
NINETY FIFTH DAY

House Chamber, Olympia, Thursday, April 14, 2011

The House was called to order at 10:00 a.m. by the Speaker (Representative Moeller presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Timothy Sizemore and Grace Ordos. The Speaker (Representative Moeller presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Rick Miles, Day Creek Chapel, Sedro Woolley, Washington.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

**MESSAGE FROM BOARD OF COUNTY
COMMISSIONERS OF THE 49TH DISTRICT**

WHEREAS, Representative Jim Jacks submitted his resignation as Representative for the 49th Legislative District Position 1 effective March 25, 2011, thereby creating a vacancy in said position; and

WHEREAS, in accordance with Article II, section 15 of the Washington State Constitution, the Clark County Democratic Central Committee has submitted the names of three persons for consideration by the Board of Clark County Commissioners to fill said vacancy; and

WHEREAS, the Board of Clark County Commissioners convened on April 13, 2011 in open session, interviewed and duly considered said individuals.

NOW THEREFORE BE IT RESOLVED by the Board of Clark County Commissioners that Sharon Wylie be, and is hereby appointed, to fill the vacant position of Representative for the 49th Legislative District Position 1, said appointment to be effective immediately and said individual to hold said position until a successor is elected at the next general election; and

BE IT FURTHER RESOLVED that the clerk of the board shall forward a certified copy of this resolution to the Governor and to the Secretary of State.

APPROVED on this 13th day of April, 2011

**BOARD OF COUNTY COMMISSIONERS OF CLARK
COUNTY, WASHINGTON**

Tom Mielke, Chairman

Marc Boldt, Commissioner

Steve Stuart, Commissioner

OATH OF OFFICE

April 13, 2011

Mr. Speaker:

Please find Oath of Office to the Washington State House of Representatives, as sworn and subscribed this date pursuant to the appointment of Sharon Wylie to fill the position of the 49th Legislative District State Representative left vacant due to the resignation of the Honorable Jim Jacks.

Rebecca Tilton, Clerk of the Board

SPEAKER'S PRIVILEGE

The Speaker (Representative Moeller presiding) introduced the Representative from the 49th District, Sharon Wylie, and asked the Chamber to welcome her.

INTRODUCTIONS AND FIRST READING

HB 2085 by Representatives Hunter and Hurst

AN ACT Relating to raising revenues by modifying the state liquor system.

Referred to Committee on Ways & Means.

HB 2086 by Representatives Pettigrew and Hunter

AN ACT Relating to making changes to statutes administered by the department of agriculture in order to allow for a decrease in the department of agriculture's reliance on the general fund; and amending RCW 15.36.051, 15.36.081, 15.36.551, 15.36.525, 69.07.040, 69.07.103, 69.10.015, 69.25.050, 69.25.250, and 16.49.035.

Referred to Committee on Ways & Means.

HB 2087 by Representatives Dickerson, Kenney, Darneille, Goodman, Santos, Pettigrew, Dunshee, Ormsby, Lias, Rolfes, Hudgins, Kagi, Roberts, Upthegrove, Fitzgibbon, Finn, Seaquist, Ryu, Eddy, Orwall, Stanford, Jinkins, Haigh, Kirby, Appleton, Ladenburg, Green, Lytton, Tharinger, Springer, Billig, Sullivan, Cody, Pedersen, Frockt, Carlyle, Sells, Hunt, Morris, McCoy, Maxwell, Reykdal, Moscoso and Van De Wege

AN ACT Relating to funding mental health services by repealing the nonresident sales tax exemption; adding a new section to chapter 82.32 RCW; creating a new section; repealing RCW 82.08.0273; and providing for submission of this act to a vote of the people.

Referred to Committee on Ways & Means.

HB 2088 by Representatives Probst, Haler, Frockt, Zeiger, Tharinger, Asay, Orwall, Armstrong, Carlyle, Maxwell, Springer, Kenney, Seaquist, Finn and Haigh

AN ACT Relating to creating the opportunity scholarship board to assist middle-income students and invest in high employer demand programs; amending RCW 28B.76.525, 28B.76.526, 28B.76.540, 28B.92.010, 28B.92.020, 28B.92.040, 28B.92.060, 28B.92.080, 28B.92.082, 28B.92.084, 28B.119.030, 28B.133.010, 28B.133.020, and 28C.18.166; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 28B RCW; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2089 by Representative Hasegawa

AN ACT Relating to the airplane excise tax; amending RCW 82.48.010, 82.48.020, 82.48.030, 82.48.070, 82.48.080, 82.48.110, 47.68.230, and 82.48.090; adding a new section to chapter 82.48 RCW; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2090 by Representative Hasegawa

AN ACT Relating to narrowing the business and occupation tax deduction for investment and related income; and amending RCW 82.04.4281.

Referred to Committee on Ways & Means.

HB 2091 by Representative Hasegawa

AN ACT Relating to funding the basic health plan through a tax on the windfall profits of financial institutions; adding a new section to chapter 82.04 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2092 by Representative Hasegawa

AN ACT Relating to funding the basic health plan through a tax on the windfall profits of pharmaceutical companies; adding a new section to chapter 82.04 RCW; creating a new section; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2093 by Representative Hasegawa

AN ACT Relating to community reinvestment of oil windfall profits; adding a new title to the Revised Code of Washington to be codified as Title 82A RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Ways & Means.

HB 2094 by Representative Hasegawa

AN ACT Relating to implementing recommendations related to the tax preference review process conducted by the joint legislative audit and review committee and the citizen commission for performance measurement of tax preferences; amending RCW 48.14.020, 82.08.0262, 82.08.0253, 82.12.0345, 82.04.280, 82.04.280, 84.36.840, 82.04.330, 82.04.410, 82.16.010, 82.16.020, 82.16.020, 82.04.4282, 82.16.050, and 48.36A.240; reenacting and amending RCW 82.16.010 and 82.32.790; adding a new section to chapter 82.04 RCW; creating new sections; repealing RCW 82.04.350, 82.08.0257, 84.36.130, and 82.04.4289; providing effective dates; providing a contingent effective date; providing an expiration date; providing a contingent expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2095 by Representatives Probst, Hinkle, Sells, Miloscia and Fagan

AN ACT Relating to clarifying that meals sold by schools, colleges, and universities to certain students and faculty are exempt from sales and use tax; and amending RCW 82.08.0293 and 82.12.0293.

Referred to Committee on Ways & Means.

HB 2096 by Representatives Green, Kagi and Darneille

AN ACT Relating to transition services for people with developmental disabilities; amending RCW 71A.10.020, 71A.20.010, 71A.20.020, 71A.18.040, and 71A.20.080; adding new sections to chapter 71A.20 RCW; creating new sections; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

HB 2097 by Representative Sullivan

AN ACT Relating to merging plan 1 and plan 2 of the law enforcement officers' and firefighters' retirement system; amending RCW 41.26.080, 41.50.075, 41.26.710, 41.26.715, 41.26.717, 41.26.720, 41.26.725, 41.26.732, 41.45.010, 41.45.035, 41.45.050, 41.45.060, 41.45.0604, 41.45.067, 41.45.070, 41.04.278, and 41.50.255; reenacting and amending RCW 43.84.092; and creating new sections.

Referred to Committee on Ways & Means.

HB 2098 by Representatives Blake, Kretz, Hurst, Orcutt, Finn, Seaquist, Taylor, Dunshee, Shea, Van De Wege, Short, Takko, Moscoso, Tharinger, Lias, Sells, Schmick, Kirby, Ahern, Condotta, McCoy and Moeller

AN ACT Relating to short-barreled rifles; amending RCW 9.41.190; and prescribing penalties.

Referred to Committee on Judiciary.

HB 2099 by Representatives Blake, Kretz, Hurst, Lias, Orcutt, Dunshee, Taylor, Van De Wege, Shea, Kirby, Short, Takko, Moscoso, Tharinger, Finn, Seaquist, Schmick, Sells, Ahern, Condotta, McCoy, Hope and Moeller

AN ACT Relating to short-barreled shotguns and short-barreled rifles; amending RCW 9.41.190; and prescribing penalties.

Referred to Committee on Judiciary.

There being no objection, the bills listed on the day's introduction sheet under the fourth order of business were referred to the committees so designated.

MESSAGE FROM THE SENATE

April 12, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267 with the following amendments:

On page 11, line 4 of the amendment, after "years" strike ",
except as provided in RCW 26.26.330"

On page 12, beginning on line 6 of the amendment, after "chapter." strike all material through "26.26.330." on line 8

Beginning on page 12, line 22 of the amendment, strike all of sections 16 and 17

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 20, beginning on line 25 of the amendment, after "than" strike all material through "action." on line 28 and insert "two years after the birth of the child."

On page 22, beginning on line 31 of the amendment, after "than" strike all material through "action." on line 34 and insert "two years after the effective date of the acknowledgment or adjudication."

On page 32, beginning on line 3 of the amendment, after "(a)" strike all material through "action" on line 7 and insert "Within two years after learning of the birth of the child ((he)) the person commences a proceeding to adjudicate his ((paternity)) or her parentage"

On page 35, line 4 of the title amendment, after "26.26.320," strike "26.26.330, 26.26.335,"

On page 12, line 7, after "acknowledgment" strike "or denial"

On page 12, line 32 after "acknowledgment" strike "or denial"

On page 12, line 33, after "acknowledgment" strike "or denial"

On page 12, line 34, after "acknowledgment" strike "or denial"

On page 13, line 11, after "action" insert "and the determination of parentage shall take into account the best interest of the child"

On page 20, line 28, after "action" insert "and the determination of parentage shall take into account the best interest of the child"

On page 22, line 34, after "action" insert "and the determination of parentage shall take into account the best interest of the child"

0)

On page 7, beginning on line 15 of the amendment, after "(2)" strike all material through "(3)" on line 19

On page 31, at the beginning of line 13 of the amendment, strike "another person" and insert "the person's spouse or domestic partner"

On page 31, beginning on line 18 of the amendment, after "Consent" strike all material through "reproduction" on line 19 and insert "to assisted reproduction by a couple in a marriage or domestic partnership"

On page 31, line 23 of the amendment, after "~~((husband))~~" strike "person" and insert "spouse or domestic partner"

On page 31, beginning on line 27 of the amendment, after "if the" strike all material through "and" on line 28 and insert "spouse or domestic partner"

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.26.011 and 2002 c 302 s 102 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acknowledged father" means a man who has established a father-child relationship under RCW 26.26.300 through 26.26.375.

(2) "Adjudicated ((father)) parent" means a ((man)) person who has been adjudicated by a court of competent jurisdiction to be the ((father)) parent of a child.

(3) "Alleged ((father)) parent" means a ((man)) person who alleges himself or herself to be, or is alleged to be, the genetic ((father)) parent or a possible genetic ((father)) parent of a child, but whose ((paternity)) parentage has not been determined. The term does not include:

(a) A presumed ((father)) parent;

(b) A ((man)) person whose parental rights have been terminated or declared not to exist; or

(c) A ((male)) donor.

(4) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

(a) ((Intrauterine)) Artificial insemination;

(b) Donation of eggs;

(c) Donation of embryos;

(d) In vitro fertilization and transfer of embryos; and

(e) Intracytoplasmic sperm injection.

(5) "Child" means an individual of any age whose parentage may be determined under this chapter.

(6) "Commence" means to file the petition seeking an adjudication of parentage in a superior court of this state or to serve a summons and the petition.

(7) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under RCW 26.26.300 through 26.26.375 or adjudication by the court.

(8) "Domestic partner" means a state registered domestic partner as defined in chapter 26.60 RCW.

(9) "Donor" means an individual who ((produces eggs or spermused)) contributes a gamete or gametes for assisted reproduction, whether or not for consideration. The term does not include:

(a) A ((husband)) person who provides ((sperm, or a wife who provides eggs,)) a gamete or gametes to be used for assisted reproduction ((by the wife)) with his or her spouse or domestic partner; or

(b) A woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in RCW 26.26.210 through 26.26.260 or 26.26.735.

((9)) (10) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of ((his or her)) the individual's ancestry or that is so identified by other information.

((10)) (11) "Gamete" means either a sperm or an egg.

(12) "Genetic testing" means an analysis of genetic markers ((only)) to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

(a) Deoxyribonucleic acid; and

(b) Blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

((11)) (13) "Man" means a male individual of any age.

((12)) (14) "Parent" means an individual who has established a parent-child relationship under RCW 26.26.101.

((13)) (15) "Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

((14)) "Paternity" (16) "Parentage index" means the likelihood of ((paternity)) parentage calculated by computing the ratio between:

(a) The likelihood that the tested ((man)) person is the ((father)) parent, based on the genetic markers of the tested ((man)) person, ((mother)) genetic parent, and child, conditioned on the hypothesis that the tested ((man)) person is the ((father)) parent of the child; and

(b) The likelihood that the tested (~~(man)~~) person is not the (~~(father)~~) parent, based on the genetic markers of the tested (~~(man)~~) person, (~~(mother)~~) genetic parent, and child, conditioned on the hypothesis that the tested (~~(man)~~) person is not the (~~(father)~~) parent of the child and that the (~~(father)~~) parent is (~~(from)~~) of the same ethnic or racial group as the tested (~~(man)~~) person.

~~((45))~~ (17) "Physician" means a person licensed to practice medicine in a state.

(18) "Presumed (father) parent" means a (~~(man)~~) person who, by operation of law under RCW 26.26.116, is recognized (~~(to be)~~) as the (~~(father)~~) parent of a child until that status is rebutted or confirmed in a judicial proceeding.

~~((46))~~ (19) "Probability of (paternity) parentage" means the measure, for the ethnic or racial group to which the alleged (~~(father)~~) parent belongs, of the probability that the individual in question is the (~~(father)~~) parent of the child, compared with a random, unrelated (~~(man)~~) person of the same ethnic or racial group, expressed as a percentage incorporating the (~~(paternity)~~) parentage index and a prior probability.

~~((47))~~ (20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~((48))~~ (21) "Signatory" means an individual who authenticates a record and is bound by its terms.

~~((49))~~ (22) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States, or an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by state law.

~~((20))~~ (23) "Support enforcement agency" means a public official or agency authorized to seek:

- (a) Enforcement of support orders or laws relating to the duty of support;
- (b) Establishment or modification of child support;
- (c) Determination of parentage; or
- (d) Location of child support obligors and their income and assets.

Sec. 2. RCW 26.26.021 and 2002 c 302 s 103 are each amended to read as follows:

(1) This chapter (~~(governs every)~~) applies to determinations of parentage in this state.

(2) The court shall apply the law of this state to adjudicate the parent-child relationship. The applicable law does not depend on:

- (a) The place of birth of the child; or
- (b) The past or present residence of the child.

(3) This chapter does not create, enlarge, or diminish parental rights or duties under other law of this state.

(4) If a birth results under a surrogate parentage contract that is unenforceable under the law of this state, the parent-child relationship is determined as provided in RCW 26.26.101 through 26.26.116.

Sec. 3. RCW 26.26.041 and 2002 c 302 s 105 are each amended to read as follows:

Proceedings under this chapter are subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individuals (~~(that)~~) who could be jeopardized by disclosure of identifying information, including the address, telephone number, place of employment, social security number, and the child's day-care facility and school.

Sec. 4. RCW 26.26.051 and 2002 c 302 s 106 are each amended to read as follows:

(1) The provisions relating to determination of (~~(paternity may be applied)~~) parentage apply to (~~(a)~~) determinations of maternity and paternity.

(2) The provisions in this chapter apply to persons in a domestic partnership to the same extent they apply to persons in a marriage, and apply to persons of the same sex who have children together to the same extent they apply to persons of the opposite sex who have children together.

Sec. 5. RCW 26.26.101 and 2002 c 302 s 201 are each amended to read as follows:

~~((4))~~ The (~~(mother-child)~~) parent-child relationship is established between a child and a man or woman by:

~~((a))~~ (1) The woman's having given birth to the child, except as otherwise provided in RCW 26.26.210 through 26.26.260;

~~((b))~~ (2) An adjudication of the (~~(woman's-maternity)~~) person's parentage;

~~((c))~~ (3) Adoption of the child by the (~~(woman)~~) person;

~~((d))~~ A valid surrogate parentage contract, under which the mother is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260; or

~~((e))~~ (4) An affidavit and physician's certificate in a form prescribed by the department of health (~~(wherein the donor of ovum or surrogate gestation carrier sets forth her intent to be legally bound as the parent of a child or children born through alternative reproductive medical technology by filing the affidavit and physician's certificate with the registrar of vital statistics within ten days after the date of the child's birth))~~) pursuant to RCW 26.26.735(-

~~(2) The father-child relationship is established between a child and a man by:~~

~~((a));~~

~~(5) An un rebutted presumption of the ((man's paternity)) person's parentage of the child under RCW 26.26.116;~~

~~((b))~~ (6) The man's having signed an acknowledgment of paternity under RCW 26.26.300 through 26.26.375, unless the acknowledgment has been rescinded or successfully challenged;

~~((c) An adjudication of the man's paternity;~~

~~(d) Adoption of the child by the man;~~

~~((e))~~ (7) The (~~(man's))~~ person's having consented to assisted reproduction by his (~~(wife))~~ or her spouse or domestic partner under RCW 26.26.700 through 26.26.730 that resulted in the birth of the child; or

~~((f))~~ (8) A valid surrogate parentage contract, under which the father is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260.

Sec. 6. RCW 26.26.106 and 2002 c 302 s 202 are each amended to read as follows:

A child born to parents who are not married to each other or in a domestic partnership with each other has the same rights under the law as a child born to parents who are married to each other or who are in a domestic partnership with each other.

Sec. 7. RCW 26.26.111 and 2002 c 302 s 203 are each amended to read as follows:

Unless parental rights are terminated, the parent-child relationship established under this chapter applies for all purposes, except as otherwise specifically provided by other law of this state.

Sec. 8. RCW 26.26.116 and 2002 c 302 s 204 are each amended to read as follows:

(1) In the context of a marriage or a domestic partnership, a ((man)) person is presumed to be the ((father)) parent of a child if:

(a) (~~(He))~~ The person and the mother or father of the child are married to each other or in a domestic partnership with each other and the child is born during the marriage or domestic partnership;

(b) (~~(He))~~ The person and the mother or father of the child were married to each other or in a domestic partnership with each other and the child is born within three hundred days after the marriage or domestic partnership is terminated by death, annulment, dissolution (~~(of marriage))~~, legal separation, or declaration of invalidity;

(c) Before the birth of the child, ~~((he))~~ the person and the mother or father of the child married each other or entered into a domestic partnership with each other in apparent compliance with law, even if the attempted marriage or domestic partnership is, or could be, declared invalid and the child is born during the invalid marriage or invalid domestic partnership or within three hundred days after its termination by death, annulment, dissolution ~~((of marriage))~~, legal separation, or declaration of invalidity; or

(d) After the birth of the child, ~~((he))~~ the person and the mother or father of the child have married each other or entered into a domestic partnership with each other in apparent compliance with law, whether or not the marriage or domestic partnership is, or could be declared invalid, and ~~((he))~~ the person voluntarily asserted ~~((his paternity))~~ parentage of the child, and:

(i) The assertion is in a record filed with the state registrar of vital statistics;

(ii) The person agreed to be and is named as the child's ~~((father))~~ parent on the child's birth certificate; or

(iii) The person promised in a record to support the child as his or her own.

(2) A person is presumed to be the parent of a child if, for the first two years of the child's life, the person resided in the same household with the child and openly held out the child as his or her own.

(3) A presumption of ~~((paternity))~~ parentage established under this section may be rebutted only by an adjudication under RCW 26.26.500 through 26.26.630.

Sec. 9. RCW 26.26.130 and 2001 c 42 s 5 are each amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct ~~((the father))~~ one parent to pay the reasonable expenses of the mother's pregnancy and ~~((confinement))~~ childbirth. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(4) The judgment and order shall contain a provision that each party must file with the court and the Washington state child support registry and update as necessary the information required in the confidential information form required by RCW 26.23.050.

(5) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the ~~((father's))~~ parent's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(6) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards contained in chapter 26.19 RCW.

(7) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party. If a parenting plan or residential schedule was not entered at the time the order

establishing parentage was entered, a parent may move the court for entry of a parenting plan or residential schedule:

(a) By filing a motion and proposed parenting plan or residential schedule and providing notice to the other parent and other persons who have residential time with the child pursuant to a court order: PROVIDED, That at the time of filing the motion less than twenty-four months have passed since entry of the order establishing parentage and that the proposed parenting plan or residential schedule does not change the designation of the parent with whom the child spends the majority of time; or

(b) By filing a petition for modification under RCW 26.09.260 or petition to establish a parenting plan, residential schedule, or residential provisions.

(8) In any dispute between the ~~((natural parents))~~ persons claiming parentage of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the ~~((natural parent or parents))~~ persons claiming parentage, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

(9) In entering an order under this chapter, the court may issue any necessary continuing restraining orders, including the restraint provisions of domestic violence protection orders under chapter 26.50 RCW or antiharassment protection orders under chapter 10.14 RCW.

(10) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(11) The court shall order that any restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(12) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

Sec. 10. RCW 26.26.150 and 1994 c 230 s 16 are each amended to read as follows:

(1) If existence of the ~~((father))~~ parent and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the ~~((father))~~ parent may be enforced in the same or other proceedings by the ~~((mother))~~ other parent, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, ~~((confinement))~~ childbirth,

education, support, or funeral, or by any other person, including a private agency, to the extent he or she has furnished or is furnishing these expenses.

(2) The court shall order support payments to be made to the Washington state support registry, or the person entitled to receive the payments under an alternate arrangement approved by the court as provided in RCW 26.23.050(2).

(3) All remedies for the enforcement of judgments apply.

Sec. 11. RCW 26.26.300 and 2002 c 302 s 301 are each amended to read as follows:

The mother of a child and a man claiming to be the genetic father of the child (~~((conceived as the result of his sexual intercourse with the mother))~~) may sign an acknowledgment of paternity with intent to establish the man's paternity.

Sec. 12. RCW 26.26.305 and 2002 c 302 s 302 are each amended to read as follows:

(1) An acknowledgment of paternity must:

(a) Be in a record;

(b) Be signed under penalty of perjury by the mother and by the man seeking to establish his paternity;

(c) State that the child whose paternity is being acknowledged:

(i) Does not have a presumed father, or has a presumed father whose full name is stated; and

(ii) Does not have another acknowledged or adjudicated father;

(d) State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the genetic testing; and

(e) State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after two years, except as provided in RCW 26.26.330.

(2) An acknowledgment of paternity is void if it:

(a) States that another man is a presumed father, unless a denial of paternity signed by the presumed father is filed with the state registrar of vital statistics;

(b) States that another man is an acknowledged or adjudicated father; or

(c) Falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(3) A presumed father may sign an acknowledgment of paternity.

Sec. 13. RCW 26.26.310 and 2002 c 302 s 303 are each amended to read as follows:

A presumed father of a child may sign a denial of his paternity. The denial is valid only if:

(1) An acknowledgment of paternity signed by another man is filed under RCW 26.26.320;

(2) The denial is in a record, and is signed under penalty of perjury; and

(3) The presumed father has not previously:

(a) Acknowledged his paternity, unless the previous acknowledgment has been rescinded under RCW 26.26.330 or successfully challenged under RCW 26.26.335; or

(b) Been adjudicated to be the father of the child.

Sec. 14. RCW 26.26.315 and 2002 c 302 s 304 are each amended to read as follows:

(1) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously. If the acknowledgment and denial are both necessary, neither is valid until both are filed.

(2) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(3) Subject to subsection (1) of this section, an acknowledgment and denial of paternity, if any, take effect on the

birth of the child or the filing of the document with the state registrar of vital statistics, whichever occurs later.

(4) An acknowledgment or denial of paternity signed by a minor is valid if it is otherwise in compliance with this chapter. An acknowledgment or denial of paternity signed by a minor may be rescinded under RCW 26.26.330.

Sec. 15. RCW 26.26.320 and 2002 c 302 s 305 are each amended to read as follows:

(1) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid acknowledgment of paternity filed with the state registrar of vital statistics is equivalent to an adjudication of (~~(paternity))~~ parentage of a child and confers upon the acknowledged father all of the rights and duties of a parent.

(2) Except as otherwise provided in RCW 26.26.330 and 26.26.335, a valid denial of paternity filed with the state registrar of vital statistics in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all of the rights and duties of a parent.

Sec. 16. RCW 26.26.330 and 2004 c 111 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a signatory may rescind an acknowledgment or denial of paternity by commencing a court proceeding to rescind before the earlier of:

~~((4))~~ (a) Sixty days after the effective date of the acknowledgment or denial, as provided in RCW 26.26.315; or

~~((2))~~ (b) The date of the first hearing in a proceeding to which the signatory is a party before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

(2) If the signatory to an acknowledgment or denial of paternity was a minor when he signed the acknowledgment or denial, the signatory may rescind the acknowledgment or denial of paternity by commencing a court proceeding to rescind on or before the signatory's nineteenth birthday.

Sec. 17. RCW 26.26.335 and 2002 c 302 s 308 are each amended to read as follows:

(1) After the period for rescission under RCW 26.26.330 has ~~((elapsed))~~ expired, a signatory of an acknowledgment or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

(a) On the basis of fraud, duress, or material mistake of fact; and

(b) Within ~~((two))~~ four years after the acknowledgment or denial is filed with the state registrar of vital statistics. In actions commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A party challenging an acknowledgment or denial of paternity has the burden of proof.

Sec. 18. RCW 26.26.340 and 2002 c 302 s 309 are each amended to read as follows:

(1) Every signatory to an acknowledgment (~~((of))~~) of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

(2) For the purpose of rescission of, or challenge to, an acknowledgment or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the filing of the document with the state registrar of vital statistics.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from ~~((an))~~ the acknowledgment, including the duty to pay child support.

(4) A proceeding to rescind or to challenge an acknowledgment or denial of paternity must be conducted in the

same manner as a proceeding to adjudicate parentage under RCW 26.26.500 through 26.26.630.

(5) At the conclusion of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court shall order the state registrar of vital statistics to amend the birth record of the child, if appropriate.

Sec. 19. RCW 26.26.360 and 2002 c 302 s 313 are each amended to read as follows:

The state registrar of vital statistics may release information relating to the acknowledgment or denial of paternity(~~(, not expressly sealed under a court order,)~~) to: (1) A signatory of the acknowledgment or denial (~~(or their attorneys of record)~~); (2) the courts of this or any other state; (3) the agencies of this or any other state operating a child support program under Title IV-D of the social security act; (~~(or)~~) and (4) the agencies of this or any other state involved in a dependency determination for a child named in the acknowledgment or denial of paternity.

Sec. 20. RCW 26.26.375 and 2002 c 302 s 316 are each amended to read as follows:

(1) After the period for rescission of an acknowledgment of paternity provided in RCW 26.26.330 has passed, a parent executing an acknowledgment of paternity of the child named therein may commence a judicial proceeding for:

(a) Making residential provisions or a parenting plan with regard to the minor child on the same basis as provided in chapter 26.09 RCW; or

(b) Establishing a child support obligation under chapter 26.19 RCW and maintaining health insurance coverage under RCW 26.09.105.

(2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this section shall be (~~(entitled)~~) titled "In re the parenting and support of...."

(3) Before the period for a challenge to the acknowledgment or denial of paternity has elapsed under RCW 26.26.335, the petitioner must specifically allege under penalty of perjury, to the best of the petitioner's knowledge, that: (a) No man other than the man who executed the acknowledgment of paternity is the father of the child; (b) there is not currently pending a proceeding to adjudicate the parentage of the child or that another man is adjudicated the child's father; and (c) the petitioner has provided notice of the proceeding to any other men who have claimed parentage of the child. Should the respondent or any other person appearing in the action deny the allegations, a permanent parenting plan or residential schedule may not be entered for the child without the matter being converted to a proceeding to challenge the acknowledgment of paternity under RCW 26.26.335 and 26.26.340. A copy of the acknowledgment of paternity or the birth certificate issued by the state in which the child was born must be filed with the petition or response. The court may convert the matter to a proceeding to challenge the acknowledgment on its own motion.

Sec. 21. RCW 26.26.400 and 2002 c 302 s 401 are each amended to read as follows:

RCW 26.26.405 through 26.26.450 govern genetic testing of an individual (~~(only)~~) to determine parentage, whether the individual:

(1) Voluntarily submits to testing; or

(2) Is tested pursuant to an order of the court or a support enforcement agency.

Sec. 22. RCW 26.26.405 and 2002 c 302 s 402 are each amended to read as follows:

(1) Except as otherwise provided in this section and RCW 26.26.410 through 26.26.630, the court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

(a) Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or

(b) Denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) A support enforcement agency may order genetic testing only if there is no presumed(~~(, acknowledged,)~~) or adjudicated (~~(father)~~) parent and no acknowledged father.

(3) If a request for genetic testing of a child is made before birth, the court or support enforcement agency may not order in utero testing.

(4) If two or more (~~(men)~~) persons are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

(5) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

Sec. 23. RCW 26.26.410 and 2002 c 302 s 403 are each amended to read as follows:

(1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) The American association of blood banks, or a successor to its functions;

(b) The American society for histocompatibility and immunogenetics, or a successor to its functions; or

(c) An accrediting body designated by the United States secretary of health and human services.

(2) A specimen used in genetic testing may consist of one or more samples or a combination of samples of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(3) Based on the ethnic or racial group of an individual, the testing laboratory shall determine the databases from which to select frequencies for use in (~~(the)~~) calculation(~~(s)~~) of the probability of parentage. If there is disagreement as to the testing laboratory's choice, the following rules apply:

(a) The individual objecting may require the testing laboratory, within thirty days after receipt of the report of the test, to recalculate the probability of (~~(paternity)~~) parentage using an ethnic or racial group different from that used by the laboratory.

(b) The individual objecting to the testing laboratory's initial choice shall:

(i) If the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(ii) Engage another testing laboratory to perform the calculations.

(c) The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.

(4) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a (~~(man)~~) person as the (~~(father)~~) parent of a child under RCW 26.26.420, an individual who has been tested may be required to submit to additional genetic testing.

Sec. 24. RCW 26.26.420 and 2002 c 302 s 405 are each amended to read as follows:

(1) Under this chapter, a (~~(man)~~) person is rebuttably identified as the (~~(father)~~) parent of a child if the genetic testing complies

with this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 and the results disclose that:

(a) The ~~((man))~~ person has at least a ninety-nine percent probability of ~~((paternity))~~ parentage, using a prior probability of 0.50, as calculated by using the combined ~~((paternity))~~ parentage index obtained in the testing; and

(b) A combined ~~((paternity))~~ parentage index of at least one hundred to one.

(2) A ~~((man))~~ person identified under subsection (1) of this section as the ~~((father))~~ parent of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this section and RCW 26.26.400 through 26.26.415 and 26.26.425 through 26.26.450 which:

(a) Excludes the ~~((man))~~ person as a genetic ~~((father))~~ parent of the child; or

(b) Identifies another ~~((man))~~ person as the ~~((father))~~ parent of the child.

(3) Except as otherwise provided in RCW 26.26.445, if more than one man is identified by genetic testing as the possible father of the child, the court shall order them to submit to further genetic testing to identify the genetic ~~((father))~~ parent.

(4) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

Sec. 25. RCW 26.26.425 and 2002 c 302 s 406 are each amended to read as follows:

(1) Subject to assessment of costs under RCW 26.26.500 through 26.26.630, the cost of initial genetic testing must be advanced:

(a) By a support enforcement agency in a proceeding in which the support enforcement agency is providing services;

(b) By the individual who made the request;

(c) As agreed by the parties; or

(d) As ordered by the court.

(2) In cases in which the cost is advanced by the support enforcement agency, the agency may seek reimbursement from a ~~((man))~~ person who is rebuttably identified as the ~~((father))~~ parent.

Sec. 26. RCW 26.26.430 and 2002 c 302 s 407 are each amended to read as follows:

(1) The court or the support enforcement agency shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a ~~((man))~~ person as the ~~((father))~~ parent of the child under RCW 26.26.420, the court or agency may not order additional testing unless the party provides advance payment for the testing.

(2) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

Sec. 27. RCW 26.26.435 and 2002 c 302 s 408 are each amended to read as follows:

(1) If a genetic testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, a court may order the following individuals to submit specimens for genetic testing:

(a) The parents of the man;

(b) Brothers and sisters of the man;

(c) Other children of the man and their mothers; and

(d) Other relatives of the man necessary to complete genetic testing.

