

ONE HUNDRED THIRD DAY

NOON SESSION

Senate Chamber, Olympia  
Friday, April 26, 2019

The Senate was called to order at 12:04 p.m. by the President of the Senate, Lt. Governor Habib presiding. The Secretary called the roll and announced to the President that all senators were present.

The Sergeant at Arms Color Guard consisting of Pages Miss Elizabeth Marsh and Miss Caitlyn Wilson, presented the Colors. Page Miss Cheyne Mooney led the Senate in the Pledge of Allegiance.

The prayer was offered by Reverend Clint Collins, First Christian Church (Disciples of Christ) of Bremerton.

The President called upon the Secretary to read the journal of the preceding day.

MOTION

On motion of Senator Kuderer the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

Pursuant to Rule 46, on motion of Senator Kuderer and without objection, the Committee on Ways & Means was granted special leave to meet during the day's floor session.

MOTION

On motion of Senator Kuderer, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION TO LIMIT DEBATE

Pursuant to Rule 29, on motion of Senator Kuderer and without objection, senators were limited to speaking but once and for no more than three minutes on each question under debate for the remainder of the day by voice vote.

MOTION

There being no objection, the Senate advanced to the first order of business.

REPORTS OF STANDING COMMITTEES

April 25, 2019

I 1000 Prime Sponsor, : Concerning diversity, equity, and inclusion. Reported by Committee on State Government, Tribal Relations & Elections

MAJORITY recommendation: Do pass. Signed by Senators Kuderer, Vice Chair; Hunt, Chair; Hasegawa and Takko.

MINORITY recommendation: That it be referred without recommendation. Signed by Senator Zeiger, Ranking Member.

MINORITY recommendation: Do not pass. Signed by Senators Bailey and Hawkins.

Referred to Committee on Rules for second reading.

April 24, 2019

ESHB 1793 Prime Sponsor, Committee on Transportation: Establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety. Reported by Committee on Transportation

MAJORITY recommendation: Do pass. Signed by Senators Saldaña, Vice Chair; Cleveland; Das; Lovelett; Nguyen; Randall; Wilson, C. Hobbs, Chair.

MINORITY recommendation: Do not pass. Signed by Senators King, Ranking Member; Sheldon, Assistant Ranking Member; Fortunato; O'Ban; Padden and Zeiger.

Referred to Committee on Rules for second reading.

MOTION

On motion of Senator Kuderer, all measures listed on the Standing Committee report were referred to the committees as designated.

MOTION

On motion of Senator Kuderer, the Senate advanced to the fourth order of business.

MESSAGES FROM THE HOUSE

April 25, 2019

MR. PRESIDENT:  
The Speaker has signed:

- HOUSE BILL NO. 1016,
- SUBSTITUTE HOUSE BILL NO. 1083,
- SUBSTITUTE HOUSE BILL NO. 1155,
- ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1324,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1593,
- SECOND SUBSTITUTE HOUSE BILL NO. 1767,
- SECOND SUBSTITUTE HOUSE BILL NO. 1907,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1923,
- ENGROSSED HOUSE BILL NO. 2067,
- HOUSE BILL NO. 2144,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 25, 2019

MR. PRESIDENT:  
The Speaker has signed:

- SENATE BILL NO. 5054,
- SENATE BILL NO. 5179,

SENATE BILL NO. 5260,  
 SUBSTITUTE SENATE BILL NO. 5266,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5272,  
 ENGROSSED SECOND SUBSTITUTE  
 SENATE BILL NO. 5284,  
 SECOND SUBSTITUTE SENATE BILL NO. 5287,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5298,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5318,  
 SUBSTITUTE SENATE BILL NO. 5324,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5330,  
 ENGROSSED SECOND SUBSTITUTE  
 SENATE BILL NO. 5356,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5410,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5418,  
 SUBSTITUTE SENATE BILL NO. 5425,  
 ENGROSSED SENATE BILL NO. 5429,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### MOTION

On motion of Senator Kuderer, the Senate advanced to the fifth order of business.

#### INTRODUCTION AND FIRST READING

SHB 2159 by House Committee on Appropriations  
 (originally sponsored by Ormsby)

AN ACT Relating to making expenditures from the budget stabilization account for declared catastrophic events; creating a new section; making an appropriation; and declaring an emergency.

Referred to Committee on Ways & Means.

#### MOTION

On motion of Senator Kuderer, the measure listed on the Introduction and First Reading report was referred to the committee as designated.

#### PERSONAL PRIVILEGE

Senator Cleveland: "Thank you Mr. President. Well, this is a particularly bittersweet point of personal privilege for me today. My legislative aide, Vickie Winters, is retiring at the end of this legislative session after twenty-seven years of unwavering service here in the Legislature, both in the House and the Senate. Vickie spent the last six of those years here with me, supporting and serving the constituents of the Forty-ninth Legislative District. Throughout the past six years, Vickie has tirelessly worked to help me be as successful as possible on behalf of the constituents of the 49<sup>th</sup>. When I am not in the office I always know that things are in good hands with Vickie. You know, when the phone rings I know whoever is calling is going to be handled professionally, handled very capably with great caring. And things get extremely busy, I know that Vickie's always going to find a way to keep things sane and, more importantly, organized – I may need a little bit of help with organization at times. Vickie has really been that stable foundation that keeps my office running smoothly and I have to share that I am going to miss her terribly. Vickie has just a huge and caring heart and she gives herself in everything that she does and I have to tell you that the people of the state of Washington have been the beneficiaries of that. Our state is losing a very dedicated and experienced public servant who's given countless, served countless people here, and in multiple

