A		\$140 Reopening a case = \$50	\$140 Reopening a case = \$50	<u>Arkansas Code § 16-10-305</u>
AR - District	L	\$65	None	\$50 minimum	None	Up to \$5,000	N/A	N/A	
AR - City	L	\$25	N/A	N/A	N/A	Up to \$5,000	N/A	N/A	<u>Arkansas Code 16-10-303 Filing fees</u>
CA - Superior	G	Limited civil fee (less than or equal to \$10,000) \$225; Limited civil fee (greater than \$10,000 and not exceeding \$25,000) \$370; Unlimited civil fee \$395	\$225 (less than or equal to \$10,000); \$370 (Greater than \$10,000 and not exceeding \$25,000) Unlimited, \$395	\$30 when ≤ \$1,500; \$50 when >\$1500 but ≤ \$5000; \$75 when >\$5000 but ≤ \$7500; \$100 if more than 12 claims have been filed	None	Up to \$7,500 for an individual	\$395; Response is \$395	Petition \$395; first objection \$395; Guardianship fee and responses, \$205	<u>Superior Court of California Statewide Civil Fee Schedule</u> (These do not include local instruction charges)
CO - District (2)	G	\$224	\$158	N/A	N/A		\$220	Small Estate: \$68 Other: \$164	<u>Filing Fees, Surcharges and Costs, in Colorado State Courts</u>
CO - Denver Probate (2)	G	N/A	N/A	N/A	N/A		N/A	Small Estate: \$68 Other: \$164	
CO - Water (2)	G	\$224	\$158	N/A	N/A		N/A	N/A	
CO - County (2)	L	\$97	\$92	Up to \$500: \$31; \$500-\$7,500: \$55	Up to \$500: \$26; \$500-\$7,500: \$41	Up to \$15,000	N/A	N/A	
CT - Superior	G	Up to \$2,500: \$175 \$2,500+: \$300	None	\$75	None	Up to \$5,000	\$300	N/A	<u>State of Connecticut Judicial Branch Court Fees and Forms Public Act No. 09-152</u>
CT - Probate	L	N/A	None	N/A	N/A		N/A	Varies (3) \$50-\$750	<u>Probate Court Costs and Fees</u>
DE - Chancery	G	\$250, three or more defendants is \$350	Answer fee is same as filing fee for new action.	< \$10: \$0; \$10-\$25: \$5; \$25-\$100: \$10; \$200-\$500: \$20; \$500-	N/A		N/A	N/A	<u>Court of Chancery: Court Fees or Charges</u>

				\$999: \$50; \$1000- \$9999: \$75					
DE - Superior	G	\$175 (+\$10 Security assessment fee)	None	N/A	N/A		N/A	N/A	Superior Court Fees
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
DE - Justice	L	Various (4) \$30 - \$50	N/A	See footnotes	None		N/A	N/A	<u>Justice of the Peace Court: Court Fees (10 Del. C. § 9801)</u>
DE - Family	L	\$75 (custody issue - \$80)	None	N/A	N/A		\$150	N/A	<u>Family Court Schedule of Assessed Costs</u>
DE - Common Pleas	L	\$78	None	N/A	N/A		N/A	N/A	<u>Court of Common Pleas: Court Fees</u>
DC - Superior	G	\$120	None	Up to \$500: \$5; \$500 to \$2,500: \$10; \$2,500 to \$5,000: \$45	None	Up to \$5,000	\$80	Varies (5)	<u>Superior Court of D.C. – Civil Actions Filing Fees</u> <u>Superior Court of D.C.– Domestic Relations Filing Fees</u> <u>Superior Court of D.C.– Small Claims Filing Fees</u>
FL - Circuit	G	< or = \$395 + \$2.50 for each defendant in excess of 5	None	N/A	N/A		< or = \$395	Varies (6)	<u>28.241 Filing fees for trial and appellate proceedings; SB1718</u>
FL - County	L	N/A	None	Up to \$100: \$50; \$100 to \$500: \$75; \$500 to \$2,500: \$170; \$2,500+: \$295	None	Up to \$5,000	N/A	N/A	<u>34.041 Filing fees</u>
GA - Superior	G	\$82	None	N/A	N/A		\$87	N/A	<u>§ 15-6-77. Fees; construction of other fee provisions</u>
GA - State	L	\$117.50 (7)	None	N/A	None		N/A	N/A	See original chart.
GA - Probate	L	\$90	None	N/A	N/A		N/A	\$90	<u>§ 15-9-60. Costs</u>
GA - Magistrate	L	\$20 (7)	None	Up to \$15,000: \$49.50 + \$25 for each defendant	None	Up to \$15,000	N/A	N/A	<u>§ 15-10-80. Filing fee;</u>
GA - Municipal	L	N/A	N/A	\$40	None	Up to \$15,000	N/A	N/A	See original chart.

HI - Circuit/Family	G	\$275	None	N/A	N/A		\$175 w/o children; \$225 w/ children	\$175	<u>Circuit Court Fees</u>
HI - District	L	\$120	None	\$35	None	\$3,500	N/A	N/A	<u>District Court Filing Fees and Costs</u>
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
ID - District (8)	G	\$88	\$58	\$41	None	\$4,000	\$129, answer: \$58	\$138	<u>Idaho District Court Filing Fee Schedule 2009</u>
IL - Circuit	G	Varies (9)	Varies (9)	< \$250: \$10; \$250-\$500: \$10-\$20; \$500-\$2500: \$25-\$40	N/A	\$5,000	Varies (9)	Varies (9)	<u>Circuit Court of Cook County, Illinois – Probate Division Illinois Compiled Statutes - 705 ILCS 105 Clerks of Courts Act</u>
IN - Superior (10)	G	\$100+ (+\$10 per extra defendant)	None	\$35+ (+\$10 per extra defendant)	None	\$6,000	\$100+	\$120+	<u>IC 33-37-4-4 Civil costs fee; additional fees</u>
IN - Circuit	G	\$100+ (+\$10 per extra defendant)	None	\$35+ (+\$10 per extra defendant)	None	\$6,000	\$100+	\$120+	
IN - County	L	\$100+ (+\$10 per extra defendant)	None	\$35+ (+\$10 per extra defendant)	None	\$6,000	N/A	N/A	
IN - Probate	G	N/A	N/A	N/A	N/A	N/A	N/A	\$120+	<u>IC 33-37-4-7 Probate costs fee; additional fees</u>
IN - Marion Small Claims		N/A	N/A	\$5 + 45% of the infraction or ordinance violation costs	N/A	\$6,000	N/A	N/A	<u>IC 33-34-8-1 Fees and costs</u>
IN - City	L	N/A	N/A	\$35+ (+\$10 per extra defendant)	None	\$3,000	N/A	N/A	See original chart.
IN - Town	L	N/A	N/A	\$35+ (+\$10 per extra defendant)	None	\$3,000	N/A	N/A	See original chart.
IA - District	G	\$185; add'l \$5 charged in counties with pop. > 98,000	None	\$85	None	\$5,000	\$185	Varies (11)	<u>Iowa Judicial Branch Civil Court Fees 602.8105 Fees for civil cases and other</u>

States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
KS - District	G	\$156	None	Up to \$500: \$49 \$500.01 to \$4,000: \$69	None	\$4,000	\$156	\$111.50	60-2001: Docket fee; authorized only by legislative enactment; probate fee; small claims fee
KY - Circuit	G	\$115	None	N/A	Up to \$1,500: \$20	\$5,000	\$100		<u>Kentucky Circuit Court Clerks' Manual: Fees and Costs</u>
KY - District	L	Claims from \$1,500 to \$4,000: \$55	None	\$20	None	\$2,500	N/A	\$20	
LA - District	G	\$476	\$272	N/A	N/A		\$324 (answer: \$312)	\$405 over 75K, \$218 under 75K (12a)	<u>New Orleans District Court Filing Fees Feb 2010</u>
LA - City/Parish (12c)	L	\$140	\$140	\$66.50	\$66.50	Up to \$3,000	N/A		<u>Baton Rouge City Court</u>
ME - Superior	G	\$150	None	N/A	N/A		N/A	N/A	<u>State of Maine Judicial Branch: Court Fees</u>
ME - District	L	\$150	None	\$50 + \$15 per defendant	None	Up to \$4,500	\$120	N/A	See above.
ME - Probate	L	N/A	N/A	N/A	N/A		N/A	Varies	<u>Cumberland County Estate Fees</u>
MD - Circuit	G	\$80	None	N/A	N/A		None	Varies (14)	<u>Circuit Court Fee Schedule</u>
MD - District	L	\$38	None	\$28	None	Up to \$5,000	None	N/A	<u>District Court Cost Schedule</u>
MA - Superior	G	\$240	None	N/A	N/A		N/A	N/A	<u>Massachusetts Superior Court Filing Fees</u>
MA - District	L	\$195; jurisdiction over cases up to 25K	None	Up to \$500: \$40 \$501 to \$2,000: \$50; \$2001-\$5000: \$100; \$5001-\$7000: \$150	None	Up to \$7,000	N/A	N/A	<u>Massachusetts District Court Filing Fees</u>
MA - Housing	L	\$135	None	Up to \$500: \$40 \$501 to \$2,000: \$50; \$2001-\$5000: \$100; \$5001-\$10,000: \$150	None	Up to \$7,000	N/A	N/A	<u>Massachusetts Housing Court Fees</u>

				\$7000: \$150					
MA - Probate & Family	L	Additional \$15 if filed to a separate docket	N/A	N/A	N/A		\$215	\$215	Massachusetts Probate and Family Court Uniform Fee Schedule
MA - Land	L	\$255	None	N/A	N/A		N/A	N/A	Massachusetts Land Court Fees
MI - Circuit	G	\$150	None	N/A	N/A		N/A	N/A	Michigan Circuit Court Fee Schedule
MI - District	L	Up to \$600: \$25; \$601 - \$1,750: \$45; \$1,751 - \$10,000: \$65 \$10,000+: \$150	None	Up to \$600: \$25; \$601 - \$1,750: \$45; \$1,751 - \$3,000: \$65	None	Up to \$3,000	N/A	N/A	Michigan District Court Fees
MI - Probate	L	\$150	None	N/A	N/A		N/A	Varies (15)	Michigan Probate Court Fees
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
MI - Municipal	L	Up to \$600: \$5.50 \$600+: \$11	None	N/A	N/A	Up to \$100; Up to \$600 if approved	N/A	N/A	Michigan Uniform Municipal Court Act
MN - District (17)	G	\$320	\$320	N/A	\$75	Up to \$7,500	\$400; Answer: \$400	\$320	357.021 Court Administrator of District Court; Fees
MS - Circuit	G	\$75	None	N/A	N/A		N/A	N/A	§ 25-7-13. Clerks of the circuit court.
MS - Chancery	G	\$75	None	N/A	N/A		Contested: \$75; Uncontested: \$30	\$75	Mississippi Chancery Uniform Court Rules
MS - County	L	\$75	None	N/A	N/A		N/A	N/A	See original chart.
MO - Circuit	G	\$100	None	\$30	None	Up to \$3,000	\$132	Varies (16)	Clay County Fees Chapter 488 Court Costs Section 488.012
MT - District	G	\$120	\$70	\$17	None		\$200	\$100	Clerk of the District Court Fee Schedule 25-1-201
MT - Water	G	\$40	None	N/A	N/A		N/A	N/A	85-2-225. Filing fee
MT - Justice	L	\$25	\$10	\$10	\$5	Up to \$3,000	N/A	N/A	25-35-608. Fees 25-31-112. Fees
NE - District	G	\$82	None	N/A	N/A		\$157	N/A	Filing Fees and Court Costs in the State of Nebraska
NE - County	L	\$45	None	\$26	None	Up to \$3,500	N/A	Varies (18)	

