Chapter 2.06 RCW
COURT OF APPEALS

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

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

Washington court reports commission: RCW 2.32.160.

RCW 2.06.010 Court of appeals established—Definitions. There is hereby established a court of appeals as a court of record. For the purpose of RCW 2.06.010 through 2.06.100 the following terms shall have the following meanings:

(1) "Rules" means rules of the supreme court.

(2) "Chief justice" means chief justice of the supreme court.

(3) "Court" means court of appeals.

(4) "Judge" means judge of the court of appeals.

(5) "Division" means a division of the court of appeals.

(6) "District" means a geographic subdivision of a division from which judges of the court of appeals are elected.

(7) "General election" means the biennial election at which members of the house of representatives are elected. [1969 ex.s. c 221 s 1.]

RCW 2.06.020 Divisions—Locations—Judges enumerated—Districts. The court shall have three divisions, one of which shall be headquartered in Seattle, one of which shall be headquartered in Spokane, and one of which shall be headquartered in Tacoma:

(1) The first division shall have twelve judges from three districts, as follows:

(a) District 1 shall consist of King county and shall have eight judges;

(b) District 2 shall consist of Snohomish county and shall have two judges; and

(c) District 3 shall consist of Island, San Juan, Skagit, and Whatcom counties and shall have two judges.

(2) The second division shall have eight judges from the following districts:

(a) District 1 shall consist of Pierce county and shall have three judges;

(b) District 2 shall consist of Clallam, Grays Harbor, Jefferson, Kitsap, Mason, and Thurston counties and shall have three judges;

(c) District 3 shall consist of Clark, Cowlitz, Lewis, Pacific, Skamania, and Wahkiakum counties and shall have two judges.

(3) The third division shall have five judges from the following districts:

(a) District 1 shall consist of Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens counties and shall have two judges;

(b) District 2 shall consist of Adams, Asotin, Benton, Columbia, Franklin, Garfield, Grant, Walla Walla, and Whitman counties and shall have one judge;

(c) District 3 shall consist of Chelan, Douglas, Kittitas, Klickitat, and Yakima counties and shall have two judges. [2009 c 77 s 1; 1999 c 75 s 1; 1993 c 420 s 1; 1989 c 328 s 10; 1977 ex.s. c 49 s 1; 1969 ex.s. c 221 s 2.]

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

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

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

Effective date—1993 c 420: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 420 s 3.]

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

Appointments to positions created by the amendment to this section by 1977 ex.s. c 49 s 1: RCW 2.06.075.

RCW 2.06.022 Effective date for Snohomish county judicial position—Initial term. The new judicial position for the first

division, district 2, Snohomish county created pursuant to the 1989 amendment to RCW 2.06.020 shall become effective January 1, 1990, and shall be filled by gubernatorial appointment.

The person appointed by the governor shall hold office until the general election to be held in November 1990. At the general election, the judge appointed shall be entitled to run for a term of six years or until the second Monday in January 1997, and until a successor is elected and qualified. Thereafter, the judge shall be elected for a term of six years and until a successor is elected and qualified, commencing with the second Monday in January succeeding the election. [1989 c 328 s 11.]

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

RCW 2.06.024 Effective date for Pierce county judicial position—Initial term. The new judicial position for the second division, district 1, Pierce county, created pursuant to the 1999 amendment to RCW 2.06.020 shall become effective July 1, 2000, and shall be filled by gubernatorial appointment.

The person appointed by the governor shall hold office until the general election to be held in November 2000. At the general election, the judge appointed shall be entitled to run for a term of six years or until the second Monday in January 2007, and until a successor is elected and qualified. Thereafter, the judge shall be elected for a term of six years and until a successor is elected and qualified, commencing with the second Monday in January succeeding the election. [1999 c 75 s 2.]

RCW 2.06.030 General powers and authority—Transfers of cases—Appellate jurisdiction, exceptions—Appeals. The administration and procedures of the court shall be as provided by rules of the supreme court. The court shall be vested with all power and authority, not inconsistent with said rules, necessary to carry into complete execution all of its judgments, decrees and determinations in all matters within its jurisdiction, according to the rules and principles of the common law and the Constitution and laws of this state.

For the prompt and orderly administration of justice, the supreme court may (1) transfer to the appropriate division of the court for decision a case or appeal pending before the supreme court; or (2) transfer to the supreme court for decision a case or appeal pending in a division of the court.