(2) If a specimen from the mother of a child is not available for genetic testing, the court may order genetic testing to proceed without a specimen from the mother.

(3) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

(4) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

Sec. 28. RCW 26.26.445 and 2002 c 302 s 410 are each amended to read as follows:

(1) The court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If ~~((genetic testing excludes none of the brothers as the genetic father, and))~~ each brother satisfies the requirements as the identified father of the child under RCW 26.26.420 without consideration of another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Sec. 29. RCW 26.26.505 and 2002 c 302 s 502 are each amended to read as follows:

Subject to RCW 26.26.300 through 26.26.375, 26.26.530, and 26.26.540, a proceeding to adjudicate parentage may be maintained by:

(1) The child;

(2) The ~~((mother-of))~~ person who has established a parent-child relationship with the child;

(3) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated;

(4) The division of child support;

(5) An authorized adoption agency or licensed child-placing agency;

(6) A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or

(7) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260.

Sec. 30. RCW 26.26.510 and 2002 c 302 s 503 are each amended to read as follows:

The following individuals must be joined as parties in a proceeding to adjudicate parentage:

(1) The ~~((mother))~~ parent of the child who has established a parent-child relationship with the child;

(2) A ~~((man))~~ person whose ~~((paternity))~~ parentage of the child is to be adjudicated; ~~((and))~~

(3) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260; and

(4) The child if required under RCW 26.26.530, 26.26.540, or 26.26.720.

Sec. 31. RCW 26.26.525 and 2002 c 302 s 506 are each amended to read as follows:

A proceeding to adjudicate the parentage of a child having no presumed~~((-acknowledged,))~~ or adjudicated ~~((father))~~ second parent and no acknowledged father may be commenced at any time during the life of the child, even after:

(1) The child becomes an adult ; or

(2) An earlier proceeding to adjudicate ~~((paternity))~~ parentage has been dismissed based on the application of a statute of limitation then in effect.

Sec. 32. RCW 26.26.530 and 2002 c 302 s 507 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding brought by a presumed ~~((father))~~ parent, the ~~((mother))~~ person with a parent-child relationship with the child, or another individual to adjudicate the parentage of a child having a presumed ~~((father))~~ parent must be commenced not later than ~~((two))~~ four years after the birth of the child. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(2) A proceeding seeking to disprove the ~~((father-child))~~ parent-child relationship between a child and the child's presumed ~~((father))~~ parent may be maintained at any time if the court determines that ~~((a))~~ the presumed ~~((father))~~ parent and the ~~((mother-of))~~ person who has a parent-child relationship with the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception~~((and~~ ~~((b))~~ The presumed father never openly treated the child as his own)) and the presumed parent never held out the child as his or her own.

Sec. 33. RCW 26.26.535 and 2002 c 302 s 508 are each amended to read as follows:

(1) In a proceeding to adjudicate parentage under circumstances described in RCW 26.26.530 or in RCW 26.26.540, a court may deny a motion seeking an order for genetic testing of the mother or father, the child, and the presumed or acknowledged father if the court determines that:

(a)(i) The conduct of the mother or father or the presumed ~~((father))~~ or acknowledged parent estops that party from denying parentage; and

~~((b))~~ (ii) It would be inequitable to disprove the ~~((father-child))~~ parent-child relationship between the child and the presumed ~~((father))~~ or acknowledged parent; or
(b) The child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

(2) In determining whether to deny a motion to seek an order for genetic testing under subsection (1)(a) of this section, the court shall consider the best interest of the child, including the following factors:

(a) The length of time between the proceeding to adjudicate parentage and the time that the presumed ~~((father))~~ or acknowledged parent was placed on notice that he or she might not be the genetic ~~((father))~~ parent;

(b) The length of time during which the presumed ~~((father))~~ or acknowledged parent has assumed the role of ~~((father))~~ parent of the child;

(c) The facts surrounding the presumed ~~((father's))~~ or acknowledged parent's discovery of his or her possible ~~((nonpaternity))~~ nonparentage;

(d) The nature of the ~~((father-child))~~ relationship between the child and the presumed or acknowledged parent;

(e) The age of the child;

(f) The harm ~~((to the child which))~~ that may result to the child if ~~((presumed paternity))~~ parentage is successfully disproved;

(g) The nature of the relationship ~~((of))~~ between the child ~~((to))~~ and any alleged ~~((father))~~ parent;

(h) The extent to which the passage of time reduces the chances of establishing the ~~((paternity))~~ parentage of another ~~((man))~~ person and a child support obligation in favor of the child; and

(i) Other factors that may affect the equities arising from the disruption of the ~~((father-child))~~ parent-child relationship between the child and the presumed ~~((father))~~ or acknowledged parent or the chance of other harm to the child.

(3) In a proceeding involving the application of this section, ~~((the))~~ a minor or incapacitated child must be represented by a guardian ad litem.

(4) A denial of a motion seeking an order for genetic testing under subsection (1)(a) of this section must be based on clear and convincing evidence.

(5) If the court denies a motion seeking an order for genetic testing under subsection (1)(a) of this section, it shall issue an order adjudicating the presumed ~~((father))~~ or acknowledged parent to be the ~~((father))~~ parent of the child.

Sec. 34. RCW 26.26.540 and 2002 c 302 s 509 are each amended to read as follows:

(1) If a child has an acknowledged father, a signatory to the acknowledgment or denial of paternity must commence any proceeding seeking to rescind the acknowledgment or denial or challenge the paternity of ~~((that))~~ the child only within the time allowed under RCW 26.26.330 or 26.26.335.

(2) If a child has an acknowledged father or an adjudicated ~~((father))~~ parent, an individual, other than the child, who is neither a signatory to the acknowledgment nor a party to the adjudication and who seeks an adjudication of ~~((paternity))~~ parentage of the child must commence a proceeding not later than ~~((two))~~ four years after the effective date of the acknowledgment or adjudication. If an action is commenced more than two years after the birth of the child, the child must be made a party to the action.

(3) A proceeding under this section is subject to RCW 26.26.535.

Sec. 35. RCW 26.26.545 and 2002 c 302 s 510 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for: Adoption or termination of parental rights under chapter 26.33 RCW; determination of a parenting plan, child support, annulment, dissolution of marriage, dissolution of a domestic partnership, or legal separation under chapter 26.09 or 26.19 RCW; or probate or administration of an estate under chapter 11.48 or 11.54 RCW, or other appropriate proceeding.

(2) A respondent may not join ~~((the))~~ a proceeding(s) described in subsection (1) of this section with a proceeding to adjudicate parentage brought under chapter 26.21A RCW.

Sec. 36. RCW 26.26.550 and 2002 c 302 s 511 are each amended to read as follows:

~~((Although))~~ A proceeding to ~~((determine))~~ adjudicate parentage may be commenced before the birth of the child, ~~((the proceeding))~~ but may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

(1) Service of process;

(2) Discovery;

(3) Except as prohibited by RCW 26.26.405, collection of specimens for genetic testing; and

(4) Temporary orders authorized under RCW 26.26.590.

Sec. 37. RCW 26.26.555 and 2002 c 302 s 512 are each amended to read as follows:

(1) Unless specifically required under other provisions of this chapter, a minor child is a permissible party, but is not a necessary party to a proceeding under RCW 26.26.500 through 26.26.630.

(2) If ~~((the))~~ a minor or incapacitated child is a party, or if the court finds that the interests of ~~((a minor child or incapacitated))~~ the child are not adequately represented, the court shall appoint a guardian ad litem to represent the child, subject to RCW 74.20.310 ~~((neither the child's mother or father))~~. A parent of the child may not represent the child as guardian or ~~((otherwise))~~ in any other capacity.

Sec. 38. RCW 26.26.570 and 2002 c 302 s 521 are each amended to read as follows:

(1) Except as otherwise provided in subsection (3) of this section, a record of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

(a) Voluntarily or under an order of the court or a support enforcement agency; or

(b) Before or after the commencement of the proceeding.

(2) A party objecting to the results of genetic testing may call one or more genetic testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by the court, the party offering the testimony bears the expense for the expert testifying.

(3) If a child has a presumed(~~(-acknowledged,)~~) or adjudicated (~~(father)~~) parent or an acknowledged father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(a) With the consent of both the (~~(mother)~~) person with a parent- child relationship with the child and the presumed(~~(-acknowledged,)~~) or adjudicated (~~(father)~~) parent or an acknowledged father; or

(b) Under an order of the court under RCW 26.26.405.

(4) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child that are furnished to the adverse party not less than ten days before the date of a hearing are admissible to establish:

(a) The amount of the charges billed; and

(b) That the charges were reasonable, necessary, and customary.

Sec. 39. RCW 26.26.575 and 2002 c 302 s 522 are each amended to read as follows:

(1) An order for genetic testing is enforceable by contempt.

(2) If an individual whose paternity is being determined declines to submit to genetic testing (~~(as)~~) ordered by the court, the court for that reason may (~~(on that basis)~~) adjudicate parentage contrary to the position of that individual.

(3) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every man whose paternity is being adjudicated.

(4) This section does not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260.

Sec. 40. RCW 26.26.585 and 2002 c 302 s 523 are each amended to read as follows:

(1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(2) If the court finds that the admission of paternity (~~(was made under)~~) satisfies the requirements of this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.

Sec. 41. RCW 26.26.590 and 2002 c 302 s 524 are each amended to read as follows:

This section applies to any proceeding under RCW 26.26.500 through 26.26.630.

(1) The court shall issue a temporary order for support of a child if the individual ordered to pay support:

(a) Is a presumed (~~(father)~~) parent of the child;

(b) Is petitioning to have his (~~(paternity)~~) or her parentage adjudicated or has admitted (~~(paternity)~~) parentage in pleadings filed with the court;

(c) Is identified as the father through genetic testing under RCW 26.26.420;

(d) Has declined to submit to genetic testing but is shown by clear and convincing evidence to be the father of the child; or

(e) Is (~~(the mother of)~~) a person who has established a parent-child relationship with the child.

(2) A temporary order may, on the same basis as provided in chapter 26.09 RCW, make residential provisions with regard to

minor children of the parties, except that a parenting plan is not required unless requested by a parent.

(3) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

(a) Molesting or disturbing the peace of another party;

(b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(4) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(5) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(6) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(7) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(8) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(9) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

Sec. 42. RCW 26.26.600 and 2002 c 302 s 531 are each amended to read as follows:

The court shall apply the following rules to adjudicate the ~~((paternity))~~ parentage of a child:

(1) Except as provided in subsection (5) of this section, the ~~((paternity))~~ parentage of a child having a presumed~~(, acknowledged,)~~ or adjudicated ~~((father))~~ parent or an acknowledged father may be disproved only by admissible results of genetic testing excluding that ~~((man))~~ person as the ~~((father))~~ parent of the child or identifying another man ~~((to be))~~ as the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, the man identified as the father of the child under RCW 26.26.420 must be adjudicated the father of the child.

(3) If the court finds that genetic testing under RCW 26.26.420 neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, ~~((along with))~~ and other evidence, are admissible to adjudicate the issue of paternity.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

(5) Subsections (1) through (4) of this section do not apply when the child was conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260. The parentage of a child conceived through assisted reproduction other than via surrogacy may be disproved only by admissible evidence showing the intent of the presumed, acknowledged, or adjudicated parent and the other parent.

Sec. 43. RCW 26.26.620 and 2002 c 302 s 535 are each amended to read as follows:

The court may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution purportedly with prejudice is void and ~~((may be challenged in another judicial or an administrative proceeding))~~ has only the effect of a dismissal without prejudice.

Sec. 44. RCW 26.26.625 and 2002 c 302 s 536 are each amended to read as follows:

(1) The court shall issue an order adjudicating whether a ~~((man))~~ person alleged or claiming to be the ~~((father))~~ parent is the parent of the child.

(2) An order adjudicating parentage must identify the child by name and age.

(3) Except as otherwise provided in subsection (4) of this section, the court may assess filing fees, reasonable attorneys' fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this section and RCW 26.26.500 through 26.26.620 and 26.26.630. The court may award attorneys' fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(4) The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.

(5) On request of a party and for good cause shown, the court may order that the name of the child be changed.

(6) If the order of the court is at variance with the child's birth certificate, the court shall order the state registrar of vital statistics to issue an amended birth certificate.

Sec. 45. RCW 26.26.630 and 2002 c 302 s 537 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a determination of parentage is binding on:

(a) All signatories to an acknowledgment or denial of paternity as provided in RCW 26.26.300 through 26.26.375; and

(b) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of RCW ~~((26.21.075))~~ 26.21A.100.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) The determination was based on an unrescinded acknowledgment of paternity and the acknowledgment of paternity is consistent with the results of the genetic testing;

(b) The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown, or in the case of a child conceived through assisted reproduction, except for surrogate parentage contracts pursuant to RCW 26.26.210 through 26.26.260, the adjudication of parentage was based on evidence showing the intent of the parents; or

(c) The child was a party or was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage or domestic partnership, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of RCW ~~((26.21.075))~~ 26.21A.100, and the final order:

(a) Expressly identifies a child as a "child of the marriage," "issue of the marriage," "child of the domestic partnership," "issue of the domestic partnership," or similar words indicating that the ~~((husband is the father))~~ spouses in the marriage or domestic partners in the domestic partnership are the parents of the child; or

(b) Provides for support of the child by one or both of the ~~((husband))~~ spouses or domestic partners unless ~~((paternity))~~ parentage is specifically disclaimed in the order.

(4) Except as otherwise provided in subsection (2) of this section, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(5) A party to an adjudication of ~~((paternity))~~ parentage may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, ~~((and))~~ or other judicial review.

Sec. 46. RCW 26.26.705 and 2002 c 302 s 602 are each amended to read as follows:

A donor is not a parent of a child conceived by means of assisted reproduction, unless otherwise agreed in a signed record by the donor and the person or persons intending to be parents of a child conceived through assisted reproduction.

Sec. 47. RCW 26.26.710 and 2002 c 302 s 603 are each amended to read as follows:

~~((If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in RCW 26.26.715, he is the father of a resulting child born to his wife.))~~ A person who provides gametes for, or consents in a signed record to assisted reproduction with another person, with the intent to be the parent of the child born, is the parent of the resulting child.

Sec. 48. RCW 26.26.715 and 2002 c 302 s 604 are each amended to read as follows:

(1) ~~((A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband.))~~ Consent by a couple who intend to be parents of a child conceived by assisted reproduction must be in a record signed by both persons. This requirement does not apply to ~~((the donation of eggs for assisted reproduction by another woman))~~ a donor.

(2) Failure of the ~~((husband))~~ person to sign a consent required by subsection (1) of this section, before or after birth of the child, does not preclude a finding ~~((that the husband is the father of a child born to his wife if the wife and husband openly treated))~~ of parentage if the persons resided together in the same household with the child and openly held out the child as their own.

Sec. 49. RCW 26.26.720 and 2002 c 302 s 605 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, ~~((the husband of a wife))~~ a spouse or domestic partner of a woman who gives birth to a child by means of assisted reproduction, or a spouse or domestic partner of a man who has a child by means of assisted reproduction, may not challenge his ~~((paternity))~~ or her parentage of the child unless:

(a) Within ~~((two))~~ four years after learning of the birth of the child ~~((he))~~ the person commences a proceeding to adjudicate his ~~((paternity))~~ or her parentage. In actions commenced more than two years after the birth of the child, the child must be made a party to the action; and

(b) The court finds that ~~((he))~~ the person did not consent to the assisted reproduction, before or after birth of the child.

(2) A proceeding to adjudicate ~~((paternity))~~ parentage may be maintained at any time if the court determines that:

(a) The ~~((husband))~~ spouse or domestic partner did not provide ~~((sperm))~~ gametes for, or before or after the birth of the child consent to, assisted reproduction by his ~~((wife))~~ or her spouse or domestic partner;

(b) The ~~((husband and the mother))~~ spouse or domestic partner and the parent of the child have not cohabited since the probable time of assisted reproduction; and

(c) The ~~((husband))~~ spouse or domestic partner never openly ~~((treated))~~ held out the child as his or her own.

(3) The limitation provided in this section applies to a marriage or domestic partnership declared invalid after assisted reproduction.

Sec. 50. RCW 26.26.725 and 2002 c 302 s 606 are each amended to read as follows:

(1) If a marriage or domestic partnership is dissolved before placement of eggs, sperm, or an embryo, the former spouse or former domestic partner is not a parent of the resulting child unless the former spouse or former domestic partner consented in a signed record that if assisted reproduction were to occur after a ~~((divorce))~~ dissolution, the former spouse or former domestic partner would be a parent of the child.

(2) The consent of the former spouse or former domestic partner to assisted reproduction may be ~~((revoked))~~ withdrawn by that individual in a record at any time before placement of eggs, sperm, or embryos. An individual who withdraws consent under this section is not a parent of the resulting child.

Sec. 51. RCW 26.26.730 and 2002 c 302 s 607 are each amended to read as follows:

If ~~((a spouse))~~ an individual who consented in a record to be a parent by assisted reproduction dies before placement of eggs, sperm, or an embryo, the deceased ~~((spouse))~~ individual is not a parent of the resulting child unless the deceased ~~((spouse))~~ individual consented in a signed record that if assisted reproduction were to occur after death, the deceased ~~((spouse))~~ individual would be a parent of the child.

Sec. 52. RCW 26.26.735 and 2002 c 302 s 608 are each amended to read as follows:

~~((The donor of ovum provided to a licensed physician for use in the alternative reproductive medical technology process of attempting to achieve a pregnancy in a woman other than the donor is treated in law as if she were not the natural mother of a child thereafter conceived and born unless the donor and the woman who gives birth to a child as a result of the alternative reproductive medical technology procedures agree in writing that the donor is to be a parent. RCW 26.26.705 does not apply in such case. A woman who gives birth to a child conceived through alternative reproductive medical technology procedures under the supervision and with the assistance of a licensed physician is treated in law as if she were the natural mother of the child unless an agreement in writing signed by an ovum donor and the woman giving birth to the child states otherwise. An agreement pursuant to this section must be in writing and signed by the ovum donor and the woman who gives birth to the child and any other intended parent of the child. The physician shall certify the parties' signatures and the date of the ovum harvest, identify the subsequent medical procedures undertaken, and identify the intended parents.))~~ (1) An affidavit and physician's certificate may be used by intended parents to establish parentage if:

(a) The two intended parents are both female intending to be the parents of the child born through assisted reproduction pursuant to RCW 26.26.210 through 26.26.260; and
(b) One of the intended parents contributes ovum and the other intended parent gives birth to the child.

(2) The ((agreement, including the)) affidavit and certification ((referenced in RCW 26.26.030,)) must be filed with the registrar of vital statistics, where it must be kept confidential and in a sealed file.

Sec. 53. RCW 26.26.903 and 2002 c 302 s 709 are each amended to read as follows:

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it and to the intent that the act apply to persons of the same sex who have children together to the same extent the act applies to persons of the opposite sex who have children together.

Sec. 54. RCW 26.26.911 and 2002 c 302 s 101 are each amended to read as follows:

This act may be known and cited as the uniform parentage act of 2002.

NEW SECTION. Sec. 55. Any action taken by an agency to implement the provisions of this act must be accomplished within existing resources. Any costs incurred by the administrative office of the courts for modifications to the judicial information system as a result of the provisions of this act shall be paid from the judicial information system account.

NEW SECTION. Sec. 56. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 3 of the title, after "parentage;" strike the remainder of the title and insert "amending RCW 26.26.011, 26.26.021, 26.26.041, 26.26.051, 26.26.101, 26.26.106, 26.26.111,

26.26.116, 26.26.130, 26.26.150, 26.26.300, 26.26.305, 26.26.310, 26.26.315, 26.26.320, 26.26.330, 26.26.335, 26.26.340, 26.26.360, 26.26.375, 26.26.400, 26.26.405, 26.26.410, 26.26.420, 26.26.425, 26.26.430, 26.26.435, 26.26.445, 26.26.505, 26.26.510, 26.26.525, 26.26.530, 26.26.535, 26.26.540, 26.26.545, 26.26.550, 26.26.555, 26.26.570, 26.26.575, 26.26.585, 26.26.590, 26.26.600, 26.26.620, 26.26.625, 26.26.630, 26.26.705, 26.26.710, 26.26.715, 26.26.720, 26.26.725, 26.26.730, 26.26.735, 26.26.903, and 26.26.911; and creating a new section."

and the same are herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate Amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1267 and asked the Senate for a conference thereon. The Speaker (Representative Moeller presiding) appointed Representatives Eddy, Pedersen and Shea as conferees.

MESSAGE FROM THE SENATE

April 11, 2011

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1516 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the Washington state ferry system has been plagued with declining ridership, increased operating costs, and poor on-time performance during peak periods. The legislature intends to give the Washington state ferry system management the tools to change that and, furthermore, intends to hold management accountable to do so.

Sec. 2. RCW 47.64.120 and 2010 c 283 s 10 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the employer and ferry system employee organizations, through their collective bargaining representatives, shall meet at reasonable times to negotiate in good faith with respect to wages, hours, (~~working conditions~~) and insurance, and other matters mutually agreed upon. Employer funded retirement benefits shall be provided under the public employees' retirement system under chapter 41.40 RCW and shall not be included in the scope of collective bargaining. Except as provided under RCW 47.64.270, the employer is not required to bargain over health care benefits. Any retirement system or retirement benefits shall not be subject to collective bargaining.

(2) Upon ratification of bargaining agreements, ferry employees are entitled to an amount equivalent to the interest earned on retroactive compensation increases. For purposes of this section, the interest earned on retroactive compensation increases is the same monthly rate of interest that was earned on the amount of the compensation increases while held in the state treasury. The interest will be computed for each employee until the date the retroactive compensation is paid, and must be allocated in accordance with appropriation authority. The interest earned on retroactive compensation is not considered part of the ongoing compensation obligation of the state and is not compensation earnable for the purposes of chapter 41.40 RCW. Negotiations shall also include grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties.

(3) The employer shall make decisions regarding working conditions to best suit the operational needs of the state and may not

bargain its own decision or the effects of a decision for any working condition other than shift bidding, scheduling leave time, and grievance procedures, provided that the grievance procedures do not expand the scope of grievances beyond the interpretation and application of terms permissible under this chapter. The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, must include, but not be limited to, the following:

- (a) Assigning employees to work stations, vessels, or terminals;
- (b) Directing promotions;
- (c) Directing who will be laid off in the event of a layoff action, bumping rights, or layoff options;
- (d) Directing staffing levels;
- (e) Providing for training; and
- (f) Directing the use of part-time shifts.

(4) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

(5) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages(,) or hours(~~and terms and conditions of employment~~) and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

NEW SECTION. Sec. 3. A new section is added to chapter 47.64 RCW to read as follows:

(1) Effective July 1, 2013, all captains of Washington state ferry vessels are managers as defined in RCW 41.06.022 and therefore are subject to the rules adopted by the director of the department of personnel pursuant to RCW 41.06.500. Salary increases for captains must be directly related to the performance of their responsibilities.

(2) The captain, also known as the master of a vessel or the commanding officer, is the ultimate authority on and has responsibility for the entire vessel. The captain's responsibilities include, but are not limited to:

- (a) Ensuring the safe navigation of the vessel and its crew and passengers;
- (b) Following all applicable federal, state, and agency policies and regulations;
- (c) Supervising crew in performance, operations, training, security, and environmental protection; and
- (d) Overseeing all aspects of vessel operations including, but not limited to:
 - (i) Vessel arrivals and departures;
 - (ii) Schedule adherence;
 - (iii) Customer service;
 - (iv) Cost containment; and
 - (v) Fuel efficiency.

(3) Effective January 1, 2014, all chief engineers and terminal supervisors of Washington state ferry vessels are managers as defined in RCW 41.06.022 and therefore are subject to the rules adopted by the director of the department of personnel pursuant to RCW 41.06.500. Salary increases for chief engineers and terminal supervisors must be directly related to the performance of their responsibilities.

(4) The chief engineer, also known as a staff engineer, is the engineering department head and reports directly to the captain. The chief engineer's duties include, but are not limited to:

- (a) Overseeing all aspects of engineering propulsion, electrical, and machinery components;
- (b) Ensuring safe and efficient engineering plant operations;
- (c) Advising the captain of factors affecting the vessel's operation from an engineering perspective;

(d) Supervising the conduct of engineering watchstanders and directing work and maintenance routines;

(e) Following federal, state, and agency policies and regulations; and

(f) Overseeing all fueling to ensure efficient and environmentally safe operations.

(5) The terminal supervisor is the ultimate authority and has responsibility for the entire operations at that ferry terminal. The terminal supervisor's duties include, but are not limited to:

(a) Overseeing all aspects of dock-side terminal operations;

(b) Coordinating with the captain in arrival and departure procedures;

(c) Supervising the conduct of ticket sellers and traffic and loading attendants and directing selling, loading, and traffic work and routines; and

(d) Following federal, state, and agency policies and regulations.

(6) With each biennial budget submittal, the department shall include recommendations for distributing any appropriations the legislature may provide for incentive pay for vessel captains, chief engineers, or terminal supervisors.

(7) Any employee who is a captain, chief engineer, or terminal supervisor may not belong to a collective bargaining unit.

(8) A collective bargaining agreement may not contain any provision that extends the term of an existing collective bargaining agreement or applicability of items incompatible with this section in an existing collective bargaining agreement.

Sec. 4. RCW 41.06.022 and 2002 c 354 s 207 are each amended to read as follows:

For purposes of this chapter, "manager" means any employee who:

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; ((or))

(5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment; or

(6) Is a captain or chief engineer of a Washington state ferry vessel, or a terminal supervisor of a Washington state ferry terminal.

No employee who is a member of the Washington management service may be included in a collective bargaining unit established under RCW 41.80.001 and 41.80.010 through 41.80.130 and chapter 47.64 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 47.64 RCW to read as follows:

Washington state ferry system management must meet with its union employees twice a year and encourage an open and direct exchange of ideas and concerns between line employees and management.

NEW SECTION. Sec. 6. A new section is added to chapter 47.64 RCW to read as follows:

(1) Using state fiscal year 2010 as a basis, Washington state ferry system management shall develop targets for the performance measures listed under this subsection. These targets must be developed in collaboration with the office of financial management and presented to the transportation committees of the legislature by September 30, 2011, along with an implementation plan for achieving these targets by June 30, 2013:

(a) Number of riders per service hour;

(b) Terminal and vessel operating costs, not including fuel, per service hour;

(c) Fuel consumption per service hour; and

(d) Peak-direction, peak-time, on-time performance by route for all runs except those delayed or canceled due to tidal conditions. On-time is defined as within ten minutes of the scheduled time. Peak-time for the Mukilteo/Clinton, Edmonds/Kingston, Seattle/Bainbridge, Seattle/Bremerton, Fauntleroy/Vashon/Southworth, and Point Defiance/Tahlequah ferry routes means weekdays from 5:00 a.m. to 9:00 a.m. and 3:00 p.m. to 7:00 p.m. Peak-time for the Coupeville (Keystone)/Port Townsend and Anacortes/San Juan Island ferry routes means Fridays from 3:00 p.m. to closing, Saturdays all day, Sundays all day, holidays all day, and Mondays from opening to 12:00 p.m.

(2) The department shall, on a quarterly basis, report Washington state ferry system management's performance as it relates to the performance measures in subsection (1) of this section (a) to the transportation committees of the legislature, (b) on its vessels, (c) at all ferry terminals, and (d) on the department's web site.

(3) The joint legislative audit and review committee shall work with the department in determining baseline data for the performance measures in subsection (1) of this section and shall determine whether Washington state ferry system management has met the performance measures in subsection (1) of this section and report its findings to the transportation committees of the legislature by December 31, 2013.

(4) If the joint legislative audit and review committee determines that Washington state ferry system management has not met the targets developed in subsection (1) of this section, the governor, with the consensus of the chairs and ranking minorities of the transportation committees of the legislature, shall appoint a governor's management representative who, within sixty days, shall develop and submit a corrective action plan to achieve the targets in this section within the following twelve months. The plan must be submitted to the governor and the transportation committees of the legislature.

NEW SECTION. Sec. 7. A new section is added to chapter 47.64 RCW to read as follows:

The report required in RCW 47.01.071(5) and 47.04.280 must include the performance measures in section 6(1) of this act.

Sec. 8. RCW 47.64.011 and 2006 c 164 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the definitions in this section shall apply.

(1) "Collective bargaining representative" means the persons designated by the governor and employee organizations to be the exclusive representatives during collective bargaining negotiations.

(2) "Commission" means the ~~((marine employees'))~~ public employment relations commission created in RCW ~~((47.64.280))~~ 41.58.010.

(3) "Department of transportation" means the department as defined in RCW 47.01.021.

(4) "Employer" means the state of Washington.

(5) "Ferry employee" means any employee of the marine transportation division of the department of transportation who is a member of a collective bargaining unit represented by a ferry employee organization and does not include an exempt employee pursuant to RCW 41.06.079.

(6) "Ferry employee organization" means any labor organization recognized to represent a collective bargaining unit of ferry employees.

(7) "Lockout" means the refusal of the employer to furnish work to ferry employees in an effort to get ferry employee organizations to make concessions during collective bargaining, grievance, or other labor relation negotiations. Curtailment of employment of ferry employees due to lack of work resulting from a strike or work stoppage shall not be considered a lockout.

(8) "Office of financial management" means the office as created in RCW 43.41.050.

(9) "Strike or work stoppage" means a ferry employee's refusal, in concerted action with others, to report to duty, or his or her willful absence from his or her position, or his or her stoppage or slowdown of work, or his or her abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in conditions, compensation, rights, privileges, or obligations of his, her, or any other ferry employee's employment. A refusal, in good faith, to work under conditions which pose an endangerment to the health and safety of ferry employees or the public, as determined by the master of the vessel, shall not be considered a strike for the purposes of this chapter.

Sec. 9. RCW 47.64.090 and 2003 c 373 s 3 and 2003 c 91 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 47.60.656 and subsections (2) and (4) of this section, or as provided in RCW 36.54.130 and subsection (3) of this section, if any party assumes the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the department of transportation, such party shall assume and be bound by all the provisions herein and any agreement or contract for such operation of any ferry or ferry system entered into by the department shall provide that the wages to be paid, hours of employment, working conditions, and seniority rights of employees will be established by the (~~(marine employees)~~) commission in accordance with the terms and provisions of this chapter and it shall further provide that all labor disputes shall be adjudicated in accordance with chapter 47.64 RCW.

(2) If a public transportation benefit area meeting the requirements of RCW 36.57A.200 has voter approval to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase passenger-only vessels, related equipment, or terminal space for purposes of loading and unloading the passenger-only ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A benefit area or subcontractor of that benefit area that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the benefit area and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(3) If a ferry district is formed under RCW 36.54.110 to operate passenger-only ferry service, it may enter into an agreement with Washington State Ferries to rent, lease, or purchase vessels, related equipment, or terminal space for purposes of loading and unloading the ferry. Charges for the vessels, equipment, and space must be fair market value taking into account the public benefit derived from the ferry service. A ferry district or subcontractor of that district that qualifies under this subsection is not subject to the restrictions of subsection (1) of this section, but is subject to:

(a) The terms of those collective bargaining agreements that it or its subcontractors negotiate with the exclusive bargaining representatives of its or its subcontractors' employees under chapter 41.56 RCW or the National Labor Relations Act, as applicable;

(b) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, give preferential hiring to former employees of the department of transportation who separated from employment with the department because of termination of the ferry service by the state of Washington; and

(c) Unless otherwise prohibited by federal or state law, a requirement that the ferry district and any contract with its subcontractors, on any questions concerning representation of employees for collective bargaining purposes, may be determined by conducting a cross-check comparing an employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(4) The department of transportation shall make its terminal, dock, and pier space available to private operators of passenger-only ferries if the space can be made available without limiting the operation of car ferries operated by the department. These private operators are not bound by the provisions of subsection (1) of this section. Charges for the equipment and space must be fair market value taking into account the public benefit derived from the passenger-only ferry service.

