

1 AN ACT Relating to prohibiting political subdivisions from withholding
2 essential services, such as law enforcement; providing damages for
3 failure to do so; and adding a new section to chapter 35.21 RCW and
4 chapter 36.01.

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

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8 NEW SECTION. **Sec. 1.** The Legislature finds that government exists,
9 in part, to secure rights and equal justice for all citizens, while at
10 the same time to maintain social order. Statutory and common law vests
11 in the state the police powers essential to the preservation of social
12 order, which it has delegated to local governments. For example, in
13 *Chicago v. Sturges*, 222 U.S. 313 (1911), the U.S. Supreme Court held
14 that liability may exist when a local government fails to protect
15 property destroyed by unpeaceful protests, riots, or mob violence. The
16 Legislature intends to hold local governments responsible when they
17 willfully fail to discharge their delegated power to maintain social
18 order.

19

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21 RCW
2 to read as follows:

3 (1) Political subdivisions, including cities and towns, shall be
4 prohibited from intentionally withdrawing law enforcement and fire and
5 rescue services, in specifically bounded areas, within their local
6 jurisdiction.

7 (2) Any political subdivision which violates subsection 1 of this
8 section, may be liable for the loss of life, injury, theft, damage, or
9 destruction of property resulting therefrom. In addition to other
10 actual damages, damages may include loss of business or right of
11 enjoyment for the failure to maintain public safety in public right of
12 ways.

13 (3) In addition to any other remedies and sanctions provided herein
14 for a violation of subsection 1 of this section, based on a judicial
15 finding or legislative determination, a political subdivision may be
16 subject to a fine of \$10,000 per day until its services or brought into
17 compliance.

18
19 **Sec. 3.** RCW 82.14.310 and 2019 c 415 s 988 are each amended to
20 read as follows:

21 (1) The county criminal justice assistance account is created in
22 the state treasury. Beginning in fiscal year 2000, the state
23 treasurer must transfer into the county criminal justice assistance
24 account from the general fund the sum of twenty-three million two
25 hundred thousand dollars divided into four equal deposits occurring
26 on July 1, October 1, January 1, and April 1. For each fiscal year
27 thereafter, the state treasurer must increase the total transfer by
28 the fiscal growth factor, as defined in RCW 43.135.025, forecast for
29 that fiscal year by the office of financial management in November
30 of the preceding year.

31 (2) The moneys deposited in the county criminal justice
32 assistance account for distribution under this section, less any
33 moneys appropriated for purposes under subsections (4) and (5) of
34 this section, must be distributed at such times as distributions are

1 made under *RCW 82.44.150 and on the relative basis of each county's
2 funding factor as determined under this subsection.

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

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

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

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

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

12 (i) The population of the county or city is as last determined
13 by the office of financial management;

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

19 (iii) The annual number of criminal cases filed in the county
20 superior court must be determined by the most recent annual report
21 of the courts of Washington, as published by the administrative
22 office of the courts;

23 (iv) Distributions and eligibility for distributions in the
24 1989-1991 biennium must be based on 1988 figures for both the crime
25 rate as described under (ii) of this subsection and the annual
26 number of criminal cases that are filed as described under (iii) of
27 this subsection. Future distributions must be based on the most
28 recent figures for both the crime rate as described under (ii) of
29 this subsection and the annual number of criminal cases that are
30 filed as described under (iii) of this subsection.

31 (3) Moneys distributed under this section must be expended
32 exclusively for criminal justice purposes and may not be used to
33 replace or supplant existing funding. Criminal justice purposes are
34 defined as activities that substantially assist the criminal justice

1 system, which may include circumstances where ancillary benefit to
2 the civil or juvenile justice system occurs, and which includes (a)
3 domestic violence services such as those provided by domestic
4 violence programs, community advocates, and legal advocates, as
5 defined in RCW 70.123.020, and (b) during the 2001-2003 fiscal
6 biennium, juvenile dispositional hearings relating to petitions for
7 at-risk youth, truancy, and children in need of services. Existing
8 funding for purposes of this subsection is defined as calendar year
9 1989 actual operating expenditures for criminal justice purposes.
10 Calendar year 1989 actual operating expenditures for criminal
11 justice purposes exclude the following: Expenditures for
12 extraordinary events not likely to reoccur, changes in contract
13 provisions for criminal justice services, beyond the control of the
14 local jurisdiction receiving the services, and major nonrecurring
15 capital expenditures.

16 (4) Not more than five percent of the funds deposited to the
17 county criminal justice assistance account may be available for
18 appropriations for enhancements to the state patrol crime laboratory
19 system and the continuing costs related to these enhancements. Funds
20 appropriated from this account for such enhancements may not
21 supplant existing funds from the state general fund.

22 (5) During the 2017-2019 fiscal biennium, the sum of one hundred
23 fifty-three thousand dollars, and during the 2019-2021 fiscal
24 biennium, the sum of five hundred ten thousand dollars, may be
25 appropriated for the Washington state patrol to provide
26 investigative assistance and report services to assist local law
27 enforcement agencies to prosecute criminals. It is the intent of the
28 legislature that this policy will be continued in subsequent fiscal
29 biennia.