NV - District	G	\$99+	\$99	N/A	N/A		\$160	Up to \$20,000: No fee; \$20,000-\$200,000: \$99; \$200,000+: \$352	<u>NRS 19.013 County clerks (Amended by AB65)</u>
NV - Justice	L	Varies (19a)	None	Varies (19b)	None	Up to \$5,000	N/A	N/A	See original chart.
NV - Municipal	L	Varies (19a)	\$12	Varies (19b)	\$12	Up to \$2,500	N/A	N/A	See original chart.
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
NH - Superior	G	\$180	None	N/A	N/A		\$180	N/A	<u>Supreme Court of New Hampshire Order: Court Fees</u>
NH - District	L	\$130	None	Up to \$5,000: \$72; \$5,001 - \$7,500: \$127	None	Up to \$7,500	N/A	N/A	<u>District Court Civil Rules: Court Fees</u>
NH - Municipal	L	\$100	None	\$60	None		N/A	N/A	<u>Supreme Court of New Hampshire Order: Court Fees</u>
NH - Probate	L	N/A	N/A	N/A	N/A		N/A	\$185	<u>Probate Court Rules: Fees</u>
NJ - Superior	G	\$200	\$135	\$15 (each additional defendant \$2)	None	Up to \$3,000; Up to \$5,000 for security deposit demand cases	\$250	None	<u>New Jersey Finance Fees</u>
NJ - Tax	L	\$200	None	\$35	None		N/A	N/A	<u>Rule 8:12. Filing Fees</u>
NM - District	G	\$117	None	N/A	N/A		\$137	N/A	<u>Court Fees and Their Distribution (Amended by HB263)</u>
NM - Magistrate	L	\$68	None	N/A	N/A	Up to \$10,000	N/A	N/A	<u>35-6-1. Magistrate costs;</u>
NM - Bernalillo Ct	L	\$62	None	N/A	N/A	Up to \$10,000	N/A	N/A	<u>34-7-14. Fees of probate court clerks.</u>
NM - Probate	L	N/A	N/A	N/A	N/A		N/A	\$30	
NY - Supreme	G	\$210	None	N/A	N/A		\$125	N/A	<u>Filing Fees – Supreme Court, County Court</u>
NY - County	G	\$210	None	N/A	N/A		N/A	N/A	
NYC - Civil	L	\$45	None	<\$1,000:\$15 ; \$1,001+: \$20	None	Up to \$5,000	N/A	N/A	<u>Filing Fees - NYC Civil; District Court, City Court</u>
NY - District	L	\$45	None	<\$1,000:\$15 ; \$1,001+: \$20	None	Up to \$5,000	N/A	N/A	

				\$20					
NY - City	L	\$45	None	<\$1,000:\$15 ;\$1,001+: \$20	None	Up to \$5,000	N/A	N/A	
NY - Town/Village	L	\$20	None	<\$1,000:\$10 ;\$1,001+: \$15	None	Up to \$3,000	N/A	N/A	<u>Filing Fees - Town Courts, Village Courts</u>
NY - Claims	L	\$50	None	N/A	N/A		N/A	N/A	<u>Filing Fees - Court of Claims</u>
NY - Surrogates'	L	N/A	N/A	N/A	N/A		N/A	Varies	<u>Filing Fees - Surrogate's Court</u>
NY - Family	L	None	N/A	N/A	N/A		N/A	N/A	See original chart.
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
NC - Superior	G	\$112	None	N/A	N/A		N/A	\$50 + \$.40/\$100 of gross estate. Total + \$61	<u>Civil Court Costs and Fees</u>
NC - District	L	\$92	None	\$90	None	Up to \$5,000	\$75+civil filing fee	N/A	
ND - District	G	\$80	\$50	\$10	None		\$80 (20)	\$65 (20)	<u>ND District Filing Fees</u>
OH - Pleas	G	\$225	None	N/A	N/A		\$350	\$25	<u>Summit County Clerk Huron County Clerk</u>
OH - Municipal	L	\$50 + \$10 for each additional defendant		N/A	N/A	Up to \$3,000	N/A	N/A	<u>Maumee Municipality 1925.04 Commencing an action.</u>
OH - County	L	N/A		N/A	N/A	Up to \$3,000	N/A	N/A	<u>1907.24 Schedule of fees and costs. (2c) 1925.04 Commencing an action.</u>
OK - District	G	Up to \$10,000: \$148 \$10,001+: \$161	None	Up to \$1,500: \$45 \$1,501 to \$6,000: \$148	None	Up to \$6,000	\$141	\$133	<u>Oklahoma Fee Schedule</u>
OK - Workers'	L	\$75	None	N/A	N/A		N/A	N/A	See original chart.
OK - Tax	L	N/A	N/A	N/A	N/A		N/A	N/A	See original chart.
OR - Circuit	G	\$197	Less than \$10,000: \$137; varies (5)	Up to \$1500: \$46.50; More than \$1500:	Up to \$1500: \$44.50; More than \$1500: \$81.50	Up to \$5,000	\$346 Answer is \$319	Varies (21)	<u>Deschutes County Circuit Court (These fees many include other surcharges) Amended for</u>

				\$86.50					10/1/2009 by HB2287 For more details see State Filing Fees Changes
OR - Tax	L	\$150 regular division \$75 General division	None	N/A	N/A		N/A	N/A	Oregon Tax Court
OR - Justice	L	\$25.50 with form, 22.50 without	Winning party fee of \$85-\$100	\$28	\$15 (to request hearing)	Up to \$5,000	N/A	N/A	Malheur County Justice Court
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
PA - Pleas	G	Varies (20a) \$316.48 - \$564.42	Varies (20a) \$154.54 - \$402.48	N/A	N/A		\$316.98; Answer: \$144.54	Varies (22b)	42 Pa.C.S.A. § 1725
PA - Philadelphia Municipal Court	L	Under \$2,000: \$22 \$2,001 - \$10,000: \$44	N/A	\$0 to \$2,000: \$22 \$2,001 to \$10,000: \$44	None	Up to \$10,000	N/A	N/A	42 Pa.C.S.A. § 1725
PA - District	L	N/A	N/A	Varies (20c)	Varies (20c)	Up to \$8,000	N/A	N/A	42 Pa.C.S.A. § 1725.1
RI - Superior	G	\$160	None	N/A	N/A		N/A	N/A	Superior Court Fees
RI - Workers'	G	\$20	None	N/A	N/A		N/A	N/A	Workers' Compensation Court FAQ
RI - District	L	\$80	None	\$60.98	None	Up to \$1,500	N/A	N/A	Small Claims Instructions for Plaintiff
RI - Family	L	N/A	N/A	N/A	N/A		\$100	N/A	Family Court Filing Fees
RI - Probate	L	\$30	None	N/A	N/A		N/A	1% of estate, min. \$30 & max \$1,500	CHAPTER 33-22 Practice in Probate Courts
SC - Circuit	G	\$150	None	N/A	N/A		N/A	N/A	South Carolina Circuit Court Filing Fees
SC - Family	L	\$100	None	N/A	N/A		\$150	N/A	SECTION 8-21-310
SC - Magistrate	L	\$45	None	\$45	None	Up to \$7,500	N/A	N/A	SECTION 8-21-1010
SC - Probate	L	N/A	N/A	N/A	N/A		N/A	Varies (23)	SECTION 8-21-770

SD - Circuit	G	\$50	None	Up to \$100: \$17.74 \$100.01- \$1,000: \$23.74 \$1,000.01- \$3,999.99: \$33.74 \$4,000- \$8,000: \$35.74	None	Up to \$8,000	\$75	\$100	<u>Clerk of Courts Fee Schedule</u>
TN - Circuit (24)	G	\$75-\$225	None	N/A	N/A		\$200w/ children \$125 w/o children	N/A	<u>8-21-401. Schedule of fees</u>
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
TN - Chancery (24)	G	\$75-\$225	None	N/A	N/A		\$200 w/ children \$125 w/o children	N/A	<u>8-21-401. Schedule of fees</u>
TN - Probate (24)	G	N/A	N/A	N/A	N/A		N/A	\$36 (for a small estate) \$225 (for all others)	
TN - Sessions (24)	L	\$42	N/A	\$22	None	Up to \$25,000	N/A	\$30-60	See original chart.
TX - District	G	\$252	None	N/A	N/A		>=\$152	\$40 (25)	<u>District Clerk Civil Filing Fees</u>
TX - Const. Cty	L	\$40 (25)	None	N/A	N/A		\$40	\$40 (25)	See original chart.
TX - County	L	\$40 (25)	None	N/A	N/A		N/A	\$40 (25)	See original chart.
TX - Probate	L	\$40 (25)	N/A	N/A	N/A		N/A	\$40 (25)	See original chart.
TX - Justice	L	\$25	None	\$10	None	Up to \$5,000	N/A	N/A	See original chart.
UT - District	G	Up to \$2,000: \$75 \$2,000-\$10,000: \$185 \$10,000+: \$360	None	Up to \$2,000: \$60 \$2,000- \$7500:\$100 \$7500-10K: \$185	None	Up to \$10,000	\$310	\$35	<u>Utah State Courts Filing/Record Fees</u>
UT - Justice	L	N/A	None	Up to \$2,000: \$60 \$2,000- \$7500:\$100 \$7500-10K: \$185	None	Up to \$10,000	N/A	Varies (26)	
VT - Superior	G	\$250	None	Up to \$1000: \$50	None	Up to \$5,000	N/A	N/A	<u>Superior and Small Claims Court Fees</u>