Sec. 10. RCW 47.64.150 and 1983 c 15 s 6 are each amended to read as follows:

An agreement with a ferry employee organization that is the exclusive representative of ferry employees in an appropriate unit may provide procedures for the consideration of ferry employee grievances and of disputes over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of ferry employee grievances and of disputes over the interpretation and application of existing agreements. An arbitrator's decision on a grievance shall not change or amend the terms, conditions, or applications of the collective bargaining agreement. The procedures shall provide for the invoking of arbitration only with the approval of the employee organization. The costs of arbitrators shall be shared equally by the parties.

Ferry system employees shall follow (~~(either)~~) the grievance procedures provided in a collective bargaining agreement, or if (~~(no)~~) such procedures are (~~(so)~~) not provided, shall submit the grievances to the (~~(marine employees)~~) commission (~~(as provided in RCW 47.64.280)~~).

Sec. 11. RCW 41.58.060 and 1983 c 15 s 22 are each amended to read as follows:

For any matter concerning the state ferry system and employee relations, collective bargaining, or labor disputes or stoppages, the provisions of chapter 47.64 RCW and this chapter shall govern. However, if a conflict exists between the provisions of chapter 47.64 RCW and this chapter, the provisions of chapter 47.64 RCW shall govern.

Sec. 12. RCW 41.06.070 and 2010 c 271 s 801, 2010 c 2 s 2, and 2010 c 1 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

- (d) The officers of the Washington state patrol;
- (e) Elective officers of the state;
- (f) The chief executive officer of each agency;
- (g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;
- (h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:
 - (i) All members of such boards, commissions, or committees;
 - (ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;
 - (iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;
 - (iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;
- (i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;
- (j) Assistant attorneys general;
- (k) Commissioned and enlisted personnel in the military service of the state;
- (l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;
- (m) The public printer or to any employees of or positions in the state printing plant;
- (n) Officers and employees of the Washington state fruit commission;
- (o) Officers and employees of the Washington apple commission;
- (p) Officers and employees of the Washington state dairy products commission;
- (q) Officers and employees of the Washington tree fruit research commission;
- (r) Officers and employees of the Washington state beef commission;
- (s) Officers and employees of the Washington grain commission;
- (t) Officers and employees of any commission formed under chapter 15.66 RCW;
- (u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;
- (v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;
- (w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;
- (x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;
- (y) ~~(All employees of the marine employees' commission;~~ ~~(z))~~ Staff employed by the department of commerce to administer energy policy functions;

~~((aa))~~ (z) The manager of the energy facility site evaluation council;

~~((bb))~~ (aa) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

~~((ee))~~ (bb) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate

office of an elected state official, and the personnel listed in subsections (1)(j) through (v) (~~(and (y))~~) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

From February 18, 2009, through June 30, 2011, a salary or wage increase shall not be granted to any position exempt from classification under this chapter, except that a salary or wage increase may be granted to employees pursuant to collective bargaining agreements negotiated under chapter 28B.52, 41.56, 47.64, or 41.76 RCW, or negotiated by the nonprofit corporation formed under chapter 67.40 RCW, and except that increases may be granted for positions for which the employer has demonstrated difficulty retaining qualified employees if the following conditions are met:

(a) The salary increase can be paid within existing resources; and

(b) The salary increase will not adversely impact the provision of client services.

Any agency granting a salary increase from February 15, 2010, through June 30, 2011, to a position exempt from classification under this chapter shall submit a report to the fiscal committees of the legislature no later than July 31, 2011, detailing the positions for which salary increases were granted, the size of the increases, and the reasons for giving the increases.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

From February 15, 2010, until June 30, 2011, no monetary performance-based awards or incentives may be granted by the director or employers to employees covered by rules adopted under this section. This subsection does not prohibit the payment of awards provided for in chapter 41.60 RCW.

NEW SECTION. Sec. 13. (1) The marine employees' commission is hereby abolished and its powers, duties, and functions are hereby transferred to the public employment relations commission.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the marine employees' commission shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the marine employees' commission shall be made available to the public employment relations commission. All funds, credits, or other assets held by the marine employees' commission shall be assigned to the public employment relations commission.

(b) Any appropriations made to the marine employees' commission shall, on the effective date of this section, be transferred and credited to the public employment relations commission.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the marine employees' commission shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations shall remain in full force and shall be performed by the public employment relations commission.

(4) The transfer of the powers, duties, and functions of the marine employees' commission shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. Sec. 14. The joint transportation committee shall conduct a study of the management structure at the Washington state ferries. The study results must make recommendations on changes to the organizational structure that will result in more efficient operations and a more balanced management organization structure scaled to the workforce. The study results must be presented to the transportation committees of the legislature by December 31, 2011.

NEW SECTION. Sec. 15. The following acts or parts of acts are each repealed:

(1) RCW 47.64.080 (Employee seniority rights) and 1984 c 7 s 341 & 1961 c 13 s 47.64.080; and

(2) RCW 47.64.280 (Marine employees' commission) and 2010 c 283 s 14, 2006 c 164 s 18, 1984 c 287 s 95, & 1983 c 15 s 19.

NEW SECTION. Sec. 16. 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 takes effect immediately."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "providing tools for improving and measuring the performance of state ferry system management; amending RCW 47.64.120, 41.06.022, 47.64.011, 47.64.150, and 41.58.060; reenacting and amending RCW 47.64.090 and 41.06.070; adding new sections to chapter 47.64 RCW; creating new sections; repealing RCW 47.64.080 and 47.64.280; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to HOUSE BILL NO. 1516 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 11, 2011

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1775 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.40.020 and 2010 c 181 s 10 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes,

education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(17) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

(18) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(19) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(20) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(21) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a

mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(22) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(23) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(24) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(25) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(26) "Restorative justice" means practices, policies, and programs, informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members.

(27) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

~~((27))~~ (28) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

~~((28))~~ (29) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

~~((29))~~ (30) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

~~((30))~~ (31) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

~~((31))~~ (32) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

~~((32))~~ (33) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other

location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

~~((33))~~ (34) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

~~((34))~~ (35) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

~~((35))~~ (36) "Youth court" means a diversion unit under the supervision of the juvenile court.

Sec. 2. RCW 13.40.080 and 2004 c 120 s 3 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community restitution not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by any victim;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) A fine, not to exceed one hundred dollars;

(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas; and

(f) Upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community restitution to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian. To the extent possible, the court officer shall advise the victims of the juvenile offender of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(5)(a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the divertee.

(b) If additional time is necessary for the juvenile to complete restitution to a victim, the time period limitations of this subsection may be extended by an additional six months.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of an order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5)(c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(6) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(7) Divertees and potential divertees shall be afforded due process in all contacts with a diversion unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No divertee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the divertee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;

(iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(8) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(9) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(10) The diversion unit may refer a juvenile to community-based counseling or treatment programs.

(11) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversion unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(12) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(13) A diversion unit may refuse to enter into a diversion agreement with a juvenile. When a diversion unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversion unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(14) A diversion unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection includes the authority to refer the juvenile to community-based counseling or treatment programs or a restorative justice program. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(7). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversion unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(15) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(16) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community

restitution. The modification of the diversion agreement shall be in writing and signed by the diveree and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(17) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section."

On page 1, line 1 of the title, after "programs;" strike the remainder of the title and insert "and amending RCW 13.40.020 and 13.40.080."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED HOUSE BILL NO. 1775 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 12, 2011

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1040 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.09.085 and 2007 c 471 s 6 are each amended to read as follows:

(1) Registration under this chapter shall be effective for one year or longer, as established by the secretary.

(2) Reregistration required under RCW 19.09.075 or 19.09.079 shall be submitted to the secretary no later than the date established by the secretary by rule.

(3) Entities required to register under this chapter shall file a notice of change of information within thirty days of any change in the information contained in RCW 19.09.075 (1) through (9) or 19.09.079 (1) through (7).

(4) The secretary shall notify entities registered under this chapter of the need to reregister upon the expiration of their current registration. The notification (~~((shall))~~) may be by postal or electronic mail, sent at least sixty days prior to the expiration of their current registration. Failure to register shall not be excused by a failure of the secretary to (~~((mail))~~) send the notice or by an entity's failure to receive the notice.

Sec. 2. RCW 19.34.231 and 1999 c 287 s 12 are each amended to read as follows:

(1) If a signature of a unit of state or local government, including its appropriate officers or employees, is required by statute, administrative rule, court rule, or requirement of the office of financial management, that unit of state or local government (~~((shall))~~) may become a subscriber to a certificate issued by a licensed certification authority for purposes of conducting official public business with electronic records.

(2) A city or county may become a licensed certification authority under RCW 19.34.100 for purposes of providing services to local government, if authorized by ordinance adopted by the city or county legislative authority.

(3) A unit of state government, except the secretary and the department of information services, may not act as a certification authority.

Sec. 3. RCW 23B.01.500 and 1989 c 165 s 16 are each amended to read as follows:

Not less than thirty nor more than ninety days prior to July 1st of each year or to the expiration date of any staggered yearly license, the secretary of state shall send, by postal or electronic mail as elected by the domestic corporation, to each domestic corporation, at its registered office within the state, (~~((by first class mail))~~) or to an electronic address designated by the corporation in a record retained by the secretary of state, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if any domestic corporation (~~((shall))~~) fails to pay its annual license fee or to file its annual report it (~~((shall be))~~) is dissolved and ceases to exist. Failure of the secretary of state to (~~((mail))~~) provide any such notice (~~((shall))~~) does not relieve a corporation from its obligations to pay the annual license fees and to file the annual reports required by this title. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

Sec. 4. RCW 23B.01.510 and 1990 c 178 s 3 are each amended to read as follows:

Not less than thirty nor more than ninety days prior to July 1st of each year or to the expiration date of any staggered yearly license, the secretary of state shall send by postal or electronic mail, as elected by the foreign corporation, to each foreign corporation qualified to do business in this state, (~~((by first class mail))~~) addressed to its registered office within this state, or to an electronic address designated by the corporation in a record retained by the secretary of state, a notice that its annual license fee must be paid and its annual report must be filed as required by this title, and stating that if it (~~((shall))~~) fails to pay its annual license fee or to file its annual report its certificate of authority to transact business within this state may be revoked. Failure of the secretary of state to (~~((mail))~~) send any such notice (~~((shall))~~) does not relieve a corporation from its obligations to pay the annual license fees and to obtain or file the annual reports required by this title. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

Sec. 5. RCW 24.03.400 and 1993 c 356 s 11 are each amended to read as follows:

Not less than thirty days prior to a corporation's renewal date, or by December 1 of each year for a nonstaggered renewal, the secretary of state shall (~~((mail))~~) send to each domestic and foreign corporation, by (~~((first class mail addressed to its registered office))~~) postal or electronic mail, as elected by the domestic or foreign corporation, addressed to its registered office or to an electronic address designated by the corporation in a record retained by the secretary of state, a notice that its annual or biennial report must be filed as required by this chapter, and stating that if it fails to file its annual or biennial report it (~~((shall be))~~) is dissolved or its certificate of authority revoked, as the case may be. Failure of the secretary of state to (~~((mail))~~) send any such notice (~~((shall))~~) does not relieve a corporation from its obligation to file the annual or biennial reports required by this chapter. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

Such report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, or on an annual or biennial renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates.

If the secretary of state finds that such report substantially conforms to the requirements of this chapter, the secretary of state shall file the same.

Sec. 6. RCW 24.06.445 and 1993 c 356 s 23 are each amended to read as follows:

An annual or biennial report of each domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year or on such annual or biennial renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates. Proof to the satisfaction of the secretary of state that the report was deposited in the United States mails, in a sealed envelope, properly addressed to the secretary of state, with postage prepaid thereon, prior to the corporation's annual or biennial renewal date, shall be deemed compliance with this requirement.

If the secretary of state finds that a report substantially conforms to the requirements of this chapter, the secretary of state shall file the same.

Failure of the secretary of state to ~~((mail))~~ send any such notice shall not relieve a corporation from its obligation to file the annual reports required by this chapter.

Sec. 7. RCW 24.12.051 and 2009 c 437 s 14 are each amended to read as follows:

(1) Not less than thirty days prior to a corporation sole's renewal date, the secretary of state shall ~~((mail))~~ send to each corporation sole, by ~~((first-class))~~ postal or electronic mail, as elected by the corporation sole, addressed to its registered office, or to an electronic address designated by the corporation sole, in a record retained by the secretary of state, a notice that its annual report must be filed as required by this chapter, and stating that if it fails to file its annual report it shall be dissolved or its certificate of authority revoked, as the case may be. Failure of the secretary of state to ~~((mail))~~ send the notice does not relieve a corporation sole from its obligation to file the annual reports required by this chapter. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

(2)(a) The report of a corporation sole shall be delivered to the secretary of state on an annual renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates.

(b) If the secretary of state finds that the report substantially conforms to the requirements of this chapter, the secretary of state shall file that report."

On page 1, line 1 of the title, after "notices;" strike the remainder of the title and insert "and amending RCW 19.09.085, 19.34.231, 23B.01.500, 23B.01.510, 24.03.400, 24.06.445, and 24.12.051."

and the same is herewith transmitted.

Thomas Hoeman , Secretary

There being no objection, the House advanced to the seventh order of business.

THIRD READING

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1040 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Pedersen and Rodne spoke in favor of the passage of the bill.

MOTION

On motion of Representative Van De Wege, Representative Santos was excused.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1040, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1040, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

HOUSE BILL NO. 1040, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 12, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1084 with the following amendment:

0)

On page 4, after line 31, insert the following:

"**NEW SECTION. Sec. 7.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2011, in the omnibus appropriations act, this act is null and void."

and the same is herewith transmitted.

Thomas Hoeman , Secretary

There being no objection, the House advanced to the seventh order of business.

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1084 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative McCoy spoke in favor of the passage of the bill.

Representative Taylor spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1084, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1084, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 60; Nays, 37; Absent, 0; Excused, 1.

Voting yea: Representatives Anderson, Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rodne, Rolfes, Ryu, Seaquist, Sells, Smith, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Crouse, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Ross, Schmick, Shea, Short, Taylor, Walsh, Warnick and Wilcox.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1084, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 11, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1089 with the following amendment:

0)

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the knowledge, skill, and ability to succeed both academically and later in a chosen profession are accumulated through myriad sources, including instructional materials. Therefore, it is the intent of the legislature to ensure that students provided with instructional materials pursuant to RCW 28B.10.916 be permitted to retain those materials if they so desire.

Sec. 2. RCW 28B.10.916 and 2004 c 46 s 1 are each amended to read as follows:

(1) An individual, firm, partnership or corporation that publishes or manufactures instructional materials for students attending any public or private institution of higher education in the state of Washington shall provide to the public or private institution of higher education, for use by students attending the institution, any instructional material in an electronic format mutually agreed upon by the publisher or manufacturer and the public or private institution of higher education. Computer files or electronic versions of printed instructional materials shall be provided; video materials must be captioned or accompanied by transcriptions of spoken text; and audio materials must be

accompanied by transcriptions. These supplemental materials shall be provided to the public or private institution of higher education at no additional cost and in a timely manner, upon receipt of a written request as provided in subsection (2) of this section.

(2) A written request for supplemental materials must:

(a) Certify that a student with a print access disability attending or registered to attend a public or participating private institution of higher education has purchased the instructional material or the public or private institution of higher education has purchased the instructional material for use by a student with a print access disability;

(b) Certify that the student has a print access disability that substantially prevents him or her from using standard instructional materials;

(c) Certify that the instructional material is for use by the student in connection with a course in which he or she is registered or enrolled at the public or private institution of higher education; and

(d) Be signed by the coordinator of services for students with disabilities at the public or private institution of higher education or by the college or campus official responsible for monitoring compliance with the Americans with disabilities act of 1990 (42 U.S.C. 12101 et seq.) at the public or private institution of higher education.

(3) An individual, firm, partnership or corporation specified in subsection (1) of this section may also require that, in addition to the requirements in subsection (2) of this section, the request include a statement signed by the student agreeing to both of the following:

(a) He or she will use the instructional material provided in specialized format solely for his or her own educational purposes; and

(b) He or she will not copy or duplicate the instructional material provided in specialized format for use by others.

(4) A public or private institution of higher education that provides a specialized format version of instructional material pursuant to this section may not require that the student return the specialized format version of the instructional material, except that if the institution has determined that it is not required to allow the student to retain the material under the Americans with disabilities act or other applicable laws, and the material was translated or transcribed into a specialized format at the expense of the institution and the cost to reproduce a copy of the translation or transcription is greater than one hundred dollars, the institution may require that the student return the specialized format version.

(5) If a public or private institution of higher education provides a student with the specialized format version of an instructional material, the media must be copy-protected or the public or private institution of higher education shall take other reasonable precautions to ensure that students do not copy or distribute specialized format versions of instructional materials in violation of the copyright revision((§)) act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

~~((§))~~ (6) For purposes of this section:

(a) "Instructional material or materials" means textbooks and other materials that are required or essential to a student's success in a postsecondary course of study in which a student with a disability is enrolled. The determination of which materials are "required or essential to student success" shall be made by the instructor of the course in consultation with the official making the request in accordance with guidelines issued pursuant to subsection ~~((§))~~ (10) of this section. The term specifically includes both textual and nontextual information.

(b) "Print access disability" means a condition in which a person's independent reading of, reading comprehension of, or visual access to materials is limited or reduced due to a sensory,

neurological, cognitive, physical, psychiatric, or other disability recognized by state or federal law. The term is applicable, but not limited to, persons who are blind, have low vision, or have reading disorders or physical disabilities.

(c) "Structural integrity" means all instructional material, including but not limited to the text of the material, sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, glossaries, graphs, charts, illustrations, pictures, equations, formulas, and bibliographies. Structural order of material shall be maintained. Structural elements, such as headings, lists, and tables must be identified using current markup and tools. If good faith efforts fail to produce an agreement between the publisher or manufacturer and the public or private institution of higher education, as to an electronic format that will preserve the structural integrity of instructional materials, the publisher or manufacturer shall provide the instructional material in a verified and valid HTML format and shall preserve as much of the structural integrity of the instructional materials as possible.

(d) "Specialized format" means Braille, audio, or digital text that is exclusively for use by blind or other persons with print access disabilities.

~~((6))~~ (7) Nothing in this section is to be construed to prohibit a public or private institution of higher education from assisting a student with a print access disability through the use of an electronic version of instructional material gained through this section or by transcribing or translating or arranging for the transcription or translation of the instructional material into specialized formats that provide persons with print access disabilities the ability to have increased independent access to instructional materials. If such specialized format is made, the public or private institution of higher education may share the specialized format version of the instructional material with other students with print access disabilities for whom the public or private institution of higher education is authorized to request electronic versions of instructional material. The addition of captioning to video material by a Washington public or private institution of higher education does not constitute an infringement of copyright.

~~((7))~~ (8) A specialized format version of instructional materials developed at one public or private institution of higher education in Washington state may be shared for use by a student at another public or private institution of higher education in Washington state for whom the latter public or private institution of higher education is authorized to request electronic versions of instructional material.

~~((8))~~ (9) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the copyright revision act of 1976, as amended (17 U.S.C. Sec. 101 et seq.).

~~((9))~~ (10) The governing boards of public and participating private institutions of higher education in Washington state shall each adopt guidelines consistent with this section for its implementation and administration. At a minimum, the guidelines shall address all of the following:

(a) The designation of materials deemed "required or essential to student success";

(b) The determination of the availability of technology for the conversion of materials pursuant to subsection ~~((4))~~ (5) of this section and the conversion of mathematics and science materials pursuant to subsection ~~((5))~~ (6)(c) of this section;

(c) The procedures and standards relating to distribution of files and materials pursuant to this section;

(d) The guidelines shall include procedures for granting exceptions when it is determined that an individual, firm, partnership or corporation that publishes or manufactures

instructional materials is not technically able to comply with the requirements of this section; and

(e) Other matters as are deemed necessary or appropriate to carry out the purposes of this section.

~~((10))~~ (11) A violation of this chapter constitutes an unfair practice under chapter 49.60 RCW, the law against discrimination. All rights and remedies under chapter 49.60 RCW, including the right to file a complaint with the human rights commission and to bring a civil action, apply."

On page 1, line 2 of the title, after "version;" strike the remainder of the title and insert "amending RCW 28B.10.916; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1089 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives McCoy and Haler spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1089, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1089, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1089, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 11, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1103 with the following amendment:
0)

On page 1, line 11, after "road" insert ", except for live video of the motor vehicle backing up"

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1103 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kristiansen and Lias spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1103, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1103, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1103, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 6, 2011

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1178 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 34.05.328 and 2010 c 112 s 15 are each amended to read as follows:

(1) Before adopting a rule described in subsection (5) of this section, an agency shall:

(a) Clearly state in detail the general goals and specific objectives of the statute that the rule implements;

(b) Determine that the rule is needed to achieve the general goals and specific objectives stated under (a) of this subsection, and analyze

alternatives to rule making and the consequences of not adopting the rule;

(c) Provide notification in the notice of proposed rule making under RCW 34.05.320 that a preliminary cost-benefit analysis is available. The preliminary cost-benefit analysis must fulfill the requirements of the cost-benefit analysis under (d) of this subsection. If the agency files a supplemental notice under RCW 34.05.340, the supplemental notice shall include notification that a revised preliminary cost-benefit analysis is available. A final cost-benefit analysis shall be available when the rule is adopted under RCW 34.05.360;

(d) Determine that the probable benefits of the rule are greater than its probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented;

(e) Determine, after considering alternative versions of the rule and the analysis required under (b), (c), and (d) of this subsection, that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives stated under (a) of this subsection;

(f) Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law;

(g) Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law;

(h) Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by the following:

(i) A state statute that explicitly allows the agency to differ from federal standards; or

(ii) Substantial evidence that the difference is necessary to achieve the general goals and specific objectives stated under (a) of this subsection; and

(i) Coordinate the rule, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

(2) In making its determinations pursuant to subsection (1)(b) through (h) of this section, the agency shall place in the rule-making file documentation of sufficient quantity and quality so as to persuade a reasonable person that the determinations are justified.

(3) Before adopting rules described in subsection (5) of this section, an agency shall place in the rule-making file a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to:

(a) Implement and enforce the rule, including a description of the resources the agency intends to use;

(b) Inform and educate affected persons about the rule;

(c) Promote and assist voluntary compliance; and

(d) Evaluate whether the rule achieves the purpose for which it was adopted, including, to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcomes.

(4) After adopting a rule described in subsection (5) of this section regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:

(a) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following:

(i) Deferring to the other entity;

(ii) Designating a lead agency; or

(iii) Entering into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement.

If the agency is unable to comply with this subsection (4)(a), the agency shall report to the legislature pursuant to (b) of this subsection;

(b) Report to the joint administrative rules review committee:

(i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and

(ii) Make recommendations for any legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.

(5)(a) Except as provided in (b) of this subsection, this section applies to:

(i) Significant legislative rules of the departments of ecology, labor and industries, health, revenue, social and health services, and natural resources, the employment security department, the forest practices board, the office of the insurance commissioner, and to the legislative rules of the department of fish and wildlife implementing chapter 77.55 RCW; and

(ii) Any rule of any agency, if this section is voluntarily made applicable to the rule by the agency, or is made applicable to the rule by a majority vote of the joint administrative rules review committee within forty-five days of receiving the notice of proposed rule making under RCW 34.05.320.

(b) This section does not apply to:

(i) Emergency rules adopted under RCW 34.05.350;

(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernment party;

(iii) Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

(iv) Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

(v) Rules the content of which is explicitly and specifically dictated by statute;

(vi) Rules that set or adjust fees or rates pursuant to legislative standards;

(vii) Rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents; or

(viii) Rules of the department of revenue that adopt a uniform expiration date for reseller permits as authorized in RCW 82.32.780 and 82.32.783.

(c) For purposes of this subsection:

(i) A "procedural rule" is a rule that adopts, amends, or repeals (A) any procedure, practice, or requirement relating to any agency hearings; (B) any filing or related process requirement for making application to an agency for a license or permit; or (C) any policy statement pertaining to the consistent internal operations of an agency.

(ii) An "interpretive rule" is a rule, the violation of which does not subject a person to a penalty or sanction, that sets forth the agency's interpretation of statutory provisions it administers.

(iii) A "significant legislative rule" is a rule other than a procedural or interpretive rule that (A) adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction; (B) establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or (C) adopts a new, or makes significant amendments to, a policy or regulatory program.

(d) In the notice of proposed rule making under RCW 34.05.320, an agency shall state whether this section applies to the proposed rule pursuant to (a)(i) of this subsection, or if the agency will apply this section voluntarily.

(6) By January 31, 1996, and by January 31st of each even-numbered year thereafter, the office of (~~financial management~~) regulatory assistance, after consulting with state agencies, counties, and cities, and business, labor, and environmental organizations, shall report to the governor and the legislature regarding the effects of this section on the regulatory system in this state. The report shall document:

(a) The rules proposed to which this section applied and to the extent possible, how compliance with this section affected the substance of the rule, if any, that the agency ultimately adopted;

(b) The costs incurred by state agencies in complying with this section;

(c) Any legal action maintained based upon the alleged failure of any agency to comply with this section, the costs to the state of such action, and the result;

(d) The extent to which this section has adversely affected the capacity of agencies to fulfill their legislatively prescribed mission;

(e) The extent to which this section has improved the acceptability of state rules to those regulated; and

(f) Any other information considered by the office of financial management to be useful in evaluating the effect of this section.

Sec. 2. RCW 43.42.010 and 2009 c 97 s 4 are each amended to read as follows:

(1) The office of regulatory assistance is created in the office of financial management and (~~shall~~) must be administered by the office of the governor to help improve the regulatory system and assist citizens, businesses, and project proponents.

(2) The governor (~~shall~~) must appoint a director. The director may employ a deputy director and a confidential secretary and such staff as are necessary, or contract with another state agency pursuant to chapter 39.34 RCW for support in carrying out the purposes of this chapter.

(3) The office (~~shall~~) must offer to:

(a) Act as the central point of contact for the project proponent in communicating about defined issues;

(b) Conduct project scoping as provided in RCW 43.42.050;

(c) Verify that the project proponent has all the information needed to correctly apply for all necessary permits;

(d) Provide general coordination services;

(e) Coordinate the efficient completion among participating agencies of administrative procedures, such as collecting fees or providing public notice;

(f) Maintain contact with the project proponent and the permit agencies to promote adherence to agreed schedules;

(g) Assist in resolving any conflict or inconsistency among permit requirements and conditions;

(h) Coordinate, to the extent practicable, with relevant federal permit agencies and tribal governments;

(i) Facilitate meetings;

(j) Manage a fully coordinated permit process, as provided in RCW 43.42.060;

(k) Help local jurisdictions comply with the requirements of chapter 36.70B RCW by providing information about best permitting practices methods to improve communication with, and solicit early involvement of, state agencies when needed; and

(l) Maintain and furnish information as provided in RCW 43.42.040.

(4) The office (~~shall~~) must provide the following by September 1, 2009, and biennially thereafter, to the governor and the appropriate committees of the legislature:

(a) A performance report including:

(i) Information regarding use of the office's voluntary cost-reimbursement services as provided in RCW 43.42.070;

(ii) The number and type of projects where the office provided services and the resolution provided by the office on any conflicts that arose on such projects; ~~((and))~~

(iii) The agencies involved on specific projects;

(iv) Specific information on any difficulty encountered in provision of services, implementation of programs or processes, or use of tools; and

(v) Trend reporting that allows comparisons between statements of goals and performance targets and the achievement of those goals and targets; and

(b) Recommendations on system improvements including recommendations regarding:

(i) Measurement of overall system performance; ~~((and))~~

(ii) Changes needed to make cost reimbursement, a fully coordinated permit process, multiagency permitting teams, and other processes effective; and

(iii) Resolving any conflicts or inconsistencies arising from differing statutory or regulatory authorities, roles and missions of agencies, timing and sequencing of permitting and procedural requirements as identified by the office in the course of its duties.

NEW SECTION. Sec. 3. The following acts or parts of acts are each repealed:

(1) RCW 43.131.401 (Office of regulatory assistance--Termination) and 2007 c 231 s 6, 2007 c 94 s 15, 2003 c 71 s 5, & 2002 c 153 s 13; and

(2) RCW 43.131.402 (Office of regulatory assistance--Repeal) and 2010 c 162 s 7.

NEW SECTION. Sec. 4. 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 takes effect June 29, 2011."

On page 1, line 2 of the title, after "34.05.328" insert "and 43.42.010"

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1178 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Appleton spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1178, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1178, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 71; Nays, 26; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Appleton, Armstrong, Billig, Blake, Carlyle, Clibborn, Cody, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell,

McCoy, Miloscia, Moeller, Morris, Moscoso, Orcutt, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Ahern, Angel, Asay, Bailey, Buys, Chandler, Condotta, Crouse, Haler, Hargrove, Harris, Hinkle, Klippert, Kretz, Kristiansen, McCune, Nealey, Overstreet, Parker, Pearson, Rivers, Rodne, Shea, Short, Smith and Taylor.

Excused: Representative Santos.

HOUSE BILL NO. 1178, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 4, 2011

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1334 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 72.09.015 and 2010 c 181 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or department employee entered by a court of competent jurisdiction against an inmate that is based on, or arises from, injury to the correctional officer or department employee caused by the inmate while the correctional officer or department employee was acting in the course and scope of his or her employment.

(4) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in RCW 9.94B.020.

~~((4))~~ (5) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

~~((5))~~ (6) "Correctional facility" means a facility or institution operated directly or by contract by the secretary for the purposes of incarcerating adults in total or partial confinement, as defined in RCW 9.94A.030.

~~((6))~~ (7) "County" means a county or combination of counties.

~~((7))~~ (8) "Department" means the department of corrections.

~~((8))~~ (9) "Earned early release" means earned release as authorized by RCW ~~((9.94A.728))~~ 9.94A.729.

~~((9))~~ (10) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

~~((10))~~ (11) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

~~((11))~~ (12) "Good conduct" means compliance with department rules and policies.

~~((12))~~ (13) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

~~((13))~~ (14) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to or in a state registered domestic partnership with an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

~~((14))~~ (15) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

~~((15))~~ (16) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

~~((16))~~ (17) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

~~((17))~~ (18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

~~((18))~~ (19) "Physical restraint" means the use of any bodily force or physical intervention to control an offender or limit an offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent an offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive offender who is unwilling to leave the area voluntarily; or

(c) Guide an offender from one location to another.

~~((19))~~ (20) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the woman or youth leaves the hospital, birthing center, or clinic.

~~((20))~~ (21) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

~~((21))~~ (22) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

~~((22))~~ (23) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

~~((23))~~ (24) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons.

~~((24))~~ (25) "Secretary" means the secretary of corrections or his or her designee.

~~((25))~~ (26) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

~~((26))~~ (27) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

~~((27))~~ (28) "Transportation" means the conveying, by any means, of an incarcerated pregnant woman or youth from the correctional facility to another location from the moment she leaves the correctional facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated woman or youth from the correctional facility to a transport vehicle and from the vehicle to the other location.

~~((28))~~ (29) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

~~((29))~~ (30) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

~~((30))~~ (31) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

~~((31))~~ (32) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

Sec. 2. RCW 72.09.111 and 2010 c 122 s 5 and 2010 c 116 s 1 are each reenacted and amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; ~~(and)~~

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Twenty percent for payment of any civil judgment for assault

for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; ~~((and))~~

(v) Fifteen percent for any child support owed under a support order; and

(vi) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the crime victims' compensation account provided in RCW 7.68.045; ~~((and))~~

(ii) Fifteen percent for any child support owed under a support order; and

(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; ~~((and))~~

(ii) Fifteen percent for any child support owed under a support order; and

(iii) Fifteen percent for payment of any civil judgment for assault for inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, may be made available to an inmate at the following times:

(i) During confinement to pay for accredited postsecondary educational expenses;

(ii) Prior to the release from confinement to pay for department-approved reentry activities that promote successful community reintegration; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) The secretary shall establish guidelines for the release of funds pursuant to (a) of this subsection, giving consideration to the inmate's need for resources at the time of his or her release from confinement.

(c) Any funds remaining in an offender's personal inmate savings account shall be made available to the offender at the time of his or her release from confinement.

(4) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

Sec. 3. RCW 72.09.480 and 2010 c 122 s 6 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the crime victims' compensation account provided in RCW 7.68.045;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; ~~((and))~~

(e) Twenty percent to the department to contribute to the cost of incarceration; and

(f) Twenty percent for payment of any civil judgment for assault for all inmates who are subject to a civil judgment for assault in any Washington state court or federal court.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) and (f) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action."

