

2 **E2SSB 5521** - S AMD - 001056

3 By Senators Wojahn, Drew, Loveland, Rinehart, McAuliffe, Vognild,  
4 Franklin, Quigley and Fraser

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6

ADOPTED 5/5/93

7 Strike everything after the enacting clause and insert the  
8 following:

9 "Sec. 1. RCW 82.14.310 and 1991 c 311 s 1 are each amended to read  
10 as follows:

11 (1) The county criminal justice assistance account is created in  
12 the state treasury. ((The account shall consist of all motor vehicle  
13 excise tax receipts deposited into the account under chapter 82.44  
14 RCW.))

15 (2) The moneys deposited in the county criminal justice assistance  
16 account for distribution under this section shall be distributed at  
17 such times as distributions are made under RCW 82.44.150 and on the  
18 relative basis of each county's funding factor as determined under this  
19 subsection.

20 (a) A county's funding factor is the sum of:

21 (i) The population of the county, divided by one thousand, and  
22 multiplied by two-tenths;

23 (ii) The crime rate of the county, multiplied by three-tenths; and

24 (iii) The annual number of criminal cases filed in the county  
25 superior court, for each one thousand in population, multiplied by  
26 five-tenths.

27 (b) Under this section and RCW 82.14.320 and 82.14.330:

28 (i) The population of the county or city shall be as last  
29 determined by the office of financial management;

30 (ii) The crime rate of the county or city is the annual occurrence  
31 of specified criminal offenses, as calculated in the most recent annual  
32 report on crime in Washington state as published by the Washington  
33 association of sheriffs and police chiefs, for each one thousand in  
34 population;

35 (iii) The annual number of criminal cases filed in the county  
36 superior court shall be determined by the most recent annual report of  
37 the courts of Washington, as published by the office of the  
38 administrator for the courts.

1 (iv) Distributions and eligibility for distributions in the 1989-91  
2 biennium shall be based on 1988 figures for both the crime rate as  
3 described under (ii) of this subsection and the annual number of  
4 criminal cases that are filed as described under (iii) of this  
5 subsection. Future distributions shall be based on the most recent  
6 figures for both the crime rate as described under (ii) of this  
7 subsection and the annual number of criminal cases that are filed as  
8 described under (iii) of this subsection.

9 (3) Moneys distributed under this section shall be expended  
10 exclusively for criminal justice purposes and shall not be used to  
11 replace or supplant existing funding. Criminal justice purposes are  
12 defined as activities that substantially assist the criminal justice  
13 system, which may include circumstances where ancillary benefit to the  
14 civil justice system occurs, and which includes domestic violence  
15 services such as those provided by domestic violence programs,  
16 community advocates, and legal advocates, as defined in RCW 70.123.020.  
17 Existing funding for purposes of this subsection is defined as calendar  
18 year 1989 actual operating expenditures for criminal justice purposes.  
19 Calendar year 1989 actual operating expenditures for criminal justice  
20 purposes exclude the following: Expenditures for extraordinary events  
21 not likely to reoccur, changes in contract provisions for criminal  
22 justice services, beyond the control of the local jurisdiction  
23 receiving the services, and major nonrecurring capital expenditures.

24 (~~(4) This section expires January 1, 1994.~~)

25 **Sec. 2.** RCW 82.14.320 and 1992 c 55 s 1 are each amended to read  
26 as follows:

27 (1) The municipal criminal justice assistance account is created in  
28 the state treasury. (~~The account shall consist of all motor vehicle~~  
29 ~~excise tax receipts deposited into the account under chapter 82.44~~  
30 ~~RCW.~~)

31 (2) No city may receive a distribution under this section from the  
32 municipal criminal justice assistance account unless:

33 (a) The city has a crime rate in excess of one hundred twenty-five  
34 percent of the state-wide average as calculated in the most recent  
35 annual report on crime in Washington state as published by the  
36 Washington association of sheriffs and police chiefs;

1 (b) The city has levied the tax authorized in RCW 82.14.030(2) at  
2 the maximum rate or the tax authorized in RCW 82.46.010(~~(+2)~~) (3) at  
3 the maximum rate; and

4 (c) The city has a per capita yield from the tax imposed under RCW  
5 82.14.030(1) at the maximum rate of less than one hundred fifty percent  
6 of the state-wide average per capita yield for all cities from such  
7 local sales and use tax.