				\$1001- \$5000: \$75					
VT - Family	G	N/A	N/A	N/A	N/A		\$250 without a stipulation; \$75 with a stipulation	N/A	<u>Family Court Fees</u>
VT - Probate	L	N/A	N/A	N/A	N/A		N/A	Varies (27)	<u>Probate Court Fees</u>
VA - Circuit	G	\$0.01: \$82; Up to \$50K: \$122; \$50K to \$100K: \$232; \$100K - \$500K: \$292; >\$500K: \$342	None	N/A	N/A		\$82	\$84	<u>Circuit Court Civil Filing Fees Schedule</u>
VA - District	L	\$44	None	\$44	None	Up to \$4,500	\$79	N/A	Varies by county
WA - Superior	G	\$230	None	N/A	N/A		\$280	\$230	<u>Whatcom County Filing Fee HB 2362 - 2009-10</u>
WA - District	L	\$73	None	\$39	None	Up to \$4,000	N/A	N/A	<u>Thurston County; HB 2362 - 2009-10</u>
States/Courts	Court Type	Civil Filing Fee	Answer Fee	Small Claims Fee	Small Claims Answer Fee	Jurisdictional Limit for Small Claims	Divorce Filing Fee	Probate Filing Fee	Reference
WV - Circuit	G	\$145	None	N/A	N/A		\$135	N/A	<u>\$59-1-11. Fees to be charged by clerk of circuit court.</u>
WV - Magistrate	L	Up to \$500: \$30; \$500 to \$1,000: \$35; \$1,000 to \$2,000: \$40; \$2,000 to \$5,000: \$50; If relief outside of monetary damages, then \$30 + processing fees.	None	Up to \$500: \$30; \$500 to \$1,000: \$35 \$1,000 to \$2,000: \$40 \$2,000 to \$5,000: \$50	N/A	Up to \$5,000	N/A	N/A	<u>Information Sheet: Civil Case - Plaintiff</u>
WI - Circuit	G	Up to \$5000: \$147.50 More than \$5000: \$265.50, Equity action: \$164.50	None	\$94.50	\$125.50, cross claim or counter claim	Up to \$5,000	\$184.50	Up to \$10,000: \$20 \$10,000+: 0.2% of estate value (28)	<u>Civil Filing Fees, Wisconsin Circuit Court; Probate</u>
WY - District	G	\$70	None	N/A	N/A		\$60	<\$5000: \$50; \$5000 - \$10,000: \$55; For each ten thousand dollars over	<u>Wyo. Stat. Ann. § 5-3- 206.</u>

								\$10,000 another \$5	
WY - Circuit	L	\$40	N/A	\$10	None	Up to \$5,000	N/A	N/A	\$ 5-9-135. Filing fee

Alabama: (1) Many individual counties have local court cost add-on fees that increase their filing fees and court costs.

Colorado: (2) These civil fees can and most do include the following: stabilization, tax, court security, and justice fund fees.

Connecticut: (3) Probate fees in Connecticut vary based on the size of the estate in question. For an estate valued from \$0-\$500, the fee is \$25; from \$500-\$1,000, the fee is \$50; from \$1,000-\$10,000, the fee is \$50 plus .01 of all in excess of \$1,000; from \$10,000-\$500,000, the fee is \$150 plus .0035 of all in excess of \$10,000; from \$500,000-\$4,754,000, the fee is \$1,865 plus .0025 of all in excess of \$500,000; over \$4,754,000, the fee is \$12,500.

Delaware: (4) Landlord/Tenant: \$40; Debt and Trespass Claims where amount in controversy exceeds \$5,000: \$40; Debt and Trespass Claims where amount in controversy equals or is between \$1,000 - \$5,000: \$40; Debt and Trespass Claims where amount in controversy is less than \$1,000: \$40; Replevin Action: \$50

District of Columbia: (5) Probate fees in the District of Columbia vary based on the size of the estate in question (SCR - PD 125 and 425). There is no fee for an estate valued less than \$500; for an estate worth at least \$500 but less than \$2,500, the fee is \$15; for \geq \$2,500 but \leq \$15,000, \$50; for \geq \$15,000 but \leq \$25,000, \$100; for \geq \$25,000 but \leq \$50,000, \$150; for \geq \$50,000 but \leq \$75,000, \$250; for \geq \$75,000 but \leq \$100,000, \$350; for \geq \$100,000 but \leq \$500,000, \$575; for \geq \$500,000 but \leq \$750,000, \$825; for \geq \$750,000 but \leq \$1 million, \$1,275; for \geq \$1 million but \leq \$2.5 million, \$1,800; for \geq \$2.5 million but \leq \$5 million, \$2,300; and for \$5 million and more, \$2,300 plus 0.2% of the excess above \$5 million.

Florida: (6) Filing fees in probate cases vary depending on the type of issue and the size of the estate in question from \$40 to \$395.

Georgia: (7) Fees in limited jurisdiction courts in this state are set by the individual courts and vary widely. These are representative fees.

Idaho: (8) These fees exclude multiple surcharges that can in some cases double the actual filing fee paid by those filing suit.

Illinois: (9) This state has a graduated civil filing fee schedule for courts of general jurisdiction. The counties are grouped by population into three categories. In counties with 500,000 or fewer inhabitants, filing fees range from \$10-\$160 and answer fees from \$10-\$60. Probate fees when estate is less than \$15,000 are \$25-\$40; when estate is greater than \$15,000 fees are \$50-\$150. In counties with between 500,000 and 3 million inhabitants, filing fees range from \$10-\$190 and answer fees from \$20-\$75. In counties with 3 million or more in habitants, filing fees range from \$15-\$240 and answer fees from \$40-\$110. Probate fees when estate is less than \$15,000 are \$154; when estate is greater than \$15,000 fees are \$314
. COURTS (705 ILCS 105/) Clerks of Courts Act.

Indiana: (10) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5: (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4). (2) A support and maintenance fee (IC 33-37-5-6). (3) A document storage fee (IC 33-37-5-20). (4) An automated record keeping fee (IC 33-37-5-21). (5) A public defense administration fee (IC 33-37-5-21.2). (6) A judicial insurance adjustment fee (IC 33-37-5-25). (7) A judicial salaries fee (IC 33-37-5-26). (8) A court administration fee (IC 33-37-5-27). (9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)). (10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).

Iowa: (11) This state has graduated probate fees based on the size of the estate. For $<$ \$3,000 the fee is \$5. For $>$ \$3,000 but $<$ \$5,000 the fee is \$10. For $>$ \$5,000 but $<$ \$7,000 the fee is \$15. For $>$ \$7,000 but $<$ \$10,000 the fee is \$20. For $>$ \$10,000 but $<$ \$15,000 the fee is \$25. And for $>$ \$15,000 but $<$ \$25,000 the fee is \$30. There is a \$25 fee for each additional \$25,000 or major fraction thereof. 633.31 Calendar - fees in probate.

Louisiana: (12a) Court fees in Louisiana are set by the individual courts and vary widely. The representative fees shown are taken from the 24th Judicial District Court in Jefferson Parish and the Civil District Court for the Parish of New Orleans.

Louisiana: (12b) Court fees in Louisiana are set by the individual courts and vary widely. The representative fees shown are taken from the 24th Judicial District Court in Jefferson Parish and the Civil District Court for the Parish of New Orleans. Answer fees are dependent on what is being answered. Divorce filing fees depend on which article of divorce the filing(s) are under.

Louisiana: (12c) Court fees in Louisiana are set by the individual courts and vary widely. The representative fees shown are taken from Baton Rouge City Court.

Maine: (13) Probate filing fees in Maine are on a graduated schedule depending on the size of the estate, as follows: for \$10,000 and under, the fee is \$20; for \$10,001-\$20,000, \$40; from \$20,001-\$30,000, \$60; from \$30,001-\$40,000, \$75; from \$40,001-\$50,000, \$95;. From \$50,001-\$75,000, the fee is \$125; for \$75,001-\$100,000, the fee is \$150; from \$100,001-\$300,000, the fee increases by \$75 for every \$50,000. From \$300,001-\$400,000, the fee is \$500; from \$400,001-\$500,000, the fee is \$575. From \$500,001-\$750,000, the fee is \$625; from \$750,001-\$1,000,000, \$700; from \$1,000,001-\$1,500,000, \$750; from \$1,500,001-\$2,000,000, \$875; for more than \$2,000,000, the fee is \$950 and continuing in steps of \$100 for every increase in value of \$500,000 or part thereof above \$2,500,000.

<p>Maryland: (14) Probate filing fees in Maryland vary according to the size of the estate and the number of heirs. Estates valued at less than \$30,000 (or \$50,000 if the spouse is the sole heir) are considered small estates and follow the fee schedule: for estates of up to \$200, the fee is \$2; for more than or equal to \$200 but less than \$5,000, the fee is 1% of the value of the small estate. For more than or equal to \$5,000 but less than \$10,000, the fee is \$50; for more than or equal to \$10,000 but less than \$20,000, \$100. For estates greater than or equal to \$20,000 but less than \$50,000, the fee is \$150.</p>
<p>Michigan: (15) Probate fees vary depending on the type of petition.</p>
<p>Missouri: (16) Probate filing fees in Missouri are on a graduated schedule depending on the size of the estate beyond a value of \$50,000. These values are as follows: for \$50,001-\$100,000, the fee is \$50; from \$100,001-\$150,000, the fee is \$100; from \$150,001-\$200,000, the fee is \$150; from \$200,001-\$250,000, the fee is \$200; from \$250,001-\$300,000, the fee is \$250; from \$300,001-\$350,000, the fee is \$300; from \$350,001-\$400,000, the fee is \$350; from \$400,001-\$450,000, the fee is \$400; from \$450,001-over, the fee is \$450.</p>
<p>Minnesota (17): Fees vary by county. Click on this link to see fees: http://www.courts.state.mn.us/default.aspx?page=1020.</p>
<p>Nebraska: (18) Probate filing fees in Nebraska are on a graduated schedule depending on the size of the estate from a fee of \$41 if the value is less than \$1,000 to a fee of \$1,667 if the estate is worth over \$5,000,000.</p>
<p>Nevada: (19a) Civil filing fees in Nevada are done on a graduated scale. For suit amounts from \$.00 to \$1,000.00, the fee is \$46.00; For suit amounts from \$1,000.01 to \$2,500.00, the fee is \$68.00; For suit amounts from \$2,500.01 to \$4,500.00, the fee is \$118.00; For suit amounts from \$4,500.01 to \$6,500.00, the fee is \$143.00; For suit amounts from \$6,500.01 to \$7,500.00, the fee is \$168.00; For suit amounts from \$7,500.01 to \$10,000.00, the fee is \$193.00.</p>
<p>Nevada: (19b) Small Claims filing fees in Nevada are done on a graduated scale. For suit amounts from \$.00 to \$1,000.00, the fee is \$43.00; For suit amounts from \$1,000.01 to \$2,500.00, the fee is \$63.00; For suit amounts from \$2,500.01 to \$5,000.00, the fee is \$83.00.</p>
<p>North Dakota: (20) Both the regular civil filing fee and the fee for dissolution of marriage are \$80, but \$15 of the regular fee and \$65 of the divorce fee are surcharges that fund the civil legal services and displaced homemaker account.</p>
<p>Oregon: (21) Circuit court probate filing fees vary according to the size of the estate as follows: Where the amount of the estate is: 1. Not more than \$10,000—a fee of \$78. 2. More than \$10,000 and not more than \$25,000—a fee of \$150 . 3. More than \$25,000 and not more than \$50,000—a fee of \$253. 4. More than \$50,000 and not more than \$100,000—a fee of \$355. 5. More than \$100,000 and not more than \$500,000—a fee of \$457. 6. More than \$500,000 and not more than \$1,000,000—a fee of \$599. 7. More than \$1,000,000—a fee of \$622.</p>
<p>Pennsylvania: (22a) Filing fees in the court of common pleas vary according to the size of the county in which the court is located and, in some cases, the amount at issue. In 1st Class Counties, the base filing fee is \$172 and the answer fee \$86 (including divorce); in 2nd Class Counties, the filing fee is \$35 and the answer fee \$15; in 2nd Class, Home Rule Counties, filing fees vary between \$25 and \$125 and there is no answer fee; in 2nd Class A through 8th Class and Home Rule Counties, filing fees vary between \$5 and \$40 and there is no answer fee. (Pursuant to 42 Pa.C.S. 1725)</p>
<p>Pennsylvania: (22b) The filing fees for probate proceedings vary according to the size of the estate. Estate not exceeding \$1,000: \$14.00; Each additional \$1,000 or fraction thereof over \$1,000, but not exceeding \$10,000: 7.00; Over \$10,000, but not exceeding \$25,000: 140.00; Over \$25,000, but not exceeding \$100,000: 279.00; Over \$100,000, but not exceeding \$500,000: 419.00; Over \$500,000, but not exceeding \$1,000,000: 559.00; Each additional \$500,000 or fraction thereof over \$1,000,000: 300.00. 42 Pa.C.S.A. § 1725(c)(1).</p>
<p>Pennsylvania: (22c) Filing fees in the District Justice Courts depend on the type of case and the amount in question. Landlord-tenant actions involving less than \$2,000: \$45.00; involving more than \$2,000 but not more than \$4,000: \$55.00; involving more than \$4,000 but not more than \$8,000: \$75.00. For all other cases, suits for less than \$500 have a fee of \$30; for \$500 -\$2000, \$40; for \$2000-\$4000, \$50; and for \$4001-\$8000, \$75. 42 Pa.C.S.A. § 1725.1</p>
<p>South Carolina: (23) In estate and conservatorship proceedings, the fee shall be based upon the gross value of the decedent's probate estate or the protected person's estate as shown on the inventory and appraisal as follows: (1) Property valuation less than \$5,000.00 \$25.00 (2) Property valuation of \$5,000.00 but less than \$20,000.00 \$45.00 (3) Property valuation of \$20,000.00 but less than \$60,000.00 \$67.50 (4) Property valuation of \$60,000.00 but less than \$100,000.00 \$95.00 (5) Property valuation of \$100,000.00 but less than \$600,000.00 \$95.00 plus .15 percent of the property valuation between \$100,000.00 and \$600,000.00 (6) Property valuation of \$600,000.00 or higher amount set forth in (5) above plus one-fourth of one percent of the property valuation above \$600,000.00. Fees for settlement of estates; disposition of fees by Department of Revenue. [SC ST SEC 8-21-790] The office of the probate court must also be paid fees according to the following schedule for each estate settled: On the first \$100.00 of tax collected 5%; Above \$100.00 and up to \$1,000.00 2% ; Above \$1,000.00 and up to \$10,000.00 1 1/2 %; Above \$10,000.00 and up to \$50,000.00 1%; Above \$50,000.00 and up to \$100,000.00 3/4 of 1%; Above \$100,000.00 and up to \$300,000.00 1/2 of 1%; Above \$300,000.00 1/4 of 1%.</p>
<p>Tennessee: (24) Filing fees vary widely from county to county. The fees shown are drawn from the Tennessee Code 8-21-401 Schedule of fees</p>
<p>Texas: (25) Total assessments vary locally and also depend on number of plaintiffs. In addition to these base fees of the clerk, an additional \$40 "filing fee" must be collected in each civil case "to be used for court-related purposes for the support of the judiciary." Generally, there are a variety of surcharges and an occasional miscellaneous charge that tend to add at least \$100 to the base fee in all civil actions.</p>
<p>Utah: (26) Probate fees are as follows: less than or equal to \$50,000, \$15; \$50,001-\$75,000, \$30; \$75,001-\$112,000, \$50; \$112,001-\$168,000, \$90, more than \$168,000, \$175.</p>