On page 1, line 1 of the title, after "assault;" strike the remainder of the title and insert "amending RCW 72.09.015 and 72.09.480; reenacting and amending RCW 72.09.111; and prescribing penalties."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1334 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL

AS SENATE AMENDED

Representatives Nealey and Ladenburg spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1334, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1334, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

HOUSE BILL NO. 1334, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 9, 2011

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1405 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 31.04.025 and 2009 c 311 s 1 and 2009 c 120 s 3 are each reenacted and amended to read as follows:

(1) Each loan made to a resident of this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter, unless such loan is made under the authority of chapter 63.14 RCW.

(2) This chapter does not apply to the following:

(a) Any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions;

(b) Entities making loans under chapter 19.60 RCW (pawnbroking);

(c) Entities making loans under chapter 63.14 RCW (retail installment sales of goods and services);

(d) Entities making loans under chapter 31.45 RCW (check cashers and sellers);

(e) Any person making (~~loans~~) a loan primarily for business, commercial, or agricultural purposes(~~or~~) unless the loan is secured by a lien on the borrower's primary residence;

(f) Any person making loans made to government or government agencies or instrumentalities(~~or~~) or making loans to organizations as defined in the federal truth in lending act;

~~((f))~~ (g) Entities making loans under chapter 43.185 RCW (housing trust fund);

~~((g))~~ (h) Entities making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

~~((h))~~ (i) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents; and

(j) Entities making loans which are not residential mortgage loans under a credit card plan.

(3) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers. The director may adopt rules interpreting this section.

Sec. 2. RCW 31.04.027 and 2001 c 81 s 3 are each amended to read as follows:

It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the consumer loan company may earn a fee or commission through the consumer loan company's best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(6) Fail to make disclosures to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property; ~~((f))~~

(10) Accept from any borrower at or near the time a loan is made and in advance of any default an execution of, or induce any borrower to execute, any instrument of conveyance, not including a mortgage or deed of trust, to the lender of any ownership interest in the borrower's primary residence that is the security for the borrower's loan;

(11) Obtain at the time of closing a release of future damages for usury or other damages or penalties provided by law or a waiver of the provisions of this chapter; or

(12) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest or

otherwise fail to comply with any requirement of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act, 12 U.S.C. Sec. 2601 and regulation X, 24 C.F.R. Sec. 3500, or the equal credit opportunity act, 15 U.S.C. Sec. 1691 and regulation B, Sec. 202.9, 202.11, and 202.12, or any other applicable federal statute, as now or hereafter amended, in any advertising of residential mortgage loans or any other consumer loan company activity."

On page 1, line 1 of the title, after "act;" strike the remainder of the title and insert "amending RCW 31.04.027; and reenacting and amending RCW 31.04.025."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1405 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kirby and Bailey spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1405, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1405, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SECOND SUBSTITUTE HOUSE BILL NO. 1405, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 4, 2011

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1407 with the following amendment:

0)

Beginning on page 3, line 36, strike all of section 2

On page 1, line 3 of the title, after "54.16.180" strike "and 35.92.070"

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1407 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Ryu and Angel spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 1407, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1407, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 90; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Clibborn, Cody, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Short, Smith, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Chandler, Condotta, Hinkle, McCune, Overstreet, Shea and Taylor.

Excused: Representative Santos.

HOUSE BILL NO. 1407, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 6, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1663 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.10.029 and 2010 c 61 s 1 are each amended to read as follows:

(1)(a) An institution of higher education may exercise independently those powers otherwise granted to the director of general administration in chapter 43.19 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education.

(b) Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of general administration.

(c) Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937, ((43.19.534,)) 43.19.685, 43.19.700 through 43.19.704, and 43.19.560 through 43.19.637.

(d) Purchases under chapter 39.29, 43.19, or 43.105 RCW by institutions of higher education may be made by using contracts for materials, supplies, services, or equipment negotiated or entered into by, for, or through group purchasing organizations.

(e) The community and technical colleges shall comply with RCW 43.19.450.

(f) Except for the University of Washington, institutions of higher education shall comply with RCW 43.41.310, 43.41.290, and 43.41.350.

(g) If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685, ((43.19.534,)) and 43.19.637.

(h) Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of general administration. Thereafter the director of general administration shall not be required to provide those services for that institution for the duration of the general administration contract term for that commodity or group of commodities.

(2) The council of presidents and the state board for community and technical colleges shall convene its correctional industries business development advisory committee, and work collaboratively with correctional industries, to:

(a) Reaffirm purchasing criteria and ensure that quality, service, and timely delivery result in the best value for expenditure of state dollars;

(b) Update the approved list of correctional industries products from which higher education shall purchase; and

(c) Develop recommendations on ways to continue to build correctional industries' business with institutions of higher education.

(3) Higher education and correctional industries shall develop a plan to build higher education business with correctional industries to increase higher education purchases of correctional industries products, based upon the criteria established in subsection (2) of this section. The plan shall include the correctional industries' production and sales goals for higher education and an approved list of products from which higher education institutions shall purchase, based on the criteria established in subsection (2) of this section. Higher education and correctional industries shall report to the legislature regarding the plan and its implementation no later than January 30, 2005.

(4)(a) Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2006, to purchase one percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2008, to purchase two percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(b) Institutions of higher education shall endeavor to assure the department of corrections has notifications of bid opportunities with the goal of meeting or exceeding the purchasing target in (a) of this subsection.

(5) An institution of higher education may exercise independently those powers otherwise granted to the public printer in chapter 43.78

RCW in connection with the production or purchase of any printing and binding needed by the respective institution of higher education. Purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapter 39.19 RCW. Any institution of higher education that chooses to exercise independent printing production or purchasing authority shall notify the public printer. Thereafter the public printer shall not be required to provide those services for that institution.

NEW SECTION. Sec. 2. 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 takes effect immediately."

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28B.10.029; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1663 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Parker and Seaquist spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1663, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1663, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Froct, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloschia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1663, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 12, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1718 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 2.28.180 and 2005 c 504 s 501 are each amended to read as follows:

(1) Counties may establish and operate mental health courts.

(2) For the purposes of this section, "mental health court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and symptoms of mental illness among nonviolent, (~~mentally ill~~) felony and nonfelony offenders with mental illnesses and recidivism among nonviolent felony and nonfelony offenders who have developmental disabilities as defined in RCW 71A.10.020 or who have suffered a traumatic brain injury by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment including drug treatment for persons with co-occurring disorders; mandatory periodic reviews, including drug testing if indicated; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a mental health court program must first:

(i) Exhaust all federal funding that is available to support the operations of its mental health court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for mental health court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for mental health court operations and associated services.

(b) Any county that establishes a mental health court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The mental health court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from psychiatric treatment or treatment related to his or her developmental disability or traumatic brain injury;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person.

NEW SECTION. Sec. 2. A new section is added to chapter 70.48 RCW to read as follows:

When a jail has determined that a person in custody has or may have a developmental disability as defined in RCW 71A.10.020 or a traumatic brain injury, upon transfer of the person to a department of corrections facility or other jail facility, every reasonable effort shall be made by the transferring jail staff to communicate to receiving staff the nature of the disability, as determined by the jail and any necessary accommodation for the person as identified by the transferring jail staff."

On page 1, line 2 of the title, after "injuries;" strike the remainder of the title and insert "amending RCW 2.28.180; and adding a new section to chapter 70.48 RCW."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1718 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representative Roberts spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1718, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1718, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1718, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1761 with the following amendment:

0)

On page 3, after line 25, insert the following:
"(3)(a) By December 1, 2011, annually each December 1st until December 1, 2014, and December 1st every five years thereafter, each statewide issuer receiving the notice required by subsection (2) of this section from an issuer formed or organized under the laws of another state shall, within existing funds, submit a report to the appropriate committees of the legislature.

(b) Each report under (a) of this subsection must provide, for annual reports the following information from the previous fiscal year, and for other reports the following information from each of the previous fiscal years:

- (i) The number of proposed projects for which the statewide issuer received notice and the information described under subsection (2) of this section;
- (ii) A description of the projects for which notice was submitted;
- (iii) The dollar amount of each proposed project;
- (iv) The location of each proposed project;
- (v) Whether the proposed project was approved by the statewide

issuer; and

(vi) For any project that was not approved by the statewide issuer, the reasons for the statewide issuer's decision."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1761 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Ormsby and Smith spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1761, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1761, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1761, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1783 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature recognizes that existing floating homes, as part of our state's existing houseboat communities, are an important cultural amenity and element of our maritime history. These surviving floating home communities are a linkage to the past, when our waterways were the focus of commerce, transport, and development. In order to ensure the vitality and long-term survival of these existing floating home communities, consistent

with the legislature's goal of allowing their continued use, improvement, and replacement without undue burden, the legislature finds that it is necessary to clarify their legal status.

Sec. 2. RCW 90.58.270 and 1971 ex.s. c 286 s 27 are each amended to read as follows:

(1) Nothing in this statute shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) hereof.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5)(a) A floating home permitted or legally established prior to January 1, 2011, must be classified as a conforming preferred use.

(b) For the purposes of this subsection:

(i) "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

(ii) "Floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed."

On page 1, line 1 of the title, after "moorages;" strike the remainder of the title and insert "amending RCW 90.58.270; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1783 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Pedersen and Angel spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1783, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1783, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 65; Nays, 32; Absent, 0; Excused, 1.

Voting yea: Representatives Anderson, Angel, Appleton, Asay, Bailey, Billig, Blake, Carlyle, Chandler, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rodne, Rolfes, Ryu, Seaquist, Sells, Smith, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Armstrong, Buys, Condotta, Crouse, Dahlquist, Dammeier, DeBolt, Fagan, Hargrove, Harris, Hinkle, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Ross, Schmick, Shea, Short, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1783, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute House Bill No. 1783.

Representative Johnson, 14th District

THIRD READING

MESSAGE FROM THE SENATE

April 8, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.20.385 and 2010 c 269 s 1 are each amended to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or a violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of

the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055. Beginning with incidents occurring on or after the effective date of this section, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if the applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license after receiving notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, no longer meets the eligibility requirements, or has been convicted of or found to have committed a separate offense or any other act or omission that under this chapter would warrant suspension or revocation of a regular driver's license. The department must give notice of the cancellation as provided under RCW 46.20.245. A person whose ignition interlock driver's license has been canceled under this section may reapply for a new ignition interlock driver's license if he or she is otherwise qualified under this section and pays the fee required under RCW 46.20.380.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month.

Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

Sec. 2. RCW 46.61.502 and 2008 c 282 s 20 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a)((-));

(ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b)((-)(-));

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; _____ or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

Sec. 3. RCW 46.61.504 and 2008 c 282 s 21 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any

drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a)(~~;~~);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b)(~~;~~);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

Sec. 4. RCW 46.61.500 and 1990 c 291 s 1 are each amended to read as follows:

(1) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Violation of the provisions of this section is a gross misdemeanor punishable by imprisonment of not more than one year and by a fine of not more than five thousand dollars.

(2) The license or permit to drive or any nonresident privilege of any person convicted of reckless driving shall be suspended by the department for not less than thirty days.

(3)(a) Except as provided under (b) of this subsection, a person convicted of reckless driving who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance.

(b) A person convicted of reckless driving shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug.

Sec. 5. RCW 46.61.5249 and 1997 c 66 s 4 are each amended to read as follows:

(1)(a) A person is guilty of negligent driving in the first degree if he or she operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property, and exhibits the effects of having consumed liquor or an illegal drug.

(b) It is an affirmative defense to negligent driving in the first degree by means of exhibiting the effects of having consumed an illegal drug that must be proved by the defendant by a preponderance of the evidence, that the driver has a valid prescription for the drug consumed, and has been consuming it according to the prescription directions and warnings.

(c) Negligent driving in the first degree is a misdemeanor.

(2) For the purposes of this section:

(a) "Negligent" means the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

(b) "Exhibiting the effects of having consumed liquor" means that a person has the odor of liquor on his or her breath, or that by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed liquor, and either:

(i) Is in possession of or in close proximity to a container that has or recently had liquor in it; or

(ii) Is shown by other evidence to have recently consumed liquor.

(c) "Exhibiting the effects of having consumed an illegal drug" means that a person by speech, manner, appearance, behavior, lack of coordination, or otherwise exhibits that he or she has consumed an illegal drug and either:

(i) Is in possession of an illegal drug; or

(ii) Is shown by other evidence to have recently consumed an illegal drug.

(d) "Illegal drug" means a controlled substance under chapter 69.50 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings, or a legend drug under chapter 69.41 RCW for which the driver does not have a valid prescription or that is not being consumed in accordance with the prescription directions and warnings.

(3) Any act prohibited by this section that also constitutes a crime under any other law of this state may be the basis of prosecution under such other law notwithstanding that it may also be the basis for prosecution under this section.

(4) A person convicted of negligent driving in the first degree who has one or more prior offenses as defined in RCW 46.61.5055(14) within seven years shall be required, under RCW 46.20.720, to install an ignition interlock device on all vehicles operated by the person.

Sec. 6. RCW 46.20.720 and 2010 c 269 s 3 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055 and subject to the exceptions listed in that statute, the court shall order any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department under RCW 46.20.385 and to have a functioning ignition interlock device installed on all motor vehicles operated by the person. The court shall order any person participating in a deferred prosecution program under RCW 10.05.020 for a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance. The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of a violation of RCW 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an ignition interlock device on all vehicles operated by the person.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. Subject to the provisions of subsections (4) and (5) of this section, the period of time of the restriction will be no less than:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

(4) A restriction imposed under subsection (3) of this section shall remain in effect until the department receives a declaration from the person's ignition interlock device vendor, in a form provided or approved by the department, certifying that there have been none of the following incidents in the four consecutive months prior to the date of release:

(a) An attempt to start the vehicle with a breath alcohol concentration of 0.04 or more;

(b) Failure to take or pass any required retest; or

(c) Failure of the person to appear at the ignition interlock device vendor when required for maintenance, repair, calibration, monitoring, inspection, or replacement of the device.

(5) For a person required to install an ignition interlock device pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of the restriction shall be for six months and shall be subject to subsection (4) of this section.

Sec. 7. RCW 46.61.5055 and 2010 c 269 s 4 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or

46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may

restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW if:

(a) The person has four or more prior offenses within ten years; or

(b) ~~The~~ person has ever previously been convicted of:

(i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(ii) A violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug; ~~((or))~~

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or
(iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

(5)(a) The court shall require any person convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person apply for an ignition interlock driver's license if the court makes a specific finding in writing that:

(i) The person lives out-of-state and the devices are not reasonably available in the person's local area;

(ii) The person does not operate a vehicle; or

(iii) The person is not eligible to receive an ignition interlock driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an ignition interlock driver's license, has never had a driver's license, has been certified under chapter 74.20A RCW as noncompliant with a child support order, or

is subject to any other condition or circumstance that makes the person ineligible to obtain an ignition interlock driver's license.

(e) If a court finds that a person is not eligible to receive an ignition interlock driver's license under this section, the court is not required to make any further subsequent inquiry or determination as to the person's eligibility.

(f) If the court orders that a person refrain from consuming any alcohol and requires the person to apply for an ignition interlock driver's license, and the person states that he or she does not operate a motor vehicle or the person is ineligible to obtain an ignition interlock driver's license, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. Alcohol monitoring ordered under this subsection must be for the period of the mandatory license suspension or revocation. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

(g) The period of time for which ignition interlock use (~~or alcohol monitoring~~) is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (g)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (g)(ii) of this subsection, a period of ten years.

(h) Beginning with incidents occurring on or after the effective date of this section, when calculating the period of time for the restriction under RCW 46.20.720(3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (5)(h), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

(6) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

(7) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

(8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

(10) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

(11)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

(12) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty-five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

(13) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(3).

(14) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.520 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, or a conviction for a violation of RCW 46.61.522 committed in a reckless manner or with the disregard for the safety of others if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in this subsection (14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years before or after the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years before or after the arrest for the current offense.

Sec. 8. RCW 10.05.140 and 2004 c 95 s 1 are each amended to read as follows:

As a condition of granting a deferred prosecution petition, the court shall order that the petitioner shall not operate a motor vehicle upon the public highways without a valid operator's license and proof of liability insurance. The amount of liability insurance shall be established by the court at not less than that established by RCW 46.29.490. As a condition of granting a deferred prosecution petition on any alcohol-dependency based case, the court shall also order the installation of an ignition interlock under RCW 46.20.720. The required periods of use of the interlock shall be not less than the periods provided for in RCW 46.20.720((2))~~(3)~~(3) (a), (b), and (c). As a condition of granting a deferred prosecution petition, the court may order the petitioner to make restitution and to pay costs as defined in RCW 10.01.160. To help ensure continued sobriety and reduce the likelihood of reoffense, the court may order reasonable conditions during the period of the deferred prosecution including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintaining law-abiding behavior. The court may terminate the deferred prosecution program upon violation of the deferred prosecution order.

Sec. 9. RCW 9.94A.533 and 2009 c 141 s 2 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this

subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728~~((4))~~(3);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728~~((4))~~(3);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or ~~((9.94A.605))~~ 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055. All enhancements under this subsection shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728~~((4))~~(3);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

NEW SECTION. Sec. 10. A new section is added to chapter 2.28 RCW to read as follows:

(1) Counties may establish and operate DUI courts.

(2) For the purposes of this section, "DUI court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism of impaired driving among nonviolent, alcohol abusing offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic testing for alcohol use and, if applicable, drug use; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a DUI court program must first:

(i) Exhaust all federal funding that is available to support the operations of its DUI court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for DUI court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for DUI court operations and associated services. However, until June 30, 2014, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a DUI court established as of January 1, 2011.

(b) Any county that establishes a DUI court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The DUI court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from alcohol treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030, vehicular homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or an equivalent out-of-state offense; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) That is vehicular homicide or vehicular assault;

(D) During which the defendant used a firearm; or

(E) During which the defendant caused substantial or great bodily harm or death to another person.

Sec. 11. RCW 2.28.190 and 2005 c 504 s 502 are each amended to read as follows:

Any county that has established a DUI court, drug court, and a mental health court under this chapter may combine the functions of ~~((both))~~ these courts into a single therapeutic court.

Sec. 12. RCW 46.61.5054 and 1995 c 398 s 15 and 1995 c 332 s 13 are each reenacted and amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 46.61.5051 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055 thereafter, a ~~((one))~~ two hundred ~~((twenty-five))~~ dollar fee shall be assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol for grants and activities to

increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(b) Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall assess the ~~((one))~~ two hundred ~~((twenty-five))~~ dollar fee under (a) of this subsection. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and, subject to subsection (4) of this section, one hundred seventy-five dollars of the fee must be distributed as follows:

(a) Forty percent shall be subject to distribution under RCW 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

(b) The remainder of the fee shall be forwarded to the state treasurer who shall, through June 30, 1997, deposit: Fifty percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and fifty percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs. Effective July 1, 1997, the remainder of the fee shall be forwarded to the state treasurer who shall deposit: Fifteen percent in the death investigations' account to be used solely for funding the state toxicology laboratory blood or breath testing programs; and eighty-five percent in the state patrol highway account to be used solely for funding activities to increase the conviction rate and decrease the incidence of persons driving under the influence of alcohol or drugs.

(3) Twenty-five dollars of the fee assessed under subsection (1) of this section must be distributed to the highway safety account to be used solely for funding Washington traffic safety commission grants to reduce statewide collisions caused by persons driving under the influence of alcohol or drugs. Grants awarded under this subsection may be for projects that encourage collaboration with other community, governmental, and private organizations, and that utilize innovative approaches based on best practices or proven strategies supported by research or rigorous evaluation. Grants recipients may include, for example:

(a) DUI courts; and

(b) Jurisdictions implementing the victim impact panel registries under RCW 46.61.5152 and section 15 of this act.

(4) If the court has suspended payment of part of the fee pursuant to subsection (1)(b) or (c) of this section, amounts collected shall be distributed proportionately.

(5) This section applies to any offense committed on or after July 1, 1993.

Sec. 13. RCW 46.61.5056 and 1995 c 332 s 14 are each amended to read as follows:

(1) A person subject to alcohol assessment and treatment under RCW 46.61.5055 shall be required by the court to complete a course in an alcohol information school approved by the department of social and health services or to complete more intensive treatment in a program approved by the department of social and health services, as determined by the court. The court shall notify the department of licensing whenever it orders a person to complete a course or treatment program under this section.

(2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the court and the department of licensing. Based on the diagnostic

evaluation, the court shall determine whether the person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services.

(3) Standards for approval for alcohol treatment programs shall be prescribed by the department of social and health services. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs.

(4) Any agency that provides treatment ordered under RCW 46.61.5055, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the department of licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the department of licensing and the department of social and health services of any failure by an agency to so report noncompliance. Any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the department of social and health services. Upon three such failures by an agency within one year, the department of social and health services shall revoke the agency's approval under this section.

(5) The department of licensing and the department of social and health services may adopt such rules as are necessary to carry out this section.

Sec. 14. RCW 46.61.5152 and 2006 c 73 s 17 are each amended to read as follows:

In addition to penalties that may be imposed under RCW 46.61.5055, the court may require a person who is convicted of a nonfelony violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a nonfelony violation of RCW 46.61.502 or 46.61.504, to attend an educational program, such as a victim impact panel, focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants. The victim impact panel program must meet the minimum standards established under section 15 of this act.

NEW SECTION. Sec. 15. A new section is added to chapter 10.01 RCW to read as follows:

(1) The Washington traffic safety commission may develop and maintain a registry of qualified victim impact panels. When imposing a requirement that an offender attend a victim impact panel under RCW 46.61.5152, the court may refer the offender to a victim impact panel that is listed in the registry. The Washington traffic safety commission may consult with victim impact panel organizations to develop and maintain a registry.

(2) To be listed on the registry, the victim impact panel must meet the following minimum standards:

(a) The victim impact panel must address the effects of driving while impaired on individuals and families and address alternatives to drinking and driving and drug use and driving;

(b) The victim impact panel should strive to have at least two different speakers, one of whom is a victim survivor of an impaired driving crash, to present their stories in person. A victim survivor may be the panel facilitator. The victim impact panel should be a minimum of sixty minutes of presentation, not including registration and administration time.

(c) The victim impact panel shall have policies and procedures to recruit, screen, train, and provide feedback and ongoing support to the panelists. The panel shall take reasonable steps to verify the authenticity of each panelist's story;

(d) The victim impact panel shall charge a reasonable fee to all persons required to attend, unless otherwise ordered by the court;

(e) The victim impact panel shall have a policy to prohibit admittance of anyone under the influence of alcohol or drugs, or anyone whose actions or behavior are otherwise inappropriate. The victim impact panel may institute additional admission requirements;

(f) The victim impact panel shall maintain attendance records for at least five years;

(g) The victim impact panel shall make reasonable efforts to use a facility that meets standards established by the Americans with disabilities act;

(h) The victim impact panel may provide referral information to other community services; and

(i) The victim impact panel shall have a designated facilitator who is responsible for the compliance with these minimum standards and who is responsible for maintaining appropriate records and communication with the referring courts and probationary departments regarding attendance or nonattendance.

NEW SECTION. Sec. 16. Sections 1 through 9 of this act take effect September 1, 2011."

On page 1, line 2 of the title, after "drugs;" strike the remainder of the title and insert "amending RCW 46.20.385, 46.61.502, 46.61.504, 46.61.500, 46.61.5249, 46.20.720, 46.61.5055, 10.05.140, 9.94A.533, 2.28.190, 46.61.5056, and 46.61.5152; reenacting and amending RCW 46.61.5054; adding a new section to chapter 2.28 RCW; adding a new section to chapter 10.01 RCW; providing an effective date; and prescribing penalties."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Goodman and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1789, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1789, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1789, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1811 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.185C.180 and 2006 c 349 s 8 are each amended to read as follows:

(1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement the Washington homeless client management information system for the ongoing collection and updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families.

(a) Personally identifying information about homeless individuals for the Washington homeless client management information system may only be collected after having obtained informed, reasonably time limited (i) written consent from the homeless individual to whom the information relates, or (ii) telephonic consent from the homeless individual, provided that written consent is obtained at the first time the individual is physically present at an organization with access to the Washington homeless client management information system. Safeguards consistent with federal requirements on data collection must be in place to protect homeless individuals' rights regarding their personally identifying information.

(b) Data collection under this subsection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals ((be informed)) receive:

(i) Information about the expected duration of their participation((s)) in the Washington homeless client management information system;

(ii) An explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information((s));

(iii) An explanation regarding whom to contact in the event of injury to the individual related to the Washington homeless client ((survey)) management information system;

(iv) A description of any reasonably foreseeable risks to the homeless individual((s)); and

(v) A statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(c) The department must adopt policies governing the appropriate process for destroying Washington homeless client management information system paper documents containing personally identifying information when the paper documents are no longer needed. The policies must not conflict with any federal data requirements.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the database with available housing and other support services. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

(a) Protect the right of privacy of individuals;

(b) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and

(c) Include related information held or gathered by other state agencies.

(6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually."

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "and amending RCW 43.185C.180."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1811 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Springer and Smith spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1811, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1811, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1811, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1858 with the following amendment:

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1858 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Roberts and Parker spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1858, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1858, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1858, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1861 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.76.280 and 1995 c 380 s 8 are each amended to read as follows:

(1) The department may sell or lease property acquired under this chapter to a county rail district established under chapter 36.60 RCW, a county, a port district, or any other public or private entity authorized to operate rail service. Any public or private entity that originally donated funds to the department under this chapter shall receive credit against the purchase price for the amount donated to the department, less management costs, in the event such public or private entity purchases the property from the department.

(2) If no county rail district, county, port district, or other public or private entity authorized to operate rail service purchases or leases the property within six years after its acquisition by the department, the department may sell or lease such property in the manner provided in RCW 47.76.290. Failing this, the department may sell or convey all such property in the manner provided in RCW 47.76.300 or 47.76.320.

(3) Property acquired by the department under this chapter that is not essential for the operation of the rail service contemplated in subsections (1) and (2) of this section may be sold or leased at any time following acquisition in the manner provided in RCW 47.76.290.

Sec. 2. RCW 47.76.290 and 1993 c 224 s 8 are each amended to read as follows:

(1) If real property acquired by the department under this chapter that is essential for the operation of the rail service contemplated in RCW 47.76.280 is not sold or leased to a public or private entity authorized to operate rail service within six years of its acquisition by the department, the department may sell or lease the property at fair market value to any of the following governmental entities or persons:

- (a) Any other state agency;
- (b) The city or county in which the property is situated;
- (c) Any other municipal corporation;
- (d) The former owner, heir, or successor of the property from whom the property was acquired; or
- (e) Any abutting private owner or owners.

(2)(a) Real property acquired by the department under this chapter that is not essential for the operation of the rail service contemplated in RCW 47.76.280 may be leased or sold at fair market value, at any time following acquisition, to any entity or person in the following priority order:

- (i) The current tenant or lessee of the real property or real property abutting the property being sold;
- (ii) An abutting private owner, but only after each other abutting private owner, if any, as shown in the records of the county assessor, is notified in writing of the proposed sale. If more than one abutting private owner requests in writing the right to purchase the real property within fifteen days after receiving notice of the proposed sale, the real property must be sold at public auction in the manner provided in RCW 47.76.320 (2) through (4);
- (iii) Any other state agency;
- (iv) The city or county in which the real property is situated;
- (v) Any other municipal corporation; or
- (vi) The former owner, heir, or successor of the real property from whom the real property was acquired.

(b) If the department intends to sell or lease property under this subsection to an entity or person that is not the entity or person with the highest priority status under this subsection, the department must give written notice to each entity or person with higher priority status under this subsection that is reasonably considered to have an interest in the property. The entity with the highest priority status, willing to enter into a sale or lease at fair market value, must be given right of first refusal to buy or lease the property.

(3) Notice of intention to sell under this section shall be given by

publication in one or more newspapers of general circulation in the area in which the property is situated not less than thirty days prior to the intended date of sale.

~~((3))~~ (4) Sales to purchasers under this section may, at the department's option, be for cash or by real estate contract, except that any such property of the Palouse River and Coulee City rail lines that was purchased with bond proceeds in November 2004 may be sold only for cash at fair market value.

~~((4))~~ (5) Conveyances made under this section shall be by deed executed by the secretary of transportation and shall be duly acknowledged.

~~((5))~~ (6) All moneys received under this section shall be deposited in the essential rail ~~(banking account of the general fund)~~ assistance account created in RCW 47.76.250. Any moneys deposited under this subsection from sales or leases of property that are related, in any way, to the Palouse River and Coulee City rail lines must be used and, in the case of moneys received from sales, expended within two years of receipt, only for the refurbishment or improvement of the Palouse River and Coulee City rail lines.

NEW SECTION. **Sec. 3.** A new section is added to chapter 46.68 RCW to read as follows:

All revenue received by the department of transportation from operating leases or other business operations on the Palouse River and Coulee City rail lines must be deposited in the essential rail assistance account created in RCW 47.76.250 and used only for the refurbishment or improvement of the Palouse River and Coulee City rail lines.

NEW SECTION. **Sec. 4.** 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 takes effect immediately."

On page 1, line 2 of the title, after "properties;" strike the remainder of the title and insert "amending RCW 47.76.280 and 47.76.290; adding a new section to chapter 46.68 RCW; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1861 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Armstrong and Billig spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1861, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1861, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler,

Hargrove, Harris, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloschia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representative Hasegawa.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1861, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 9, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.16.250 and 2001 c 217 s 5 and 2001 c 47 s 2 are each reenacted and amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "bad debt lists" or threaten to do so. For purposes of this chapter, a "bad debt list" means any list of natural persons alleged to fail to honor their lawful debts. However, nothing herein shall be construed to prohibit a licensee from communicating to its customers or clients by means of a coded list, the existence of a check dishonored because of insufficient funds, not sufficient funds or closed account by the financial institution servicing the debtor's checking account: PROVIDED, That the debtor's identity is not readily apparent: PROVIDED FURTHER, That the licensee complies with the requirements of subsection (9)(e) of this section.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form which represents or

implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall ~~((make a reasonable effort to obtain the name of such person and))~~ provide this name to the debtor or cease efforts to collect on the debt until this information is provided;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or its behalf or on the behalf of a customer or assignor; and

(vi) Any other charge or fee that the licensee is attempting to collect on his or its own behalf or on the behalf of a customer or assignor;

(d) If the notice, letter, message, or form is the first notice to the debtor, an itemization of the claim asserted must be made including the following information:

(i) The original account number or redacted original account number assigned to the debt, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided; and

(ii) The date of the last payment to the creditor on the subject debt by the debtor, if known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee must make a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

(9) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or place of employment concerning the claim and the debtor after a reasonable

time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: PROVIDED, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(e) A licensee may communicate the existence of a claim to its customers or clients if the claim is reduced to judgment, or if not reduced to judgment, when:

(i) The licensee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(10) Threaten the debtor with impairment of his credit rating if a claim is not paid.

(11) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: PROVIDED, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or it again receives notification in writing that an attorney is representing the debtor.

(12) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

(13) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(14) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(15) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

(17) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs. A licensee may collect or attempt to collect collection costs and fees, including contingent collection fees, as authorized by a written agreement or contract, between the licensee's client and the debtor, in the collection of a commercial claim. The amount charged to the debtor for collection services shall not exceed thirty-five percent of the commercial claim.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, except as noted in subsection (18) of this section, and, in the case of suit, attorney's fees and taxable court costs.

(20) Upon notification by a debtor that the debtor disputes all debts arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, initiate oral contact with a debtor more than one time in an attempt to collect from the debtor debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (a) Within the previous one hundred eighty days, in response to the licensee's attempt to collect the initial debt assigned to the licensee and arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, the debtor in writing notified the licensee that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created; (b) the licensee has received from the debtor a certified copy of a police report referencing the theft or fraudulent creation of the checkbook, automated clearinghouse transactions on a demand deposit account, or series of preprinted written instruments; (c) in the written notification to the licensee or in the police report, the debtor identified the financial institution where the account was maintained, the account number, the magnetic ink character recognition number, the full bank routing and transit number, and the check numbers of the stolen checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments, which check numbers included the number of the check that is the subject of the licensee's collection efforts; (d) the debtor provides, or within the previous one hundred eighty days provided, to the licensee a legible copy of a government-issued photo identification, which contains the debtor's signature and which was issued prior to the date of the theft or fraud identified in the police report; and (e) the debtor advised the licensee that the subject debt is disputed because the identified check, automated clearinghouse transaction on a demand deposit account, or other preprinted written instrument underlying the debt is a stolen or fraudulently created check or instrument.

