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**ENGROSSED HOUSE BILL 1128**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Shea, Jinkins, Holy, Sawyer, Kilduff, Nealey, Hansen, McCaslin, Fitzgibbon, Ormsby, and Haler

AN ACT Relating to civil arbitration; amending RCW 7.06.010, 7.06.020, 7.06.040, 7.06.050, and 36.18.016; adding new sections to chapter 7.06 RCW; creating a new section; and providing an effective date.

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

**Sec.**  RCW 7.06.010 and 2005 c 472 s 1 are each amended to read as follows:

In counties with a population of more than one hundred thousand, ((~~mandatory~~)) arbitration of civil actions under this chapter shall be required. In counties with a population of one hundred thousand or less, the superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize ((~~mandatory~~)) arbitration of civil actions under this chapter.

**Sec.**  RCW 7.06.020 and 2005 c 472 s 2 are each amended to read as follows:

(1) All civil actions, except for appeals from municipal or district courts, which are at issue in the superior court in counties which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of fifteen thousand dollars, or if approved by the superior court of a county by two-thirds or greater vote of the judges thereof, up to ((~~fifty~~)) one-hundred thousand dollars, exclusive of interest and costs, are subject to ((~~mandatory~~)) civil arbitration.

(2) If approved by majority vote of the superior court judges of a county which has authorized arbitration, all civil actions which are at issue in the superior court in which the sole relief sought is the establishment, termination, or modification of maintenance or child support payments are subject to mandatory arbitration. The arbitrability of any such action shall not be affected by the amount or number of payments involved.

NEW SECTION. **Sec.**  A new section is added to chapter 7.06 RCW to read as follows:

The arbitrator shall set the time, date, and place of the hearing and shall give reasonable notice of the hearing date to the parties. Except by stipulation or for good cause shown, the hearing shall be scheduled to take place not sooner than twenty-one days, nor later than seventy-five days, from the date of the assignment of the case to the arbitrator. The hearing shall take place in appropriate facilities provided or authorized by the court.

NEW SECTION. **Sec.**  A new section is added to chapter 7.06 RCW to read as follows:

After the assignment of a case to the arbitrator, a party may conduct discovery as follows: (1) Request from the arbitrator an examination under CR 35; (2) request admissions from a party under CR 36; and (3) take the deposition of another party. A party may request additional discovery from the arbitrator, including interrogatories, and the arbitrator will allow additional discovery only as reasonably necessary.

**Sec.**  RCW 7.06.040 and 1987 c 212 s 102 are each amended to read as follows:

(1) The appointment of arbitrators shall be prescribed by rules adopted by the supreme court. An arbitrator must be a member of the state bar association who has been admitted to the bar for a minimum of five years or who is a retired judge.

(2)(a) A person may not serve as an arbitrator unless the person has completed a minimum of three credits of Washington state bar association approved continuing legal education credits on the professional and ethical consideration for serving as an arbitrator. A person serving as an arbitrator must file a declaration or affidavit stating or certifying to the appointing court that the person is in compliance with this section.

(b) The superior court judge or judges in any county may choose to waive the requirements of this subsection (2) for arbitrators who have acted as an arbitrator five or more times previously.

(3) The parties may stipulate to a nonlawyer arbitrator. The supreme court may prescribe by rule additional qualifications of arbitrators.

(4) Arbitrators shall be compensated in the same amount and manner as judges pro tempore of the superior court.

**Sec.**  RCW 7.06.050 and 2011 c 336 s 164 are each amended to read as follows:

(1) Following a hearing as prescribed by court rule, the arbitrator shall file his or her decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after such filing, any aggrieved party may file with the clerk a written notice of appeal and request for a trial de novo in the superior court on all issues of law and fact. The notice must be signed by the party. Such trial de novo shall thereupon be held, including a right to jury, if demanded.

(a) Up to thirty days prior to the actual date of a trial de novo, a nonappealing party may serve upon the appealing party a written offer of compromise.

(b) In any case in which an offer of compromise is not accepted by the appealing party within ten calendar days after service thereof, for purposes of MAR 7.3, the amount of the offer of compromise shall replace the amount of the arbitrator's award for determining whether the party appealing the arbitrator's award has failed to improve that party's position on the trial de novo.

(c) A postarbitration offer of compromise shall not be filed or communicated to the court or the trier of fact until after judgment on the trial de novo, at which time a copy of the offer of compromise shall be filed for purposes of determining whether the party who appealed the arbitrator's award has failed to improve that party's position on the trial de novo, pursuant to MAR 7.3.

(2) If no appeal has been filed at the expiration of twenty days following filing of the arbitrator's decision and award, a judgment shall be entered and may be presented to the court by any party, on notice, which judgment when entered shall have the same force and effect as judgments in civil actions.

**Sec.**  RCW 36.18.016 and 2016 c 74 s 4 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of thirty-six dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of fifty-four dollars. The clerk of the superior court shall transmit monthly forty-eight dollars of the fifty-four dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based domestic violence services within the county, except for five percent of the six dollars, which may be retained by the court for administrative purposes. On or before December 15th of each year, the county shall report to the department of social and health services revenues associated with this section and community-based domestic violence services expenditures. The department of social and health services shall develop a reporting form to be utilized by counties for uniform reporting purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

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

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of five dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed thirty dollars per hour.

(12) For processing ex parte orders, the clerk may collect a fee of thirty dollars.

(13) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audiotape and twenty-five dollars for each video or other electronic storage medium.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of twenty dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must be charged. When the extension of judgment is at the request of the clerk, the two hundred dollar charge may be imposed as court costs under RCW 10.46.190.

(16) A facilitator surcharge of up to twenty dollars must be charged as authorized under RCW 26.12.240.

(17) For filing an adjudication claim under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) For filing a claim of frivolous lien under RCW 60.04.081, a fee of thirty-five dollars must be charged.

(19) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(20) A service fee of five dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(21) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(22) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(23) Investment service charge and earnings under RCW 36.48.090 must be charged.

(24) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(25) For filing a request for ((~~mandatory~~)) civil arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred ((~~twenty~~)) fifty dollars as established by authority of local ordinance. Two hundred twenty dollars of this charge shall be used ((~~solely~~)) to offset the cost of the ((~~mandatory~~)) civil arbitration program. Thirty dollars of each fee collected under this subsection must be used for indigent defense services.

(26) For filing a request for trial de novo of ((~~an~~)) a civil arbitration award, a fee not to exceed ((~~two~~)) four hundred ((~~fifty~~)) dollars as established by authority of local ordinance must be charged.

(27) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(28) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

(29) For the collection of an adult offender's unpaid legal financial obligations, the clerk may impose an annual fee of up to one hundred dollars, pursuant to RCW 9.94A.780.

(30) A surcharge of up to twenty dollars may be charged in dissolution and legal separation actions as authorized by RCW 26.12.260.

The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits.

NEW SECTION. **Sec.**  This act applies to all cases filed on or after September 1, 2018.

NEW SECTION. **Sec.**  This act takes effect September 1, 2018.

**--- END ---**