Vermont: (27) Fees in Probate Court vary depending on the value of the estate in question. For estates \leq \$10,000 the fee is \$25; for \$10,001-\$50,000 the fee is \$75; for \$50,001-\$150,000 the fee is \$200; for \$150,001-\$500,000 the fee is \$375; for \$501,000-\$1,000,000 the fee is \$625; for \$1,000,001-\$5,000,000 the fee is \$1000; for \$5,000,001-\$10,000,000 the fee is \$1,500; for $>$ \$10,000,000 the fee is \$1,750.

Wisconsin: (28) These figures represent inventory fees for estates, guardianships, and conservatorships. One must pay \$3 to file a claim against an estate and \$20 to object to the probate of a will.

EXPLANATION OF INFLATIONARY CALCULATIONS

CPI Inflation Calculator from Bureau of Labor & Statistics*

Formula = \$N in 2005 has the same buying power as \$N in 2009

The following fees were used for the inflationary calculations:

- (A) The existing fee in 1992 if the fee was raised in 1992 or earlier - adjusted for inflation for 2005 and 2009 OR
- (B) The existing fee from the last year the fee was increased if the increase was after 1992 but before 2005 - adjusted for inflation for 2005 and 2009 AND
- (C) The existing fee in 2005, regardless of whether that fee was increased in 2005 - adjusted for inflation for 2009

Example -

Courts of Limited Jurisdiction Civil Filing Fee

\$31 in 1992 has the same buying power as \$43.15 in 2005

\$31 in 1992 has the same buying power as \$47.58 in 2009

\$43 in 2005 has the same buying power as \$47.41 in 2009

Superior Courts Civil Filing Fee

\$110 in 1992 has the same buying power as \$153.12 in 2005

\$110 in 1992 has the same buying power as \$168.84 in 2009

\$200 in 2005 has the same buying power as \$220.53 in 2009

*About the CPI Inflation Calculator - (see <http://data.bls.gov/cgi-bin/cpicalc.pl>) -

“The CPI inflation calculator uses the average Consumer Price Index for a given calendar year. This data represents changes in prices of all goods and services purchased for consumption by urban households. This index value has been calculated every year since 1913. For the current year, the latest monthly index value is used.”

Note: This calculation is not Washington/Seattle-specific but is based on the national CPI.

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Appellate Filing Fee	Appeal	\$250	Pre1992 - \$125 1992 - \$250	1992-2005= \$174.00 1992-2009= \$191.87 2005-2009= \$275.67	100% state	RCW 2.32.070
Copies of Opinions		\$.20 per folio		2005-2009= \$.22		
Admission to Practice Certificate		\$5		2005-2009= \$5.51		
Review of decision terminating review		\$200	Pre1992 - \$100 1992 - \$200	1992-2005= \$139.20 1992-2009= \$153.49 2005-2009= \$220.53		
Civil Filing Fee	CLJ	\$43 + \$20 JSTA surcharge (plus any surcharge authorized by RCW 7.75.035)	1961 - \$4 1969 - \$6 1980 - \$12 1981 - \$20 1987 - \$25 1990 - surcharge 1992 - \$31 (plus \$10 DRC surcharge in many counties) 2005 - \$43 2009 - \$20 JSTA	1992-2005= \$43.15 1992-2009= \$47.58 2005-2009= \$47.41	48.63% local 19.37% law library 32% state JSTA surcharge not subject to above split – 100% state.	RCW 3.62.060(1)
Counter Cross Third Party		\$43 +\$20 JSTA surcharge				

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Writ or Garnishment Fee	CLJ	\$12	1992 - \$6 2005 - \$12	1992-2005= \$8.35 1992-2009= \$9.21 2005-2009= \$13.23	68% local 32% state	RCW 3.62.060(2)
Supplemental Proceeding	CLJ	\$20	1992 - \$12 2005 - \$20	1992-2005= \$16.70 1992-2009= \$18.42 2005-2009= \$22.05	68% local 32% state	RCW 3.62.060(3)
Jury Demand Fee - Civil	CLJ	\$125	1992 - \$50 2005 - \$125	1992-2005= \$69.60 1992-2009= \$76.75 2005-2009= \$137.83	68% local 32% state	RCW 3.62.060(4)
Transcript Preparation Fee	CLJ	\$20	1992 - \$6 2005 - \$20	1992-2005= \$8.35 1992-2009= \$9.21 2005-2009= \$22.65	68% local 32% state	RCW 3.62.060(5)
Document certification	CLJ	\$5	1992 - \$5	1992-2005= \$6.96 1992-2009= \$7.67	68% local 32% state	RCW 3.62.060(6)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Certified Copy Authentication Copying a document w/o seal Copies made to CD	CLJ	\$5 for 1st page \$1 for each additional page \$2/page with seal \$0.50/page w/o seal \$.25/page \$20	2009		68% local 32% state	RCW 3.62.060(7)
Preparing Record	CLJ	\$40 plus cost of tape duplication	1992 - \$40	1992-2005= \$55.68 1992-2009= \$61.40	68% local 32% state	RCW 3.62.060(8)
Ex parte orders, searches, reports	CLJ	\$20/hr or portion	2009		68% local 32% state	RCW 3.62.060(9)
Duplication of tape	CLJ	\$10	1992 - \$10	1992-2005= \$13.92 1992-2009= \$15.35	68% local 32% state	RCW 3.62.060(10)
Abstract of judgment	CLJ	\$43	2007 - \$43	2007-2009= \$44.66	68% local 32% state	RCW 3.62.060(11)
Service fee for faxed documents	CLJ	\$3 for 1st page \$1 each additional	2009		68% local 32% state	RCW 3.62.060(12)
Cost upon conviction	CLJ	\$43	2005 - \$43	2005-2009= \$47.41	68% local 32% state	RCW 3.62.085