Subject to the provisions of this section, the court shall have exclusive appellate jurisdiction in all cases except:

(a) cases of quo warranto, prohibition, injunction or mandamus directed to state officials;

(b) criminal cases where the death penalty has been decreed;

(c) cases where the validity of all or any portion of a statute, ordinance, tax, impost, assessment or toll is drawn into question on the grounds of repugnancy to the Constitution of the United States or of the state of Washington, or to a statute or treaty of the United States, and the superior court has held against its validity;

(d) cases involving fundamental and urgent issues of broad public import requiring prompt and ultimate determination; and

(e) cases involving substantive issues on which there is a direct conflict among prevailing decisions of panels of the court or between decisions of the supreme court;
all of which shall be appealed directly to the supreme court: PROVIDED, That whenever a majority of the court before which an appeal is pending, but before a hearing thereon, is in doubt as to whether such appeal is within the categories set forth in subsection (d) or (e) of this section, the cause shall be certified to the supreme court for such determination.

The appellate jurisdiction of the court of appeals does not extend to civil actions at law for the recovery of money or personal property when the original amount in controversy, or the value of the property does not exceed the sum of two hundred dollars.

The court shall have appellate jurisdiction over review of final decisions of administrative agencies certified by the superior court pursuant to RCW 34.05.518.

Appeals from the court to the supreme court shall be only at the discretion of the supreme court upon the filing of a petition for review. No case, appeal or petition for a writ filed in the supreme court or the court shall be dismissed for the reason that it was not filed in the proper court, but it shall be transferred to the proper court. [1980 c 76 s 3; 1979 c 102 s 1; 1969 ex.s. c 221 s 3.]

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

Severability—1979 c 102: See note following RCW 3.66.020.

RCW 2.06.040 Panels—Decisions, publication as opinions, when—Sessions—Rules. The court shall sit in panels of three judges and decisions shall be rendered by not less than a majority of the panel. In the determination of causes all decisions of the court shall be given in writing and the grounds of the decisions shall be stated. All decisions of the court having precedential value shall be published as opinions of the court. Each panel shall determine whether a decision of the court has sufficient precedential value to be published as an opinion of the court. Decisions determined not to have precedential value shall not be published. Judges of the respective divisions may sit in other divisions, causes may be transferred between divisions, and the court may hold sessions in cities, as provided by rule.

The court may establish rules supplementary to and not in conflict with rules of the supreme court. [2023 c 184 s 1; 2007 c 34 s 1; 1987 c 43 s 1; 1984 c 258 s 91; 1971 c 41 s 1; 1969 ex.s. c 221 s 4.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

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

RCW 2.06.050 Qualifications of judges. A judge of the court shall be:

(1) Admitted to the practice of law in the courts of this state not less than five years prior to taking office.

(2) A resident for not less than one year at the time of appointment or initial election in the district for which his or her position was created. [2011 c 336 s 11; 1969 ex.s. c 221 s 5.]

RCW 2.06.062 Salary of judges. The annual salary of the judges of the court of appeals shall be established by the Washington citizens' commission on salaries for elected officials. No salary warrant may be issued to any judge until the judge files with the state treasurer an affidavit that no matter referred to the judge for opinion or decision has been uncompleted for more than six months. [1986 c 155 s 5; 1984 c 258 s 402.]

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

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

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

RCW 2.06.070 Original appointments—Election of judges—Terms of office. Upon the taking effect of RCW 2.06.010 through 2.06.100, the governor shall appoint the judges of the court of appeals for each district in the numbers provided in RCW 2.06.020, who shall hold office until the second Monday in January of the year following the first state general election following the effective date of this act. In making the original appointments the governor shall take into consideration such factors as: Personal character; intellect; ability; diversity of background of experience in the practice of the law; diversity of political philosophy; diversity of educational experience; and diversity of affiliation with social and economic groups, for the purpose of establishing a balanced appellate court with the highest quality of personnel. At the first state general election after the effective date of this act there shall be elected from each district the number of judges provided for in RCW 2.06.020. Upon taking office the judges of each division elected shall come together at the direction of the chief justice and be divided by lot into three equal groups; those of the first group shall hold office until the second Monday in January of 1973, those of the second group shall hold office until the second Monday in January of 1975, and those of the third group shall hold office until the second Monday in

January of 1977, and until their successors are elected and qualified. Thereafter, judges shall be elected for the full term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election: PROVIDED, HOWEVER, That if the governor shall make appointments to the appellate court from membership of the superior court, the governor shall, in making appointments filling vacancies created in the superior courts by such action, take into consideration such factors as: Personal character; intellect; ability; diversity of background of experience in the practice of the law; diversity of political philosophy; diversity of educational experience; and diversity of affiliation with social and economic groups, for the purpose of maintaining a balanced superior court with the highest quality of personnel. [1969 ex.s. c 221 s 7.]