8 (3) The moneys deposited in the municipal criminal justice  
9 assistance account for distribution under this section shall be  
10 distributed at such times as distributions are made under RCW  
11 82.44.150. The distributions shall be made as follows:

12 (a) Unless reduced by this subsection, thirty percent of the moneys  
13 shall be distributed ratably based on population as last determined by  
14 the office of financial management to those cities eligible under  
15 subsection (2) of this section that have a crime rate determined under  
16 subsection (2)(a) of this section which is greater than one hundred  
17 seventy-five percent of the state-wide average crime rate. No city may  
18 receive more than fifty percent of any moneys distributed under this  
19 subsection (a) but, if a city distribution is reduced as a result of  
20 exceeding the fifty percent limitation, the amount not distributed  
21 shall be distributed under (b) of this subsection.

22 (b) The remainder of the moneys, including any moneys not  
23 distributed in subsection (2)(a) of this section, shall be distributed  
24 to all cities eligible under subsection (2) of this section ratably  
25 based on population as last determined by the office of financial  
26 management.

27 (4) No city may receive more than thirty percent of all moneys  
28 distributed under subsection (3) of this section.

29 (5) Notwithstanding other provisions of this section, the  
30 distributions to any city that substantially decriminalizes or repeals  
31 its criminal code after July 1, 1990, and that does not reimburse the  
32 county for costs associated with criminal cases under RCW 3.50.800 or  
33 3.50.805(2), shall be made to the county in which the city is located.

34 (6) Moneys distributed under this section shall be expended  
35 exclusively for criminal justice purposes and shall not be used to  
36 replace or supplant existing funding. Criminal justice purposes are  
37 defined as activities that substantially assist the criminal justice  
38 system, which may include circumstances where ancillary benefit to the  
39 civil justice system occurs, and which includes domestic violence

1 services such as those provided by domestic violence programs,  
2 community advocates, and legal advocates, as defined in RCW 70.123.020.  
3 Existing funding for purposes of this subsection is defined as calendar  
4 year 1989 actual operating expenditures for criminal justice purposes.  
5 Calendar year 1989 actual operating expenditures for criminal justice  
6 purposes exclude the following: Expenditures for extraordinary events  
7 not likely to reoccur, changes in contract provisions for criminal  
8 justice services, beyond the control of the local jurisdiction  
9 receiving the services, and major nonrecurring capital expenditures.

10 ~~((6) This section expires January 1, 1994.))~~

11 **Sec. 3.** RCW 82.14.330 and 1991 c 311 s 4 are each amended to read  
12 as follows:

13 (1) The moneys deposited in the municipal criminal justice  
14 assistance account for distribution under this section shall be  
15 distributed ~~((at such times as distributions are made under RCW~~  
16 ~~82.44.150. Such moneys shall be distributed))~~ to the cities of the  
17 state as follows:

18 (a) ~~((For fiscal year 1991, each city with a population of under~~  
19 ~~ten thousand shall receive a distribution of three thousand two hundred~~  
20 ~~fifty dollars. Any remaining moneys shall be distributed to all cities~~  
21 ~~ratably on the basis of population as last determined by the office of~~  
22 ~~financial management.~~

23 (b) ~~For fiscal year 1992 and thereafter, each city with a~~  
24 ~~population of under ten thousand shall receive a distribution of two~~  
25 ~~thousand seven hundred fifty dollars. Any remaining moneys shall be~~  
26 ~~distributed to all cities ratably on the basis of population as last~~  
27 ~~determined by the office of financial management.~~