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Transcript/Abstract Filing Fee	SC	\$20	1995 - \$15 2005 - \$20	1995-2005= \$19.22 1995-2009= \$21.20 2005-2009= \$22.05	54% local 46% state	RCW 36.18.012(2)
Document Filing Fee	SC	\$20	1995 - \$20	1995-2005= \$25.63 1995-2009= \$28.26 2005-2009= \$22.05	54% local 46% state	RCW 36.18.012(3)
Unlawful Detainer Answer Filing Fee	SC	\$112 when answer filed	1987 - \$48 1992 - \$80 2005 - \$112 Note: civil filing fee of \$78 was divided for unlawful detainers in 1989 – see also sec. 19 (2) (a)	1992-2005= \$111.36 1992-2009= \$122.79 2005-2009= \$123.50	54% local 46% state	RCW 36.18.012(4) (previously 36.18.020)
Unlawful Detainer Third-party, Counter or Cross Claim	SC	\$45 + \$112= \$157 (Total filing fee amount) + 30 JSTA	2006 – total filing fee 2009 - \$30 JSTA	2006-2009= \$167.71	54% local 46% state	RCW 36.18.012(5) RCW 36.18.020
Restrictive Covenant, Petition to Strike Discriminatory Provisions	SC	\$20	1995 - \$20	1995-2005= \$25.63 1995-2009= \$28.26 2005-2009= \$22.05	54% local 46% state	RCW 36.18.012(6)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Will Filing, No Probate	SC	\$20	1995 - \$20	1995-2005= \$25.63 1995-2009= \$28.26 2005-2009= \$22.05	54% local 46% state	RCW 36.18.012(7)
Non-Judicial Probate Dispute w/in Existing Case	SC	\$20	1995 - \$2 2005 - \$20	1995-2005= \$2.56 1995-2009= \$2.83 2005-2009= \$22.05	54% local 46% state	RCW 36.18.012(8)
Common Law Lien Petition	SC	\$35	1996 - \$35	1996-2005= \$43.57 1996-2009= \$48.04 2005-2009= \$38.59	54% local 46% state	RCW 36.18.012(9)
Tax Warrant	SC	\$20	2001 - \$5 2003 - \$20	2003-2005= \$21.23 2003-2009= \$23.41 2005-2009= \$22.05	54% local 46% state	RCW 36.18.012(10)
Modification Filing Fee	SC	\$36	1995 - \$20 2005 - \$36	1995-2005= \$25.63 1995-2009= \$28.26 2005-2009= \$39.70	100% local	RCW 36.18.016(2)(a)
Petition for Dissolution		\$30 (in addition to filing fee)	2005 - \$30	2005-2009= \$33.08	\$24 to DV prevention account, \$ 5.70 to community DV, \$.30 to court	RCW 36.18.016(2)(b)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Jury Fee - Civil	SC	\$125 6-person	1992 - \$25 1995 - \$50 1999 - \$125	1999-2005= \$146.53 1999-2009= \$161.58 2005-2009= \$137.83	100% local	RCW 36.18.016(3)(a)
	SC	\$250 12-person	1992 - \$50 1995 - \$100 1999 - \$250	1999-2005= \$293.07 1999-2009= \$323.16 2005-2009= \$275.67		RCW 36.18.016(3)(a)
Jury Fee - Criminal	SC	\$125 6-person	1999 - \$50 2005 - \$125	1999-2005= \$58.61 1999-2009= \$64.63 2005-2009= \$137.83	100% local	RCW 36.18.016(3)(b)
	SC	\$250 12-person	1999 - \$100 2005 - \$250	1999-2005= \$117.23 1999-2009= \$129.26 2005-2009= \$275.67		RCW 36.18.016(3)(b)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Certified Copies Fee	SC	\$5 / \$1	1995 - \$2/\$1 2005 - \$5/\$1	1995-2005= \$2.56 1995-2009= \$2.83 2005-2009= \$5.51	100% local	RCW 36.18.016(4)
Authentication w/seal		\$2 for each add'l seal	Pre2005 - \$1 2005 - \$2	2005-2009= \$2.21		
Copies of paper documents without a seal		\$0.50/pg	2005 - \$.50	2005-2009= \$0.55		
Copies of electronic documents without a seal		\$0.25/pg	2005 - \$.25	2005-2009= \$0.28		
Copies made onto a compact disk		\$20/dsk	2005 - \$20	2005-2009= \$22.05		
Executing a Certificate	SC	\$2	1995 - \$2	1995-2005= \$2.56 1995-2009= \$2.83 2005-2009= \$2.21	100% local	RCW 36.18.016(5)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Affidavit for Garnishment	SC	\$20	1995 - \$20	1995-2005= \$25.63 1995-2009= \$28.26 2005-2009= \$22.05	100% local	RCW 36.18.016(6)
Supplemental Proceeding	SC	\$20	2005 - \$20	2005-2009= \$22.05	100% local	RCW 36.18.016(7)
Approving a Bond	SC	\$2	1995 - \$2	1995-2005= \$2.56 1995-2009= \$2.83 2005-2009= \$2.21	100% local	RCW 36.18.016(8)
Certificate of Qualification	SC	\$2	1995 - \$2	1995-2005= \$2.56 1995-2009= \$2.83 2005-2009= \$2.21	100% local	RCW 36.18.016(9)
Clerk's Services	SC	\$30/hr	\$20 2009 - \$30	2005-2009= \$22.05	100% local	RCW 36.18.016(11)
Ex Parte Orders	SC	\$30	\$20 per hr or portion 2009 - \$30 flat rate	1992-2005= \$27.84 1992-2009= \$30.70 2005-2009= \$22.05	100% local	RCW 36.18.016(12)
Recording of Proceedings	SC	\$10/audio \$25 video	1995 - \$10 1995 - \$25	1995-2005= \$12.81 1995-2009= \$14.13 2005-2009= \$11.03 1995-2005= \$32.04 1995-2009= \$35.33 2005-2009=	100% local	RCW 36.18.016(13)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
				\$27.57		
Disclaimer Filing Fee	SC	\$0	1995 - \$2 2005 - \$0		100% local	RCW 11.86.031(4) RCW 36.18.016(13) (formerly)
Torrens Act/Land Titles	SC	\$20	1995 - \$5 2005 - \$20	1995-2005= \$6.41 1995-2009= \$7.07 2005-2009= \$22.05	100% local	RCW 65.12.780 RCW 90.03.180 RCW 60.04.081 RCW 36.18.016(14)
Extension Of Judgment Filing Fee	SC	\$200	1995 - \$110 2005 - \$200	1995-2005= \$140.96 1995-2009= \$155.44 2005-2009= \$220.53	100% local	RCW 36.18.016(15)
Facilitator Surcharge	SC	\$20 (up to)	1995 - \$10 2005 - \$20	1995-2005= \$12.81 1995-2009= \$14.13 2005-2009= \$22.05	100% local	RCW 36.18.016(16) RCW 26.12.240
Water Rights Statement	SC	\$25	1995 - \$25	1995-2005= \$32.04 1995-2009= \$35.33 2005-2009= \$37.57	100% local	RCW 36.18.016(17)
Claim of frivolous lien	SC	\$35	2005 - \$35	2005-2009= \$38.59	100% local	RCW 36.18.016(18) *Fee already established at \$35 under RCW 60.04.081
Change of Venue	SC	\$20	2005 - \$20	2005-2009= \$22.05	100% local	RCW 36.18.016(19) 4.12.090

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Faxed Documents	SC	\$5/\$1	1995 - \$3/\$1 2009 - \$5/\$1	1995-2005= \$3.84 1995-2009= \$4.24 2005-2009= \$5.51	100% local	RCW 36.18.016(20)
Clerk's Papers	SC	\$.50/page	1995 - \$.50	1995-2005= \$0.64 1995-2009= \$0.71 2005-2009= \$0.55	100% local	RCW 36.18.016(21)
Mandatory Arbitration	SC	\$200 (as established by local ordinance)	2000 - \$120 2002 - \$200	2002-2005= \$217.12 2002-2009= \$239.41 2005-2009= \$220.53	100% local	RCW 36.18.016(25)
Trial De Novo	SC	\$250 (as established by local ordinance)	1999 - \$250	1999-2005= \$293.07 1999-2009= \$323.16 2005-2009= \$275.67	100% local	RCW 36.18.016(26)
Filing of a will or codicil	SC	\$20	2005 - \$20	2005-2009= \$22.05	100% local	RCW 36.18.016(28)
LFO fee	SC	\$100 annually	2009		100% local	RCW 36.18.016(29) RCW 9.94A.780
Dissolution Surcharge	SC	\$20	2007 - \$20	2007-2009= \$20.77	100% local	RCW 36.18.016(30) RCW 26.12.260
Appellate Review under RAP 5.1(b)		\$250 + \$30 JSTA surcharge	1995 - \$250 2009 - \$30 JSTA	1995-2005= \$320.37 1995-2009= \$353.27 2005-2009= \$275.67	100% state JSTA surcharge not subject to split – 100% state	RCW 36.18.018(2)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Civil Filing Fee	SC	\$200 + \$30 JSTA surcharge	1854 - \$0.10 1903 - \$4 1951 - \$5 1961 - \$15 1970 - \$25 1972 - \$32 1977 - \$45 1980 - \$60 1981 - \$70 1987 - \$78 1992 - \$110 2005 - \$200 2009 - \$30 JSTA	1992-2005= \$153.12 1992-2009= \$168.84 2005-2009= \$220.53	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state JSTA surcharge not subject to above split – 100% state	RCW 36.18.020(2)(a)
Unlawful Detainer Filing Fee		\$45 plaintiff + \$30 JSTA surcharge	1989 - \$30 2005 - \$45 2009 - \$30 JSTA Note: civil filing fee of \$78 was divided for unlawful detainer actions in 1989 – see also sec. 17 (4)	1992-2005= \$41.76 1992-2009= \$46.05 2005-2009= \$49.62		

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Lower Court (CLJ) Appeal	CLJ	\$200 + \$20 JSTA surcharge	Pre 1992 - \$78 1992 - \$110 2005 - \$200 2009 - \$20 JSTA	1992-2005= \$153.12 1992-2009= \$168.84 2005-2009= \$220.53	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state JSTA surcharge not subject to above split – 100% state	RCW 36.18.020(2)(b)
Petition for Judicial Review	SC	\$200 + \$30 JSTA surcharge	1995 - \$110 2005 - \$200 2009 - \$30 JSTA	1995-2005= \$140.96 1995-2009= \$155.44 2005-2009= \$220.53	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state	RCW 36.18.020(2)(c)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Anti-Harassment Filing Fee	SC	\$53	1995 - \$110 2000 - \$41 2005 - \$53	2000-2005= \$46.50 2000-2009= \$51.27 2005-2009= \$58.44	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state	RCW 36.18.020(2)(d)
	CLJ	\$43 (plus \$10 DRC surcharge in many counties)	Same as civil filing fees in District Courts.		CLJ distribution is: 48.63% local 19.37% law library 32% state	RCW 10.14.040
Notice of Debt Due Under 7.68.120(2)	SC	\$200 + \$30 JSTA surcharge	1996 - \$110 (prior was water rights fee) 2005 - \$200 2009 - \$30 JSTA	1996-2005= \$136.92 1996-2009= \$150.98 2005-2009= \$220.53	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state JSTA surcharge not subject to above split – 100% state	RCW 36.18.020(2)(e)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Probate Proceedings	SC	\$200 + \$30 JSTA surcharge	Pre 1992 - \$78 1992 - \$110 2005 - \$200 2009 - \$30 JSTA	1992-2005= \$153.12 1992-2009= \$168.84 2005-2009= \$220.53	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state JSTA surcharge not subject to above split – 100% state	RCW 36.18.020(2)(f)
Will Contest Filing Fee	SC	\$200 + \$30 JSTA surcharge	1903 - \$25 1961 - \$15 1970 - \$25 1972 - \$32 1977 - \$45 1980 - \$60 1981 - \$70 1987 - \$78 1992 - \$110 2005 - \$200 2009 - \$30 JSTA	1992-2005= \$153.12 1992-2009= \$168.84 2005-2009= \$220.53	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state JSTA surcharge not subject to above split – 100% state	RCW 36.18.020(2)(g)

Trial Court Funding Fees

Fee Description	Court Level	Fee Amount	Fee History	Inflationary Amount	Distribution	Cite
Criminal Filing Fee	SC	\$200	1963 - \$15 1970 - \$25 1972 - \$32 1980 - \$60 1981 - \$70 1992 - \$110	1992-2005= \$153.12 1992-2009= \$168.84 2005-2009= \$220.53	43.09% local 10.91% law library (percentage depends on law library amount designated by county legislative authority) 46.00% state	RCW 36.18.020(2)(h)

CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS

**Summary of Resolutions Adopted at
CCJ Midyear Meeting on February 1, 2012
COSCA Board of Directors on February 10, 2012**

Resolution 1 – In Support of Continued Federal Funding for the Legal Services Corporation

Summary: Ensuring equal justice is a joint federal and state responsibility. Many states have invested substantially in the core civil legal aid infrastructure funded through the federal Legal Services Corporation and reduction of federal funding would fundamentally undermine the vitality and effectiveness of state-based legal aid delivery systems and adversely affect civil judicial operations. The Conference of Chief Justices has repeatedly affirmed the importance of the federal Legal Services Corporation, which has suffered a \$56 million (14%) cut to its budget for FY2012.