legislative districts, for decades now. So I want to just briefly share a bit of the highlights of Vickie's career here. Vickie began her career working in the House Office of Program Research in 1992 and at that time she staffed Representative Stan Fleming from the Twenty-eighth Legislative District. She, during that same period, also helped to staff Senator Keiser, then-Representative Karen Keiser at the time, and Representative Helen Sommers in the Thirty-sixth Legislative District on a part-time basis. But she went on over the next two decades to lend her skills to the Nineteenth Legislative District. First staffing Senators Syd Snyder and Mark Doumit and Brian Hatfield. Vickie has, obviously, worked for some of our most respected past leaders here in the Legislature. And you know what? As a result, she's a veteran with an unparalleled skills, institutional memory and a very deep respect for our Legislature. So, I believe Vickie's devotion to service should be a real example for all of us. In fact, I have to share, this past winter when we experienced that record snowfall, she stayed here in the office making sure that no work went left undone. I could not have asked for a better partner in the work that we've shared over the past six years. And while as I said I am going to miss her terribly, I am really excited for her to enter this really new, hard-earned, well-deserved phase of her life as a retiree. Mr. President, on behalf of myself, and on behalf of the countless Washingtonians that have been helped and served by Vickie, I just want to say, thank you. Finally, I want to end with a quote from Mr. Fred Rogers who said, 'Often, when you think you are at the end of something, you're at the beginning of something else.' So as Vickie embarks on the beginning of her something else, I hope she know that she carries with her my best wishes, our best wishes, and our sincere gratitude for her hard work and a job well done. So, thank you."

The senate rose and recognized Ms. Vickie Winters, Legislative Aide, for her years of service, who was present in the gallery.

The President announced a reception in honor of Ms. Winters in the Senate Rules Room immediately upon going at ease.

#### MOTION

At 12:18 p.m., the President declared the Senate to be at ease subject to the call of the President.

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The Senate was called to order at 2:26 p.m. by President Habib.

#### SUPPLEMENTAL INTRODUCTION AND FIRST READING

ESCR 8405 by Senator Liias  
 Amending the cutoff resolution.

Placed on 2<sup>nd</sup> Reading Calendar.

#### MOTION

On motion of Senator Liias, the measure listed on the Introduction and First Reading report was placed on the day's calendar as designated.

#### MOTION

On motion of Senator Schoesler, Senator Ericksen was excused.

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MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 26, 2019

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1195,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1667,

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MESSAGE FROM THE HOUSE

April 9, 2019

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5290 with the following amendment(s): 5290-S2.E AMH ENGR H2423.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that it is a goal of our state to divert juveniles who have committed status offenses, behaviors that are prohibited under law only because of an individual's status as a minor, away from the juvenile justice system because a stay in detention is a predictive factor for future criminal justice system involvement. The legislature finds that Washington has been using the valid court order exception of the juvenile justice and delinquency prevention act, a loophole in federal law allowing judges to detain status offenders for disobeying court orders, more than any other state in the country. The legislature finds that use of the valid court order exception to detain youth for acts like truancy, breaking curfew, or running away from home is counterproductive and may worsen outcomes for at-risk youth.

(2) The legislature further finds that these youth should not be confined with or treated with the same interventions as criminal offenders. The legislature also finds that studies show a disproportionality in race, gender, and socioeconomic status of youth referred to courts or detained, or both. Likewise, the legislature finds that community-based interventions are more effective at addressing underlying causes of status offenses than detention and can reduce court caseloads and lower system costs. As a result, it is the intent of the legislature to strengthen and fund community-based programs that are culturally relevant and focus on addressing disproportionality of youth of color, especially at-risk youth.

**NEW SECTION. Sec. 2.** A new section is added to chapter 7.21 RCW to read as follows:

(1) It is the policy of the state of Washington to eliminate the use of juvenile detention as a remedy for contempt of a valid court order for youth under chapters 13.34 and 28A.225 RCW and child in need of services petition youth under chapter 13.32A RCW. As of July 1, 2019, such youth may not be committed to juvenile detention as a contempt sanction under chapter 13.32A, 13.34, or 28A.225 RCW, and a warrant may not be issued for such youth for failure to appear at a court hearing that requires commitment of such youth to juvenile detention.

(2)(a) It is also the policy of the state of Washington to entirely

phase out the use of juvenile detention as a remedy for contempt of a valid court order for at-risk youth under chapter 13.32A RCW by July 1, 2022. After this date, at-risk youth may not be committed to juvenile detention as a contempt sanction under chapter 13.32A RCW, and a warrant may not be issued for failure to appear at a court hearing that requires commitment of the at-risk youth to juvenile detention.

(b) Until July 1, 2022, any at-risk youth committed to juvenile detention as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, must be detained in such a manner so that no direct communication or physical contact may be made between the youth and any youth who is detained to juvenile detention pursuant to a violation of criminal law, unless these separation requirements would result in a youth being detained in solitary confinement.

(c) After July 1, 2022, at-risk youth may be committed to a secure residential program with intensive wraparound services, subject to the requirements under RCW 13.32A.250, as a remedial sanction for contempt under chapter 13.32A RCW or for failure to appear at a court hearing under chapter 13.32A RCW.

**Sec. 3.** RCW 7.21.030 and 2001 c 260 s 6 are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter(§) 13.32A(~~(, 13.34, and 28A.225)~~) RCW and subject to the requirements under RCW 13.32A.250, commitment to juvenile detention for a period of time not to exceed (~~seven days~~) seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction.

(ii) Until July 1, 2022, prior to committing any at-risk youth to juvenile detention as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, the court must:

(A) Consider, on-the-record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate

alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) Until July 1, 2022, detention periods for at-risk youth sanctioned to juvenile detention for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, shall be:

(A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and

(B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.