28 ~~(2))~~ Twenty percent appropriated for distribution shall be  
29 distributed to cities with a three-year average violent crime rate for  
30 each one thousand in population in excess of one hundred fifty percent  
31 of the state-wide three-year average violent crime rate for each one  
32 thousand in population. The three-year average violent crime rate  
33 shall be calculated using the violent crime rates for each of the  
34 preceding three years from the annual reports on crime in Washington  
35 state as published by the Washington association of sheriffs and police  
36 chiefs. Moneys shall be distributed under this subsection (1)(a)  
37 ratably based on population as last determined by the office of

1 financial management, but no city may receive more than one dollar per  
2 capita.

3 (b) Sixteen percent shall be distributed to cities ratably based on  
4 population as last determined by the office of financial management,  
5 but no city may receive less than one thousand dollars.

6 The moneys deposited in the municipal criminal justice assistance  
7 account for distribution under this subsection shall be distributed at  
8 such times as distributions are made under RCW 82.44.150.

9 Moneys distributed under this (~~section~~) subsection shall be  
10 expended exclusively for criminal justice purposes and shall not be  
11 used to replace or supplant existing funding. Criminal justice  
12 purposes are defined as activities that substantially assist the  
13 criminal justice system, which may include circumstances where  
14 ancillary benefit to the civil justice system occurs, and which  
15 includes domestic violence services such as those provided by domestic  
16 violence programs, community advocates, and legal advocates, as defined  
17 in RCW 70.123.020. Existing funding for purposes of this subsection is  
18 defined as calendar year 1989 actual operating expenditures for  
19 criminal justice purposes. Calendar year 1989 actual operating  
20 expenditures for criminal justice purposes exclude the following:  
21 Expenditures for extraordinary events not likely to reoccur, changes in  
22 contract provisions for criminal justice services, beyond the control  
23 of the local jurisdiction receiving the services, and major  
24 nonrecurring capital expenditures.

25 (2) In addition to the distributions under subsection (1) of this  
26 section:

27 (a) Fourteen percent shall be distributed to cities that have  
28 initiated innovative law enforcement strategies, including alternative  
29 sentencing and crime prevention programs. No city may receive more  
30 than one dollar per capita under this subsection (2)(a).

31 (b) Twenty percent shall be distributed to cities that have  
32 initiated programs to help at-risk children or child abuse victim  
33 response programs. No city may receive more than fifty cents per  
34 capita under this subsection (2)(b).

35 (c) Twenty percent shall be distributed to cities that have  
36 initiated programs designed to reduce the level of domestic violence  
37 within their jurisdictions or to provide counseling for domestic  
38 violence victims. No city may receive more than fifty cents per capita  
39 under this subsection (2)(c).

1 (d) Ten percent shall be distributed to cities that contract with  
2 another governmental agency for a majority of the city's law  
3 enforcement services.

4 Moneys distributed under this subsection shall be distributed to  
5 those cities that submit funding requests under this subsection to the  
6 department of community development based on criteria developed under  
7 section 4 of this act. Allocation of funds shall be in proportion to  
8 the population of qualified jurisdictions, but the distribution to a  
9 city shall not exceed the amount of funds requested. Cities shall  
10 submit requests for program funding to the department of community  
11 development by November 1 of each year for funding the following year.  
12 The department shall certify to the state treasurer the cities eligible  
13 for funding under this subsection and the amount of each allocation.

14 One-half of the moneys distributed under (a) through (d) of this  
15 subsection shall be distributed on March 1st and the remaining one-half  
16 of the moneys shall be distributed on September 1st. Moneys remaining  
17 undistributed under this subsection at the end of each calendar year  
18 shall be distributed to the criminal justice training commission to  
19 reimburse participating city law enforcement agencies with ten or fewer  
20 full-time commissioned patrol officers the cost of temporary  
21 replacement of each officer who is enrolled in basic law enforcement  
22 training, as provided in RCW 43.101.200.