Resolved: Reaffirm the importance of the federal Legal Services Corporation and call upon all members of Congress to fulfill our nation's promise of "Equal Justice Under Law," by restoring funding for the federal Legal Services Corporation to the level necessary to provide critically needed services to low-income and vulnerable Americans.

Additional Information: This resolution updates the prior resolution and acknowledges the 14% budget cut for FY2012. The CCJ/COSCA Government Affairs Committee is scheduling Hill visits to talk about the importance of LSC in the next couple of months. The Committee will be targeting the House.

Resolution 2 – In Support of Reauthorization of the Violence Against Women Act

Summary: Congress specifically recognized the important role of courts and set aside 5% of STOP grants for state and local courts but some courts have difficulty accessing the 5% set-aside. The Violence Against Women Reauthorization Act of 2011 has been introduced in congress to reauthorize VAWA through 2016.

Resolved: Support the continuation of the 5% set-aside and the training and court improvements funds to assist state courts to more effectively address domestic violence cases and encourage congress to ensure that state courts are able to access the funds targeted to them. Increase collaboration by requiring grantees to consult and coordinate with stakeholders in the planning and distribution of the funds. Reauthorize the VAWA and provide sufficient federal funding to support the goals and objectives of the Act.

Additional Information: The resolution is consistent with the prior VAWA reauthorization resolutions. Senator Leahy's legislation was voted out of the Senate Judiciary Committee on 2/2/12. The House Judiciary Committee is expected to introduce a bill in March.

Resolution 3 – In Support of the Guardian Accountability and Senior Protection Act

Summary: The number of elderly persons will increase over the next 20 years and this demographic trend is likely to result in a substantial increase in court cases regarding the protection of vulnerable elderly persons, including guardianship, conservatorship, and elder abuse proceedings. There are currently no federal government grant programs to assist state courts. The proposed Guardian Accountability and Senior Protection Act would establish a Guardianship Court Improvement Program and pilot programs to test effective methods for conducting background checks on individuals before they are appointed as a guardian or conservator and to promote the widespread adoption of information technology to better monitor, report, and audit conservatorships of protected persons.

Resolved: Urge congress to enact the Guardian Accountability and Senior Protection Act and appropriate sufficient funds to fully carry out the provisions of the Act.

Additional Information: The COSCA membership approved a similar resolution. The CCJ Resolutions Committee edited the COSCA resolution. The changes that were made were in the nature of language/grammar corrections, not substantive changes.

Resolution 4 - Urging Congress to Respect Separation of Powers and Principles of Federalism with Regard to Enacting Legislation to Address Child Custody

Summary: Historically, the federal government has deferred to state law in matters involving domestic relations, but in recent years, legislation has been introduced at the federal level to address child custody arrangements for parents in the armed forces. Federal efforts to legislate matters of child custody would preempt state family law and potentially discourage state efforts to enact broader and more helpful state laws. States are in the best position to balance the interests of deployed service members and their families. At least 30 states have already enacted state law that addresses military families.

Resolved: Urge congress to take all available and reasonable steps to obtain meaningful and timely input from appropriate state government branches and agencies with respect to the principles of federalism and separation of powers. Urge congress to include a federalism assessment of the proposed legislation in every pertinent committee and conference report. Urge congress to continue to reject legislative proposals to preempt state family law.

Additional Information: The resolution updates a resolution that CCJ/COSCA jointly approved on 2010. Legislation has been introduced in the House for several years that would preempt state law related to issuing temporary and permanent custody orders involving deployed parents and parents anticipated to be deployed. The House included the provision in the National Defense Authorization bill. The proposed provision was kept out of the final and approved version of the legislation, but it is anticipated that the proposal will be reintroduced in the House. Staff to the Senate Armed Services Committee requested an updated resolution.

Resolution 5 – In Support of the Importance of Court Security

Summary: Secure, safe courts promotes public confidence in the stability of government but continued incidents of violence have highlighted the need for improved security for court facilities. There is a federal interest in ensuring that all government facilities are safe and secure, but the annual \$75 billion in federal and state resources made available through homeland security has been unavailable to state courts.

Resolved: Encourage congress to ensure that state courts are included in the planning and disbursement of federal funding related to homeland and court security. Urge the federal government to provide funding directly to state courts for court security preparedness and response. Support federal legislative efforts to ensure that state courts are eligible to apply for security-related federal grants and that improving courthouse security is a stated purpose for use of existing funding in the federal homeland security programs and other federal grant programs. Support federal legislative efforts to provide state courts with access to existing federal resources, such as federal security training programs, risk assessments, and excess federal security equipment.

Additional Information: Following a courthouse shooting in Minnesota, NCSC Government Relations Office staff were contacted by Senate Franken's staff. NCSC Government Relations Office staff talked with the senator's staff about possible content of the legislation. The Local Courthouse Safety Act (S. 2076) was introduced by Senator Franken on 2/7/12. A copy of the CCJ resolution was provided to the senator's office for his use when introducing the bill. The joint resolution will be helpful in recruiting co-sponsors of the bill.

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 1

In Support of Continued Federal Funding for the Legal Services Corporation

WHEREAS, equal justice and the fair administration of justice are cornerstones of our democracy and core functions of our national and state governments; and

WHEREAS, the Preamble to our national Constitution declares it to be an express purpose of the federal government "to establish justice" and we are a nation dedicated to "liberty and justice for all"; and

WHEREAS, as a nation grounded in the rule of law, equal justice and the fair administration of justice, these functions have long transcended partisan difference with all Americans standing together in common commitment to these ideals; and

WHEREAS, the promise of equal justice and our commitment to the rule of law are so fundamental to our way of life, that it has long been the policy of the United States of America to promote these ideals beyond our national borders; and

WHEREAS, for more than four decades, the federal Legal Services Corporation has been the vehicle through which the federal interest in civil equal justice is realized; and

WHEREAS, bipartisan congressional action in the late 1990s formed the foundation for an enduring national consensus regarding the focus and value of the work underwritten by the federal Legal Services Corporation and ensured that the work of federally funded legal aid providers is focused on the individual needs of low income people facing the most significant civil legal problems that affect basic human needs such as: family preservation, safety and economic security; protection of housing and other essential property rights; and ensuring governmental accountability in disputes involving essential benefits and services to which low income people have a legal claim; and

WHEREAS, ensuring equal justice is a joint federal and state responsibility, and in recent years many states have invested substantially in the core civil legal aid infrastructure funded through the federal Legal Services Corporation, and reduction and/or withdrawal of federal funding would fundamentally undermine the vitality and effectiveness of state-based legal aid delivery systems and adversely affect civil judicial operations; and

WHEREAS, there are now more than 44 million Americans living at or near the poverty level and the legal problems faced by low income and vulnerable people have dramatically increased during this period of economic crisis with conclusive, objective documentation that between 50% and 75% of low income households experience one or more civil legal problems that affect basic human needs every year, and according to the same studies, less than 50% of such households are able to secure the legal assistance that they need; and

WHEREAS, equal access to justice contributes to healthy communities and a vibrant economy; and

WHEREAS, when large segments of the American population are denied effective access to the justice system and are unable to assert and defend effectively important civil legal rights and prerogatives, public trust and confidence in the justice system itself is placed in jeopardy; and

WHEREAS, the civil legal aid system in every state is a model public-private partnership and that investments in programs funded through the federal Legal Services Corporation effectively leverage complimentary legal assistance through the efforts of volunteer attorneys; and

WHEREAS, during times of fiscal crisis, it is necessary that government focus on core functions with the establishment and administration of justice being a core function of the federal government and this core function is furthered by ensuring the availability of civil legal aid for those otherwise unable to assert and defend important rights meaningfully within the justice system; and

WHEREAS, the Conference of Chief Justices has repeatedly affirmed the importance of the federal Legal Services Corporation, declaring "continued operation of the Legal Services Corporation [as] essential to the guarantee of equal justice and to the efficient operation of the courts" (Res. No. 9; January 24, 2002), calling for "increased federal funding on a continuing basis for Legal Services Corporations to better meet the demand for legal services and to ensure access to justice for all" (Res. No. 11, August 2009), and again calling on Congress to support increased funding for LSC "to provide critically needed services to low-income Americans" (Res. No. 9; August 3, 2011); and

WHEREAS, the Legal Services Corporation suffered a \$56 million (14%) cut to its budget for FY 2012 which will surely cause additional cuts to legal aid staff and, as a consequence, the reduction of legal services to low income persons facing mortgage foreclosures, domestic violence, income security reductions and other effects from the deep economic recession;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators reaffirm the importance of the federal Legal Services Corporation and calls upon all members of Congress to fulfill our nation's promise of "Equal Justice Under Law," by restoring funding for the federal Legal Services Corporation to the level necessary to provide critically needed services to low-income and vulnerable Americans.

Adopted by the Conference of Chief Justices as proposed by the CCJ/COSCA Access, Fairness and Public Trust Committee at the 2012 Midyear Meeting on February 1, 2012 and by the Board of Directors of the Conference of State Court Administrators on February 10, 2012.

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 2

In Support of Reauthorization of the Violence Against Women Act

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators have, in previous resolutions, expressed their support for efforts to address the problem of violence against women in our society; and

WHEREAS, the Conferences, by bringing together Chief Justices and State Court Administrators, have contributed to the implementation of the Violence Against Women Act (VAWA) by supporting education programs, technical assistance, and information sharing that meets the needs of individual states; and

WHEREAS, Congress has over the years authorized and appropriated federal funds to assist states in implementing the VAWA provisions; and

WHEREAS, in prior reauthorization legislation, Congress specifically recognized the important role of courts and added "state and local courts" as eligible grantees for STOP grants and grants to Encourage Arrest Policies and Enforcement of Protection Orders, established a 5% set-aside in the STOP grant for State courts, and created grant programs specifically targeted at assisting state courts to provide training for judges and court personnel and to implement court improvements; and

WHEREAS, state courts have effectively used the federal grant funds to implement improved practices and procedures and other system reforms; and

WHEREAS, while there has been improvement over time, some state courts continue to have difficulty in accessing the 5% set-aside in the STOP grant; and

WHEREAS, legislation, including the Violence Against Women Reauthorization Act of 2011 (S. 1925), has been introduced in the 112th Congress to reauthorize VAWA through fiscal year 2016;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and Conference of State Court Administrators support the continuation of the 5% set-aside within the STOP grant and the training and court improvements funds to assist state courts to more effectively address domestic violence cases; and

BE IT FURTHER RESOLVED that the Conferences encourage Congress to ensure that state courts are able to access the federal grant funds specifically targeted to assist state courts, including providing funds directly to state courts when the purpose of the funds is to assist state courts to implement the provisions of VAWA; and

BE IT FURTHER RESOLVED that the Conferences support efforts by Congress to increase collaboration by requiring grantees to consult and coordinate with stakeholders, including state and local courts, in the planning and distribution of formula grant funds; and

BE IT FURTHER RESOLVED that the Conferences urge Congress to reauthorize the Violence Against Women Act and provide sufficient federal funding to support the goals and objectives of the Act.

