

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1128

Chapter 36, Laws of 2018

65th Legislature
2018 Regular Session

CIVIL ARBITRATION

EFFECTIVE DATE: September 1, 2018

Passed by the House January 18, 2018
Yeas 77 Nays 19

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate February 28, 2018
Yeas 41 Nays 8

CYRUS HABIB

President of the Senate

Approved March 13, 2018 10:35 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1128** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 13, 2018

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1128

Passed Legislature - 2018 Regular Session

State of Washington 65th Legislature 2017 Regular Session

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

Read first time 01/12/17. Referred to Committee on Judiciary.

1 AN ACT Relating to civil arbitration; amending RCW 7.06.010,
2 7.06.020, 7.06.040, 7.06.050, and 36.18.016; adding new sections to
3 chapter 7.06 RCW; creating a new section; and providing an effective
4 date.

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

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

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

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

16 (1) All civil actions, except for appeals from municipal or
17 district courts, which are at issue in the superior court in counties
18 which have authorized arbitration, where the sole relief sought is a
19 money judgment, and where no party asserts a claim in excess of
20 fifteen thousand dollars, or if approved by the superior court of a

1 county by two-thirds or greater vote of the judges thereof, up to
2 ((fifty)) one-hundred thousand dollars, exclusive of interest and
3 costs, are subject to ((mandatory)) civil arbitration.

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

11 NEW SECTION. Sec. 3. A new section is added to chapter 7.06 RCW
12 to read as follows:

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

20 NEW SECTION. Sec. 4. A new section is added to chapter 7.06 RCW
21 to read as follows:

22 After the assignment of a case to the arbitrator, a party may
23 conduct discovery as follows: (1) Request from the arbitrator an
24 examination under CR 35; (2) request admissions from a party under CR
25 36; and (3) take the deposition of another party. A party may request
26 additional discovery from the arbitrator, including interrogatories,
27 and the arbitrator will allow additional discovery only as reasonably
28 necessary.

29 **Sec. 5.** RCW 7.06.040 and 1987 c 212 s 102 are each amended to
30 read as follows:

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

35 (2)(a) A person may not serve as an arbitrator unless the person
36 has completed a minimum of three credits of Washington state bar
37 association approved continuing legal education credits on the

1 professional and ethical consideration for serving as an arbitrator.
2 A person serving as an arbitrator must file a declaration or
3 affidavit stating or certifying to the appointing court that the
4 person is in compliance with this section.

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

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

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

13 **Sec. 6.** RCW 7.06.050 and 2011 c 336 s 164 are each amended to
14 read as follows:

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

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

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

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

38 (2) If no appeal has been filed at the expiration of twenty days
39 following filing of the arbitrator's decision and award, a judgment

1 shall be entered and may be presented to the court by any party, on
2 notice, which judgment when entered shall have the same force and
3 effect as judgments in civil actions.

4 **Sec. 7.** RCW 36.18.016 and 2016 c 74 s 4 are each amended to read
5 as follows:

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

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

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

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

37 (b) Upon conviction in criminal cases a jury demand charge of one
38 hundred twenty-five dollars for a jury of six, or two hundred fifty

1 dollars for a jury of twelve may be imposed as costs under RCW
2 10.46.190.

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

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

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

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

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

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

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

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

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

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

39 (14) For registration of land titles, Torrens Act, under RCW
40 65.12.780, a fee of twenty dollars must be charged.

1 (15) For the issuance of extension of judgment under RCW 6.17.020
2 and chapter 9.94A RCW, a fee of two hundred dollars must be charged.
3 When the extension of judgment is at the request of the clerk, the
4 two hundred dollar charge may be imposed as court costs under RCW
5 10.46.190.

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

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

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

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

15 (20) A service fee of five dollars for the first page and one
16 dollar for each additional page must be charged for receiving faxed
17 documents, pursuant to Washington state rules of court, general rule
18 17.

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

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

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

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

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

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

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

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

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

13 (30) A surcharge of up to twenty dollars may be charged in
14 dissolution and legal separation actions as authorized by RCW
15 26.12.260.

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

21 NEW SECTION. **Sec. 8.** This act applies to all cases filed on or
22 after September 1, 2018.

23 NEW SECTION. **Sec. 9.** This act takes effect September 1, 2018.

Passed by the House January 18, 2018.
Passed by the Senate February 28, 2018.
Approved by the Governor March 13, 2018.
Filed in Office of Secretary of State March 13, 2018.

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