Effective date—1969 ex.s. c 221: The effective date of this act [1969 ex.s. c 221] is May 8, 1969, see preface to 1969 session laws.

RCW 2.06.075 Appointments to positions created by 1977 ex.s. c 49 s 1—Election—Terms of office. The new judicial positions created pursuant to section 1, chapter 49, Laws of 1977 ex. sess. shall become effective January 1, 1978 and shall be filled by gubernatorial appointment as follows:

(1) Two shall be appointed to the first division, District 1, King county;

(2) One shall be appointed to the second division, District 1, Pierce county; and

(3) One shall be appointed to the third division, District 1, Ferry, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens counties.

The persons appointed by the governor shall hold office until the general election to be held in November 1978. Upon taking office the two newly appointed judges in Division 1 shall determine by lot the length of term they will be entitled to run for in the general election of 1977. One term will be for one year or until the second Monday in January 1980, and the other for three years or until the second Monday in January 1982, and until their successors are elected and qualified. Thereafter judges shall be elected for a term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election. At the general election to be held in November 1978, the judges appointed in Division 2 and Division 3 shall be entitled to run for a term of six years or until the second Monday in January 1985, and until their successors are elected and qualified. Thereafter judges shall be elected for a term of six years and until their successors are elected and qualified, commencing with the second Monday in January succeeding their election. [1977 ex.s. c 49 s 3.]

RCW 2.06.076 Appointments to positions created by 1993 c 420 s 1—Election—Appointment—Terms of office. (1) Any judicial position created by *section 1, chapter 420, Laws of 1993 shall be effective only if that position is specifically funded and is referenced by division and district in an omnibus appropriations act.

(2)(a) The full term of office for the judicial positions authorized pursuant to chapter 420, Laws of 1993 shall be six years.

(b) The authorized judicial positions shall be filled at the general election in the November immediately preceding the beginning of the full term except as provided in (d) and (e) of this subsection.

(c) The six-year terms shall be staggered as follows: In the first division, the initial full terms of six years for the two positions in district 1 shall begin the second Monday in January following the general election held in November 2000. If the effective date for the judicial positions are later than the deadline to include it in the November 2000 election, the initial full term shall begin the second Monday in January following the general election held in November 2006.

(d) Upon becoming effective pursuant to subsection (1) of this section, the governor shall appoint judges to the additional judicial positions authorized in section 1, chapter 420, Laws of 1993. The appointed judges shall hold office until the second Monday in January following the general election following the effective date of the position. The appointed judges and other judicial candidates are entitled to run for the judicial position at the general election following appointment.

(e) The initial election for these positions shall be held in November following the effective date of the position. If the initial election of a newly authorized position is not held on a date which corresponds to the beginning of a full term as specified in (c) of this subsection, the election shall be for a partial term. [1998 c 26 s 1; 1993 c 420 s 2.]

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

Effective date——1993 c 420: See note following RCW 2.06.020.

RCW 2.06.080 Vacancy, how filled. If a vacancy occurs in the office of a judge of the court, the governor shall appoint a person to hold the office until the election and qualification of a judge to fill the vacancy, which election shall take place at the next succeeding general election and the judge so elected shall hold the office for the remainder of the unexpired term. [1969 ex.s. c 221 s 8.]

RCW 2.06.085 Oath of judges. The several judges of the court of appeals, before entering upon the duties of their office, shall take and subscribe the following oath or affirmation: "I do solemnly swear (or affirm, as the case may be), that I will support the Constitution of the United States and the Constitution of the State of Washington, and that I will faithfully and impartially discharge the duties of the office of judge of the court of appeals of the State of Washington to the best of my ability." Which oath or affirmation may be administered by any person authorized to administer oaths, a certificate whereof shall be affixed thereto by the person administering the oath. And the oath or affirmation so certified shall be filed in the office of the secretary of state. [1971 c 81 s 182.]