Adopted by the Conference of Chief Justices as proposed by the CCJ/COSCA Courts, Children and Families Committee at the 2012 Midyear Meeting on February 1, 2012 and by the Board of Directors of the Conference of State Court Administrators on February 10, 2012.

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 3

**In Support of
The Guardian Accountability and Senior Protection Act**

WHEREAS, the number of elderly persons will increase over the next 20 years and this demographic trend is likely to result in a substantial increase in court cases regarding the protection of vulnerable elderly persons, including guardianship, conservatorship, and elder abuse proceedings; and

WHEREAS, state court systems and individual courts have recognized the need to improve the process for considering petitions for guardianship and/or conservatorship of adults and the monitoring of guardianship and/or conservatorship orders; and

WHEREAS, research by the National Center for State Courts has identified problems and pointed out promising practices regarding the monitoring of guardianship and conservatorship cases; and

WHEREAS, the Report of the Conference of Chief Justices and Conference of State Court Administrators Joint Task Force on Elders and the Courts recommended that each state court system: (1) collect and report the number of guardianship and conservatorship cases that are filed, pending, and concluded each year; (2) implement improved procedures for monitoring the performance of guardians and conservators and the well-being of incapacitated persons; and (3) explore ways in which technology can assist them in documenting, tracking, and monitoring guardianships; and

WHEREAS, the 2010 Conference of State Court Administrators White Paper entitled *The Demographic Imperative: Guardianships and Conservatorships* called for the establishment of a Guardianship Court Improvement Program to assist courts throughout the nation to improve consideration of petitions for guardianship and/or conservatorship of adults and monitoring the performance of guardians and conservators and the well-being of incapacitated and vulnerable persons; and

WHEREAS, the delegates from ten national organizations participating in the Third National Guardianship Summit adopted a far-reaching set of recommended standards for performance and decision-making for guardians and conservators, as well as additional recommendations for action by courts, legislatures and other entities; and

WHEREAS, the Senate Special Committee on Aging has requested a series of reports from the Government Accountability Office over the past seven years (GAO 04-655, GAO-06-1086T, GAO-10-1046, and GAO 11-678) and held a series of hearings regarding problems in the monitoring of guardianship and conservatorship orders, the lack of cooperation and coordination by the Social Security Administration and Department of Veterans Affairs with state courts regarding conservatorships, financial exploitation, and abuse and neglect of seniors by their guardians and conservators; and

WHEREAS, these Government Accountability Office reports have recognized a substantial federal interest in guardianship, conservatorship, and elder abuse issues and the need for federal financial assistance to states to collect comparable data regarding guardianships and test and evaluate innovative procedures and practices to prevent, detect, and address abuse and exploitation; and

WHEREAS, some federal executive branch agencies have noted the need to address the exploitation and abuse of elders more effectively; and

WHEREAS, there are currently no grant programs within the federal government to assist state courts to meet the above referenced responsibilities or test innovative methods for conducting background checks, and utilizing technology for simplifying reporting procedures and facilitating the review of fiduciary performance; and

WHEREAS, the Court Improvement Program, established in 1993 for improving the consideration and outcomes of child protection cases, has been effective in reducing judicial delay in those cases; enhancing the ability of judges and attorneys to handle the complexity of these cases; and strengthening the review and monitoring of these cases, while respecting the independence of the state judiciaries; and

WHEREAS, it is anticipated that similar results would accrue from a Guardianship Court Improvement Program for guardianship and conservatorship cases; and

WHEREAS, the proposed Guardian Accountability and Senior Protection Act (S. 1744) would establish a Guardianship Court Improvement Program and pilot programs to test effective methods for conducting background checks on individuals before they are appointed as a guardian or conservator and to promote the widespread adoption of information technology to better monitor, report, and audit conservatorships of protected persons;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators urge the Congress to enact the Guardian Accountability and Senior Protection Act and appropriate sufficient funds to fully carry out the provisions of that Act.

Adopted by the Conference of Chief Justices as proposed by the CCI/COSCA Elders and the Courts Committee at the 2012 Midyear Meeting on February 1, 2012 and by the Board of Directors of the Conference of State Court Administrators on February 10, 2012.

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 4

**Urging Congress to Respect Separation of Powers and Principles of
Federalism with Regard to Enacting Legislation to Address Child Custody**

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators, in fulfilling their leadership role for state judicial systems, have traditionally taken positions to defend against proposed policies that threaten principles of federalism or that seek to preempt proper state court authority; and

WHEREAS, historically, the federal government has deferred to state law in matters involving domestic relations; and

WHEREAS, in recent years, federal legislation has been introduced that would amend the Servicemembers Civil Relief Act (Public Law 108-189) to address child custody arrangements for parents in the Armed Forces who are deployed or anticipated to be deployed in support of a contingency operation; and

WHEREAS, in the 112th Congress, H.R. 1540 would have: (1) restricted temporary custody orders based solely on deployment or anticipated deployment; (2) excluded parental absence based on deployment or possible deployment in determining the best interests of the child in permanent orders to modify custody; (3) made clear that a federal right of action is not created; and (4) not preempted state law if the applicable state law involving a temporary order provides a higher standard of protection for the servicemember; and

WHEREAS, federal efforts to legislate matters of child custody would preempt state family law and potentially discourage state efforts to enact broader and more helpful state laws; and

WHEREAS, family law cases are complex and states are in the best position to balance the interests of deployed servicemembers and their family members within the context of their own domestic relations laws; and

WHEREAS, at least 30 states have already enacted state law that addresses the special circumstances of parents who are serving in the military; and

WHEREAS, the Department of Defense continues to work with the other states, through its State Liaison program, to enact specific child custody legislation and to redraft its Family Case Plan Instruction to emphasize the importance of child custody planning before deployment;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices and Conference of State Court Administrators urge the Congress to ensure that: (1) during its consideration of such legislation, the Congress take all available and reasonable steps to obtain meaningful and timely input from appropriate state government branches and agencies with respect to principles of federalism and separation-of-powers; and (2) a federalism assessment of the proposed legislation be included in every pertinent committee and conference report; and

BE IT FURTHER RESOLVED that the Conferences urge the Congress to continue to reject legislative proposals to preempt state family law.

Adopted by the Conference of Chief Justices as proposed by the CCJ/COSCA Government Affairs Committee at the 2012 Midyear Meeting on February 1, 2012 and by the Board of Directors of the Conference of State Court Administrators on February 10, 2012.

**CONFERENCE OF CHIEF JUSTICES AND
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 5

In Support of the Importance of Court Security

WHEREAS, access to secure, safe courts promotes public confidence in the stability of government; and

WHEREAS, breaches of court security and violence towards judges, their families, court personnel and participants in the judicial process have resulted in serious injuries or death; and

WHEREAS, continued incidents of violence in state and territorial courts have highlighted the need for improved security for court facilities; and

WHEREAS, it is vital that citizens feel confident and safe in seeking access to their courts and that court personnel feel safe in the performance of their duties; and

WHEREAS, although there is a federal interest in ensuring that all government facilities are secure and safe, the additional federal and state resources made available through homeland security, estimated at \$75 billion annually, have been unavailable to state and territorial courts; and

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators have established a Security and Emergency Preparedness Committee whose accomplishments include the development of the Ten Essential Elements for Court Security and Safety Planning, a monograph of court security information, and a compilation of best practices for use by state and territorial courts; and

WHEREAS, state and territorial courts have been upgrading their security policies, procedures, and equipment to respond, but are unable to bear the increasing cost of providing adequate security for court facilities;

NOW, THEREFORE, BE IT RESOLVED, that the Conference of Chief Justices and Conference of State Court Administrators:

- Encourage Congress to ensure that state and territorial courts are included in the planning and disbursement of federal funding related to homeland and court security; and

- Urge the federal government to provide funding directly to state and territorial courts for court security preparedness and response; and
- Support federal legislative efforts to ensure that state and territorial courts are eligible to apply for security-related federal grants and that improving courthouse security is a stated purpose for use of existing funding in the federal homeland security programs and other federal grant programs; and
- Support federal legislative efforts to provide state and territorial courts with access to existing federal resources, such as federal security training programs, risk assessments, and excess federal security equipment.

Adopted by the Conference of Chief Justices as proposed by the CCJ/COSCA Security and Emergency Preparedness Committee and the CCJ/COSCA Government Affairs Committee at the 2012 Midyear Meeting on February 1, 2012 and by the Board of Directors of the Conference of State Court Administrators on February 10, 2012.

Supreme Court Administrative Committee Recommendations

The Task Force on Race and the Criminal Justice System Recommendations Made to the Supreme Court and Proposed Plans for Implementation Washington Minority and Justice Commission September 7, 2011

At the Supreme Court's September 7, 2011 Administrative En Banc Conference the justices agreed to refer the Recommendations Made to the Supreme Court and Proposed Plans for Implementation Washington Minority and Justice Commission to the court's Administrative Committee to discuss "next steps." The Administrative Committee reviewed the recommendations in more detail to determine which recommendations to suggest that the Commission pursue, which recommendations to recommend to the court to pursue, and which recommendations the court should leave to the Commission to make its own decision whether to pursue within the Commission's vision, mission, and goals.

Suggested Recommendations that the Commission Pursue

Task Force Recommendation #1—Participate and exercise leadership in the public dialogue on race within our justice system. Institutionally create and/or empower an entity to address these concerns publicly and to play a leadership role in oversight.

Suggested Recommendations that the Supreme Court Pursue

Task Force Recommendation #2—Commit to a series of forums on specific issues related to race in the criminal justice system so that specific and detailed recommendations for real change might be achieved.

Recommend to Supreme Court to commit to convene a roundtable once a year at the Supreme Court. The chief justice should invite legislative and executive branch officials to attend

Suggested Recommendations Commission is Welcome to Pursue, Provided Actions Fit Within the Commission's Vision, Mission, and Goals

Task Force Recommendation #3—Commit to the ongoing education of judges at all levels and direct the staff at AOC to actively support the judicial conferences in funding and supporting fact based quality presentations on the problems of bias and racial disparity. Encourage judges to undergo training on pretrial and bail screening instruments to reduce racial disparity among the detained/incarcerated population.

Task Force Recommendation #5—Undertake a critical review of each stage of our criminal proceedings in all of our trial courts to examine whether there might be practices that might have developed over time that contribute to racial disparity and commit to addressing these practices either by training or court rule.

Other Recommendations

Task Force Recommendation #4—Direct the Washington State Center for Court Research to study and publish data regarding the incarceration of minority populations and undertake a review of race neutral policies, practices and laws that may contribute to racial disproportionality with the goal of publishing such information and keeping the data fresh and updated.

The Administrative Committee recommends the court refer this recommendation to Washington State Center for Court Research (WSCCR) to Judge Ann Schindler, chair of WSCCR, and to Jeff Hall to determine whether WSCCR can accomplish the task and determine the cost involved.