The licensee is not in violation of this subsection if the licensee initiates oral contact with the debtor more than one time in an attempt to collect debts arising from the identified series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments when: (i) The licensee acted in good faith and relied on their established practices and procedures for batching, recording, or packeting debtor accounts, and the licensee inadvertently initiates oral contact with the debtor in an attempt to collect debts in the identified series subsequent to the initial debt assigned to the licensee; (ii) the licensee is following up on collection of a debt assigned to the licensee, and the debtor has previously requested more information from the licensee regarding the subject debt; (iii) the debtor has notified the licensee that the debtor disputes only some, but not all the debts arising from the

subsection. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law.

(3) The right of a person to a pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Washington under any employee benefit plan, and any fund created by such a plan or arrangement, shall be exempt from execution, attachment, garnishment, or seizure by or under any legal process whatever. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in ~~((sections))~~ 26 U.S.C. Sec. 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support. This subsection ~~((shall))~~ does not prohibit actions against an employee benefit plan, or fund for valid obligations incurred by the plan or fund for the benefit of the plan or fund.

(4) For the purposes of this section, the term "employee benefit plan" means any plan or arrangement that is described in RCW 49.64.020, including any Keogh plan, whether funded by a trust or by an annuity contract, and in ~~((sections))~~ 26 U.S.C. Sec. 401(a) or 403(a) of the internal revenue code of 1986, as amended; or that is a tax-sheltered annuity or a custodial account described in section 403(b) of such code or an individual retirement account or an individual retirement annuity described in section 408 of such code; or a Roth individual retirement account described in section 408A of such code; or a medical savings account or a health savings account described in sections 220 and 223, respectively, of such code; ~~((or an education individual retirement account described in section 530 of such code;))~~ or a retirement bond described in section 409 of such code as in effect before January 1, 1984. ~~((The term "employee benefit plan" also means any rights accruing on account of money paid currently or in advance for purchase of tuition units under the advanced college tuition payment program in chapter 28B.95 RCW.))~~ The term "employee benefit plan" shall not include any employee benefit plan that is established or maintained for its employees by the government of the United States, by the state of Washington under chapter 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43 RCW or RCW 41.50.770, or by any agency or instrumentality of the government of the United States.

(5) An employee benefit plan shall be deemed to be a spendthrift trust, regardless of the source of funds, the relationship between the trustee or custodian of the plan and the beneficiary, or the ability of the debtor to withdraw or borrow or otherwise become entitled to benefits from the plan before retirement. This subsection shall not apply to child support collection actions issued under chapter 26.18, 26.23, or 74.20A RCW, if otherwise permitted by federal law. This subsection shall permit benefits under any such plan or arrangement to be payable to a spouse, former spouse, child, or other dependent of a participant in such plan to the extent expressly provided for in a qualified domestic relations order that meets the requirements for such orders under the plan, or, in the case of benefits payable under a plan described in ~~((sections))~~ 26 U.S.C. Sec. 403(b) or 408 of the internal revenue code of 1986, as amended, or section 409 of such code as in effect before January 1, 1984, to the extent provided in any order issued by a court of competent jurisdiction that provides for maintenance or support.

(6) Unless ~~((contrary to applicable))~~ prohibited by federal law, nothing contained in subsection (3), (4), or (5) of this section shall be

construed as a termination or limitation of a spouse's community property interest in an ~~((individual retirement account))~~ employee benefit plan held in the name of or on account of the other spouse, who is the participant or the account holder spouse. Unless prohibited by applicable federal law, at the death of the nonparticipant, nonaccount holder spouse, the nonparticipant, nonaccount holder spouse may transfer or distribute the community property interest of the nonparticipant, nonaccount holder spouse in the participant or account holder spouse's ~~((individual retirement account))~~ employee benefit plan to the nonparticipant, nonaccount holder spouse's estate, testamentary trust, inter vivos trust, or other successor or successors pursuant to the last will of the nonparticipant, nonaccount holder spouse or the law of intestate succession, and that distributee may, but shall not be required to, obtain an order of a court of competent jurisdiction, including a nonjudicial ~~((dispute resolution))~~ binding agreement or ~~((other))~~ order entered under chapter 11.96A RCW, to confirm the distribution. For purposes of subsection (3) of this section, the distributee of the nonparticipant, nonaccount holder spouse's community property interest in an ~~((individual retirement account))~~ employee benefit plan shall be considered a person entitled to the full protection of subsection (3) of this section. The nonparticipant, nonaccount holder spouse's consent to a beneficiary designation by the participant or account holder spouse with respect to an ~~((individual retirement account))~~ employee benefit plan shall not, absent clear and convincing evidence to the contrary, be deemed a release, gift, relinquishment, termination, limitation, or transfer of the nonparticipant, nonaccount holder spouse's community property interest in an ~~((individual retirement account))~~ employee benefit plan. For purposes of this subsection, the term "nonparticipant, nonaccount holder spouse" means the spouse of the person who is a participant in an employee benefit plan or in whose name ~~((the))~~ an individual retirement account is maintained. ~~((The term "individual retirement account" includes an individual retirement account and an individual retirement annuity both as described in section 408 of the internal revenue code of 1986, as amended, a Roth individual retirement account as described in section 408A of the internal revenue code of 1986, as amended, and an individual retirement bond as described in section 409 of the internal revenue code as in effect before January 1, 1984.))~~ As used in this subsection, an order of a court of competent jurisdiction entered under chapter 11.96A RCW includes an agreement, as that term is used under RCW 11.96A.220.

Sec. 4. RCW 48.18.430 and 2005 c 223 s 10 are each amended to read as follows:

(1) The benefits, rights, privileges, and options under any annuity contract that are due the annuitant who paid the consideration for the annuity contract are not subject to execution and the annuitant may not be compelled to exercise those rights, powers, or options, and creditors are not allowed to interfere with or terminate the contract, except:

(a) As to amounts paid for or as premium on an annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to making the payments to the annuitant out of which the creditor seeks to recover. The notice must specify the amount claimed or the facts that will enable the insurer to determine the amount, and must set forth the facts that will enable the insurer to determine the insurance or annuity contract, the person insured or annuitant and the payments sought to be avoided on the basis of fraud.

(b) The total exemption of benefits presently due and payable to an annuitant periodically or at stated times under all annuity contracts may not at any time exceed ~~((two))~~ three thousand ~~((five hundred))~~ dollars per month for the length of time represented by the installments, and a periodic payment in excess of ~~((two))~~ three thousand ~~((five hundred))~~ dollars per month is subject to garnishee execution to the same extent as are wages and salaries.

(c) If the total benefits presently due and payable to an annuitant under all annuity contracts at any time exceeds payment at the rate of ~~((two))~~ three thousand ~~((five hundred))~~ dollars per month, then the court may order the annuitant to pay to a judgment creditor or apply on the judgment, in installments, the portion of the excess benefits that the court determines to be just and proper, after due regard for the reasonable requirements of the judgment debtor and the judgment debtor's dependent family, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(2) The benefits, rights, privileges, or options accruing under an annuity contract to a beneficiary or assignee are not transferable or subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained in this section for the annuitant apply to the beneficiary or assignee.

(3) An annuity contract within the meaning of this section is any obligation to pay certain sums at stated times, during life or lives, or for a specified term or terms, issued for a valuable consideration, regardless of whether or not the sums are payable to one or more persons, jointly or otherwise, but does not include payments under life insurance contracts at stated times during life or lives, or for a specified term or terms.

Sec. 5. RCW 6.27.140 and 2010 1st sp.s. c 26 s 2 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

NOTICE OF GARNISHMENT

AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is

for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse, state registered domestic partner, or dependent child, you are entitled to claim an additional ten percent as exempt.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including ~~((specified cash or))~~ money in a bank account up to \$200.00 for debts owed to state agencies, or up to \$500.00 for all other debts) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

Name of Court

No

Plaintiff,

vs.

EXEMPTION CLAIM

Defendant,

Garnishee Defendant

INSTRUCTIONS:

- 1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If

additional space is needed, use the bottom of the last page or attach another sheet.

- 2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

[] The account contains payments from:

- [] Temporary assistance for needy families, SSI, or other public assistance. I receive \$ monthly.
[] Social Security. I receive \$ monthly.
[] Veterans' Benefits. I receive \$ monthly.
[] U.S. Government Pension. I receive \$ monthly.
[] Unemployment Compensation. I receive \$ monthly.
[] Child support. I receive \$ monthly.

[] Other. Explain

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- [] No money other than from above payments are in the account.
[] Moneys in addition to the above payments have been deposited in the account. Explain

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- [] I claim maximum exemption.
[] I am supporting another child or other children.
[] I am supporting a husband, wife, or state registered domestic partner.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

- [] Name and address of employer who is paying the benefits:

OTHER PROPERTY:

- [] Describe property

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

Print: Your name If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner

Your signature Signature of husband, wife, or state registered domestic partner

Address Address
(if different from yours)

Telephone number Telephone number
(if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

Sec. 6. RCW 6.27.140 and 2011 c ... s 5 (section 5 of this act) are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

**NOTICE OF GARNISHMENT
AND OF YOUR RIGHTS**

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold

any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. If the garnishment is for child support, the exempt amount paid to you will be forty percent of wages due you, but if you are supporting a spouse, state registered domestic partner, or dependent child, you are entitled to claim an additional ten percent as exempt.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or a United States pension, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a

stepparent are exempt from a garnishment on the child support obligation of the parent.

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including ~~((money))~~ up to \$500.00 in a bank account ~~((up to \$200.00 for debts owed to state agencies, or up to \$500.00 for all other debts)))~~ and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

Name of Court

No

Plaintiff,

vs.

EXEMPTION CLAIM

Defendant,

Garnishee Defendant

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

[] The account contains payments from:

- [] Temporary assistance for needy families, SSI, or other public assistance. I receive \$ monthly.
- [] Social Security. I receive \$ monthly.
- [] Veterans' Benefits. I receive \$ monthly.
- [] U.S. Government Pension. I receive \$ monthly.
- [] Unemployment Compensation. I receive \$ monthly.
- [] Child support. I receive \$ monthly.
- [] Other. Explain

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2) The claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in type no smaller than elite type:

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- No money other than from above payments are in the account.
- Moneys in addition to the above payments have been deposited in the account. Explain

IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:

- I claim maximum exemption.
- I am supporting another child or other children.
- I am supporting a husband, wife, or state registered domestic partner.

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

- Name and address of employer who is paying the benefits:

OTHER PROPERTY:

- Describe property

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

Print: Your name If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner

Your signature Signature of husband, wife, or state registered domestic partner

Address Address
(if different from yours)

Telephone number Telephone number
(if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money

you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

NEW SECTION. Sec. 7. Section 6 of this act takes effect January 1, 2018."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "debt collection; amending RCW 6.15.010, 6.15.020, 48.18.430, 6.27.140, and 6.27.140; reenacting and amending RCW 19.16.250; and providing an effective date."

and the same is herewith transmitted.
Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Stanford spoke in favor of the passage of the bill.

Representative Bailey spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1864, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1864, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 57; Nays, 40; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Billig, Blake, Carlyle, Chandler, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ryu, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Condotta, Crouse, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Excused: Representative Santos.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1864, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 11, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 82.04 RCW to read as follows:

(1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing child welfare services under a government-funded program.

(2) A person may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) The following definitions apply to this section:

(a) "Child welfare services" has the same meaning as provided in RCW 74.13.020; and

(b) "Health or social welfare organization" has the meaning provided in RCW 82.04.431.

NEW SECTION. Sec. 2. This act applies to amounts received by a taxpayer on or after August 1, 2011."

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kagi and Alexander spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1902, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1902, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford,

Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Anderson and Reykdal.

Excused: Representative Santos.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1902, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Moeller presiding) called upon Representative Orwall to preside.

MESSAGE FROM THE SENATE

April 5, 2011

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1547 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.685 and 1993 c 419 s 1 are each amended to read as follows:

(1) Subject to the limitations of this section, any alien offender committed to the custody of the department under the sentencing reform act of 1981, chapter 9.94A RCW, who has been found by the United States attorney general to be subject to a final order of deportation or exclusion, may be placed on conditional release status and released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation at any time prior to the expiration of the offender's term of confinement. Conditional release shall continue until the expiration of the statutory maximum sentence provided by law for the crime or crimes of which the offender was convicted. If the offender has multiple current convictions, the statutory maximum sentence allowed by law for each crime shall run concurrently.

(2) No offender may be released under this section unless the secretary or the secretary's designee ((find [finds] that such release is in the best interests of the state of Washington. Further, releases under this section may occur only with the approval of the sentencing court and the prosecuting attorney of the county of conviction)) has reached an agreement with the immigration and customs enforcement agency that the alien offender placed on conditional release status will be detained in total confinement at a facility operated by the immigration and customs enforcement agency pending the offender's return to the country of origin or other location designated in the final deportation or exclusion order.

~~((3))~~ ((3)) No offender may be released under this section who is serving a sentence for a violent offense or sex offense, as defined in RCW 9.94A.030(~~(, or any other offense that is a crime against a person)~~).

~~((4))~~ (3) The unserved portion of the term of confinement of any offender released under this section shall be tolled at the time the offender is released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation. Upon the release of an offender to the immigration and ~~((naturalization service))~~ customs enforcement agency, the department shall issue a warrant for the offender's arrest within the United States. This warrant shall remain in effect ~~((until the expiration of the offender's conditional release))~~ indefinitely.

~~((5))~~ (4) Upon arrest of an offender, the department ~~((shall))~~ may seek extradition as necessary and the offender ~~((shall))~~ may be returned to the department for completion of the unserved portion of the offender's term of total confinement. If returned, the offender shall also be required to fully comply with all the terms and conditions of the sentence.

~~((6))~~ (5) Alien offenders released to the immigration and ~~((naturalization service))~~ customs enforcement agency for deportation under this section are not thereby relieved of their obligation to pay restitution or other legal financial obligations ordered by the sentencing court.

~~((7))~~ (6) Any offender released pursuant to this section who returns illegally to the United States may not thereafter be released again pursuant to this section.

~~((8))~~ (7) The secretary is authorized to take all reasonable actions to implement this section and shall assist federal authorities in prosecuting alien offenders who may illegally reenter the United States and enter the state of Washington.

(8) The provisions of this section apply to persons convicted before, on, or after the effective date of this section.

NEW SECTION. Sec. 2. 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 takes effect immediately."

On page 1, line 1 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9.94A.685; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to HOUSE BILL NO. 1547 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) The legislature finds that locating acceptable housing and appropriate care for vulnerable adults is an important aspect of providing an appropriate continuity of care for senior citizens.

(2) The legislature further finds that locating appropriate and quality housing alternatives sometimes depends on elder and vulnerable adult referral agencies attempting to assist with referral.

(3) The legislature further finds that vulnerable adult referral professionals should be required to meet certain minimum requirements to promote better integration of vulnerable adult housing choices.

(4) The legislature further finds that the requirement that elder and vulnerable adult referral agencies meet minimum standards of conduct is in the interest of public health, safety, and welfare.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Care services" means any combination of services, including in-home care, private duty care, or private duty nursing designed for or with the goal of allowing vulnerable adults to receive care and related services at home or in a home-like setting. Care service providers must include home health agencies and in-home service agencies licensed under chapter 70.127 RCW.

(2) "Client" means an elder person or a vulnerable adult, or his or her representative if any, seeking a referral or assistance with entering into an arrangement for supportive housing or care services in Washington state through an elder and vulnerable adult referral

agency. For purposes of this chapter, the "client's representative" means the person authorized under RCW 7.70.065 or other laws to provide informed consent for an individual unable to do so. "Client" may also mean a person seeking a referral for supportive housing or care services on behalf of the elder person or vulnerable adult through an elder care referral service: PROVIDED, That such a person is a family member, relative, or domestic partner of the senior or vulnerable adult.

(3) "Elder and vulnerable adult referral agency" or "agency" means a business or person who receives a fee from or on behalf of a vulnerable adult seeking a referral to care services or supportive housing, or who receives a fee from a care services provider or supportive housing provider because of any referral provided to or on behalf of a vulnerable adult.

(4) "Fee" means anything of value. "Fee" includes money or other valuable consideration or services or the promise of money or other valuable consideration or services, received directly or indirectly by an elder and vulnerable adult referral agency.

(5) "Information" means the provision of general information by an agency to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without giving the person the names of specific providers of care services or supportive housing, or giving a provider the name of the person or vulnerable adult. Information also means the provision by an agency of the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, where the agency does not request or receive any fee.

(6) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, organization, service, office, or an agent or any of their employees.

(7) "Provider" means any entity or person that both provides supportive housing or care services to a vulnerable adult for a fee and provides or is required to provide such housing or services under a state or local business license specific to such housing or services.

(8) "Referral" means the act of an agency giving a client the name or names of specific providers of care services or supportive housing that may meet the needs of the vulnerable adult identified in the intake form described in section 7 of this act, or the agency gives a provider the name of a client for the purposes of enabling the provider to contact the client regarding care services or supportive housing provided by that provider.

(9) "Supportive housing" means any type of housing that includes services for care needs and is designed for prospective residents who are vulnerable adults. Supportive housing includes, but is not limited to, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, adult family homes licensed under chapter 70.128 RCW, and continuing care retirement communities under RCW 70.38.025.

(10) "Vulnerable adult" has the same meaning as in RCW 74.34.020.

NEW SECTION. Sec. 3. (1) As of January 1, 2012, a business or person operating or maintaining an agency in this state is subject to the provisions of this chapter. An agency must maintain general and professional liability insurance to cover the acts and services of the agency. The combined liability insurance coverage required is one million dollars.

(2) The agency may not create an exclusive agreement between the agency and the client, or between the agency and a provider. The agency cannot provide referral services to a client where the only names given to the client are of providers in which the agency or its personnel or immediate family members have an ownership interest in those providers. An agreement entered into between an agency and a provider must allow either the provider or the agency to cancel the

agreement with specific payment terms regarding pending fees or commissions outlined in the agreement.

(3) The marketing materials, informational brochures, and web sites owned or operated by an agency, and concerning information or referral services for elderly or vulnerable adults, must include a clear identification of the agency.

(4) All owners, operators, and employees of an agency shall be considered mandated reporters under the vulnerable adults act, chapter 74.34 RCW. No agency may develop or enforce any policies or procedures that interfere with the reporting requirements of chapter 74.34 RCW.

NEW SECTION. Sec. 4. Nothing in this chapter may be construed to prohibit, restrict, or apply to:

(1) Any home health or hospice agency while providing counseling to patients on placement options in the normal course of practice;

(2) Government entities providing information and assistance to vulnerable adults unless making a referral in which a fee is received from a client;

(3) Professional guardians providing services under authority of their guardianship appointment;

(4) Supportive housing or care services providers who make referrals to other supportive housing or care services providers where no monetary value is exchanged;

(5) Social workers, discharge planners, or other social services staff assisting a vulnerable adult to define supportive housing or care services providers in the course of their employment responsibilities if they do not receive any monetary value from a provider; or

(6) Any person to the extent that he or she provides information to another person.

NEW SECTION. Sec. 5. (1) Each agency shall keep records of all referrals rendered to or on behalf of clients. These records must contain:

(a) The name of the vulnerable adult, and the address and phone number of the client or the client's representative, if any;

(b) The kind of supportive housing or care services for which referral was sought;

(c) The location of the care services or supportive housing referred to the client and probable duration, if known;

(d) The monthly or unit cost of the supportive housing or care services, if known;

(e) If applicable, the amount of the agency's fee to the client or to the provider;

(f) If applicable, the dates and amounts of refund of the agency's fee, if any, and reason for such refund; and

(g) A copy of the client's disclosure and intake forms described in sections 6 and 7 of this act.

(2) Each agency shall also keep records of any contract or written agreement entered into with any provider for services rendered to or on behalf of a vulnerable adult, including any referrals to a provider. Any provision in a contract or written agreement not consistent with this chapter is void and unenforceable.

(3) The agency must maintain the records covered by this chapter for a period of six years. The agency's records identifying a client are considered "health care information" and the provisions of chapter 70.02 RCW apply but only to the extent that such information meets the definition of "health care information" under RCW 70.02.010(7). The client must have access upon request to the agency's records concerning the client and covered by this chapter.

NEW SECTION. Sec. 6. (1) An agency must provide a disclosure statement to each client prior to making a referral. A disclosure statement is not required when the agency is only providing information to a person. The disclosure statement must be acknowledged by the client prior to the referral and the agency shall retain a copy of the disclosure statement and acknowledgment. Acknowledgment may be in the form of:

(a) A signature of the client or legal representative on the exact disclosure statement;

(b) An electronic signature that includes the date, time, internet provider address, and displays the exact disclosure statement document;

(c) A faxed confirmation that includes the date, time, and fax number and displaying the exact disclosure statement document; or

(d) In instances where a vulnerable adult chooses not to sign or otherwise provide acknowledgment of the disclosure statement, the referral professional or agency may satisfy the acknowledgment requirement of this subsection (1) by documenting the client's refusal to sign.

(2) The disclosure statement must be dated and must contain the following information:

(a) The name, address, and telephone number of the agency;

(b) The name of the client;

(c) The amount of the fee to be received from the client, if any. Alternatively, if the fee is to be received from the provider, the method of computation of the fee and the time and method of payment. In addition, the agency shall disclose to the client the amount of fee to be received from the provider, if the client requests such information;

(d) A clear description of the services provided by the agency in general, and to be provided specifically for the client;

(e) A provision stating that the agency may not require or request clients to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of any rights of the client established in state or federal law;

(f) A provision stating that the agency works with both the client and the care services or supportive housing provider in the same transaction, and an explanation that the agency will need the client's authorization to obtain or disclose confidential health care information;

(g) A statement indicating the frequency on which the agency regularly tours provider facilities, and that, at the time of referral, the agency will inform the client in writing or by electronic means if the agency has toured the referred supportive housing provider or providers, and if so, the most recent date that tour took place;

(h) A provision stating that the client may, without cause, stop using the agency or switch to another agency without penalty or cancellation fee to the client;

(i) An explanation of the agency's refund of fees policy, which must be consistent with section 10 of this act;

(j) A statement that the client may file a complaint with the attorney general's office for violations of this chapter, including the name, address, and telephone number of the consumer protection division of that office; and

(k) If the agency or its personnel who are directly involved in providing referrals to clients, including the personnel's immediate family members, have an ownership interest in the supportive housing or care services to which the client is given a referral, a provision stating that the agency or such personnel or their immediate family members have an ownership interest in the supportive housing or care services to which the client is given referral services, and, if such ownership interest exists, an explanation of that interest.

NEW SECTION. Sec. 7. (1) The agency shall use a standardized intake form for all clients prior to making a referral. The intake form must, at a minimum, contain the following information regarding the vulnerable adult:

(a) Recent medical history, as relevant to the referral process;

(b) Known medications and medication management needs;

(c) Known medical diagnoses, health concerns, and the reasons the client is seeking supportive housing or care services;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness, dementia, or developmental disability diagnosis, if any;

(f) Assistance needed for daily living;

(g) Particular cultural or language access needs and accommodations;

(h) Activity preferences;

(i) Sleeping habits of the vulnerable adult, if known;

(j) Basic information about the financial situation of the vulnerable adult and the availability of any long-term care insurance or financial assistance, including medicaid, which may be helpful in defining supportive housing and care services options for the vulnerable adult;

(k) Current living situation of the client;

(l) Geographic location preferences; and

(m) Preferences regarding other issues important to the client, such as food and daily routine.

(2) The agency shall obtain the intake information from the most available sources, such as from the client, the client's representative, or a health care professional, and shall allow the vulnerable adult to participate to the maximum extent possible.

(3) The agency may provide information to a person about the types of supportive housing or care services available in the area that may meet the needs of elderly or vulnerable adults without the need to complete an intake form or provide a disclosure statement, if the agency does not make a referral or request or receive any fee. In addition, the agency may provide the names of specific providers to a social worker, discharge planner, case manager, professional guardian, nurse, or other professional who is assisting a vulnerable adult locate supportive housing or care services, provided the agency does not request or receive any fee.

NEW SECTION. Sec. 8. (1) The agency may choose to provide a referral for the client by either giving the client the name or names of specific providers who may meet the needs of the vulnerable adult identified in the intake form or by giving a provider or providers the name of the client after obtaining the authorization of the client or the client's representative.

(2)(a) Prior to making a referral to a specific provider, the agency shall speak with a representative of the provider and obtain, at a minimum, the following general information, which must be dated and retained in the agency's records:

(i) The type of license held by the provider and license number;

(ii) Whether the provider is authorized by license to provide care to individuals with a mental illness, dementia, or developmental disability;

(iii) Sources of payment accepted, including whether medicaid is accepted;

(iv) General level of medication management services provided;

(v) General level and types of personal care services provided;

(vi) Particular cultural needs that may be accommodated;

(vii) Primary language spoken by care providers;

(viii) Activities typically provided;

(ix) Behavioral problems or symptoms that can or cannot be met;

(x) Food preferences and special diets that can be accommodated; and

(xi) Other special care or services available.

(b) The agency shall update this information regarding the provider at least annually. To the extent practicable, referrals shall be made to providers who appear, in the best judgment of the agency, capable of meeting the vulnerable adult's identified needs.

(3) Prior to making a referral of a supportive housing provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of social and health service's web site to see if the provider is in enforcement status for violation of its licensing regulations. Prior to making a referral of a care services provider, the agency shall conduct a search, and inform the client that a search was conducted, of the department of health's web site to

determine if the provider is in enforcement status for violation of its licensing regulations. The searches required by this subsection must be considered timely if done within thirty days before the referral. The information obtained by the agency from the searches must be disclosed in writing to the client if the referral includes that provider.

(4) By January 1, 2012, the department of social and health services and the department of health must convene a work group of stakeholders to collaboratively identify and implement a uniform standard for the information pertaining to the enforcement status of a provider that must be disclosed to the client under subsection (3) of this section. The uniform standard must clearly identify what elements of an enforcement action should be included under the disclosure requirements of subsection (3) of this section. Agencies will have no liability or responsibility for the accuracy, completeness, timeliness, or currency of information shared in the prescribed format and are immune from any cause of action arising from their reliance on, use of, or distribution of this information.

NEW SECTION. Sec. 9. Nothing in this chapter will limit, specify, or otherwise regulate the fees charged by an agency to a provider for a referral.

NEW SECTION. Sec. 10. (1) The agency shall clearly disclose its fees and refund policies to clients and providers. If the agency receives a fee regarding a client who was provided referral services for supportive housing, and the vulnerable adult dies, is hospitalized, or is transferred to another supportive housing setting for more appropriate care within the first thirty days of admission, then the agency shall refund a portion of its fee to the person who paid it, whether that is the client or the supportive housing provider. The amount refunded must be a prorated portion of the agency's fees, based upon a per diem calculation for the days that the client resided or retained a bed in the supportive housing.

(2) A refund policy inconsistent with this section is void and unenforceable.

(3) This section does not limit the application of other remedies, including the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 11. Any employee, owner, or operator of an agency that works with vulnerable adults must pass a criminal background check every twenty-four months and not have been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or been found by a court of law or disciplinary authority to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult.

NEW SECTION. Sec. 12. An agency may not charge or accept a fee or other consideration from a client, care services provider, or supportive housing provider unless the agency substantially complies with the terms of this chapter.

NEW SECTION. Sec. 13. (1) The provisions of this chapter relating to the regulation of private elder and vulnerable adult referral agencies are exclusive.

(2) This chapter may not be construed to affect or reduce the authority of any political subdivision of the state of Washington to provide for the licensing of private elder and vulnerable adult referral agencies solely for revenue purposes.

NEW SECTION. Sec. 14. In accordance with RCW 74.09.240, the agency may not solicit or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under chapter 74.09 RCW.

NEW SECTION. Sec. 15. The legislature finds that the operation of an agency in violation of this chapter is a matter vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 16. Agencies and their employees, owners, and officers will not be considered providers and will not be liable or responsible for the acts or omissions of a provider.

NEW SECTION. Sec. 17. The department of licensing shall convene a work group of stakeholders to consider the feasibility of establishing licensure for elder and vulnerable adult referral agencies described in this act. The work group will provide recommendations to the legislature by December 1, 2011.

NEW SECTION. Sec. 18. This chapter may be known and cited as the "elder and vulnerable adult referral agency act."

NEW SECTION. Sec. 19. Sections 1 through 18 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 20. This act takes effect January 1, 2012.

NEW SECTION. Sec. 21. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 1 of the title, after "referrals;" strike the remainder of the title and insert "adding a new chapter to Title 18 RCW; prescribing penalties; and providing an effective date."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Moeller spoke in favor of the passage of the bill.

COLLOQUY

Representative Harris: "Would the gentleman from the 49th District yield to a question?"

Representative Moeller: "I will."

Representative Harris: "The Senate has added an amendment in section 8 of the bill that requires the Department of Health and the Department of Social and Health Services to convene a workgroup of stakeholders to "collaboratively" develop standards for which elements of an enforcement action against a housing provider or service provider must be disclosed to the clients of elder and vulnerable adult referral agencies. "Collaboration" can mean working together or unanimous agreement. If it means unanimous agreement, then this could have a fiscal impact. As the prime sponsor of this bill, what is your expectation for the level of "collaboration" of this workgroup?"

Representative Moeller: "Much of the information about enforcement actions against housing or service providers is currently available on the Department of Health and Department of Social and Health Services' website. My expectation is that the agencies would convene this workgroup to inform and advise the agencies as they develop these standards. Since the agencies are the conveners of the work group and the implementing entities, I view it as their responsibility to make the final decision on how to make the information available. The agencies are the most knowledgeable about what records exist and are already

responsible for meeting public record demands. "Collaboration" in this section does not require a consensus among all the stakeholders, but requires that stakeholders have an active voice in shaping the standards for accessing provider enforcement information."

Representative Schmick spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1494, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1494, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 60; Nays, 37; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Harris, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Ladenburg, Liias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ross, Ryu, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Uptegrove, Van De Wege, Walsh, Wylie and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Crouse, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Hinkle, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Schmick, Shea, Short, Smith, Taylor, Warnick, Wilcox and Zeiger.