23 If a city is found by the state auditor to have expended funds  
24 received under this subsection in a manner that does not comply with  
25 the criteria under which the moneys were received, the city shall be  
26 ineligible to receive future distributions under this subsection until  
27 the use of the moneys are justified to the satisfaction of the director  
28 or are repaid to the state general fund. The director may allow  
29 noncomplying use of moneys received under this subsection upon a  
30 showing of hardship or other emergent need.

31 (3) ((This section expires January 1, 1994)) Notwithstanding other  
32 provisions of this section, the distributions to any city that  
33 substantially decriminalizes or repeals its criminal code after July 1,  
34 1990, and that does not reimburse the county for costs associated with  
35 criminal cases under RCW 3.50.800 or 3.50.805(2), shall be made to the  
36 county in which the city is located.

37 NEW SECTION. Sec. 4. A new section is added to chapter 82.14 RCW  
38 to read as follows:

1       The department of community development shall adopt criteria to be  
2 used in making grants to cities under RCW 82.14.330(2). In developing  
3 the criteria, the department shall create a temporary advisory  
4 committee consisting of the director of community development, two  
5 representatives nominated by the association of Washington cities, and  
6 two representatives nominated by the Washington association of sheriffs  
7 and police chiefs.

8       **Sec. 5.** RCW 43.101.200 and 1989 c 299 s 2 are each amended to read  
9 as follows:

10       (1) All law enforcement personnel, except volunteers, and reserve  
11 officers whether paid or unpaid, initially employed on or after January  
12 1, 1978, shall engage in basic law enforcement training which complies  
13 with standards adopted by the commission pursuant to RCW 43.101.080  
14 (~~and 43.101.160~~). For personnel initially employed before January 1,  
15 1990, such training shall be successfully completed during the first  
16 fifteen months of employment of such personnel unless otherwise  
17 extended or waived by the commission and shall be requisite to the  
18 continuation of such employment. Personnel initially employed on or  
19 after January 1, 1990, shall commence basic training during the first  
20 six months of employment unless the basic training requirement is  
21 otherwise waived or extended by the commission. Successful completion  
22 of basic training is requisite to the continuation of employment of  
23 such personnel initially employed on or after January 1, 1990.

24       (2) The commission shall provide the aforementioned training  
25 together with necessary facilities, supplies, materials, and the board  
26 and room of noncommuting attendees for seven days per week.  
27 Additionally, to the extent funds are provided for this purpose, the  
28 commission shall reimburse to participating law enforcement agencies  
29 with ten or less full-time commissioned patrol officers the cost of  
30 temporary replacement of each officer who is enrolled in basic law  
31 enforcement training: PROVIDED, That such reimbursement shall include  
32 only the actual cost of temporary replacement not to exceed the total  
33 amount of salary and benefits received by the replaced officer during  
34 his training period.

35       **Sec. 6.** RCW 82.14.340 and 1991 c 311 s 5 and 1991 c 301 s 16 are  
36 each reenacted and amended to read as follows:

1       The legislative authority of any county (~~((with a population of two~~  
2 ~~hundred thousand or more, any county located east of the crest of the~~  
3 ~~Cascade mountains with a population of one hundred fifty thousand or~~  
4 ~~more, and any other county with a population of one hundred fifty~~  
5 ~~thousand or more that has had its population increase by at least~~  
6 ~~twenty-four percent during the preceding nine years, as certified by~~  
7 ~~the office of financial management for the first day of April of each~~  
8 ~~year, may and, if requested by resolution of the governing bodies of~~  
9 ~~cities in the county with an aggregate population equal to or greater~~  
10 ~~than fifty percent of the total population of the county, as last~~  
11 ~~determined by the office of financial management, shall submit an~~  
12 ~~authorizing proposition to the voters of the county and if approved by~~  
13 ~~a majority of persons voting,)) may fix and impose a sales and use tax~~  
14 ~~in accordance with the terms of this chapter, provided that such sales~~  
15 ~~and use tax is subject to repeal by referendum, using the procedures~~  
16 ~~provided in RCW 82.14.036. The referendum procedure provided in RCW~~  
17 ~~82.14.036 is the exclusive method for subjecting any county sales and~~  
18 ~~use tax ordinance or resolution to a referendum vote.~~

19       The tax authorized in this section shall be in addition to any  
20 other taxes authorized by law and shall be collected from those persons  
21 who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW  
22 upon the occurrence of any taxable event within such county. The rate  
23 of tax shall equal one-tenth of one percent of the selling price (in  
24 the case of a sales tax) or value of the article used (in the case of  
25 a use tax).