(iv) Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

**Sec. 4.** RCW 7.21.030 and 2019 c ... s 3 (section 3 of this act) are each amended to read as follows:

(1) The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court in the proceeding to which the contempt is related. Except as provided in RCW 7.21.050, the court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

(2) If the court finds that the person has failed or refused to perform an act that is yet within the person's power to perform, the court may find the person in contempt of court and impose one or more of the following remedial sanctions:

(a) Imprisonment if the contempt of court is of a type defined in RCW 7.21.010(1) (b) through (d). The imprisonment may extend only so long as it serves a coercive purpose.

(b) A forfeiture not to exceed two thousand dollars for each day the contempt of court continues.

(c) An order designed to ensure compliance with a prior order of the court.

(d) Any other remedial sanction other than the sanctions specified in (a) through (c) of this subsection if the court expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

(e)(i) In at-risk youth petition cases only under chapter 13.32A RCW, and subject to the requirements under RCW 13.32A.250, commitment to ~~((juvenile detention for a period of time not to exceed seventy-two hours, excluding Saturdays, Sundays, and holidays. The seventy-two hour period shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period. This sanction may be imposed in addition to, or as an alternative to, any other remedial sanction authorized by this chapter. This remedy is specifically determined to be a remedial sanction))~~ a secure residential program with intensive wraparound services.

(ii) ~~((Until))~~ Beginning July 1, 2022, prior to committing any at-risk youth to ~~((juvenile detention))~~ a secure residential program

with intensive wraparound services as a sanction for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, the court must:

(A) Consider, on-the-record, the mitigating and aggravating factors used to determine the appropriateness of detention for enforcement of its order;

(B) Enter written findings affirming that it considered all less restrictive options, that detention is the only appropriate alternative, including its rationale and the clear, cogent, and convincing evidence used to enforce the order;

(C) Afford the same due process considerations that it affords all youth in criminal contempt proceedings; and

(D) Seek input from all relevant parties, including the youth.

(iii) ~~((Until July 1, 2022, detention periods for at-risk youth sanctioned to juvenile detention for contempt under chapter 13.32A RCW, or for failure to appear at a court hearing under chapter 13.32A RCW, shall be:~~

~~((A) No more than seventy-two hours, regardless of the number of violations being considered at the hearing; and~~

~~((B) Limited to no more than two sanctions, up to seventy-two hours each, in any thirty-day period.~~

~~((iv))~~ Nothing in this subsection (2)(e) or in RCW 13.32A.250, 13.34.165, or 28A.225.090 shall be construed to limit the court's inherent contempt power or curtail its exercise.

(3) The court may, in addition to the remedial sanctions set forth in subsection (2) of this section, order a person found in contempt of court to pay a party for any losses suffered by the party as a result of the contempt and any costs incurred in connection with the contempt proceeding, including reasonable attorney's fees.

(4) If the court finds that a person under the age of eighteen years has willfully disobeyed the terms of an order issued under chapter 10.14 RCW, the court may find the person in contempt of court and may, as a sole sanction for such contempt, commit the person to juvenile detention for a period of time not to exceed seven days.

**Sec. 5.** RCW 13.32A.250 and 2000 c 162 s 14 are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement for up to ~~((seven days))~~ seventy-two hours, or both for contempt of court under this section if (A) one of the less restrictive alternatives

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under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.

~~((4))~~ (ii) A child placed in confinement for contempt under this section shall be placed in confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county.

~~((5))~~ (c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

~~((6))~~ (5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention. ((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

**Sec. 6.** RCW 13.32A.250 and 2019 c ... s 5 (section 5 of this act) are each amended to read as follows:

(1) In all child in need of services proceedings and at-risk youth proceedings, the court shall verbally notify the parents and the child of the possibility of a finding of contempt for failure to comply with the terms of a court order entered pursuant to this chapter and the possible consequences thereof, including confinement when applicable. Except as otherwise provided in this section, the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section.

(2) Failure by a party in an at-risk youth proceeding to comply with an order entered under this chapter is a civil contempt of court as provided in RCW 7.21.030(2)(e), subject to the limitations of subsection (3) of this section.

(3) For at-risk youth proceedings only:

(a) If the child fails to comply with the court order, the court may impose:

(i) Community restitution;

(ii) Residential and nonresidential programs with intensive wraparound services;

(iii) A requirement that the child meet with a mentor for a specified number of times; or

(iv) Other services and interventions that the court deems appropriate.

~~(b)(i) The court may impose remedial sanctions including a fine of up to one hundred dollars and confinement ((for up to seventy-two hours)) to a secure residential program with intensive wraparound services, or both, for contempt of court under this section if (A) one of the less restrictive alternatives under (a) of this subsection has been attempted and another violation of the order has occurred, or (B) the court issues a formal finding that none of the less restrictive alternatives is available. ((The seventy-two hour period excludes Saturdays, Sundays, and holidays and shall commence upon the next nonholiday weekday following the court order and shall run to the end of the last nonholiday weekday within the seventy-two hour period.))~~

(ii) A child placed in confinement for contempt under this section ((shall)) may be placed in ((confinement only in a secure juvenile detention facility operated by or pursuant to a contract with a county)) a secure crisis residential center as defined in RCW 13.32A.030, or any program approved by the department offering secure confinement and intensive wraparound services appropriate to the needs of the child. The child may not be placed in a detention facility as defined in RCW 13.40.020. Secure residential programs with intensive wraparound services as used in this section may be defined as secure juvenile correctional facilities for the purposes of federal law only.