Excused: Representative Santos.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1494, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 12, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1135 with the following amendment:

0) On page 2, line 13, after "person" strike all material through "operate" and insert "~~(shall operate)~~ may not register or license for use"

On page 2, at the beginning of line 14, before "motor" insert "new"

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1135 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Finn and Short spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1135, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1135, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 92; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Asay, Bailey, Billig, Blake, Buys, Carlyle, Clibborn, Cody, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Tharinger, Uphegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Armstrong, Chandler, Condotta, Overstreet and Taylor.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1135, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 8, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1170 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 71.05.020 and 2009 c 320 s 1 and 2009 c 217 s 20 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Admission" or "admit" means a decision by a physician or psychiatric advanced registered nurse practitioner that a person should be examined or treated as a patient in a hospital;

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to atypical antipsychotic medications;

(3) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient;

(4) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting;

(5) "Conditional release" means a revocable modification of a commitment, which may be revoked upon violation of any of its terms;

(6) "Crisis stabilization unit" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, such as an evaluation and treatment facility or a hospital,

which has been designed to assess, diagnose, and treat individuals experiencing an acute crisis without the use of long-term hospitalization;

(7) "Custody" means involuntary detention under the provisions of this chapter or chapter 10.77 RCW, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment;

(8) "Department" means the department of social and health services;

(9) "Designated chemical dependency specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in chapters 70.96A and 70.96B RCW;

(10) "Designated crisis responder" means a mental health professional appointed by the county or the regional support network to perform the duties specified in this chapter;

(11) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter;

(12) "Detention" or "detain" means the lawful confinement of a person, under the provisions of this chapter;

(13) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with persons with developmental disabilities and is a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary;

(14) "Developmental disability" means that condition defined in RCW 71A.10.020(3);

(15) "Discharge" means the termination of hospital medical authority. The commitment may remain in place, be terminated, or be amended by court order;

(16) "Evaluation and treatment facility" means any facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and which is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility which is part of, or operated by, the department or any federal agency will not require certification. No correctional institution or facility, or jail, shall be an evaluation and treatment facility within the meaning of this chapter;

(17) "Gravely disabled" means a condition in which a person, as a result of a mental disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

(18) "Habilitative services" means those services provided by program personnel to assist persons in acquiring and maintaining life skills and in raising their levels of physical, mental, social, and vocational functioning. Habilitative services include education, training for employment, and therapy. The habilitative process shall be undertaken with recognition of the risk to the public safety presented by the person being assisted as manifested by prior charged criminal conduct;

(19) "History of one or more violent acts" refers to the period of time ten years prior to the filing of a petition under this chapter, excluding any time spent, but not any violent acts committed, in a mental health facility or in confinement as a result of a criminal conviction;

(20) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote;

(21) "Individualized service plan" means a plan prepared by a developmental disabilities professional with other professionals as a team, for a person with developmental disabilities, which shall state:

(a) The nature of the person's specific problems, prior charged criminal behavior, and habilitation needs;

(b) The conditions and strategies necessary to achieve the purposes of habilitation;

(c) The intermediate and long-range goals of the habilitation program, with a projected timetable for the attainment;

(d) The rationale for using this plan of habilitation to achieve those intermediate and long-range goals;

(e) The staff responsible for carrying out the plan;

(f) Where relevant in light of past criminal behavior and due consideration for public safety, the criteria for proposed movement to less-restrictive settings, criteria for proposed eventual discharge or release, and a projected possible date for discharge or release; and

(g) The type of residence immediately anticipated for the person and possible future types of residences;

(22) "Information related to mental health services" means all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services by a mental health service provider. This may include documents of legal proceedings under this chapter or chapter 71.34 or 10.77 RCW, or somatic health care information;

(23) "Judicial commitment" means a commitment by a court pursuant to the provisions of this chapter;

(24) "Legal counsel" means attorneys and staff employed by county prosecutor offices or the state attorney general acting in their capacity as legal representatives of public mental health service providers under RCW 71.05.130;

(25) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself; (ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or (iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(26) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on a person's cognitive or volitional functions;

(27) "Mental health professional" means a psychiatrist, psychologist, psychiatric advanced registered nurse practitioner, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(28) "Mental health service provider" means a public or private agency that provides mental health services to persons with mental disorders as defined under this section and receives funding from public sources. This includes, but is not limited to, hospitals licensed under chapter 70.41 RCW, evaluation and treatment facilities as defined in this section, community mental health service delivery systems or community mental health programs as defined in RCW 71.24.025, facilities conducting competency evaluations and restoration under chapter 10.77 RCW, and correctional facilities operated by state and local governments;

(29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment;

(30) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, which constitutes an evaluation and treatment facility or private institution, or hospital, which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill;

(31) "Professional person" means a mental health professional and shall also mean a physician, psychiatric advanced registered nurse practitioner, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter;

(32) "Psychiatric advanced registered nurse practitioner" means a person who is licensed as an advanced registered nurse practitioner pursuant to chapter 18.79 RCW; and who is board certified in advanced practice psychiatric and mental health nursing;

(33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology;

(34) "Psychologist" means a person who has been licensed as a psychologist pursuant to chapter 18.83 RCW;

(35) "Public agency" means any evaluation and treatment facility or institution, or hospital which is conducted for, or includes a department or ward conducted for, the care and treatment of persons with mental illness, if the agency is operated directly by, federal, state, county, or municipal government, or a combination of such governments;

(36) "Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness;

(37) "Release" means legal termination of the commitment under the provisions of this chapter;

(38) "Resource management services" has the meaning given in chapter 71.24 RCW;

(39) "Secretary" means the secretary of the department of social and health services, or his or her designee;

(40) "Serious violent offense" has the same meaning as provided in RCW 9.94A.030;

(41) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary;

(42) "Therapeutic court personnel" means the staff of a mental health court or other therapeutic court which has jurisdiction over defendants who are dually diagnosed with mental disorders, including court personnel, probation officers, a court monitor, prosecuting attorney, or defense counsel acting within the scope of therapeutic court duties;

(43) "Triage facility" means a short-term facility or a portion of a facility licensed by the department of health and certified by the department of social and health services under RCW 71.24.035, which is designed as a facility to assess and stabilize an individual or determine the need for involuntary commitment of an individual, and must meet department of health residential treatment facility standards. A triage facility may be structured as a voluntary or involuntary placement facility;

(44) "Treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records include mental health information contained in a medical bill including but not limited to mental health drugs, a mental health diagnosis, provider name, and

dates of service stemming from a medical service. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others;

~~((44))~~ (45) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 2. RCW 71.05.153 and 2007 c 375 s 8 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated mental health professional may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility for not more than seventy-two hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, ~~((and))~~ evaluation and treatment facility, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, ~~((or the))~~ emergency department of a local hospital, or triage facility that has elected to operate as an involuntary facility by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours ~~(- PROVIDED, That they are examined by a mental health professional)~~.

(4) Within three hours of ((their)) arrival, the person must be examined by a mental health professional. Within twelve hours of ~~((their))~~ arrival, the designated mental health professional must determine whether the individual meets detention criteria. If the individual is detained, the designated mental health professional shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person.

Sec. 3. RCW 10.31.110 and 2007 c 375 s 2 are each amended to read as follows:

(1) When a police officer has reasonable cause to believe that the individual has committed acts constituting a nonfelony crime that is not a serious offense as identified in RCW 10.77.092 and the individual is known by history or consultation with the regional support network to suffer from a mental disorder, the arresting officer may:

(a) Take the individual to a crisis stabilization unit as defined in RCW 71.05.020(6). Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours ~~(- PROVIDED, That they are))~~. The individual must be examined by a mental health professional within three hours of ((their)) arrival;

(b) Take the individual to a triage facility as defined in RCW 71.05.020. An individual delivered to a triage facility which has elected to operate as an involuntary facility may be held up to a period of twelve hours. The individual must be examined by a mental health professional within three hours of arrival;

(c) Refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW; or

~~((and))~~ (d) Release the individual upon agreement to voluntary participation in outpatient treatment.

(2) In deciding whether to refer the individual to treatment under this section, the police officer shall be guided by standards mutually agreed upon with the prosecuting authority, which address, at a minimum, the length, seriousness, and recency of the known criminal history of the individual, the mental health history of the individual, where available, and the circumstances surrounding the commission of the alleged offense.

(3) Any agreement to participate in treatment shall not require individuals to stipulate to any of the alleged facts regarding the criminal activity as a prerequisite to participation in a mental health treatment alternative. The agreement is inadmissible in any criminal or civil proceeding. The agreement does not create immunity from prosecution for the alleged criminal activity.

(4) If an individual violates such agreement and the mental health treatment alternative is no longer appropriate:

(a) The mental health provider shall inform the referring law enforcement agency of the violation; and

(b) The original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed accordingly.

(5) The police officer is immune from liability for any good faith conduct under this section.

Sec. 4. RCW 71.24.035 and 2008 c 267 s 5 and 2008 c 261 s 3 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045, until such time as a new regional support network is designated under RCW 71.24.320.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are respondents in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons

with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards, RCW 71.24.320 and 71.24.330, which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; ~~(and)~~

(p) Certify clubhouses that meet state minimum standards; and
(q) Certify triage facilities that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational

rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by freestanding evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 5. RCW 71.05.150 and 2007 c 375 s 7 are each amended to read as follows:

(1) When a designated mental health professional receives information alleging that a person, as a result of a mental disorder: (i) Presents a likelihood of serious harm; or (ii) is gravely disabled; the designated mental health professional may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated mental health professional must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at an

evaluation and treatment facility (~~(or in a)~~), crisis stabilization unit, or triage facility.

(2)(a) An order to detain to a designated evaluation and treatment facility for not more than a seventy-two-hour evaluation and treatment period may be issued by a judge of the superior court upon request of a designated mental health professional, whenever it appears to the satisfaction of a judge of the superior court:

(i) That there is probable cause to support the petition; and

(ii) That the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury, or sworn telephonic testimony may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated mental health professional shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order together with a notice of rights, and a petition for initial detention. After service on such person the designated mental health professional shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility and the designated attorney. The designated mental health professional shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility. The person shall be permitted to be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other individual accompanying the person may be present during the admission evaluation. The facility may exclude the individual if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated mental health professional may notify a peace officer to take such person or cause such person to be taken into custody and placed in an evaluation and treatment facility. At the time such person is taken into custody there shall commence to be served on such person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of rights and a petition for initial detention.

NEW SECTION. Sec. 6. Facilities operating as triage facilities as defined in RCW 71.05.020, whether or not they are certified by the department of social and health services, as of the effective date of this section are not required to relicense or recertify under any new rules governing licensure or certification of triage facilities. The department of social and health services shall work with the Washington association of counties and the Washington association of sheriffs and police chiefs in creating rules that establish standards for certification of triage facilities. The department of health rules must not require triage facilities to provide twenty-four hour nursing.

NEW SECTION. Sec. 7. 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 takes effect immediately."

On page 1, line 1 of the title, after "facilities;" strike the remainder of the title and insert "amending RCW 71.05.153, 10.31.110, and 71.05.150; reenacting and amending RCW 71.05.020 and 71.24.035; creating a new section; and declaring an emergency."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1170 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Roberts and Rodne spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1170, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1170, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1170, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 8, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1188 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.36.021 and 2007 c 79 s 2 are each amended to read as follows:

(1) A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree:

(a) Intentionally assaults another and thereby recklessly inflicts substantial bodily harm; or

(b) Intentionally and unlawfully causes substantial bodily harm to an unborn quick child by intentionally and unlawfully inflicting any injury upon the mother of such child; or

(c) Assaults another with a deadly weapon; or

(d) With intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance; or

(e) With intent to commit a felony, assaults another; or

(f) Knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture; or

(g) Assaults another by strangulation or suffocation.

(2)(a) Except as provided in (b) of this subsection, assault in the second degree is a class B felony.

(b) Assault in the second degree with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

Sec. 2. RCW 9A.04.110 and 2007 c 79 s 3 are each amended to read as follows:

In this title unless a different meaning plainly is required:

(1) "Acted" includes, where relevant, omitted to act;

(2) "Actor" includes, where relevant, a person failing to act;

(3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;

(4)(a) "Bodily injury," "physical injury," or "bodily harm" means physical pain or injury, illness, or an impairment of physical condition;

(b) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or which causes a fracture of any bodily part;

(c) "Great bodily harm" means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ;

(5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or substantial bodily harm;

(7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in (~~wilful~~) willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a (~~wilful~~) willful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all

assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) "Projectile stun gun" means an electronic device that projects wired probes attached to the device that emit an electrical charge and that is designed and primarily employed to incapacitate a person or animal;

(22) "Property" means anything of value, whether tangible or intangible, real or personal;

(23) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

(24) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

(25) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

(26) "Strangulation" means to compress a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe;

(27) "Suffocation" means to block or impair a person's intake of air at the nose and mouth, whether by smothering or other means, with the intent to obstruct the person's ability to breathe;

(28) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or

received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships;

~~((28))~~ (29) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

~~((29))~~ (30) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

Sec. 3. RCW 9.94A.525 and 2010 c 274 s 403 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW 9.94A.030, shall not be included in the offender score if, since the last date of release from confinement or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(g) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130(~~((H))~~) or 9A.44.132, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130(~~((H))~~) or 9A.44.132, which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was plead and proven, count priors as in subsections (7) through (20) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the following offenses: A violation of a no-contact order that is a felony offense, a violation of a protection order that is a felony offense, a felony domestic violence harassment offense, a felony domestic violence stalking offense, a domestic violence Burglary 1 offense, a domestic violence Kidnapping 1 offense, a domestic violence Kidnapping 2 offense, a domestic violence unlawful imprisonment offense, a domestic violence Robbery 1 offense, a domestic violence Robbery 2 offense, a domestic violence Assault 1 offense, a domestic violence Assault 2 offense, a domestic violence Assault 3 offense, a domestic violence Arson 1 offense, or a domestic violence Arson 2 offense; ~~(and)~~

(b) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was plead and proven after August 1, 2011, for the offenses listed in (a) of this subsection; and

(c) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was plead and proven after August 1, 2011.

(22) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "crimes against persons involving suffocation or domestic violence; amending RCW 9A.36.021, 9A.04.110, and 9.94A.525; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1188 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Goodman and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1188, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1188, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1188, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 11, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1257 with the following amendment:

On page 17, line 1, after "before" strike "January" and insert "July"

On page 17, line 2, after "after" strike "January" and insert "July"

On page 17, after line 37, insert the following:

"NEW SECTION. Sec. 19. (1) By December 1, 2011, the insurance commissioner must submit a report to the governor and appropriate committees of the legislature, providing the following information:

(a) The estimated total dollar amount of insurance company assets affected by this act;

(b) An analysis outlining the pertinent investment changes made in this act and the reasons for such changes;

(c) An analysis detailing any projected risks to policyholders and taxpayers associated with the implementation of this act and any provisions included in this act to protect such stakeholders against such risks;

(d) A copy of proposed rules to implement this act;

(e) A general outline of any managerial and personnel modifications required in the office of the insurance commissioner to implement this act;

(f) An explanation describing why an insurance company's investment policy must be exempt from public disclosure and subpoena; and

(g) An analysis identifying other states that have: (i) Adopted this model legislation in both substantial or limited part, and the reasons for such decision; and (ii) explicitly chosen not to adopt this model legislation and the reasons for such decision.

(2) In preparing the report the commissioner shall consult with the department of financial institutions and the state investment board."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 22, line 33, after "effect" strike "January" and insert "July"

On page 1, line 3 of the title, after "48.13 RCW;" insert "creating a new section;"

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1257 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Stanford and Bailey spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1257, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1257, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1257, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 9, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1328 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.61.613 and 2010 c 8 s 9073 are each amended to read as follows:

The provisions of RCW 46.37.530 and 46.61.610 through 46.61.612 (~~(may be)~~ are temporarily suspended (~~(by the chief of the Washington state patrol, or his or her designee,)~~ with respect to the operation of motorcycles (~~(within their respective jurisdictions in connection with a parade or public demonstration)~~ on a closed road during a parade or public demonstration that has been permitted by a local jurisdiction.

Sec. 2. RCW 46.04.437 and 2010 c 161 s 133 are each amended to read as follows:

"Purple heart license plates" means special license plates that may be assigned to a motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, to recipients of the Purple Heart medal or to another qualified person.

Sec. 3. RCW 46.18.215 and 2010 c 161 s 614 are each amended to read as follows:

The department shall create, design, and issue a special baseball stadium license plate that may be used in lieu of standard issue or personalized license plates for motor vehicles required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The special license plates commemorate the construction of a baseball stadium, as defined in RCW 82.14.0485. The department shall also issue to each recipient of a special baseball stadium license plate a certificate of participation in the construction of the baseball stadium.

Sec. 4. RCW 46.18.225 and 2010 c 161 s 615 are each amended to read as follows:

A state university, regional university, or state college as defined in RCW 28B.10.016 may apply to the department, in a form approved by the department and request the department to issue a series of collegiate license plates, for display on motor vehicles required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, depicting the name and mascot or symbol of the college or university, as submitted and approved for use by the requesting institution.

Sec. 5. RCW 46.18.230 and 2010 c 161 s 618 are each amended to read as follows:

(1) A registered owner who has been awarded the Congressional Medal of Honor may apply to the department for special license plates for use on a (~~(passenger)~~ motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The Congressional Medal of Honor recipient must:

(a) Provide proof from the Washington state department of veterans affairs showing receipt of the medal; and

(b) Be recorded as the registered owner of the motor vehicle on which the Congressional Medal of Honor license plate or plates will be displayed.

(2) Congressional Medal of Honor license plates must be issued:

(a) Only for a personal (~~(passenger)~~) motor vehicle owned by persons who have received the Congressional Medal of Honor; and

(b) Without payment of vehicle license fees, license plate fees, and motor vehicle excise taxes.

(3) Congressional Medal of Honor license plates must be replaced, free of charge, if the license plates become lost, stolen, damaged, defaced, or destroyed.

(4) A Congressional Medal of Honor license plate or plates may be transferred, free of charge, from one motor vehicle to another motor vehicle owned by the Congressional Medal of Honor recipient upon application to the department, county auditor or other agent, or subagent appointed by the director.

Sec. 6. RCW 46.18.235 and 2010 c 161 s 619 are each amended to read as follows:

(1) A registered owner who is a veteran, as defined in RCW 41.04.007, may apply to the department for disabled American veteran or former prisoner of war license plates, for use on one personal use motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department. The veteran must be recorded as the registered owner of the motor vehicle on which the disabled American veteran or former prisoner of war license plate or plates will be displayed and:

(a) Provide certification from the veterans administration or the military service from which the veteran was discharged that the veteran has a service-connected disability rating;

(b) Have lost the use of both hands or one foot;

(c) Have been captured and incarcerated by an enemy of the United States during a period of war with the United States and have received a prisoner of war medal;

(d) Have become blind in both eyes as the result of military service; or

(e) Be rated by the veterans administration or the military service from which the veteran was discharged and be receiving service-connected compensation at the one hundred percent rate that is expected to exist for more than one year.

(2) The special license plates under this section must:

(a) Display distinguishing marks, letters, or numerals indicating that the registered owner is a disabled American veteran or former prisoner of war; and

(b) Be issued for one personal use vehicle without the payment of any vehicle license fees, license plate fees, or excise taxes.

(3) A registered owner who is a veteran, as defined in RCW 41.04.007, may, in lieu of applying for the special license plates under this section, apply for regular issue or any qualifying special license plate and receive the full benefit of the vehicle license fee and excise tax exemption provided in subsection (2)(b) of this section.

(4) The department may periodically verify the one hundred percent rate as described in subsection (1)(e) of this section.

(5) A veteran who has been issued disabled American veteran or former prisoner of war license plates under this section before July 1, 1983, continues to be eligible for the vehicle license fee and excise tax exemption described in subsection (2)(b) of this section.

(6) A disabled American veteran and former prisoner of war license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the veteran upon application to the department, county auditor or other agent, or subagent appointed by the director.

(7) For the purposes of this section:

(a) "Blind" means the definition of "blind" used by the state of Washington in determining eligibility for financial assistance to the blind under Title 74 RCW; and

(b) "Special license plates" does not include any plate from the armed forces license plate collection established in RCW 46.18.200(3).

(8) Any unauthorized use of a special license plate under this section is a gross misdemeanor.

Sec. 7. RCW 46.18.270 and 2010 c 161 s 625 are each amended to read as follows:

(1) A registered owner who has survived the attack on Pearl Harbor on December 7, 1941, may apply to the department for special license plates for use on only one motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been a member of the United States armed forces on December 7, 1941;

(c) Have been on station on December 7, 1941, between the hours of 7:55 a.m. and 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three miles;

(d) Have received an honorable discharge from the United States armed forces;

(e) Provide certification by a Washington state chapter of the Pearl Harbor survivors association showing that qualifications in (c) of this subsection have been met;

(f) Be recorded as the registered owner of the motor vehicle on which the Pearl Harbor survivor license plate or plates will be displayed; and

(g) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Pearl Harbor survivor license plates must be issued without the payment of any license plate fee.

(3) Pearl Harbor survivor license plates must be replaced, free of charge, if the license plates have become lost, stolen, damaged, defaced, or destroyed.

(4) Pearl Harbor survivor license plates may be issued to the surviving spouse or domestic partner of a Pearl Harbor survivor who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(5) A Pearl Harbor survivor license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Pearl Harbor survivor or the surviving spouse or domestic partner as described in subsection (4) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

Sec. 8. RCW 46.18.280 and 2010 c 161 s 628 are each amended to read as follows:

(1) A registered owner who has been awarded a Purple Heart medal by any branch of the United States armed forces, including the merchant marines and the women's air forces service pilots may apply to the department for special license plates for use on only one motor vehicle required to display one or two license plates, excluding vehicles registered under chapter 46.87 RCW, upon terms and conditions established by the department, and owned by the qualified applicant. The applicant must:

(a) Be a resident of this state;

(b) Have been wounded during one of this nation's wars or conflicts identified in RCW 41.04.005;

(c) Have received an honorable discharge from the United States armed forces;

(d) Provide a copy of the armed forces document showing the recipient was awarded the Purple Heart medal;

(e) Be recorded as the registered owner of the motor vehicle on which the Purple Heart survivor license plate or plates will be displayed; and

(f) Pay all fees and taxes required by law for registering the motor vehicle.

(2) Purple Heart license plates must be issued without the payment of any special license plate fee.

(3) Purple Heart license plates may be issued to the surviving spouse or domestic partner of a Purple Heart recipient who met the requirements in subsection (1) of this section. The surviving spouse or domestic partner must be a resident of this state. If the surviving spouse remarries or the surviving domestic partner marries or enters into a new domestic partnership, he or she must return the special license plates to the department within fifteen days and apply for regular license plates or another type of special license plate.

(4) A Purple Heart license plate or plates may be transferred from one motor vehicle to another motor vehicle owned by the Purple Heart recipient or the surviving spouse or domestic partner as described in subsection (3) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

Sec. 9. RCW 46.18.290 and 2010 c 161 s 630 are each amended to read as follows:

A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a square dancer license plate. The registered owner shall pay the special license plate fee required under RCW 46.17.220(1)(q), in addition to any other fee or tax required by law. The square dancer license plate may be issued in lieu of standard issue or personalized license plates for motor vehicles required to display one or two license plates, but may not be issued for vehicles registered under chapter 46.87 RCW."

On page 1, line 1 of the title, after "motorcycles" strike the remainder of the title and insert "; and amending RCW 46.61.613, 46.04.437, 46.18.215, 46.18.225, 46.18.230, 46.18.235, 46.18.270, 46.18.280, and 46.18.290."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1328 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Van De Wege and Klippert spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1328, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1328, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Lias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1328, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Orwall presiding) called upon Representative Moeller to preside.

MESSAGE FROM THE SENATE

April 6, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1634 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.122.010 and 1984 c 144 s 1 are each amended to read as follows:

((It is the intent of the legislature in enacting this chapter to assign responsibilities for locating and keeping accurate records of utility locations, protecting and repairing damage to existing underground facilities, and protecting the public health and safety from interruption in utility services caused by damage to existing underground utility facilities.)) In this chapter, the underground utility damage prevention act, the legislature intends to protect public health and safety and prevent disruption of vital utility services through a comprehensive damage prevention program that includes:

(1) Assigning responsibility for providing notice of proposed excavation, locating and marking underground utilities, and reporting and repairing damage;

(2) Setting safeguards for construction and excavation near hazardous liquid and gas pipelines;

(3) Improving worker and public knowledge of safe practices;

(4) Collecting and analyzing damage data;

(5) Reviewing alleged violations; and

(6) Enforcing this chapter.

Sec. 2. RCW 19.122.020 and 2007 c 142 s 9 are each amended to read as follows:

~~((Unless the context clearly requires otherwise,))~~ The definitions in this section apply throughout this chapter((:)) unless the context clearly requires otherwise.

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Damage" includes the substantial weakening of structural or lateral support of an underground facility, penetration, impairment, or destruction of any underground protective coating, housing, or other protective device, or the severance, partial or complete, of any underground facility to the extent that the project owner or the affected ~~((utility owner))~~ facility operator determines that repairs are required.

(3) "Emergency" means any condition constituting a clear and present danger to life or property, or a customer service outage.

(4) "Excavation" and "excavate" means any operation, including the installation of signs, in which earth, rock, or other material on or below the ground is moved or otherwise displaced by any means(~~(; except the tilling of soil less than twelve inches in depth for agricultural purposes, or road and ditch maintenance that does not change the original road grade or ditch flowline)).~~)

(5) "Excavation confirmation code" means a code or ticket issued by ~~((the))~~ a one-number locator service for the site where an excavation is planned. The code must be accompanied by the date and time it was issued.

(6) "Excavator" means any person who engages directly in excavation.

(7) "Gas" means natural gas, flammable gas, or toxic or corrosive gas.

(8) "Hazardous liquid" means:

(a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 as in effect on March 1, 1998; ~~((and))~~

(b) Carbon dioxide ~~((The utilities and transportation commission may by rule incorporate by reference)); and~~

(c) Other substances designated as hazardous by the secretary of transportation and incorporated by reference by the commission by rule.

(9) ("Identified facility" means any underground facility which is indicated in the project plans as being located within the area of proposed excavation.

(10)) "Identified but unlocatable underground facility" means an underground facility which has been identified but cannot be located with reasonable accuracy.

~~((11))~~ (10) "Locatable underground facility" means an underground facility which can be ~~((field-marked))~~ marked with reasonable accuracy.

~~((12))~~ (11) "Marking" means the use of stakes, paint, or other clearly identifiable materials to show the field location of underground facilities, in accordance with the current color code standard of the American public works association. Markings shall include identification letters indicating the specific type of the underground facility.

~~((13))~~ (12) "Notice" or "notify" means contact in person or by telephone or other electronic method ~~((s-that)), and, with respect to contact of a one-number locator service, also results in the receipt of a valid excavation confirmation code.~~

~~((14))~~ (13) "One-number locator service" means a service through which a person can notify ~~((utilities))~~ facility operators and request ~~((field-marking))~~ marking of underground facilities.

~~((15))~~ "Operator" means the individual conducting the excavation.

~~((16))~~ (14) "Person" means an individual, partnership, franchise holder, association, corporation, ~~((a))~~ the state, a city, a county, a town, or any subdivision or instrumentality of ~~((a))~~ the state, including any unit of local government, and its employees, agents, or legal representatives.

~~((17))~~ (15) "Pipeline" or "pipeline system" means all or parts of a pipeline facility through which hazardous liquid or gas moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping or compressor units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. "Pipeline" or "pipeline system" does not include process or transfer pipelines.

~~((18))~~ (16) "Pipeline company" means a person or entity constructing, owning, or operating a pipeline for transporting hazardous liquid or gas. ~~((A))~~ "Pipeline company" does not include:

(a) Distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail; or

(b) Excavation contractors or other contractors that contract with a pipeline company.

~~((19))~~ (17) "Reasonable accuracy" means location within twenty- four inches of the outside dimensions of both sides of an underground facility.

~~((20))~~ (18) "Transfer pipeline" means a buried or aboveground pipeline used to carry hazardous liquid between a tank vessel or transmission pipeline and the first valve inside secondary containment at ~~((the))~~ a facility, provided that any discharge on the facility side of ~~((that))~~ the first valve will not directly impact waters of the state. ~~((A))~~ "Transfer pipeline" includes valves ~~((s))~~ and other appurtenances connected to the pipeline, pumping units, and fabricated assemblies associated with pumping units. ~~((A))~~ "Transfer pipeline" does not include process pipelines, pipelines carrying ballast or bilge water, transmission pipelines, or tank vessel or storage tanks.

~~((21))~~ (19) "Transmission pipeline" means a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of twenty percent or more of the specified minimum yield strength.

~~((22))~~ (20) "Underground facility" means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including but not limited to pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors that are below ground. This definition does not include pipelines as defined in subsection ~~((17))~~ (15) of this section, but does include distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

(21) "Bar hole" means a hole made in the soil or pavement with a hand-operated bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

(22) "Commission" means the utilities and transportation commission.

(23) "End user" means any utility customer or consumer of utility services or commodities provided by a facility operator.

(24) "Equipment operator" means an individual conducting an excavation.

(25) "Facility operator" means any person who owns an underground facility or is in the business of supplying any utility service or commodity for compensation. "Facility operator" does not include a utility customer who owns a service lateral that terminates at a facility operator's main utility line.

(26) "Large project" means a project that exceeds seven hundred linear feet.

(27) "Service lateral" means an underground water, storm water, or sewer facility located in a public right-of-way or utility easement that connects an end user's building or property to a facility operator's underground facility, and terminates beyond the public right-of-way or utility easement.

(28) "Unlocatable underground facility" means, subject to the provisions of RCW 19.122.030, an underground facility that cannot be marked with reasonable accuracy using available information to designate the location of an underground facility. "Unlocatable underground facility" includes, but is not limited to, service laterals, storm drains, and nonconductive and nonmetallic underground facilities that do not contain trace wires.

(29) "Utility easement" means a right held by a facility operator to install, maintain, and access an underground facility or pipeline.

Sec. 3. RCW 19.122.027 and 2005 c 448 s 2 are each amended to read as follows:

(1) The ~~((utilities and transportation commission shall cause to be established))~~ commission must establish a single statewide toll-free telephone number to be used for referring excavators to the appropriate one-number locator service.

(2) The ~~((utilities and transportation))~~ commission, in consultation with the Washington utilities coordinating council, ~~((shall))~~ must establish minimum standards and best management practices for one-number locator services.

(3) One-number locator services ~~((shall))~~ must be operated by nongovernmental agencies.

(4) All facility operators within a one-number locator service area must subscribe to the service.

(5) Failure to subscribe to a one-number locator service constitutes willful intent to avoid compliance with this chapter.

Sec. 4. RCW 19.122.030 and 2000 c 191 s 17 are each amended to read as follows:

(1)(a) Unless exempted under section 5 of this act, before commencing any excavation, (~~(excluding agriculture tilling less than twelve inches in depth, the excavator shall)~~) an excavator must mark the boundary of the excavation area with white paint applied on the ground of the worksite, then provide notice of the scheduled commencement of excavation to all (~~owners of underground facilities~~) facility operators through a one-number locator service.

(b) If boundary marking required by (a) of this subsection is infeasible, an excavator must communicate directly with affected facility operators to ensure that the boundary of the excavation area is accurately identified.

(2) (~~All owners of underground facilities within a one-number locator service area shall subscribe to the service. One-number locator service rates for cable television companies will be based on the amount of their underground facilities. If no one-number locator service is available, notice shall be provided individually to those owners of underground facilities known to or suspected of having underground facilities within the area of proposed excavation. The notice shall be communicated to the owners of underground facilities~~) An excavator must provide the notice required by subsection (1) of this section to a one-number locator service not less than two business days (or) and not more than ten business days before the scheduled date for commencement of excavation, unless otherwise agreed ((by the parties)) by the excavator and facility operators. If an excavator intends to work at multiple sites or at a large project, the excavator must take reasonable steps to confer with facility operators to enable them to locate underground facilities reasonably in advance of the start of excavation for each phase of the work.

(3) Upon receipt of the notice provided for in (~~this section, the owner of the underground facility shall~~) subsection (1) of this section, a facility operator must, with respect to:

(a) The facility operator's locatable underground facilities, provide the excavator with reasonably accurate information (~~as to its locatable underground facilities by surface marking the location of the facilities. If there are~~) by marking their location;

(b) The facility operator's unlocatable or identified but unlocatable underground facilities, (~~the owner of such facilities shall~~) provide the excavator with (~~the best~~) available information as to their (~~locations. The owner of the underground facility providing the information shall respond~~) location; and

(c) Service laterals, designate their presence or location, if the service laterals:

(i) Connect end users to the facility operator's main utility line; and

(ii) Are within a public right-of-way or utility easement and the boundary of the excavation area identified under subsection (1) of this section.

(4)(a) A facility operator must provide information to an excavator pursuant to subsection (3) of this section no later than two business days after the receipt of the notice (~~(or before the excavation time)~~) provided for in subsection (1) of this section or before excavation commences, at the option of the (~~owner~~) facility operator, unless otherwise agreed by the parties. (~~Excavators shall not excavate until all known facilities have been marked. Once marked by the owner of the underground facility, the excavator is responsible for maintaining the markings. Excavators shall have the right to receive compensation from the owner of the underground facility for costs incurred if the owner of the underground facility does not locate its facilities in accordance with this section. (4) The owner of the underground facility shall have~~)

(b) A facility operator complying with subsection (3)(b) and (c) of this section may do so in a manner that includes any of the following methods:

(i) Placing within a proposed excavation area a triangular mark at the main utility line pointing at the building, structure, or property in

question, indicating the presence of an unlocatable or identified but unlocatable underground facility, including a service lateral;

(ii) Arranging to meet an excavator at a worksite to provide available information about the location of service laterals; or

(iii) Providing copies of the best reasonably available records by electronic message, mail, facsimile, or other delivery method.