26       When distributing moneys collected under this section, the state  
27 treasurer shall distribute ten percent of the moneys to the county in  
28 which the tax was collected. The remainder of the moneys collected  
29 under this section shall be distributed to the county and the cities  
30 within the county ratably based on population as last determined by the  
31 office of financial management. In making the distribution based on  
32 population, the county shall receive that proportion that the  
33 unincorporated population of the county bears to the total population  
34 of the county and each city shall receive that proportion that the city  
35 incorporated population bears to the total county population.

36       Moneys received from any tax imposed under this section shall be  
37 expended exclusively for criminal justice purposes and shall not be  
38 used to replace or supplant existing funding. Criminal justice  
39 purposes are defined as activities that substantially assist the



1 criminal justice system, which may include circumstances where  
2 ancillary benefit to the civil justice system occurs, and which  
3 includes domestic violence services such as those provided by domestic  
4 violence programs, community advocates, and legal advocates, as defined  
5 in RCW 70.123.020. Existing funding for purposes of this subsection is  
6 defined as calendar year 1989 actual operating expenditures for  
7 criminal justice purposes. Calendar year 1989 actual operating  
8 expenditures for criminal justice purposes exclude the following:  
9 Expenditures for extraordinary events not likely to reoccur, changes in  
10 contract provisions for criminal justice services, beyond the control  
11 of the local jurisdiction receiving the services, and major  
12 nonrecurring capital expenditures. (~~Moneys received by the county and~~  
13 ~~the cities within the county from any tax imposed under this section~~  
14 ~~may be expended for domestic violence community advocates, as defined~~  
15 ~~in RCW 70.123.020, if, prior to July 28, 1991, and prior to approval of~~  
16 ~~the voters, the legislative authority of the county, which submitted an~~  
17 ~~authorizing proposition to the voters of the county, adopted by~~  
18 ~~ordinance a financial plan that included expenditure of a portion of~~  
19 ~~the moneys received for domestic violence community advocates.~~  
20 This section expires January 1, 1994.)

21 **Sec. 7.** RCW 82.44.110 and 1993 c ... (Engrossed Senate Bill No.  
22 5978) s 1 are each amended to read as follows:

23 The county auditor shall regularly, when remitting license fee  
24 receipts, pay over and account to the director of licensing for the  
25 excise taxes collected under the provisions of this chapter. The  
26 director shall forthwith transmit the excise taxes to the state  
27 treasurer.

28 (1) The state treasurer shall deposit the excise taxes collected  
29 under RCW 82.44.020(1) as follows:

30 (a) 1.60 percent into the motor vehicle fund to defray  
31 administrative and other expenses incurred by the department in the  
32 collection of the excise tax.

33 (b) 8.15 percent into the Puget Sound capital construction account  
34 in the motor vehicle fund.

35 (c) 4.07 percent into the Puget Sound ferry operations account in  
36 the motor vehicle fund.

37 (d) 8.83 percent into the general fund to be distributed under RCW  
38 82.44.155.

1 (e) 4.75 percent into the municipal sales and use tax equalization  
2 account in the general fund created in RCW 82.14.210.

3 (f) 1.60 percent into the county sales and use tax equalization  
4 account in the general fund created in RCW 82.14.200.

5 (g) 62.6440 percent into the general fund through ~~((December 31,~~  
6 ~~1993, 71 percent into the general fund beginning January 1, 1994))~~ June  
7 30, 1995, and ~~((66))~~ 57.6440 percent into the general fund beginning  
8 July 1, 1995.