30 (6) If a county is found, based on a valid judicial finding or
31 legislative determination, to be in violation of section 2 of this
32 act the county shall lose one-half of its share of the county
33 criminal justice assistance account for up to one year, to begin at
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1 the commencement of the next fiscal year, or until its services are
2 brought into compliance.

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4 **Sec. 4.** RCW 82.14.320 and 2011 1st sp.s. c 50 s 971 are each
5 amended to read as follows:

6 (1) The municipal criminal justice assistance account is created
7 in the state treasury. Beginning in fiscal year 2000, the state
8 treasurer must transfer into the municipal criminal justice
9 assistance account for distribution under this section from the
10 general fund the sum of four million six hundred thousand dollars
11 divided into four equal deposits occurring on July 1, October 1,
12 January 1, and April 1. For each fiscal year thereafter, the state
13 treasurer must increase the total transfer by the fiscal growth
14 factor, as defined in RCW 43.135.025, forecast for that fiscal year
15 by the office of financial management in November of the preceding
16 year.

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

19 (a) The city has a crime rate in excess of one hundred twenty-
20 five percent of the statewide average as calculated in the most
21 recent annual report on crime in Washington state as published by
22 the Washington association of sheriffs and police chiefs;

23 (b) The city has levied the tax authorized in RCW 82.14.030(2)
24 at the maximum rate or the tax authorized in RCW 82.46.010(3) at the
25 maximum rate; and

26 (c) The city has a per capita yield from the tax imposed under
27 RCW 82.14.030(1) at the maximum rate of less than one hundred fifty
28 percent of the statewide average per capita yield for all cities
29 from such local sales and use tax.

30 (3) The moneys deposited in the municipal criminal justice
31 assistance account for distribution under this section, less any
32 moneys appropriated for purposes under subsection (7) of this
33 section, must be distributed at such times as distributions are made
34 under *RCW 82.44.150. The distributions must be made as follows:

1 (a) Unless reduced by this subsection, thirty percent of the
2 moneys must be distributed ratably based on population as last
3 determined by the office of financial management to those cities
4 eligible under subsection (2) of this section that have a crime rate
5 determined under subsection (2) (a) of this section which is greater
6 than one hundred seventy-five percent of the statewide average crime
7 rate. No city may receive more than fifty percent of any moneys
8 distributed under this subsection (a) but, if a city distribution is
9 reduced as a result of exceeding the fifty percent limitation, the
10 amount not distributed must be distributed under (b) of this
11 subsection.

12 (b) The remainder of the moneys, including any moneys not
13 distributed in subsection (2) (a) of this section, must be
14 distributed to all cities eligible under subsection (2) of this
15 section ratably based on population as last determined by the office
16 of financial management.

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

19 (5) Notwithstanding other provisions of this section, the
20 distributions to any city that substantially decriminalizes or
21 repeals its criminal code after July 1, 1990, and that does not
22 reimburse the county for costs associated with criminal cases under
23 RCW 3.50.800 or 3.50.805(2), must be made to the county in which the
24 city is located.

25 (6) Moneys distributed under this section must be expended
26 exclusively for criminal justice purposes and may not be used to
27 replace or supplant existing funding. Criminal justice purposes are
28 defined as activities that substantially assist the criminal justice
29 system, which may include circumstances where ancillary benefit to
30 the civil justice system occurs, and which includes domestic
31 violence services such as those provided by domestic violence
32 programs, community advocates, and legal advocates, as defined in
33 RCW 70.123.020, and publications and public educational efforts
34 designed to provide information and assistance to parents in dealing

1 with runaway or at-risk youth. Existing funding for purposes of this
2 subsection is defined as calendar year 1989 actual operating
3 expenditures for criminal justice purposes. Calendar year 1989
4 actual operating expenditures for criminal justice purposes exclude
5 the following: Expenditures for extraordinary events not likely to
6 reoccur, changes in contract provisions for criminal justice
7 services, beyond the control of the local jurisdiction receiving the
8 services, and major nonrecurring capital expenditures.

9 (7) Not more than five percent of the funds deposited to the
10 municipal criminal justice assistance account may be available for
11 appropriations for enhancements to the state patrol crime laboratory
12 system and the continuing costs related to these enhancements. Funds
13 appropriated from this account for such enhancements may not
14 supplant existing funds from the state general fund.

15 (8) During the 2011-2013 fiscal biennium, the amount that would
16 otherwise be transferred into the municipal criminal justice
17 assistance account from the general fund under subsection (1) of
18 this section must be reduced by 3.4 percent.

19 (9) Any city receiving a distribution under this section that
20 violates section 2 of this act, based on a valid judicial finding or
21 legislative determination, shall lose one-half of its share of the
22 city criminal justice assistance account for one year, to begin at
23 the commencement of next fiscal year, or until its services are
24 brought into compliance.

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