(c) A child involved in a child in need of services proceeding may not be placed in confinement under this section.

(4) A motion for contempt may be made by a parent, a child, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order adopted pursuant to this chapter.

(5) For at-risk youth proceedings only, whenever the court finds probable cause to believe, based upon consideration of a motion for contempt and the information set forth in a supporting declaration, that a child has violated a placement order entered under this chapter, the court must direct the court clerk to command the presence of the child by the issuance of a summons or other method approved by local court rule instead of a warrant, unless the court finds probable cause to believe that the child would not appear in response to the command or finds probable cause to believe that the arrest is necessary to prevent serious bodily harm to the juvenile or another, in which case the court may issue a warrant. A warrant of arrest must be supported by an affidavit or sworn testimony, which must be recorded electronically or by stenographer, establishing the grounds for issuing the warrant. The warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present if the child named in the warrant is a pupil at the school. The court must communicate the summons to the child through mail, telephone, text message, or other method of communication needed in order to ensure the child has received the information. If the child fails to appear via the summons or other method, the court may issue an order directing law enforcement to pick up and take the child to detention.

(6) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

**Sec. 7.** RCW 13.32A.150 and 2000 c 123 s 17 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the juvenile court shall not accept the filing of a child in need of services

petition by the child or the parents or the filing of an at-risk youth petition by the parent, unless verification is provided that the department has completed a family assessment. The family assessment shall involve the multidisciplinary team if one exists. The family assessment or plan of services developed by the multidisciplinary team shall be aimed at family reconciliation, reunification, and avoidance of the out-of-home placement of the child. ~~((If the department is unable to complete an assessment within two working days following a request for assessment the child or the parents may proceed under subsection (2) of this section or the parent may proceed under RCW 13.32A.191.))~~

(2) A child or a child's parent may file with the juvenile court a child in need of services petition to approve an out-of-home placement for the child before completion of a family assessment. The department shall, when requested, assist either a parent or child in the filing of the petition. The petition must be filed in the county where the parent resides. The petition shall allege that the child is a child in need of services and shall ask only that the placement of a child outside the home of his or her parent be approved. The filing of a petition to approve the placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent, and confers upon the court a special jurisdiction to approve or disapprove an out-of-home placement under this chapter.

(3) A petition may not be filed if the child is the subject of a proceeding under chapter 13.34 RCW.

**Sec. 8.** RCW 13.34.165 and 2000 c 122 s 21 are each amended to read as follows:

(1) Failure by a party to comply with an order entered under this chapter is civil contempt of court as provided in RCW 7.21.030(2)((~~+~~)).

~~(2) ((The maximum term of confinement that may be imposed as a remedial sanction for contempt of court under this section is confinement for up to seven days.~~

~~(3) A child held for contempt under this section shall be confined only in a secure juvenile detention facility operated by or pursuant to a contract with a county.~~

~~(4)) A motion for contempt may be made by a parent, juvenile court personnel, or by any public agency, organization, or person having custody of the child under a court order entered pursuant to this chapter.~~

~~((~~5~~)) (3)(a) Subject to (b) of this subsection, whenever the court finds probable cause to believe, based upon consideration of a motion ((for contempt)) and the information set forth in a supporting declaration, that a child ((has violated a placement order entered under this chapter)) is missing from care, the court may issue an order directing law enforcement to pick up and ((take)) return the child to ((detention)) department custody. ((The order may be entered ex parte without prior notice to the child or other parties. Following the child's admission to detention, a detention review hearing must be held in accordance with RCW 13.32A.065.))~~

~~(b) If the department is notified of the child's whereabouts and authorizes the child's location, the court must withdraw the order directing law enforcement to pick up and return the child to department custody.~~

~~(4) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.~~

**Sec. 9.** RCW 28A.225.090 and 2017 c 291 s 5 are each amended to read as follows:

(1) A court may order a child subject to a petition under RCW 28A.225.035 to do one or more of the following:

(a) Attend the child's current school, and set forth minimum attendance requirements, which shall not consider a suspension

day as an unexcused absence;

(b) If there is space available and the program can provide educational services appropriate for the child, order the child to attend another public school, an alternative education program, center, a skill center, dropout prevention program, or another public educational program;

(c) Attend a private nonsectarian school or program including an education center. Before ordering a child to attend an approved or certified private nonsectarian school or program, the court shall: (i) Consider the public and private programs available; (ii) find that placement is in the best interest of the child; and (iii) find that the private school or program is willing to accept the child and will not charge any fees in addition to those established by contract with the student's school district. If the court orders the child to enroll in a private school or program, the child's school district shall contract with the school or program to provide educational services for the child. The school district shall not be required to contract for a weekly rate that exceeds the state general apportionment dollars calculated on a weekly basis generated by the child and received by the district. A school district shall not be required to enter into a contract that is longer than the remainder of the school year. A school district shall not be required to enter into or continue a contract if the child is no longer enrolled in the district;

(d) Submit to a substance abuse assessment if the court finds on the record that such assessment is appropriate to the circumstances and behavior of the child and will facilitate the child's compliance with the mandatory attendance law and, if any assessment, including a urinalysis test ordered under this subsection indicates the use of controlled substances or alcohol, order the minor to abstain from the unlawful consumption of controlled substances or alcohol and adhere to the recommendations of the substance abuse assessment at no expense to the school; or

(e) Submit to a mental health evaluation or other diagnostic evaluation and adhere to the recommendations of the drug assessment, at no expense to the school, if the court finds on the court records that such evaluation is appropriate to the circumstances and behavior of the child, and will facilitate the child's compliance with the mandatory attendance law.