9 (h) 5 percent into the transportation fund created in RCW 82.44.180  
10 beginning July 1, 1995.

11 (i) 5.9686 percent into the county criminal justice assistance  
12 account created in RCW 82.14.310 ~~((through December 31, 1993))~~.

13 (j) 1.1937 percent into the municipal criminal justice assistance  
14 account for distribution under RCW 82.14.320 ~~((through December 31,~~  
15 ~~1993))~~.

16 (k) 1.1937 percent into the municipal criminal justice assistance  
17 account for distribution under RCW 82.14.330 ~~((through December 31,~~  
18 ~~1993))~~.

19 Notwithstanding (i) through (k) of this subsection, no more than  
20 sixty million dollars shall be deposited into the accounts specified in  
21 (i) through (k) of this subsection for the period January 1, 1994,  
22 through June 30, 1995. For the fiscal year ending June 30, 1998, and  
23 for each fiscal year thereafter, the amounts deposited into the  
24 accounts specified in (i) through (k) of this subsection shall not  
25 increase by more than the amounts deposited into those accounts in the  
26 previous fiscal year increased by the implicit price deflator for the  
27 previous fiscal year. Any revenues in excess of this amount shall be  
28 deposited into the general fund.

29 (2) The state treasurer shall deposit the excise taxes collected  
30 under RCW 82.44.020(2) into the transportation fund.

31 (3) The state treasurer shall deposit the excise tax imposed by RCW  
32 82.44.020(3) into the air pollution control account created by RCW  
33 70.94.015.

34 **Sec. 8.** RCW 72.09.300 and 1991 c 363 s 148 are each amended to  
35 read as follows:

36 (1) ~~((A))~~ Every county legislative authority ~~((may))~~ shall by  
37 resolution or ordinance establish a local law and justice council. The  
38 county legislative authority shall determine the size and composition

1 of the council, which shall include the county sheriff and a  
2 representative of the municipal police departments within the county,  
3 the county prosecutor and a representative of the municipal prosecutors  
4 within the county, a representative of the city legislative authorities  
5 within the county, a representative of the county's superior, district,  
6 and municipal courts, the county jail administrator, the county clerk,  
7 the county risk manager, and the secretary of corrections. Officials  
8 designated may appoint representatives.

9 (2) A combination of counties may establish a local law and justice  
10 council by intergovernmental agreement. The agreement shall comply  
11 with the requirements of this section.

12 (3) The local law and justice council shall develop a local law and  
13 justice plan for the county. The council shall design the elements and  
14 scope of the plan, subject to final approval by the county legislative  
15 authority. The general intent of the plan shall include seeking means  
16 to maximize local resources including personnel and facilities, reduce  
17 duplication of services, and share resources between local and state  
18 government in order to accomplish local efficiencies without  
19 diminishing effectiveness. The plan shall also include a section on  
20 jail management. This section may include the following elements:

21 (a) A description of current jail conditions, including whether the  
22 jail is overcrowded;

23 (b) A description of potential alternatives to incarceration;

24 (c) A description of current jail resources;

25 (d) A description of the jail population as it presently exists and  
26 how it is projected to change in the future;

27 (e) A description of projected future resource requirements;

28 (f) A proposed action plan, which shall include recommendations to  
29 maximize resources, maximize the use of intermediate sanctions,  
30 minimize overcrowding, avoid duplication of services, and effectively  
31 manage the jail and the offender population;

32 (g) A list of proposed advisory jail standards and methods to  
33 effect periodic quality assurance inspections of the jail;

34 (h) A proposed plan to collect, synthesize, and disseminate  
35 technical information concerning local criminal justice activities,  
36 facilities, and procedures;

37 (i) A description of existing and potential services for offenders  
38 including employment services, substance abuse treatment, mental health  
39 services, and housing referral services.