(c) A facility operator's good faith attempt to comply with subsection (3)(b) and (c) of this section:

(i) Constitutes full compliance with the requirements of this section, and no person may be found liable for damages or injuries that may result from such compliance, apart from liability for arranging for repairs or relocation as provided in RCW 19.122.050(2); and

(ii) Does not constitute any assertion of ownership or operation of a service lateral by the facility operator.

(d) An end user is responsible for determining the location of a service lateral on their property or a service lateral that they own. Nothing in this section may be interpreted to require an end user to subscribe to a one-number locator service or to locate a service lateral within a right-of-way or utility easement.

(5) An excavator must not excavate until all known facility operators have marked or provided information regarding underground facilities as provided in this section.

(6)(a) Once marked by a facility operator, an excavator is responsible for maintaining the accuracy of the facility operator's markings of underground facilities for the lesser of:

(i) Forty-five calendar days from the date that the excavator provided notice to a one-number locator service pursuant to subsection (1) of this section; or

(ii) The duration of the project.

(b) An excavator that makes repeated requests for location of underground facilities due to its failure to maintain the accuracy of a facility operator's markings as required by this subsection (6) may be charged by the facility operator for services provided.

(c) A facility operator's markings of underground utilities expire forty-five calendar days from the date that the excavator provided notice to a one-number locator service pursuant to subsection (1) of this section. For excavation occurring after that date, an excavator must provide additional notice to a one-number locator service pursuant to subsection (1) of this section.

(7) An excavator has the right to receive reasonable compensation from a facility operator for costs incurred by the excavator if the facility operator does not locate its underground facilities in accordance with the requirements specified in this section.

(8) A facility operator has the right to receive (~~compensation for costs incurred in responding to excavation notices given less than two business days prior to the excavation from the excavator~~) reasonable compensation from an excavator for costs incurred by the facility operator if the excavator does not comply with the requirements specified in this section.

((5) An owner of underground facilities is not required to indicate the presence of existing service laterals or appurtenances if the presence of existing service laterals or appurtenances on the site of the construction project can be determined from the presence of other visible facilities, such as buildings, manholes, or meter and junction boxes on or adjacent to the construction site.

(6) Emergency excavations are exempt from the time requirements for notification provided in this section.

(7) If the excavator, while performing the contract,) (9) A facility operator is not required to comply with subsection (4) of this section with respect to service laterals conveying only water if their presence can be determined from other visible water facilities, such as water meters, water valve covers, and junction boxes in or adjacent to the boundary of an excavation area identified under subsection (1) of this section.

(10) If an excavator discovers underground facilities ((which))

that are not identified, the excavator ((shall)) must cease excavating in the vicinity of the ((facility)) underground facilities and immediately notify the ((owner or)) facility operator ((of such facilities,)) or ((the)) a one-number locator service. If an excavator discovers identified but unlocatable underground facilities, the excavator must notify the facility operator. Upon notification by a one-number locator service or an excavator, a facility operator must allow for location of the uncovered portion of an underground facility identified by the excavator, and may accept location information from the excavator for marking of the underground facility.

NEW SECTION. Sec. 5. A new section is added to chapter 19.122 RCW to read as follows:

(1) The requirements specified in RCW 19.122.030 do not apply to any of the following activities:

(a) An emergency excavation, but only with respect to boundary marking and notice requirements specified in RCW 19.122.030 (1) and (2), and provided that the excavator provides notice to a one-number locator service at the earliest practicable opportunity;

(b) An excavation of less than twelve inches in depth on private noncommercial property, if the excavation is performed by the person or an employee of the person who owns or occupies the property on which the excavation is being performed;

(c) The tilling of soil for agricultural purposes less than:

(i) Twelve inches in depth within a utility easement; and

(ii) Twenty inches in depth outside of a utility easement;

(d) The replacement of an official traffic sign installed prior to January 1, 2013, no deeper than the depth at which it was installed;

(e) Road maintenance activities involving excavation less than six inches in depth below the original road grade and ditch maintenance activities involving excavation less than six inches in depth below the original ditch flowline, or alteration of the original ditch horizontal alignment;

(f) The creation of bar holes less than twelve inches in depth, or of any depth during emergency leak investigations, provided that the excavator takes reasonable measures to eliminate electrical arc hazards; or

(g) Construction, operation, or maintenance activities by an irrigation district on rights-of-way, easements, or facilities owned by the federal bureau of reclamation in federal reclamation projects.

(2) Any activity described in subsection (1) of this section is subject to the requirements specified in RCW 19.122.050.

Sec. 6. RCW 19.122.033 and 2000 c 191 s 18 are each amended to read as follows:

(1) Before commencing any excavation, ~~((excluding agricultural tilling less than twelve inches in depth,))~~ an excavator ~~((shall))~~ must notify pipeline companies of the scheduled commencement of excavation through a one-number locator service in the same manner as ~~((is))~~ required for notifying ~~((owners of underground facilities))~~ facility operators of excavation ~~((work))~~ under RCW 19.122.030. Pipeline companies ~~((shall))~~ have the same rights and responsibilities as ~~((owners of underground facilities))~~ facility operators under RCW 19.122.030 regarding excavation ~~((work))~~. Excavators have the same rights and responsibilities under this section as they have under RCW 19.122.030.

(2) Project owners, excavators, and pipeline companies have the same rights and responsibilities relating to excavation near pipelines that they have for excavation near underground facilities as provided in RCW 19.122.040.

(3) The state, and any subdivision or instrumentality of the state, including any unit of local government, must, when planning construction or excavation within one hundred feet, or greater distance if required by local ordinance, of a right-of-way or utility easement containing a transmission pipeline, notify the pipeline company of the scheduled commencement of work.

(4) Any unit of local government that issues permits under codes adopted pursuant to chapter 19.27 RCW must, when permitting

construction or excavation within one hundred feet, or greater distance if required by local ordinance, of a right-of-way or utility easement containing a transmission pipeline:

(a) Notify the pipeline company of the permitted activity when it issues the permit; or

(b) Require, as a condition of issuing the permit, that the applicant consult with the pipeline company.

(5) The commission must assist local governments in obtaining hazardous liquid and gas pipeline location information and maps, as provided in RCW 81.88.080.

Sec. 7. RCW 19.122.035 and 2000 c 191 s 19 are each amended to read as follows:

(1) After a pipeline company has been notified by an excavator pursuant to RCW 19.122.033 that excavation ~~((work))~~ will uncover any portion of the pipeline company's pipeline, the pipeline company shall ensure that the pipeline section in the vicinity of the excavation is examined for damage prior to being reburied.

(2) Immediately upon receiving information of third-party damage to a hazardous liquid pipeline, the company that operates the pipeline shall terminate the flow of hazardous liquid in that pipeline until it has visually inspected the pipeline. After visual inspection, the ~~((operator of the hazardous liquid))~~ pipeline company shall determine whether the damaged pipeline section should be replaced or repaired, or whether it is safe to resume pipeline operation. Immediately upon receiving information of third-party damage to a gas pipeline, the ~~((company that operates the))~~ pipeline company shall conduct a visual inspection of the pipeline to determine whether the flow of gas through that pipeline should be terminated, and whether the damaged pipeline should be replaced or repaired. A record of the pipeline company's inspection report and test results shall be provided to the ~~((utilities and transportation))~~ commission, consistent with reporting requirements under 49 C.F.R. Parts 191 and 195, Subpart B.

(3) Pipeline companies shall immediately notify local first responders and the department of ecology of any reportable release of a hazardous liquid from a pipeline. Pipeline companies shall immediately notify local first responders and the commission of any blowing gas leak from a gas pipeline that has ignited or represents a probable hazard to persons or property. Pipeline companies shall take all appropriate steps to ensure the public safety in the event of a release of hazardous liquid or gas under this subsection.

(4) No damaged pipeline may be buried until it is repaired or relocated. The pipeline company shall arrange for repairs or relocation of a damaged pipeline as soon as is practical or may permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

Sec. 8. RCW 19.122.040 and 1984 c 144 s 4 are each amended to read as follows:

(1) Project owners shall indicate in bid or contract documents the existence of underground facilities known by the project owner to be located within the proposed area of excavation. The following ~~((shall be))~~ are deemed to be changed or differing site conditions:

(a) An underground facility not identified as required by this chapter or other provision of law; ~~((and))~~ or

(b) An underground facility not located, as required by this chapter or other provision of law, by the project owner, facility operator, or excavator if the project owner or excavator is also a ~~((utility))~~ facility operator.

(2) An excavator shall use reasonable care to avoid damaging underground facilities. An excavator ~~((shall))~~ must:

(a) Determine the precise location of underground facilities which have been marked;

(b) Plan the excavation to avoid damage to or minimize interference with underground facilities in and near the excavation area; and

(c) Provide such support for underground facilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such facilities.

(3) If an underground facility is damaged and such damage is the consequence of the failure to fulfill an obligation under this chapter, the party failing to perform that obligation (~~shall be~~) is liable for any damages. Any clause in an excavation contract which attempts to allocate liability, or requires indemnification to shift the economic consequences of liability, (~~different~~) that differs from the provisions of this chapter is against public policy and unenforceable. Nothing in this chapter prevents the parties to an excavation contract from contracting with respect to the allocation of risk for changed or differing site conditions.

(4) In any action brought under this section, the prevailing party is entitled to reasonable attorneys' fees.

Sec. 9. RCW 19.122.050 and 1984 c 144 s 5 are each amended to read as follows:

(1) An excavator who, in the course of excavation, contacts or damages an underground facility shall notify the (~~utility-owning-or-operating-such~~) facility operator and (~~the~~) a one-number locator service, and report the damage as required under section 20 of this act. If the damage causes an emergency condition, the excavator causing the damage shall also alert the appropriate local public safety agencies and take all appropriate steps to ensure the public safety. No damaged underground facility may be buried until it is repaired or relocated.

(2) (~~The owner of the underground facilities damaged~~) A facility operator notified in accordance with subsection (1) of this section shall arrange for repairs or relocation as soon as is practical, or (may) permit the excavator to do necessary repairs or relocation at a mutually acceptable price.

Sec. 10. RCW 19.122.055 and 2005 c 448 s 3 are each amended to read as follows:

(1)(a) Any excavator who fails to notify (~~the~~) a one-number locator service and causes damage to a hazardous liquid or gas (pipeline) underground facility is subject to a civil penalty of not more than ten thousand dollars for each violation.

(b) The civil penalty in this subsection may also be imposed on any excavator who violates RCW 19.122.090.

(2) All civil penalties recovered under this section (~~shall~~) must be deposited into the (~~pipeline-safety~~) damage prevention account created in (~~RCW 19.122.050~~) section 12 of this act.

Sec. 11. RCW 19.122.070 and 2005 c 448 s 4 are each amended to read as follows:

(1) Any person who violates any provision of this chapter not amounting to a violation of RCW 19.122.055 (~~and which violation results in damage to underground facilities,~~) is subject to a civil penalty of not more than one thousand dollars for (~~each violation. All penalties recovered in such actions shall be deposited in the general fund~~) an initial violation, and not more than five thousand dollars for each subsequent violation within a three-year period. All penalties recovered in such actions must be deposited in the damage prevention account created in section 12 of this act.

(2) Any excavator who willfully or maliciously damages a (~~field-marked~~) marked underground facility (~~shall be~~) is liable for treble the costs incurred in repairing or relocating the facility. In those cases in which an excavator fails to notify known (~~underground~~) facility (~~owners~~) operators or (~~the~~) a one-number locator service, any damage to the underground facility (shall be) is deemed willful and malicious and (~~shall be~~) is subject to treble damages for costs incurred in repairing or relocating the facility.

(3) This chapter does not affect any civil remedies for personal injury or for property damage, including that to underground facilities, nor does this chapter create any new civil remedies for such damage.

NEW SECTION. Sec. 12. A new section is added to chapter 19.122 RCW to read as follows:

The damage prevention account is created in the custody of the state treasurer. All receipts from moneys directed by law or the commission to be deposited to the account must be deposited in the account. Expenditures from the account may be used only for purposes designated in section 13 of this act. Only the commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW.

NEW SECTION. Sec. 13. A new section is added to chapter 19.122 RCW to read as follows:

The commission may use money deposited in the damage prevention account created in section 12 of this act to:

(1) Develop and disseminate educational programming designed to improve worker and public safety relating to excavation and underground facilities; and

(2) Provide grants to persons who have developed educational programming that the commission and the safety committee created pursuant to section 18 of this act deem appropriate for improving worker and public safety relating to excavation and underground facilities.

Sec. 14. RCW 19.122.075 and 2000 c 191 s 23 are each amended to read as follows:

Any person who willfully damages or removes a permanent marking used to identify an underground facility or pipeline, or a temporary marking prior to its intended use, is subject to a civil penalty of not more than one thousand dollars for (~~each act~~) an initial violation, and not more than five thousand dollars for each subsequent violation within a three-year period.

Sec. 15. RCW 19.122.080 and 1984 c 144 s 8 are each amended to read as follows:

The notification and marking provisions of this chapter may be waived for one or more designated persons by (~~an underground~~) a facility (owner) operator with respect to all or part of that (~~underground~~) facility (~~owner's own~~) operator's underground facilities.

Sec. 16. RCW 19.122.100 and 2005 c 448 s 6 are each amended to read as follows:

If charged with a violation of RCW 19.122.090, an equipment operator (~~will be~~) is deemed to have established an affirmative defense to such charges if:

(1) The equipment operator was provided a valid excavation confirmation code;

(2) The excavation was performed in an emergency situation;

(3) The equipment operator was provided a false confirmation code by an identifiable third party; or

(4) Notice of the excavation was not required under this chapter.

Sec. 17. RCW 19.122.110 and 2005 c 448 s 7 are each amended to read as follows:

Any person who intentionally provides an equipment operator with a false excavation confirmation code is guilty of a misdemeanor.

NEW SECTION. Sec. 18. A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission must contract with a statewide, nonprofit entity whose purpose is to reduce damages to underground and above ground facilities, promote safe excavation practices, and review complaints of alleged violations of this chapter. The contract must not obligate funding by the commission for activities performed by the nonprofit entity or the safety committee under this section, and is therefore exempt under RCW 39.29.040(1) from the requirements of chapter 39.29 RCW.

(2) The contracting entity must create a safety committee to:

(a) Advise the commission and other state agencies, the legislature, and local governments on best practices and training to

prevent damage to underground utilities, and policies to enhance worker and public safety; and

(b) Review complaints alleging violations of this chapter involving practices related to underground facilities.

(3) The safety committee will consist of thirteen members, who must be nominated by represented groups and appointed by the contracting entity to staggered three-year terms. The safety committee must include representatives of:

(a) Local governments;

(b) A natural gas utility subject to regulation under Titles 80 and 81 RCW;

(c) Contractors;

(d) Excavators;

(e) An electric utility subject to regulation under Title 80 RCW;

(f) A consumer-owned utility, as defined in RCW 19.27A.140;

(g) A pipeline company;

(h) The insurance industry;

(i) The commission; and

(j) A telecommunications company.

(4) The safety committee must meet at least once every three months.

(5) The safety committee may review complaints of alleged violations of this chapter involving practices related to underground facilities. Any person may bring a complaint to the safety committee regarding an alleged violation.

(6) To review complaints of alleged violations, the safety committee must appoint at least three and not more than five members as a review committee. The review committee must include the same number of members representing excavators and facility operators. One member representing facility operators must also be a representative of a pipeline company or a natural gas utility subject to regulation under Titles 80 and 81 RCW. The review committee must also include a member representing the insurance industry.

(7) Before reviewing a complaint alleging a violation of this chapter, the review committee must notify the person making the complaint and the alleged violator of its review and of the opportunity to participate.

(8) The safety committee may provide written notification to the commission, with supporting documentation, that a person has likely committed a violation of this chapter, and recommend remedial action that may include a penalty amount, training, or education to improve public safety, or some combination thereof.

(9) This section expires December 31, 2020.

NEW SECTION. Sec. 19. A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission may enforce the civil penalties authorized in RCW 19.122.070 or 19.122.075 when it receives written notification from the safety committee created under section 18 of this act indicating that a violation of this chapter has likely been committed by a person subject to regulation by the commission, or involving the underground facilities of such a person.

(2) If the commission receives written notification from the safety committee pursuant to section 18 of this act that a violation of this chapter has likely been committed by a person who is not subject to regulation by the commission, and in which the underground facility involved is also not subject to regulation by the commission, the commission may refer the matter to the attorney general for enforcement of a civil penalty under RCW 19.122.070 or 19.122.075. The commission must provide funding for such enforcement. However, any costs and fees recovered by the attorney general pursuant to subsection (3) of this section must be deposited by the commission in the fund that paid for such enforcement.

(3) In a matter referred to it by the commission pursuant to subsection (2) of this section, the attorney general may bring an action to enforce the penalties authorized in RCW 19.122.070 or 19.122.075. In such an action, the court may award the state all costs

of investigation and trial, including a reasonable attorneys' fee fixed by the court.

(4) This section expires December 31, 2020.

NEW SECTION. Sec. 20. A new section is added to chapter 19.122 RCW to read as follows:

(1) Facility operators and excavators who observe or cause damage to an underground facility must report the damage event to the commission.

(2) A nonpipeline facility operator conducting an excavation, or a subcontractor conducting an excavation on the facility operator's behalf, that strikes the facility operator's own underground facility is not required to report that damage event to the commission.

(3) Reports must be made to the commission's office of pipeline safety within forty-five days of the damage event, or sooner if required by law, using the commission's virtual private damage information reporting tool (DIRT) report form, or other similar form if it reports:

(a) The name of the person submitting the report and whether the person is an excavator, a representative of a one-number locator service, or a facility operator;

(b) The date and time of the damage event;

(c) The address where the damage event occurred;

(d) The type of right-of-way, where the damage event occurred, including but not limited to city street, state highway, or utility easement;

(e) The type of underground facility damaged, including but not limited to pipes, transmission pipelines, distribution lines, sewers, conduits, cables, valves, lines, wires, manholes, attachments, or parts of poles or anchors below ground;

(f) The type of utility service or commodity the underground facility stores or conveys, including but not limited to electronic, telephonic or telegraphic communications, water, sewage, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances;

(g) The type of excavator involved, including but not limited to contractors or facility operators;

(h) The excavation equipment used, including but not limited to augers, bulldozers, backhoes, or hand tools;

(i) The type of excavation being performed, including but not limited to drainage, grading, or landscaping;

(j) Whether a one-number locator service was notified before excavation commenced, and, if so, the excavation confirmation code provided by a one-number locator service;

(k) If applicable:

(i) The person who located the underground facility, and their employer;

(ii) Whether underground facility marks were visible in the proposed excavation area before excavation commenced;

(iii) Whether underground facilities were marked correctly;

(l) Whether an excavator experienced interruption of work as a result of the damage event;

(m) A description of the damage; and

(n) Whether the damage caused an interruption of underground facility service.

(4) The commission must use reported data to evaluate the effectiveness of the damage prevention program.

NEW SECTION. Sec. 21. A new section is added to chapter 19.122 RCW to read as follows:

(1) The commission may investigate and enforce violations of RCW 19.122.055, 19.122.075, and 19.122.090 relating to pipeline facilities without initial referral to the safety committee created under section 18 of this act.

(2) If the commission's investigation of notifications received pursuant to section 19 of this act or subsection (1) of this section substantiates violations of this chapter, the commission may impose penalties authorized by RCW 19.122.055, 19.122.070, 19.122.075,

and 19.122.090, and require training, education, or any combination thereof.

(3) With respect to referrals from the safety committee, the commission must consider any recommendation by the committee regarding enforcement and remedial actions involving an alleged violator.

(4) In an action to impose a penalty initiated by the commission under subsection (1) or (2) of this section, the penalty is due and payable when the person incurring the penalty receives a notice of penalty in writing from the commission describing the violation and advising the person that the penalty is due. The person incurring the penalty has fifteen days from the date the person receives the notice of penalty to file with the commission a request for mitigation or a request for a hearing. The commission must include this time limit information in the notice of penalty. After receiving a timely request for mitigation or hearing, the commission must suspend collection of the penalty until it issues a final order concerning the penalty or mitigation of that penalty. A person aggrieved by the commission's final order may seek judicial review, subject to provisions of the administrative procedure act, chapter 34.05 RCW.

(5) If a penalty imposed by the commission is not paid, the attorney general may, on the commission's behalf, file a civil action in superior court to collect the penalty.

(6) This section expires December 31, 2020.

NEW SECTION. Sec. 22. A new section is added to chapter 19.122 RCW to read as follows:

All penalties collected pursuant to section 21 of this act must be deposited in the damage prevention account created in section 12 of this act.

NEW SECTION. Sec. 23. RCW 19.122.060 (Exemption from notice and marking requirements for property owners) and 1984 c 144 s 6 are each repealed.

NEW SECTION. Sec. 24. A new section is added to chapter 19.122 RCW to read as follows:

Nothing in this act may be construed to classify a consumer-owned utility, as defined in RCW 19.27A.140, to be under the authority of the commission.

NEW SECTION. Sec. 25. A new section is added to chapter 19.122 RCW to read as follows:

This act may be known and cited as the underground utility damage prevention act.

NEW SECTION. Sec. 26. By December 1, 2015, the utilities and transportation commission must report to the appropriate committees of the legislature on the effectiveness of the damage prevention program established under chapter 19.122 RCW. The legislative report required under this section must include analysis of damage data reported under section 20 of this act.

NEW SECTION. Sec. 27. This act takes effect January 1, 2013."

On page 1, line 1 of the title, after "utilities;" strike the remainder of the title and insert "amending RCW 19.122.010, 19.122.020, 19.122.027, 19.122.030, 19.122.033, 19.122.035, 19.122.040, 19.122.050, 19.122.055, 19.122.070, 19.122.075, 19.122.080, 19.122.100, and 19.122.110; adding new sections to chapter 19.122 RCW; creating a new section; repealing RCW 19.122.060; prescribing penalties; providing an effective date; and providing expiration dates."

and the same is herewith transmitted.

Thomas Hoeman , Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE

BILL NO. 1634 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Takko spoke in favor of the passage of the bill.

COLLOQUY

Representative Short: "Will the Representative from the 19th District yield to a question?"

Representative Takko: "I will."

Representative Short: "Section 24 of this bill says that nothing in this act is construed to mean that consumer-owned utilities are under the authority of the Utilities and Transportation Commission. Is it the intent of this section that if a consumer-owned utility, like a public utility district or rural electric co-op, violates the act and damages a pipeline, that the Utilities and Transportation Commission cannot enforce the violation?"

Representative Takko: "No. The legislation is not intended to exclude a consumer owned utility from enforcement by the Utilities and Transportation Commission if it violates this act. Rather, it is intended to clarify that this bill does not give the Commission any jurisdiction broader than that specifically set out in the bill. Consumer-owned utilities are generally not subject to regulation of their rates or services by the Commission. This independence is made clear in other parts of our statutes (for example, RCW 80.04.500 and 54.16.040). Section 24 clarifies that nothing in this bill changes that. Under this bill, the Commission can take action against anyone – even a consumer-owned utility – who negligently or intentionally damages the underground facilities of a company subject to Commission jurisdiction. The public utilities understand that, and they are OK with that."

Representative Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1634, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1634, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1634, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1829 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. The legislature finds:

(1) Leadership, technical assistance, and advocacy is important to promoting the academic success of all students, particularly including American Indian and Alaska Native students;

(2) American Indian and Alaska Native students make up two and one-half percent of the total student population in the state and twenty-five percent or more of the student population in fifty-seven schools across the state;

(3) The annual dropout rate for American Indian and Alaska Native students has hovered around ten or eleven percent over the past three school years and, while the on-time graduation rate for these students has improved between the 2006-07 and 2008-09 school years, it is still only fifty-two and seven-tenths percent; and

(4) Despite the passage of House Bill No. 1495 in 2005, with its goal of educating citizens of the state about tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations, and the contribution of American Indians and Alaska Natives to the state, that goal has yet to be achieved in many schools.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

(1) To the extent funds are available, an Indian education division, to be known as the office of Native education, is created within the office of the superintendent of public instruction. The superintendent shall appoint an individual to be responsible for the office of Native education.

(2) To the extent state funds are available, with additional support of federal and local funds where authorized by law, the office of Native education shall:

(a) Provide assistance to school districts in meeting the educational needs of American Indian and Alaska Native students;

(b) Facilitate the development and implementation of curricula and instructional materials in native languages, culture and history, and the concept of tribal sovereignty pursuant to RCW 28A.320.170;

(c) Provide assistance to districts in the acquisition of funding to develop curricula and instructional materials in conjunction with native language practitioners and tribal elders;

(d) Coordinate technical assistance for public schools that serve American Indian and Alaska Native students;

(e) Seek funds to develop, in conjunction with the Washington state native American education advisory committee, and implement the following support services for the purposes of both increasing the number of American Indian and Alaska Native teachers and principals and providing continued professional development for educational assistants, teachers, and principals serving American Indian and Alaska Native students:

(i) Recruitment and retention;

(ii) Academic transition programs;

(iii) Academic financial support;

(iv) Teacher preparation;

(v) Teacher induction; and

(vi) Professional development;

(f) Facilitate the inclusion of native language programs in school districts' curricula;

(g) Work with all relevant agencies and committees to highlight the need for accurate, useful data that is appropriately disaggregated to provide a more accurate picture regarding American Indian and Alaska Native students; and

(h) Report to the governor, the legislature, and the governor's office of Indian affairs on an annual basis, beginning in December 2012, regarding the state of Indian education and the implementation of all state laws regarding Indian education, specifically noting system successes and accomplishments, deficiencies, and needs.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.300 RCW to read as follows:

The Native education public-private partnership account is created in the custody of the state treasurer. The purpose of the account is to support the activities of the office of Native education within the office of the superintendent of public instruction under section 2 of this act. Receipts from any appropriations made by the legislature for the purposes of section 2 of this act, federal funds, gifts or grants from the private sector or foundations, and other sources must be deposited into the account. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures."

On page 1, line 2 of the title, after "instruction;" strike the remainder of the title and insert "adding new sections to chapter 28A.300 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1829 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Billig and Dammeier spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1829, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1829, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 72; Nays, 25; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Asay, Bailey, Billig, Blake, Carlyle, Clibborn, Cody, Crouse, Dahlquist, Dammeier, Darneille, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rodne, Rolfes, Ryu, Seaquist, Sells, Smith, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Ahern, Armstrong, Buys, Chandler, Condotta, DeBolt, Fagan, Haler, Hargrove, Johnson, Klippert, Kretz, Kristiansen, McCune, Nealey, Orcutt, Overstreet, Rivers, Roberts, Ross, Schmick, Shea, Short, Taylor and Walsh.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1829, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 6, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. (1) The purpose of this act is to establish the voluntary stewardship program as recommended in the report submitted by the William D. Ruckelshaus Center to the legislature as required by chapter 353, Laws of 2007 and chapter 203, Laws of 2010.

(2) It is the intent of this act to:

(a) Promote plans to protect and enhance critical areas within the area where agricultural activities are conducted, while maintaining and improving the long-term viability of agriculture in the state of Washington and reducing the conversion of farmland to other uses;

(b) Focus and maximize voluntary incentive programs to encourage good riparian and ecosystem stewardship as an alternative to historic approaches used to protect critical areas;

(c) Rely upon RCW 36.70A.060 for the protection of critical areas for those counties that do not choose to participate in this program;

(d) Leverage existing resources by relying upon existing work and plans in counties and local watersheds, as well as existing state and federal programs to the maximum extent practicable to achieve program goals;

(e) Encourage and foster a spirit of cooperation and partnership among county, tribal, environmental, and agricultural interests to better assure the program success;

(f) Improve compliance with other laws designed to protect water quality and fish habitat; and

(g) Rely upon voluntary stewardship practices as the primary method of protecting critical areas and not require the cessation of agricultural activities.

NEW SECTION. Sec. 2. The definitions in this section apply to sections 1 through 15 of this act and RCW 36.70A.130 and 36.70A.280 unless the context clearly requires otherwise.

(1) "Agricultural activities" means all agricultural uses and practices as defined in RCW 90.58.065.

(2) "Commission" means the state conservation commission as defined in RCW 89.08.030.

(3) "Director" means the executive director of the state conservation commission.

(4) "Enhance" or "enhancement" means to improve the processes, structure, and functions existing, as of the effective date of this section, of ecosystems and habitats associated with critical areas.

(5) "Participating watershed" means a watershed identified by a county under section 4(1) of this act to participate in the program.

(6) "Priority watershed" means a geographic area nominated by the county and designated by the commission.

(7) "Program" means the voluntary stewardship program established in section 3 of this act.

(8) "Protect" or "protecting" means to prevent the degradation of functions and values existing as of the effective date of this section.

(9) "Receipt of funding" means the date a county takes legislative action accepting any funds as required in section 5(1) of this act to implement the program.

(10) "Statewide advisory committee" means the statewide advisory committee created in section 11 of this act.

(11) "Technical panel" means the directors or director designees of the following agencies: The department of fish and wildlife; the department of agriculture; the department of ecology; and the commission.

(12) "Watershed" means a water resource inventory area, salmon recovery planning area, or a subbasin as determined by a county.

(13) "Watershed group" means an entity designated by a county under the provisions of section 5 of this act.

(14) "Work plan" means a watershed work plan developed under the provisions of section 6 of this act.

NEW SECTION. Sec. 3. (1) The voluntary stewardship program is established to be administered by the commission. The program shall be designed to protect and enhance critical areas on lands used for agricultural activities through voluntary actions by agricultural operators.

(2) In administering the program, the commission must:

(a) Establish policies and procedures for implementing the program;

(b) Administer funding for counties to implement the program including, but not limited to, funding to develop strategies and incentive programs and to establish local guidelines for watershed stewardship programs;

(c) Administer the program's technical assistance funds and coordinate among state agencies and other entities for the implementation of the program;

(d) Establish a technical panel;

(e) In conjunction with the technical panel, review and evaluate:

(i) Work plans submitted for approval under section 6(2)(a) of this act; and (ii) reports submitted under section 6(2)(b) of this act;

(f) Review and evaluate the program's success and effectiveness and make appropriate changes to policies and procedures for implementing the program, in consultation with the statewide advisory committee and other affected agencies;

(g) Designate priority watersheds based upon the recommendation of the statewide advisory committee. The commission and the statewide advisory committee may only consider watersheds nominated by counties under section 4 of this act. When designating priority watersheds, the commission and the statewide advisory committee shall consider the statewide significance of the criteria listed in section 4(3) of this act;

(h) Provide administrative support for the program's statewide advisory committee in its work. The administrative support must be in collaboration with the department of ecology and other agencies involved in the program;

(i) Maintain a web site about the program that includes times, locations, and agenda information for meetings of the statewide advisory committee;

(j) Report to the legislature on the general status of program implementation by December 1, 2013, and December 1, 2015;

(k) In conjunction with the statewide advisory committee, conduct a review of the program beginning in 2017 and every five years thereafter, and report its findings to the legislature by December 1st; and

(l) Report to the appropriate committees of the legislature in the format provided in RCW 43.01.036.

(3) The department shall assist counties participating in the program to develop plans and development regulations under section 9(1) of this act.

(4) The commission, department, department of agriculture, department of fish and wildlife, department of ecology, and other state agencies as directed by the governor shall:

- (a) Cooperate and collaborate to implement the program; and
- (b) Develop materials to assist local watershed groups in development of work plans.

(5) State agencies conducting new monitoring to implement the program in a watershed must focus on the goals and benchmarks of the work plan.

NEW SECTION. Sec. 4. (1)(a) As an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060, the legislative authority of a county may elect to protect such critical areas through the program.

(b) In order to participate in the program, within six months after the effective date of this section, the legislative authority of a county must adopt an ordinance or resolution that:

- (i) Elects to have the county participate in the program;
- (ii) Identifies the watersheds that will participate in the program;

and

(iii) Based on the criteria in subsection (4) of this section, nominates watersheds for consideration by the commission as state priority watersheds.

(2) Before adopting the ordinance or resolution under subsection (1) of this section, the county must (a) confer with tribes, and environmental and agricultural interests; and (b) provide notice following the public participation and notice provisions of RCW 36.70A.035 to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations.

(3) In identifying watersheds to participate in the program, a county must consider:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The overall likelihood of completing a successful program in the watershed; and

(c) Existing watershed programs, including those of other jurisdictions in which the watershed has territory.