~~(2)((~~+~~)) If the child fails to comply with the court order, the court may impose:~~

~~((~~1~~)) (a) Community restitution;~~

~~((~~2~~)) (b) Nonresidential programs with intensive wraparound services;~~

~~((~~3~~)) (c) A requirement that the child meet with a mentor for a specified number of times; or~~

~~((~~4~~)) (d) Other services and interventions that the court deems appropriate.~~

~~((b) If the child continues to fail to comply with the court order and the court makes a finding that other measures to secure compliance have been tried but have been unsuccessful and no less restrictive alternative is available, the court may order the child to be subject to detention, as provided in RCW 7.21.030(2)(e). Failure by a child to comply with an order issued under this subsection shall not be subject to detention for a period greater than that permitted pursuant to a civil contempt proceeding against a child under chapter 13.32A RCW. Detention ordered under this subsection may be for no longer than seven days. Detention ordered under this subsection shall preferably be served at a secure crisis residential center close to the child's home rather than in a juvenile detention facility. A warrant of arrest for a child under this subsection may not be served on a child inside of school during school hours in a location where other students are present.))~~

(3) Any parent violating any of the provisions of either RCW

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28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. The court shall remit fifty percent of the fine collected under this section to the child's school district. It shall be a defense for a parent charged with violating RCW 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the child's school did not perform its duties as required in RCW 28A.225.020. The court may order the parent to provide community restitution instead of imposing a fine. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW 28A.225.010 shall participate with the school and the child in a supervised plan for the child's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

(4) If a child continues to be truant after entering into a court-approved order with the truancy board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may ~~((order the child to be subject to detention, as provided in RCW 7.21.030(2)(e), or may))~~ impose alternatives to detention ~~((such as meaningful community restitution. Failure by a child to comply with an order issued under this subsection may not subject a child to detention for a period greater than that permitted under a civil contempt proceeding against a child under chapter 13.32A RCW))~~ consistent with best practice models for reengagement with school.

(5) Nothing in this section shall be construed to limit the court's inherent contempt power or curtail its exercise.

(6) Subsections (1), (2), and (4) of this section shall not apply to a six or seven year old child required to attend public school under RCW 28A.225.015.

**Sec. 10.** RCW 43.185C.260 and 2018 c 58 s 61 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement~~((; or~~

~~((if a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued under this chapter or chapter 13.34 RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter or chapter 13.34 RCW)).~~

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the

officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) No child may be placed in a secure facility except as provided in this chapter.

**Sec. 11.** RCW 43.185C.265 and 2015 c 69 s 14 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 43.185C.260(1) (a) or (b) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of ~~((social and health services))~~ children, youth, and families, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of ~~((social and health services))~~ children, youth, and families to accept custody of the child. If the department of ~~((social and health services))~~ children, youth, and families determines that an appropriate placement is currently available, the department of ~~((social and health services))~~ children, youth, and families shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of ~~((social and health services))~~ children, youth, and families may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an

order for placement under chapter 13.34 RCW. Upon transferring a child to the department of ~~((social and health services))~~ children, youth, and families' custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of ~~((social and health services))~~ children, youth, and families declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of ~~((social and health services))~~ children, youth, and families if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 43.185C.260(1)(c) ~~((or (d)))~~ shall inform the child of the reason for custody. An officer taking a child into custody under RCW 43.185C.260(1)(c) may release the child to the supervising agency, may return the child to the placement authorized by the supervising agency, or shall take the child to a designated crisis residential ~~((center's secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi secure crisis residential center. An officer taking a child into custody under RCW 43.185C.260(1)(d) may place the child in a juvenile detention facility as provided in RCW 43.185C.270 or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW))~~ center.

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 43.185C.290(6).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of ~~((social and health services))~~ children, youth, and families, the child may reside in the crisis residential center or may be placed by the department of ~~((social and health services))~~ children, youth, and families in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of ~~((social and health services))~~ children, youth, and families shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 43.185C.260 may be taken.

**Sec. 12.** RCW 2.56.032 and 2016 c 205 s 19 are each amended to read as follows:

(1)(a) To accurately track the extent to which courts order youth into a secure detention facility in Washington state for the violation of a court order related to a truancy, at-risk youth, or a child in need of services petition, all juvenile courts shall transmit youth-level secure detention data to the administrative office of the courts.

(b) Data may either be entered into the statewide management information system for juvenile courts or securely transmitted to the administrative office of the courts at least monthly. Juvenile courts shall provide, at a minimum, the name and date of birth for the youth, the court case number assigned to the petition, the reasons for admission to the juvenile detention facility, the date of admission, the date of exit, and the time the youth spent in secure confinement.

(c) Courts are also encouraged to report individual-level data

reflecting whether a detention alternative, such as electronic monitoring, was used, and the time spent in detention alternatives.

(d) The administrative office of the courts and the juvenile court administrators must work to develop uniform data standards for detention.

(2) The administrative office of the courts shall deliver an annual statewide report to the legislature that details the number of Washington youth who are placed into detention facilities during the preceding calendar year. The first report shall be delivered by March 1, 2017, and shall detail the most serious reason for detention and youth gender, race, and ethnicity. The report must have a specific emphasis on youth who are detained for reasons relating to a truancy, at-risk youth, or a child in need of services petition. The report must:

(a) Consider the written findings described in RCW 7.21.030(2)(e)(ii)(B), and provide an analysis of the rationale and evidence used and the less restrictive options considered;

(b) Monitor the utilization of alternatives to detention;

(c) Track trends in the use of at-risk youth petitions;

(d) Beginning July 1, 2022, track trends in the use of secure residential programs with intensive wraparound services; and

(e) Track the race and gender of youth with at-risk petitions.