Task Force Recommendation #6—Support the expansion of alternative sentencing policies (other than incarceration) and have a serious dialogue regarding the status of felons post-release from prison and the obstacles to successful re-entry into society.

The Administrative Committee recommends that the Supreme Court refer this recommendation to BJA for discussion and recommended action with a response back to the Supreme Court.

Task Force Recommendation #7—Encourage and advocate for an increase in pretrial diversion programs, alternatives to arrest, and the expansion of therapeutic courts.

The Administrative Committee recommends that the Supreme Court refer this recommendation to BJA for discussion and recommended action with a response back to the Supreme Court.

Task Force Recommendation #8—Develop and implement through the center for court research a rigorous method for evaluating whether any initiative undertaken to reduce racial disparity in the criminal justice system does in fact reduce racial disparity.

The Administrative Committee recommends the court refer this recommendation to Washington State Center for Court Research (WSCCR) to Judge Ann Schindler, chair of WSCCR, and to Jeff Hall to determine whether WSCCR can accomplish the task and determine the cost involved.

Task Force Recommendation #1.

"Participate and exercise leadership in the public dialogue on race within our justice system. Institutionally create and/or empower an entity to address these concerns publicly and to play a leadership role in oversight."

Implementation Proposal

- The Minority and Justice Commission, as a Supreme Court Commission, should take the leadership role in the public dialogue and the educational efforts on race. The history and existence of the Commission make it unnecessary to establish another group or committee. *See Appendix "1A" for History and Publications.* The Commission should be designated as the entity charged with implementing the Task Force recommendations.
- The Board for Judicial Administration Resolution on Race provides an excellent opportunity for the Commission and BJA to collaborate on a court-wide (all levels of court) effort to bring wider attention to the issues of disproportionality and disparity. *See Appendix "1B" BJA Resolution 2011.*
- The audience of these educational efforts should remain the wider public community but there should be an emphasis on judicial officers.
- Although there are many intersections and overlap of numerous social issues involving access to justice, the subject of race should be the primary focus of these educational opportunities.

Task Force Recommendation #2.

"Commit to a series of forums on specific issues related to race in the criminal justice system so that specific and detailed recommendations for real change might be achieved."

Implementation Proposal

- The education symposium by the Task Force at the Temple of Justice was noted for its effectiveness and should be used as a model for future forums. Thus, the Washington Supreme Court should commit to an annual half day symposium or forum on race and justice. Such a forum could be called, "The Annual Washington State Supreme Court Forum on Race and Justice" with specific issues addressed in depth. The forum should be open to the public and available through TVW, and could be held in different parts of the State. Webcasting the symposium might attract more interest if continuing education credits on ethics could be obtained for lawyers and judges.
- Each Supreme Court Justice should commit to attending such forums since it would be an opportunity for the Court to become more visible in local communities and for the Justices to hear from diverse populations across the state.

Task Force Recommendation #3.

"Commit to the ongoing education of judges at all levels and direct the staff at AOC to actively support the judicial conferences in funding and supporting fact based quality presentations on the problems of bias and racial disparity. Encourage judges to undergo training on pre-trial and bail screening instruments to reduce racial disparity among the detained/incarcerated population."

Implementation Proposal

- The Board for Court Education (BCE) should require mandatory judicial education on issues related to racial justice. This mandatory education could be developed as part of the ethics requirements. Supreme Court Justices should participate and serve as leaders in judicial educational programs.
- The racial justice curriculum for judges should have a practical component, with tips and tools offered to judges on avoiding disparate racial impact which may result from their decision-making. In addition, "experiential" programs should be offered that will sensitize judges to how various minority groups experience our justice system. The Minority and Justice Commission, in collaboration with the Judges' Associations and with staff support from AOC educators, should take a leadership role in planning and securing funding for this initiative.
- There should be education on racial justice that includes lawyers and law students. The Washington State Bar Association and the three law schools should be invited to develop programs that will encourage lawyers and students to become educated on these issues.
- The staff at the Administrative Office of the Courts (AOC) in concert with the Judges' Associations should continue to work on developing and promoting the use of pre-trial release tools in accordance with CRr3.2. Because counties and courts may utilize different tools, AOC should explore and survey what tools courts around the state at all levels are using and the Center for Court Research should evaluate whether such tools are scientific and actually comport with the court rule. Any tool should be validated for diverse populations and take into consideration limited economic circumstances. Risk assessment tools and pre-trial and bail screening instruments should be identified and evaluated in an effort to reduce racial disparity among the detained/incarcerated populations. The AOC should create and distribute a survey to judicial officers.

Task Force Recommendation #4

"Direct the Washington State Center for Court Research to study and publish data regarding the incarceration of minority populations and undertake a review of race neutral policies, practices and laws that may contribute to racial disproportionality with the goal of publishing such information and keeping the data fresh and updated."

Implementation Proposal

Accurate data collection regarding the State's prison and jail population is critical for any credible exploration of incarceration rates and whether racial disproportionality exists. The Department of Corrections possesses data on those incarcerated in our state prisons and most county jails collect demographic information and report statistical information to the Washington Association of Sheriffs and Police Chiefs. However, the data is not linked to other data bases that would allow for meaningful study. For example, there is little data readily available from courts across the state that would allow for a comparison of information related to arrests, filings, or convictions without detention, and sentencing practices on felonies that have been reduced to misdemeanors. In addition, as evidenced in Attachment "4A", the breakdown by race or ethnicity for some large counties is sorely lacking. For example, it appears that there is no reliable data on the incarcerated Latino population in King County because they are generally categorized as Caucasian with no other ethnic information.

A primary source of statistics for felony conviction data was the Sentencing Guidelines Commission. The recent legislative session eliminated the Sentencing Guidelines Commission as an independent agency. Effective July 1, 2011 it became an advisory agency located within the Office of Financial Management. The Caseload Forecast Council has assumed responsibility for the Commission's adult felony and juvenile disposition databases, the annual sentencing statistical summaries, and the sentencing manuals. While the enabling statute requires that the Council develop a computerized data base of adult and juvenile felony dispositions, there still needs to be a broader and more comprehensive collection of information that includes misdemeanors.

The subcommittee recommends that the Center for Court Research be directed to:

- Collect the information and data that is currently available regarding prison and jail populations and make it available on the AOC web site for judicial officers and court staff. There is a multitude of data bases and sources of information and it would be helpful to have the data or access to the data (web sites) organized in one single location and linked to one another.
- Document the existing practices of how data on race and ethnicity is collected by various agencies within the criminal justice system. Advocacy for uniformity and inclusiveness in data collection will be easier if a framework is created and if there is a baseline of information, including information from courts.

- Identify the risk assessment tools and practices that courts around the state are utilizing in making pre-trial release decisions and evaluate their scientific reliability (see proposal related to #3). The tools should be made available on the AOC web site.
- Once the data on incarceration rates is refreshed and available, the subcommittee recommends that the review of racially neutral policies as requested by the Task Force be undertaken under the sponsorship of the Minority and Justice Commission in collaboration with the three law schools. An expected outcome of the review would be a set of proposals for reducing disproportionality. These might include proposals to replicate the DWLS relicensing projects undertaken by the City of Spokane and the King County District Court, for example.

Task Force Recommendation # 5

"Undertake a critical review of each stage of our criminal proceedings in all of our trial courts to examine whether there might be practices that might have developed over time that contribute to racial disparity and commit to addressing these practices either by training or court rule."

Implementation Proposal

- The subcommittee recommends establishing a Task Force under the auspices of the Minority and Justice Commission to undertake a review of practices at the trial court level that contribute to racial disparity. The composition of the Task Force would include judges from the Superior Court Judges' Association and the District and Municipal Court Judges Association, prosecutors and defense counsel.
- Practices of concern include accepting pleas at arraignment without the opportunity for defense counsel to be appointed, paying fines in lieu of jail or trading treatment costs for jail time, recording failures to pay as failures to appear, and issuing bench warrants for failure to pay legal financial obligations. This recommendation includes affirmatively seeking financial support for this project from outside funding sources (grants from private foundations and the Department of Justice) so that the project would be adequately staffed and completed in a timely manner. We believe that a factual review of practices would permit these issues to be addressed by court rule and/or judicial education
- The Minority and Justice Commission drafted the revised Criminal Rule 3.2 regarding pre-trial release. The next logical step is to encourage "on the record" consideration of the factors listed in the rule and to provide a form that assists a judicial officer in making such findings. The Commission has developed pretrial release order forms for both superior and limited jurisdiction courts that are underutilized. *See* Attachment "5A". The Minority and Justice Commission in collaboration with the education committees of the Judges' Associations should provide judicial education on the topic.

Task Force Recommendation #6

"Support the expansion of alternative sentencing policies (other than incarceration) and have a serious dialogue regarding the status of felons post-release from prison and the obstacles to successful re-entry into society."

Implementation Proposal

- The subcommittee recognizes that there has been significant work undertaken by a number of counties and the Superior Court Judges' Association, at the state level, to support alternative drug sentencing laws which have in fact reduced recidivism. Thus, the subcommittee recommends that the Court host an educational forum for the Legislature on the success of sentencing alternatives and treatment courts in reducing recidivism. The primary focus would be to highlight some of the success stories achieved by therapeutic courts. See Implementation Proposal #7 and Attachments thereto.
- The second part of the recommendation is to learn about the obstacles that convicted felons face post-release and to explore how courts might assist individuals in re-entering society. There are "re-entry courts" being developed in other parts of the country and the subcommittee recommends that the Minority and Justice Commission be asked to compile information about these courts and make the information available to our courts as a way to explore the judiciary's role in a felon's re-entry and reduction in recidivism. See Attachments "6A" - "6D". In addition to the challenges of being a convicted felon, the subcommittee became aware of alleged practices in some limited jurisdiction courts of allowing convicted individuals to circumvent treatment or the payment of fines in exchange for jail time. The subcommittee recommends that the Minority and Justice Commission be asked to research whether such practices are occurring in municipal, district courts and superior courts.

Task Force Recommendation #7

"Encourage and advocate for an increase in pre-trial diversion programs, alternatives to arrest, and the expansion of therapeutic courts."

Implementation Proposal

- The subcommittee recommends that the Court ask the Minority and Justice Commission to: 1) compile and publish a list of all therapeutic courts operating in our state; 2) compile and make available on a single web site the rates of recidivism of such courts and/or other studies regarding their effectiveness. The information would assist the Court and Judges' Associations to become better advocates of these programs; *See* Sampling of Examples in Attachments "7A" – "7F" and 3) work with the Executive and Legislative branches to provide express authority to use pre-trial diversion programs in courts of limited jurisdiction.

Task Force Recommendation #8

"Develop and implement through the center for court research a rigorous method for evaluating whether any initiative undertaken to reduce racial disparity in the criminal justice system does in fact reduce racial disparity."

Implementation Proposal

- The subcommittee is aware that a number of projects and programs have been undertaken over the last ten years that were intended to reduce racial disproportionality. The subcommittee is also aware that success cannot always be measured by numbers alone. Thus, the subcommittee recommends that the Washington State Center for Court Research work with the Task Force to design an instrument or method for evaluating whether any of the initiatives have been effective in reducing racial disparity.