1 (4) The council may propose other elements of the plan, which shall  
2 be subject to review and approval by the county legislative authority,  
3 prior to their inclusion into the plan.

4 (5) The county legislative authority may request technical  
5 assistance in developing or implementing the plan from other units or  
6 agencies of state or local government, which shall include the  
7 department, the office of financial management, and the Washington  
8 association of sheriffs and police chiefs.

9 (6) Upon receiving a request for assistance from a county, the  
10 department may provide the requested assistance.

11 (7) The secretary may adopt rules for the submittal, review, and  
12 approval of all requests for assistance made to the department. The  
13 secretary may also appoint an advisory committee of local and state  
14 government officials to recommend policies and procedures relating to  
15 the state and local correctional systems and to assist the department  
16 in providing technical assistance to local governments. The committee  
17 shall include representatives of the county sheriffs, the police  
18 chiefs, the county prosecuting attorneys, the county and city  
19 legislative authorities, and the jail administrators. The secretary  
20 may contract with other state and local agencies and provide funding in  
21 order to provide the assistance requested by counties.

22 (8) The department shall establish a base level of state  
23 correctional services, which shall be determined and distributed in a  
24 consistent manner state-wide. The department's contributions to any  
25 local government, approved pursuant to this section, shall not operate  
26 to reduce this base level of services.

27 **Sec. 9.** RCW 9A.16.110 and 1989 c 94 s 1 are each amended to read  
28 as follows:

29 ~~((1))~~ No person in the state shall be placed in legal jeopardy of  
30 any kind whatsoever for protecting by any reasonable means necessary,  
31 himself or herself, his or her family, or his or her real or personal  
32 property, or for coming to the aid of another who is in imminent danger  
33 of or the victim of assault, robbery, kidnapping, arson, burglary,  
34 rape, murder, or any other heinous crime.

35 ~~((2) When a substantial question of self defense in such a case  
36 shall exist which needs legal investigation or court action for the  
37 full determination of the facts, and the defendant's actions are  
38 subsequently found justified under the intent of this section, the~~

1 state of Washington shall indemnify or reimburse such defendant for all  
2 loss of time, legal fees, or other expenses involved in his or her  
3 defense. This indemnification or reimbursement is an award of  
4 reasonable costs which include loss of time, legal fees, or other  
5 expenses and is not an independent cause of action. The determination  
6 of an award shall be by the judge or jury at the discretion of the  
7 judge in the criminal proceeding. To award these reasonable costs the  
8 trier of fact must find that the defendant's claim of self defense was  
9 sustained by a preponderance of the evidence: PROVIDED, HOWEVER, That  
10 nothing shall preclude the legislature from granting a higher award  
11 through the sundry claims process.

12 (3) Whenever the issue of self defense under this section is  
13 decided by a judge or whenever a judge exercises the discretion  
14 authorized under subsection (2) of this section in determining an  
15 award, the judge shall consider the same questions as must be answered  
16 in the special verdict under subsection (4) of this section.

17 (4) Whenever the issue of self defense under this section has been  
18 submitted to a jury, and the jury has found the defendant not guilty,  
19 and the judge has submitted an award determination to the jury, the  
20 court shall instruct the jury to return a special verdict in  
21 substantially the following form:

22 answer—  
23 yes or no

24 1. Was the finding of not guilty based upon self  
25 defense? \_\_\_\_\_ . . . . .  
26 2. If your answer to question 1 is no, do not  
27 answer the remaining question.  
28 3. If your answer to question 1 is yes, was the  
29 defendant:  
30 a. Protecting himself or herself? \_\_\_\_\_ . . . . .  
31 b. Protecting his or her family? \_\_\_\_\_ . . . . .  
32 c. Protecting his or her property? \_\_\_\_\_ . . . . .  
33 d. Coming to the aid of another who was in imminent  
34 danger of a heinous crime? \_\_\_\_\_ . . . . .  
35 e. Coming to the aid of another who was the victim  
36 of a heinous crime? \_\_\_\_\_ . . . . .))