**NEW SECTION. Sec. 13.** The following acts or parts of acts are each repealed:

(1)RCW 43.185C.270 (Youth services—Officer taking child into custody—Placing in detention—Detention review hearing—Hearing on contempt) and 2015 c 69 s 15; and

(2)1998 c 296 s 35 (uncodified).

**NEW SECTION. Sec. 14.** Except for sections 4 and 6 of this act, 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 July 1, 2019.

**NEW SECTION. Sec. 15.** Sections 4 and 6 of this act take effect July 1, 2022."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Darneille moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5290.

Senators Darneille, Salomon, Conway, Carlyle, Kuderer, Lovelett and Dhingra spoke in favor of the motion.

Senators Walsh, Padden, Schoesler, O'Ban, Holy, Honeyford, Braun, Rivers, Fortunato, Sheldon, Becker and Short spoke against the motion.

Senator Short demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

Senator Wellman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Darneille that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5290.

ROLL CALL

The Secretary called the roll on the motion by Senator Darneille that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5290, and the



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motion did not carry by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

The motion to concur having failed to receive a majority, the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5290 and asked the House to recede therefrom.

#### MESSAGE FROM THE HOUSE

April 16, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5360 with the following amendment(s): 5360 AMH ROBI PRIN 623

On page 1, line 16, after "1," strike "2019" and insert "2020"  
 On page 1, line 18, after "1," strike "2019" and insert "2020"  
 On page 2, line 34, after "1," strike "2019" and insert "2020"  
 On page 2, line 36, after "1," strike "2019" and insert "2020"  
 On page 3, line 35, after "1," strike "2019" and insert "2020"  
 On page 3, line 36, after "July 1," strike "2019" and insert "2020"  
 On page 3, line 39, after "1," strike "2019" and insert "2020"

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Senate Bill No. 5360.

Senator Conway spoke in favor of the motion.

Senators Bailey and Schoesler spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Senate Bill No. 5360.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5360 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5360, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5360, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Brown, Ericksen, Fortunato, Honeyford, King, Padden, Rivers, Schoesler, Short, Warnick and Wilson, L.

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SENATE BILL NO. 5360, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### PERSONAL PRIVILEGE

Senator Sheldon: "Mr. President, I rise to recognize our amazing Deputy Director of Security, Mike Burt, sitting up at the rostrum with you. Mike will be retiring at the end of June. I am not going to embarrass him, because we are great friends, but I do want to draw your attention to all the help that Mike and Andy give us here in Security. Mike started here with us in 2009 and was hired in 2010 as the Deputy Director of Senate Security. I have known Mike for a long long time. He was a Washington State Patrol Trooper. He also taught driving at the Washington State Patrol Academy. He was one of their driving instructors, where all our law enforcement go to learn how to handle difficult situations at high speeds. It's amazing what they do out there but Mike was part of that team for a long, long time. He also was an investigator for the Gambling Commission. So, don't ever play any poker with Mike. He is very good. But, one thing, Mr. President, on our desks, and if I might have permission to read, is a small card, and we all have this. I carry this very close to me and it says, "*During session, Senate Security is available 24 hours a day, seven days a week, to assist you.*" And there is the number of the Senate Security control room, which is all of those individuals that help us so much here to stay safe and to help us with all of those issues we have. The two managers are listed, Andy Staubit and Mike Burt, and there is their personal phone number, their personal cell number. So, they do an amazing job for us. Mike, we will miss you so much. I know you are going off to great horizons with your wife Jeri in June, and Mike is a Mason County resident. He is going to spend some time traveling I'm sure, but he is one of the finest people I have met. And I really appreciate you Mike. I'll miss you a lot."

#### REMARKS BY THE PRESIDENT

President Habib: "We are so fortunate to have Mike in service these past ten years in our state and for our Senate. I hope you all realize how much these individuals, particularly Andy and Mike, but all the folks who work here during session and year round, how much they care about you. How much they care about your safety, your well-being, and they work, I mean last night we were here until midnight. They take care of our galleries, our wings, your offices, committee rooms, my office and the Rules Room from time to time, and all of these things they do it with tremendous class and dignity and respect. They elevate us and make this Senate Chamber worthy of its name and Mike is absolutely exemplary of that himself, both through this job and his previous service in law enforcement. We are just going to miss him and he is always welcome back in the galleries, in the wings, even on the floor if you want to come but we just absolutely send you our love and our gratitude. Will the Senate please join me in thanking our friend, Mike Burt, for his years of service?"

The senate rose and recognized Mr. Mike Burt, Deputy Director, Senate Security, for his years of dedicated service to the senate.

#### MESSAGE FROM THE HOUSE

April 25, 2019

MR. PRESIDENT:

The House receded from its amendment(s) to SECOND SUBSTITUTE SENATE BILL NO. 5602. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5602-S2 AMH MACR H3086.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**NEW SECTION.** **Sec. 1.** The legislature finds and declares:

(1) It is the public policy of this state to provide the maximum access to reproductive health care and reproductive health care coverage for all people in Washington state.

(2) In 2018, the legislature passed Substitute Senate Bill No. 6219. Along with reproductive health care coverage requirements, the bill mandated a literature review of barriers to reproductive health care. As documented by the report submitted to the legislature on January 1, 2019, young people, immigrants, people living in rural communities, transgender and gender nonconforming people, and people of color still face significant barriers to getting the reproductive health care they need.

(3) Washingtonians who are transgender and gender nonconforming have important reproductive health care needs as well. These needs go unmet when, in the process of seeking care, transgender and gender nonconforming people are stigmatized or are denied critical health services because of their gender identity or expression.