(4) In identifying priority watersheds, a county must consider the following:

(a) The role of farming within the watershed, including the number and acreage of farms, the economic value of crops and livestock, and the risk of the conversion of farmland;

(b) The importance of salmonid resources in the watershed;

(c) An evaluation of the biological diversity of wildlife species and their habitats in the geographic region including their significance and vulnerability;

(d) The presence of leadership within the watershed that is representative and inclusive of the interests in the watershed;

(e) Integration of regional watershed strategies, including the availability of a data and scientific review structure related to all types of critical areas;

(f) The presence of a local watershed group that is willing and capable of overseeing a successful program, and that has the operational structures to administer the program effectively, including professional technical assistance staff, and monitoring and adaptive management structures; and

(g) The overall likelihood of completing a successful program in the watershed.

(5) Except as otherwise provided in subsection (9) of this section, beginning with the effective date of the ordinance or resolution adopted under subsection (1) of this section, the program applies to all unincorporated property upon which agricultural activities occur within a participating watershed.

(6)(a) Except as otherwise provided in (b) of this subsection, within two years after the effective date of this section, a county must review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities:

(i) If the county has not elected to participate in the program, for all unincorporated areas; or

(ii) If the county has elected to participate in the program, for any watershed not participating in the program.

(b) A county that between July 1, 2003, and June 30, 2007, in accordance with RCW 36.70A.130 completed the review of its development regulations as required by RCW 36.70A.130 to protect critical areas as they specifically apply to agricultural activities is not required to review and revise its development regulations until required by RCW 36.70A.130.

(c) After the review and amendment required under (a) of this subsection, RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(7)(a) A county that has made the election under subsection (1) of this section may withdraw a participating watershed from the program by adopting an ordinance or resolution withdrawing the watershed from the program. A county may withdraw a watershed from the program at the end of three years, five years, or eight years after receipt of funding, or any time after ten years from receipt of funding.

(b) Within eighteen months after withdrawing a participating watershed from the program, the county must review and, if necessary, revise its development regulations that protect critical areas in that watershed as they specifically apply to agricultural activities. The development regulations must protect the critical area functions and values as they existed on the effective date of this section. RCW 36.70A.130 applies to the subsequent review and amendment of development regulations adopted under this chapter to protect critical areas as they specifically apply to agricultural activities.

(8) A county that has made the election under subsection (1) of this section is eligible for a share of the funding made available to implement the program, subject to funding availability from the state.

(9) A county that has made the election under subsection (1) of this section is not required to implement the program in a participating watershed until adequate funding for the program in that watershed is provided to the county.

NEW SECTION. Sec. 5. (1) When the commission makes funds available to a county that has made the election provided in section 4(1) of this act, the county must within sixty days:

(a) Acknowledge the receipt of funds; and

(b) Designate a watershed group and an entity to administer funds for each watershed for which funding has been provided.

(2) A county must confer with tribes and interested stakeholders before designating or establishing a watershed group.

(3) The watershed group must include broad representation of key watershed stakeholders and, at a minimum, representatives of agricultural and environmental groups and tribes that agree to participate. The county should encourage existing lead entities, watershed planning units, or other integrating organizations to serve as the watershed group.

(4) The county may designate itself, a tribe, or another entity to coordinate the local watershed group.

NEW SECTION. Sec. 6. (1) A watershed group designated by a county under section 5 of this act must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed. The work plan must include goals and benchmarks for the protection and enhancement of critical areas. In developing and implementing the work plan, the watershed group must:

(a) Review and incorporate applicable water quality, watershed management, farmland protection, and species recovery data and plans;

(b) Seek input from tribes, agencies, and stakeholders;

(c) Develop goals for participation by agricultural operators conducting commercial and noncommercial agricultural activities in the watershed necessary to meet the protection and enhancement benchmarks of the work plan;

(d) Ensure outreach and technical assistance is provided to agricultural operators in the watershed;

(e) Create measurable benchmarks that, within ten years after the receipt of funding, are designed to result in (i) the protection of critical area functions and values and (ii) the enhancement of critical area functions and values through voluntary, incentive-based measures;

(f) Designate the entity or entities that will provide technical assistance;

(g) Work with the entity providing technical assistance to ensure that individual stewardship plans contribute to the goals and benchmarks of the work plan;

(h) Incorporate into the work plan any existing development regulations relied upon to achieve the goals and benchmarks for protection;

(i) Establish baseline monitoring for: (i) Participation activities and implementation of the voluntary stewardship plans and projects; (ii) stewardship activities; and (iii) the effects on critical areas and agriculture relevant to the protection and enhancement benchmarks developed for the watershed;

(j) Conduct periodic evaluations, institute adaptive management, and provide a written report of the status of plans and accomplishments to the county and to the commission within sixty days after the end of each biennium;

(k) Assist state agencies in their monitoring programs; and

(l) Satisfy any other reporting requirements of the program.

(2)(a) The watershed group shall develop and submit the work plan to the director for approval as provided in section 7 of this act.

(b)(i) Not later than five years after the receipt of funding for a participating watershed, the watershed group must report to the director and the county on whether it has met the work plan's protection and enhancement goals and benchmarks.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under section 8 of this act, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, it must propose and submit to the director an adaptive management plan to achieve the goals and benchmarks that were not met. If the director does not approve the adaptive management plan under section 8 of this act, the watershed is subject to section 9 of this act.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(c)(i) Not later than ten years after receipt of funding for a participating watershed, and every five years thereafter, the watershed group must report to the director and the county on whether it has met the protection and enhancement goals and benchmarks of the work plan.

(ii) If the watershed group determines the protection goals and benchmarks have been met, and the director concurs under section 8 of this act, the watershed group shall continue to implement the work plan.

(iii) If the watershed group determines the protection goals and benchmarks have not been met, the watershed is subject to section 9 of this act.

(iv) If the watershed group determines the enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify the funding necessary to implement these actions, and implement these actions when funding is provided.

(3) Following approval of a work plan, a county or watershed group may request a state or federal agency to focus existing enforcement authority in that participating watershed, if the action will facilitate progress toward achieving work plan protection goals and benchmarks.

(4) The commission may provide priority funding to any watershed designated under the provisions of section 3(2)(g) of this act. The director, in consultation with the statewide advisory committee, shall work with the watershed group to develop an accelerated implementation schedule for watersheds that receive priority funding.

(5) Commercial and noncommercial agricultural operators participating in the program are eligible to receive funding and assistance under watershed programs.

NEW SECTION. Sec. 7. (1) Upon receipt of a work plan submitted to the director under section 6(2)(a) of this act, the director must submit the work plan to the technical panel for review.

(2) The technical panel shall review the work plan and report to the director within forty-five days after the director receives the work plan. The technical panel shall assess whether at the end of ten years after receipt of funding, the work plan, in conjunction with other existing plans and regulations, will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed.

(3)(a) If the technical panel determines the proposed work plan will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must recommend approval of the work plan; and

(ii) The director must approve the work plan.

(b) If the technical panel determines the proposed work plan will not protect critical areas while maintaining and enhancing the viability of agriculture in the watershed:

(i) It must identify the reasons for its determination; and

(ii) The director must advise the watershed group of the reasons for disapproval.

(4) The watershed group may modify and resubmit its work plan for review and approval consistent with this section.

(5) If the director does not approve a work plan submitted under this section within two years and nine months after receipt of funding, the director shall submit the work plan to the statewide advisory committee for resolution. If the statewide advisory committee recommends approval, the director must approve the work plan.

(6) If the director does not approve a work plan for a watershed within three years after receipt of funding, the provisions of section 9(2) of this act apply to the watershed.

NEW SECTION. Sec. 8. (1) Upon receipt of a report by a watershed group under section 6(2)(b) of this act that the work plan goals and benchmarks have been met, the director must consult with the statewide advisory committee. If the director concurs with the watershed group report, the watershed group shall continue to implement the work plan. If the director does not concur with the watershed group report, the director shall consult with the statewide advisory committee following the procedures in subsection (2) of this section.

(2) If either the director, following receipt of a report under subsection (1) of this section, or the watershed group, in the report submitted to the director under section 6(2)(b) of this act, concludes that the work plan goals and benchmarks for protection have not been

met, the director must consult with the statewide advisory committee for a recommendation on how to proceed. If the director, acting upon recommendation from the statewide advisory committee, determines that the watershed is likely to meet the goals and benchmarks within an additional six months of planning and implementation time, the director must grant an extension. If the director, acting upon a recommendation from the statewide advisory committee, determines that the watershed is unlikely to meet the goals and benchmarks within six months, the watershed is subject to section 9 of this act.

(3) A watershed that fails to meet its goals and benchmarks for protection within the six-month time extension under subsection (2) of this section is subject to section 9 of this act.

NEW SECTION. Sec. 9. (1) Within eighteen months after one of the events in subsection (2) of this section, a county must:

(a) Develop, adopt, and implement a watershed work plan approved by the department that protects critical areas in areas used for agricultural activities while maintaining the viability of agriculture in the watershed. The department shall consult with the departments of agriculture, ecology, and fish and wildlife and the commission, and other relevant state agencies before approving or disapproving the proposed work plan. The appeal of the department's decision under this subsection is subject to appeal under RCW 36.70A.280;

(b) Adopt development regulations previously adopted under this chapter by another local government for the purpose of protecting critical areas in areas used for agricultural activities. Regulations adopted under this subsection (1)(b) must be from a region with similar agricultural activities, geography, and geology and must: (i) Be from Clallam, Clark, King, or Whatcom counties; or (ii) have been upheld by a growth management hearings board or court after July 1, 2011, where the board or court determined that the provisions adequately protected critical areas functions and values in areas used for agricultural activities;

(c) Adopt development regulations certified by the department as protective of critical areas in areas used for agricultural activities as required by this chapter. The county may submit existing or amended regulations for certification. The department must make its decision on whether to certify the development regulations within ninety days after the county submits its request. If the department denies the certification, the county shall take an action under (a), (b), or (d) of this subsection. The department must consult with the departments of agriculture, ecology, and fish and wildlife and the commission before making a certification under this section. The appeal of the department's decision under this subsection (1)(c) is subject to appeal under RCW 36.70A.280; or

(d) Review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they relate to agricultural activities.

(2) A participating watershed is subject to this section if:

(a) The work plan is not approved by the director as provided in section 7 of this act;

(b) The work plan's goals and benchmarks for protection have not been met as provided in section 6 of this act;

(c) The commission has determined under section 10 of this act that the county, department, commission, or departments of agriculture, ecology, or fish and wildlife have not received adequate funding to implement a program in the watershed; or

(d) The commission has determined under section 10 of this act that the watershed has not received adequate funding to implement the program.

(3) The department shall adopt rules to implement subsection (1)(a) and (c) of this section.

NEW SECTION. Sec. 10. (1) By July 31, 2015, the commission must:

(a) In consultation with each county that has elected under section 4 of this act to participate in the program, determine which participating watersheds received adequate funding to establish and

implement the program in a participating watershed by July 1, 2015; and

(b) In consultation with other state agencies, for each participating watershed determine whether state agencies required to take action under the provisions of sections 1 through 15 of this act have received adequate funding to support the program by July 1, 2015.

(2) By July 31, 2017, and every two years thereafter, in consultation with each county that has elected under section 4 of this act to participate in the program and other state agencies, the commission shall determine for each participating watershed whether adequate funding to implement the program was provided during the preceding biennium as provided in subsection (1) of this section.

(3) If the commission determines under subsection (1) or (2) of this section that a participating watershed has not received adequate funding, the watershed is subject to the provisions of section 9 of this act.

(4) In consultation with the statewide advisory committee and other state agencies, not later than August 31, 2015, and each August 31st every two years thereafter, the commission shall report to the legislature and each county that has elected under section 4 of this act to participate in the program on the participating watersheds that have received adequate funding to establish and implement the program.

NEW SECTION. Sec. 11. (1)(a) From the nominations made under (b) of this subsection, the commission shall appoint a statewide advisory committee, consisting of: Two persons representing county government, two persons representing agricultural organizations, and two persons representing environmental organizations. The commission, in conjunction with the governor's office, shall also invite participation by two representatives of tribal governments.

(b) Organizations representing county, agricultural, and environmental organizations shall submit nominations of their representatives to the commission within ninety days of the effective date of this section. Members of the statewide advisory committee shall serve two-year terms except that for the first year, one representative from each of the sectors shall be appointed to the statewide advisory committee for a term of one year. Members may be reappointed by the commission for additional two-year terms and replacement members shall be appointed in accordance with the process for selection of the initial members of the statewide advisory committee.

(c) Upon notification of the commission by an appointed member, the appointed member may designate a person to serve as an alternate.

(d) The executive director of the commission shall serve as a nonvoting chair of the statewide advisory committee.

(e) Members of the statewide advisory committee shall serve without compensation and, unless serving as a state officer or employee, are not eligible for reimbursement for subsistence, lodging, and travel expenses under RCW 43.03.050 and 43.03.060.

(2) The role of the statewide advisory committee is to advise the commission and other agencies involved in development and operation of the program.

NEW SECTION. Sec. 12. (1) Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection and enhancement of critical areas.

(2) If the watershed group determines that additional or different practices are needed to achieve the work plan's goals and benchmarks, the agricultural operator may not be required to implement those practices but may choose to implement the revised practices on a voluntary basis and is eligible for funding to revise the practices.

NEW SECTION. Sec. 13. In developing stewardship practices to implement the work plan, to the maximum extent practical the watershed group should:

(1) Avoid management practices that may have unintended adverse consequences for other habitats, species, and critical areas functions and values; and

(2) Administer the program in a manner that allows participants to be eligible for public or private environmental protection and enhancement incentives while protecting and enhancing critical area functions and values.

NEW SECTION. Sec. 14. An agricultural operator participating in the program may withdraw from the program and is not required to continue voluntary measures after the expiration of an applicable contract. The watershed group must account for any loss of protection resulting from withdrawals when establishing goals and benchmarks for protection and a work plan under section 6 of this act.

NEW SECTION. Sec. 15. Nothing in sections 1 through 14 of this act may be construed to:

(1) Interfere with or supplant the ability of any agricultural operator to work cooperatively with a conservation district or participate in state or federal conservation programs;

(2) Require an agricultural operator to discontinue agricultural activities legally existing before the effective date of this section;

(3) Prohibit the voluntary sale or leasing of land for conservation purposes, either in fee or as an easement;

(4) Grant counties or state agencies additional authority to regulate critical areas on lands used for agricultural activities; and

(5) Limit the authority of a state agency, local government, or landowner to carry out its obligations under any other federal, state, or local law.

Sec. 16. RCW 36.70A.130 and 2010 c 216 s 1 and 2010 c 211 s 2 are each reenacted and amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section.

(b) Except as otherwise provided, a county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefor.

(c) The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(d) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter. Any amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year. "Updates" means to review and revise, if needed, according to subsection (1) of

this section, and the deadlines in subsections (4) and (5) of this section or in accordance with the provisions of subsection (6) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan. Subarea plans adopted under this subsection (2)(a)(i) must clarify, supplement, or implement jurisdiction-wide comprehensive plan policies, and may only be adopted if the cumulative impacts of the proposed plan are addressed by appropriate environmental review under chapter 43.21C RCW;

(ii) The development of an initial subarea plan for economic development located outside of the one hundred year floodplain in a county that has completed a state-funded pilot project that is based on watershed characterization and local habitat assessment;

(iii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW;

(iv) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget; or

(v) The adoption of comprehensive plan amendments necessary to enact a planned action under RCW 43.21C.031(2), provided that amendments are considered in accordance with the public participation program established by the county or city under this subsection (2)(a) and all persons who have requested notice of a comprehensive plan update are given notice of the amendments and an opportunity to comment.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with the growth management hearings board or with the court.

(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) Except as provided in subsection (6) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2004, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln,

Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5) Except as otherwise provided in subsections (6) and (8) of this section, following the review of comprehensive plans and development regulations required by subsection (4) of this section, counties and cities shall take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter as follows:

(a) On or before December 1, 2014, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2015, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2016, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2017, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(6)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the deadlines established in subsections (4) and (5) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) A county that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The county has a population of less than fifty thousand and has had its population increase by no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(c) A city that is subject to a deadline established in subsection (4)(b) through (d) of this section and meets the following criteria may comply with the requirements of this section at any time within the thirty-six months following the deadline established in subsection (4) of this section: The city has a population of no more than five thousand and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in subsection (4) of this section as of that date.

(d) A county or city that is subject to a deadline established in subsection (4)(d) of this section and that meets the criteria established in subsection (6)(b) or (c) of this section may comply with the requirements of subsection (4)(d) of this section at any time within the thirty-six months after the extension provided in subsection (6)(b) or (c) of this section.

(e) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(7)(a) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities that meet the following criteria may receive grants, loans, pledges, or financial guarantees under chapter 43.155 or 70.146 RCW:

(i) Complying with the deadlines in this section;

(ii) Demonstrating substantial progress towards compliance with the schedules in this section for development regulations that protect critical areas; or

(iii) Complying with the extension provisions of subsection (6)(b), (c), or (d) of this section.

(b) A county or city that is fewer than twelve months out of compliance with the schedules in this section for development regulations that protect critical areas is making substantial progress towards compliance. Only those counties and cities in compliance with the schedules in this section may receive preference for grants or loans subject to the provisions of RCW 43.17.250.

(8)(a) Except as otherwise provided in (c) of this subsection, if a participating watershed is achieving benchmarks and goals for the protection of critical areas functions and values, the county is not required to update development regulations to protect critical areas as they specifically apply to agricultural activities in that watershed.

(b) A county that has made the election under section 4(1) of this act may only adopt or amend development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed if:

(i) A work plan has been approved for that watershed in accordance with section 7 of this act;

(ii) The local watershed group for that watershed has requested the county to adopt or amend development regulations as part of a work plan developed under section 6 of this act;

(iii) The adoption or amendment of the development regulations is necessary to enable the county to respond to an order of the growth management hearings board or court;

(iv) The adoption or amendment of development regulations is necessary to address a threat to human health or safety; or

(v) Three or more years have elapsed since the receipt of funding.

(c) Beginning ten years from the date of receipt of funding, a county that has made the election under section 4(1) of this act must review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed in accordance with the review and revision requirements and timeline in subsection (5) of this section. This subsection (8)(c) does not apply to a participating watershed that has determined under section 6(2)(c)(ii) of this act that the watershed's goals and benchmarks for protection have been met.

Sec. 17. RCW 36.70A.280 and 2010 c 211 s 7 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040 or chapter 90.58 RCW. Nothing in this subsection authorizes the board to hear petitions alleging noncompliance with RCW 36.70A.5801; ((e))

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted;

~~(c) That the approval of a work plan adopted under section 9(1)(a) of this act is not in compliance with the requirements of the program established under section 4 of this act;~~

~~(d) That regulations adopted under section 9(1)(b) of this act are not regionally applicable and cannot be adopted, wholly or partially, by another jurisdiction; or~~

~~(e) That a department certification under section 9(1)(c) of this act is erroneous.~~

(2) A petition may be filed only by: (a) The state, or a county or city that plans under this chapter; (b) a person who has participated orally or in writing before the county or city regarding the matter on which a review is being requested; (c) a person who is certified by the

governor within sixty days of filing the request with the board; or (d) a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, state agency, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) To establish participation standing under subsection (2)(b) of this section, a person must show that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

(5) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, the board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by the board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by the board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as the "board adjusted population projection." None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

NEW SECTION. Sec. 18. Sections 1 through 15 of this act are each added to chapter 36.70A RCW under the subchapter heading "voluntary stewardship program."

NEW SECTION. Sec. 19. A new section is added to chapter 43.21C RCW to read as follows:

(1) Decisions made under section 6 of this act pertaining to work plans, as defined in section 2 of this act, are not subject to the requirements of RCW 43.21C.030(2)(c).

(2) Decisions made by a county under section 4 of this act on whether to participate in the voluntary stewardship program established by section 3 of this act are not subject to the requirements of RCW 43.21C.030(2)(c).

NEW SECTION. Sec. 20. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 21. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

On page 1, line 3 of the title, after "2007;" strike the remainder of the title and insert "amending RCW 36.70A.280; reenacting and amending RCW 36.70A.130; adding new sections to chapter 36.70A RCW; adding a new section to chapter 43.21C RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL

AS SENATE AMENDED

Representatives Takko and Angel spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1886, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1886, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 92; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Crouse, Dammeier, Darneille, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jenkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Condotta, Dahlquist, DeBolt, Orcutt and Rivers.

Excused: Representative Santos.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1886, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 7, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922 with the following amendment:

On page 2, line 6, after "purposes" strike "in the counties described in subsection (5) of this section"

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Shea and Billig spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1922, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1922, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Hargrove, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Overstreet, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Excused: Representative Santos.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1922, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 9, 2011

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1933 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.18.220 and 2010 c 161 s 617 are each amended to read as follows:

(1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a collector vehicle license plate for a motor vehicle that is at least thirty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) Purchase a registration for the motor vehicle as required under chapters ~~(46.16)~~ 46.16A and 46.17 RCW; and

(b) Pay the special license plate fee established under RCW 46.17.220(1)(d), in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide ((a)) an actual Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle;

(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates under subsection (2)(b) of this section may be transferred from one motor vehicle to another motor vehicle described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Any person who knowingly provides a false or facsimile license plate under subsection (2)(b) of this section is subject to a traffic infraction and fine in an amount equal to the monetary penalty for a violation of RCW 46.16A.200(7)(b). Additionally, the person must pay for the cost of a collector vehicle license plate as listed in RCW 46.17.220(1)(d), unless already paid.

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.18 RCW to read as follows:

The department must provide a method by which law enforcement officers may readily access vehicle information for collector vehicles by using the collector vehicle license plate number. In the event duplicate license plate numbers have been issued to more than one collector vehicle, the department must provide a method for law enforcement officers to identify the correct vehicle.

NEW SECTION. **Sec. 3.** Section 1 of this act takes effect August 1, 2011.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect January 1, 2012."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "certain collector vehicle license plate provisions; amending RCW 46.18.220; adding a new section to chapter 46.18 RCW; prescribing penalties; and providing effective dates."

and the same is herewith transmitted.

Thomas Hoeman, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1933 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Finn and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1933, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1933, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 95; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Buys, Carlyle, Chandler, Clibborn, Cody, Condotta, Crouse, Dahlquist, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Fagan, Finn, Fitzgibbon, Frockt, Goodman, Green, Haigh, Haler, Harris, Hasegawa, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Klippert, Kretz, Kristiansen, Ladenburg, Liias, Lytton, Maxwell, McCoy, McCune, Miloscia, Moeller, Morris, Moscoso, Nealey, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Probst, Reykdal, Rivers, Roberts, Rodne, Rolfes, Ross, Ryu, Schmick, Seaquist, Sells, Shea, Short, Smith, Springer, Stanford, Sullivan, Takko, Taylor, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wilcox, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Hargrove and Overstreet.

Excused: Representative Santos.

SUBSTITUTE HOUSE BILL NO. 1933, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute House Bill No. 1933.
Representative Pearson, 39th District

THIRD READING

MESSAGE FROM THE SENATE

April 9, 2011

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.58.2795 and 1994 c 158 s 6 are each amended to read as follows:

By (~~April~~) September 1st of each year, the legislative authority of each municipality, as defined in RCW 35.58.272, and each regional transit authority shall prepare a six-year transit development plan for that calendar year and the ensuing five years. The program shall be consistent with the comprehensive plans adopted by counties, cities, and towns, pursuant to chapter 35.63, 35A.63, or 36.70 RCW, the inherent authority of a first-class city or charter county derived from its charter, or chapter 36.70A RCW. The program shall contain information as to how the municipality intends to meet state and local long-range priorities for public transportation, capital improvements, significant operating changes planned for the system, and how the municipality intends to fund program needs. The six-year plan for each municipality and regional transit authority shall specifically set forth those projects of regional significance for inclusion in the transportation improvement program within that region. Each municipality and regional transit authority shall file the six-year program with the state department of transportation, the transportation improvement board, and cities, counties, and regional planning councils within which the municipality is located.

In developing its program, the municipality and the regional transit authority shall consider those policy recommendations affecting public transportation contained in the state transportation policy plan approved by the state transportation commission and, where appropriate, adopted by the legislature. The municipality shall conduct one or more public hearings while developing its program and for each annual update.

Sec. 2. RCW 35.58.2796 and 2005 c 319 s 101 are each amended to read as follows:

(1) The department of transportation shall develop an annual report summarizing the status of public transportation systems in the state for the previous calendar year. By (~~September~~) December 1st of each year, (~~copies of~~) the report (~~shall be submitted~~) must be made available to the transportation committees of the legislature and to each municipality, as defined in RCW 35.58.272, and to individual members of the municipality's legislative authority.

(2) To assist the department with preparation of the report, each municipality shall file a system report by (~~April~~) September 1st of each year with the state department of transportation identifying its public transportation services for the previous calendar year and its objectives for improving the efficiency and effectiveness of those services. The system report shall address those items required for each public transportation system in the department's report.

(3) The department report shall describe individual public transportation systems, including contracted transportation services

and dial-a-ride services, and include a statewide summary of public transportation issues and data. The descriptions shall include the following elements and such other elements as the department deems appropriate after consultation with the municipalities and the transportation committees of the legislature:

((~~4~~)) (a) Equipment and facilities, including vehicle replacement standards;

((~~2~~)) (b) Services and service standards;

((~~3~~)) (c) Revenues, expenses, and ending balances, by fund source;

((~~4~~)) (d) Policy issues and system improvement objectives, including community participation in development of those objectives and how those objectives address statewide transportation priorities;

((~~5~~)) (e) Operating indicators applied to public transportation services, revenues, and expenses. Operating indicators shall include operating cost per passenger trip, operating cost per revenue vehicle service hour, passenger trips per revenue service hour, passenger trips per vehicle service mile, vehicle service hours per employee, and farebox revenue as a percent of operating costs.

(4) To the extent that information is available, the department report must include descriptive information on any other modes of public transportation, the impact of public transportation on transportation system performance, and how public transportation helps the state meet the transportation system policy goals described in RCW 47.04.280.

NEW SECTION. Sec. 3. A new section is added to chapter 43.19 RCW to read as follows:

New state facilities, to be located within the boundaries of a public transportation system identified under RCW 82.14.045, may only be sited after the department has consulted with the respective public transportation system to ensure that the new state facilities are located in an area that is adequately accessible by transit service."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "modifying provisions related to public transportation system planning; amending RCW 35.58.2795 and 35.58.2796; and adding a new section to chapter 43.19 RCW."

and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Fitzgibbon and Armstrong spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1967, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1967, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 70; Nays, 27; Absent, 0; Excused, 1.

Voting yea: Representatives Anderson, Angel, Appleton, Armstrong, Asay, Bailey, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Finn, Fitzgibbon,

Froct, Goodman, Green, Haigh, Hasegawa, Hope, Hudgins, Hunt, Hunter, Hurst, Jinkins, Johnson, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Nealey, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rodne, Rolfes, Ross, Ryu, Seaquist, Sells, Smith, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Walsh, Warnick, Wylie, Zeiger and Mr. Speaker.

Voting nay: Representatives Ahern, Alexander, Buys, Chandler, Condotta, Crouse, Dahlquist, Dammeier, Fagan, Haler, Hargrove, Harris, Hinkle, Klippert, Kretz, Kristiansen, McCune, Orcutt, Overstreet, Parker, Pearson, Rivers, Schmick, Shea, Short, Taylor and Wilcox.

Excused: Representative Santos.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1967, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MOTION

Representative Ross made a motion to advance to the eighth order of business.

The Speaker (Representative Moeller presiding) stated the question before the House to be the adoption of the motion to advance to the eighth order of business and the motion failed by the following vote: Yeas, 43; Nays, 54; Not Voting, 0; Excused, 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Angel, Armstrong, Asay, Bailey, Buys, Chandler, Condotta, Crouse, Dahlquist, Dammeier, DeBolt, Fagan, Haler, Hargrove, Harris, Hinkle, Hope, Johnson, Klippert, Kretz, Kristiansen, McCune, Morris, Nealey, Orcutt, Overstreet, Parker, Pearson, Rivers, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh, Warnick, Wilcox and Zeiger.

Voting Nay: Representatives Appleton, Billig, Blake, Carlyle, Clibborn, Cody, Darneille, Dickerson, Dunshee, Eddy, Finn,

Fitzgobbon, Froct, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hurst, Jinkins, Kagi, Kelley, Kenney, Kirby, Ladenburg, Lias, Lytton, Maxwell, McCoy, Miloscia, Moeller, Morris, Moscoso, Ormsby, Orwall, Pedersen, Pettigrew, Probst, Reykdal, Roberts, Rolfes, Ryu, Seaquist, Sells, Springer, Stanford, Sullivan, Takko, Tharinger, Upthegrove, Van De Wege, Wylie and Mr. Speaker.

Excused: Representative Santos.

There being no objection, the House advanced to the eleventh order of business.

COMMITTEE APPOINTMENTS

The Speaker (Representative Moeller presiding) announced the following committee appointments;

Representative Wylie was appointed to the Committee on Environment, Committee on Higher Education and the Committee on Technology, Energy & Communications.

There being no objection, the House adjourned until 10:00 a.m., April 15, 2011, the 96th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

1040	Final Passage	18
	Other Action	18
	Messages	17
1084-S	Final Passage	19
	Other Action	18
	Messages	18
1089-S	Final Passage	20
	Other Action	20
	Messages	19
1103-S	Final Passage	21
	Other Action	20
	Messages	20
1135-S	Final Passage	53
	Other Action	53
	Messages	53
1170-S	Final Passage	57
	Other Action	57
	Messages	53
1178	Final Passage	23
	Other Action	22
	Messages	21
1188-S	Final Passage	60
	Other Action	60
	Messages	57
1257-S	Final Passage	61
	Other Action	61
	Messages	60
1328-S	Final Passage	63
	Other Action	62
	Messages	61
1334	Final Passage	25
	Other Action	25
	Messages	23
1405-S2	Final Passage	26
	Other Action	26
	Messages	25
1407	Final Passage	27
	Other Action	26
	Messages	26
1494-S	Final Passage	53
	Other Action	52
	Messages	50
	Colloquy	52
1516	Other Action	14
	Messages	11
1547	Other Action	50
	Messages	49
1634-S2	Final Passage	68
	Other Action	67

Messages	63
Colloquy	68
1663-S	
Final Passage	28
Other Action	27
Messages	27
1718-S	
Final Passage	28
Other Action	28
Messages	28
1761-S	
Final Passage	29
Other Action	29
Messages	29
1775	
Other Action	17
Messages	14
1783-S	
Final Passage	30
Other Action	30
Messages	29
1789-S2	
Final Passage	38
Other Action	37
Messages	30
1811-S	
Final Passage	39
Other Action	38
Messages	38
1829-S	
Final Passage	69
Other Action	69
Messages	68
1858-S	
Final Passage	39
Other Action	39
Messages	39
1861-S	
Final Passage	40
Other Action	40
Messages	39
1864-S	
Final Passage	49
Other Action	48
Messages	40
1886-S	
Final Passage	74
Other Action	74
Messages	69
1902-S	
Final Passage	49
Other Action	49
Messages	49
1922-S	
Final Passage	75
Other Action	75
Messages	74
1933-S	
Final Passage	76
Other Action	75
Messages	75
1967-S	
Final Passage	77
Other Action	76
Messages	76
2085	

Introduction & 1st Reading 1
2086
Introduction & 1st Reading 1
2087
Introduction & 1st Reading 1
2088
Introduction & 1st Reading 1
2089
Introduction & 1st Reading 1
2090
Introduction & 1st Reading 2
2091
Introduction & 1st Reading 2
2092
Introduction & 1st Reading 2
2093
Introduction & 1st Reading 2
2094
Introduction & 1st Reading 2
2095
Introduction & 1st Reading 2
2096
Introduction & 1st Reading 2
2097
Introduction & 1st Reading 2
2098
Introduction & 1st Reading 2
2099
Introduction & 1st Reading 2
HOUSE OF REPRESENTATIVES (Representative Moeller presiding)
Committee Appointments.....77
Message from County Commissioners 49th District 1
Oath of Office Sharon Wylie 1
Statement for the Journal Representative Johnson 30
Statement for the Journal Representative Pearson 76
SPEAKER OF THE HOUSE (Representative Moeller presiding)
Speaker’s Privilege Sharon Wylie 1