RCW 2.06.090 Practice of law, seeking nonjudicial elective office prohibited. No judge, while in office, shall engage in the

practice of law. No judge shall run for elective office other than a judicial office during the term for which he or she was elected. [2011 c 336 s 12; 1969 ex.s. c 221 s 9.]

RCW 2.06.100 Retirement. Judges shall retire at the age, and under the conditions and with the same retirement benefits as specified by law for the retirement of justices of the supreme court. [1969 ex.s. c 221 s 10.]

RCW 2.06.110 Reporting defects or omissions in the laws. Court of appeals judges shall, on or before the first day of November in each year, report in writing to the justices of the supreme court, such defects and omissions in the laws as their experience may suggest. [1971 ex.s. c 107 s 6.]

RCW 2.06.150 Judge pro tempore—Appointment—Oath of office. (1) Whenever necessary for the prompt and orderly administration of justice, the chief judge of any division of the court of appeals may appoint any regularly elected and qualified judge of a court of general jurisdiction, any retired judge of the court of appeals, or any active or retired justice of the supreme court of this state to serve as judge pro tempore of the court of appeals to sit within that division: PROVIDED, HOWEVER, That no judge pro tempore appointed to serve on the court of appeals under this subsection may serve more than ninety days in any one year.

(2) If the term of a judge of the court of appeals expires with cases or other judicial business pending, the chief judge of the division of the court of appeals from which the term expired, may appoint the judge to serve as judge pro tempore of the court of appeals to sit within that division to complete his or her cases or other judicial business.

(3) Before entering upon his or her duties as judge pro tempore of the court of appeals, the appointee shall take and subscribe an oath of office as provided for in Article IV, section 28 of the state Constitution. [2022 c 63 s 1; 1997 c 88 s 3; 1977 ex.s. c 49 s 2; 1973 c 114 s 1.]

Judge pro tempore appointments: RCW 2.56.170.

RCW 2.06.160 Judge pro tempore—Remuneration. (1) A judge of a court of record serving as a judge pro tempore of the court of appeals, as provided in RCW 2.06.150, shall receive, in addition to his or her regular salary, reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060.

(2) A retired judge of a court of record in this state serving as a judge pro tempore of the court of appeals, as provided in RCW 2.06.150, shall receive, in addition to any retirement pay he or she may be receiving, the following compensation and expenses:

(a) Reimbursement for subsistence, lodging, and travel expenses in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060; and

(b) During the period of his or her service as judge pro tempore, he or she shall receive as compensation sixty percent of one-two hundred and fiftieth of the annual salary of a court of appeals judge for each day of service: PROVIDED, HOWEVER, That the total amount of combined compensation received as salary and retirement by any judge in any calendar year shall not exceed the yearly salary of a full time judge.

(3) Whenever a judge of a court of record is appointed to serve as judge pro tempore of the court of appeals and a visiting judge is assigned to replace him or her, subsistence, lodging, and travel expenses incurred by such visiting judge as a result of such assignment shall be paid in accordance with the rates applicable to state officers under RCW 43.03.050 and 43.03.060, upon application of such judge from the appropriation of the court of appeals.

(4) A judge appointed as judge pro tempore of the court of appeals under RCW 2.06.150(2) shall continue to receive compensation in accordance with the rates applicable to the judge immediately before the expiration of the term.

(5) The provisions of RCW 2.06.150(1) and 2.06.160 (1) through (3) shall not be construed as impairing or enlarging any right or privilege acquired in any retirement or pension system by any judge or his or her dependents. [1997 c 88 s 4; 1981 c 186 s 2; 1973 c 114 s 2.]

RCW 2.06.170 Bailiffs—Threat assessments and investigations. (1) Bailiffs of the court of appeals are authorized to conduct threat assessments on behalf of court of appeals judicial officers and staff members. The court of appeals shall ensure that court of appeals bailiffs are qualified by training and experience if they perform these duties.

(2) Bailiffs of the court of appeals are authorized to receive criminal history record information that includes nonconviction data for purposes exclusively related to the investigation of any person making a threat as defined in RCW 9A.04.110 against a court of appeals judicial officer or staff member. Dissemination or use of criminal history records or nonconviction data for purposes other than authorized in this section is prohibited.

(3) Founded threats investigated under this section must be referred to local law enforcement for further action. Local law enforcement is authorized to report the outcome and any anticipated action to bailiffs of the court of appeals. [2026 c 111 s 1.]