(4) The literature review mandated by Substitute Senate Bill No. 6219 found that, "F:\Journal\2019 Journal\Journal2019\LegDay103\A.doc according to 2015 U.S. Transgender Survey data, thirty-two percent of transgender respondents in Washington State reported that in the previous year they did not see a doctor when needed because they could not afford it."

(5) Existing state law should be enhanced to ensure greater coverage of and timely access to reproductive health care for the benefit of all Washingtonians, regardless of gender identity or expression.

(6) Because stigma is also a key barrier to access to reproductive health care, all Washingtonians, regardless of gender identity, should be free from discrimination in the provision of health care services, health care plan coverage, and in access to publicly funded health coverage.

(7) All people should have access to robust reproductive health services to maintain and improve their reproductive health.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 74.09 RCW to read as follows:

(1) In the provision of reproductive health care services through programs under this chapter, the authority, managed care plans, and providers that administer or deliver such services may not discriminate in the delivery of a service provided through a program of the authority based on the covered person's gender identity or expression.

(2) The authority and any managed care plans delivering or administering services purchased or contracted for by the authority, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(3) Denials as described in subsection (2) of this section are

prohibited discrimination under chapter 49.60 RCW.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(5) This section must not be construed to authorize discrimination on the basis of a covered person's gender identity or expression in the administration of any other medical assistance programs administered by the authority.

**Sec. 3.** RCW 48.43.072 and 2018 c 119 s 2 are each amended to read as follows:

(1) A health plan (~~issued or renewed on or after January 1, 2019,~~) or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, shall provide coverage for:

(a) All contraceptive drugs, devices, and other products, approved by the federal food and drug administration, including over-the-counter contraceptive drugs, devices, and products, approved by the federal food and drug administration. This includes condoms, regardless of the gender or sexual orientation of the covered person, and regardless of whether they are to be used for contraception or exclusively for the prevention of sexually transmitted infections;

(b) Voluntary sterilization procedures;

(c) The consultations, examinations, procedures, and medical services that are necessary to prescribe, dispense, insert, deliver, distribute, administer, or remove the drugs, devices, and other products or services in (a) and (b) of this subsection~~(c)~~;

(d) The following preventive services:

(i) Screening for physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(ii) Well-person preventive visits;

(e) Medically necessary services and prescription medications for the treatment of physical, mental, sexual, and reproductive health care needs that arise from a sexual assault; and

(f) The following reproductive health-related over-the-counter drugs and products approved by the federal food and drug administration: Prenatal vitamins for pregnant persons; and breast pumps for covered persons expecting the birth or adoption of a child.

(2) The coverage required by subsection (1) of this section:

(a) May not require copayments, deductibles, or other forms of cost sharing~~(c)~~;

(i) Except for:

(A) The medically necessary services and prescription medications required by subsection (1)(e) of this section; and

(B) The drugs and products in subsection (1)(f) of this section;

or

(ii) Unless the health plan is offered as a qualifying health plan for a health savings account. For such a qualifying health plan,

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the carrier must establish the plan's cost sharing for the coverage required by subsection (1) of this section at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from ~~((his or her))~~ the enrollee's health savings account under internal revenue service laws and regulations; and

(b) May not require a prescription to trigger coverage of over-the-counter contraceptive drugs, devices, and products, approved by the federal food and drug administration, except those reproductive health related drugs and products as set forth in subsection (1)(f) of this section.

(3) A health carrier may not deny the coverage required in subsection (1) of this section because an enrollee changed ~~((his or her))~~ the enrollee's contraceptive method within a twelve-month period.

(4) Except as otherwise authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required under this section, such as medical management techniques that limit enrollee choice in accessing the full range of contraceptive drugs, devices, or other products, approved by the federal food and drug administration.

(5) Benefits provided under this section must be extended to all enrollees, enrolled spouses, and enrolled dependents.

(6) This section may not be construed to allow for denial of care on the basis of race, color, national origin, sex, sexual orientation, gender expression or identity, marital status, age, citizenship, immigration status, or disability.

(7) A health plan or student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, issued or renewed on or after January 1, 2021, may not issue automatic initial denials of coverage for reproductive health care services that are ordinarily or exclusively available to individuals of one gender, based on the fact that the individual's gender assigned at birth, gender identity, or gender otherwise recorded in one or more government-issued documents, is different from the one to which such health services are ordinarily or exclusively available.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Gender expression" means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's gender assigned at birth.

(b) "Gender identity" means a person's internal sense of the person's own gender, regardless of the person's gender assigned at birth.

(c) "Reproductive health care services" means any medical services or treatments, including pharmaceutical and preventive care service or treatments, directly involved in the reproductive system and its processes, functions, and organs involved in reproduction, in all stages of life. Reproductive health care services does not include infertility treatment.

(d) "Reproductive system" includes, but is not limited to: Genitals, gonads, the uterus, ovaries, fallopian tubes, and breasts.

(e) "Well-person preventive visits" means the preventive annual visits recommended by the federal health resources and services administration women's preventive services guidelines, with the understanding that those visits must be covered for women, and when medically appropriate, for transgender, nonbinary, and intersex individuals.

(9) This section may not be construed to authorize discrimination on the basis of gender identity or expression, or perceived gender identity or expression, in the provision of

nonreproductive health care services.

(10) The commissioner, under RCW 48.30.300, and the human rights commission, under chapter 49.60 RCW shall share enforcement authority over complaints of discrimination under this section as set forth in RCW 49.60.178.

(11) The commissioner may adopt rules to implement this section.

**NEW SECTION. Sec. 4.** A new section is added to chapter 70.41 RCW to read as follows:

(1) By September 1, 2019, every hospital must submit to the department its policies related to access to care regarding:

- (a) Admission;
- (b) Nondiscrimination; and
- (c) Reproductive health care.

(2) The department shall post a copy of the policies received under subsection (1) of this section on its web site.

(3) If a hospital makes changes to any of the policies listed under subsection (1) of this section, it must submit a copy of the changed policy to the department within thirty days after the hospital approves the changes.

(4) A hospital must post a copy of the policies provided to the department under subsection (1) of this section and the form required under subsection (5) of this section to the hospital's own web site in a location where the policies are readily accessible to the public without a required login or other restriction.

(5) By September 1, 2019, the department shall, in consultation with stakeholders including a hospital association and patient advocacy groups, develop a simple and clear form to be submitted by hospitals along with the policies required in subsection (1) of this section. The form must provide the public with specific information about which reproductive health care services are and are not generally available at each hospital. The form must include contact information for the hospital in case patients have specific questions about services available at the hospital.

**NEW SECTION. Sec. 5.** A new section is added to chapter 48.43 RCW to read as follows:

(1) The legislature intends to codify the state's current practice of requiring health carriers to bill enrollees with a single invoice and to segregate into a separate account the premium attributable to abortion services for which federal funding is prohibited. Washington has achieved full compliance with section 1303 of the federal patient protection and affordable care act by requiring health carriers to submit a single invoice to enrollees and to segregate into a separate account the premium amounts attributable to coverage of abortion services for which federal funding is prohibited. Further, section 1303 states that the act does not preempt or otherwise have any effect on state laws regarding the prohibition of, or requirement of, coverage, funding, or procedural requirements on abortions.

(2) In accordance with RCW 48.43.073 related to requirements for coverage and funding of abortion services, an issuer offering a qualified health plan must:

(a) Bill enrollees and collect payment through a single invoice that includes all benefits and services covered by the qualified health plan; and

(b) Include in the segregation plan required under applicable federal and state law a certification that the issuer's billing and payment processes meet the requirements of this section.

**NEW SECTION. Sec. 6.** A new section is added to chapter 70.250 RCW to read as follows:

(1) No later than January 1, 2020, the collaborative shall begin a review to identify, define, and endorse guidelines for the provision of high quality sexual and reproductive health services in clinical settings throughout Washington. This shall include the

development of specific clinical recommendations to improve sexual and reproductive health care for:

- (a) People of color;
- (b) Immigrants and refugees;
- (c) Victims and survivors of violence; and
- (d) People with disabilities.

(2) The collaborative shall conduct its review consistent with the activities, processes, and reporting standards specified in RCW 70.250.050. In conducting its review, the collaborative shall apply a whole-person framework to develop evidence-based, culturally sensitive recommendations to improve standards of care and health equity.

(3) By December 15, 2020, the collaborative, through the authority, shall provide a status report to the committees of the legislature with jurisdiction over matters related to health care and to the governor.

**NEW SECTION. Sec. 7.** The department of health shall develop recommendations for increasing awareness about financial support that is available for preexposure and postexposure prophylaxis. The department of health shall consult with the state board of health, the health care authority, and the health benefit exchange in developing its recommendation related to outreach and education to affected populations. By December 1, 2019, the department of health shall provide its recommendations to the appropriate committees of the legislature.

**NEW SECTION. Sec. 8.** This act may be known and cited as the reproductive health care access for all act.

**NEW SECTION. Sec. 9.** (1) Section 2 of this act takes effect January 1, 2020.

(2) Section 3 of this act takes effect January 1, 2021.

**NEW SECTION. Sec. 10.** Section 5 of 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."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Randall moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5602.

Senators Randall and O'Ban spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Randall that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5602.

The motion by Senator Randall carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5602 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5602, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5602, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 20; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, L. and Zeiger

SECOND SUBSTITUTE SENATE BILL NO. 5602, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 25, 2019

MR. PRESIDENT:

The House receded from its amendment(s) to SECOND SUBSTITUTE SENATE BILL NO. 5604. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5604-S2 AMH JINK H3089.3, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

#### "ARTICLE 1 GENERAL PROVISIONS

**NEW SECTION. Sec. 101.** SHORT TITLE. This chapter may be cited as the uniform guardianship, conservatorship, and other protective arrangements act.

**NEW SECTION. Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means an individual at least eighteen years of age or an emancipated individual under eighteen years of age.

(2) "Adult subject to conservatorship" means an adult for whom a conservator has been appointed under this chapter.

(3) "Adult subject to guardianship" means an adult for whom a guardian has been appointed under this chapter.

(4) "Claim" includes a claim against an individual or conservatorship estate, whether arising in contract, tort, or otherwise.

(5) "Conservator" means a person appointed by a court to make decisions with respect to the property or financial affairs of an individual subject to conservatorship. The term includes a co-conservator.

(6) "Conservatorship estate" means the property subject to conservatorship under this chapter.

(7) "Evaluation and treatment facility" has the same meaning as provided in RCW 71.05.020.

(8) "Full conservatorship" means a conservatorship that grants the conservator all powers available under this chapter.

(9) "Full guardianship" means a guardianship that grants the guardian all powers available under this chapter.

(10) "Guardian" means a person appointed by the court to make decisions with respect to the personal affairs of an individual. The term includes a co-guardian but does not include a guardian ad litem.

(11) "Guardian ad litem" means a person appointed to inform the court about, and to represent, the needs and best interests of an individual.

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(12) "Individual subject to conservatorship" means an adult or minor for whom a conservator has been appointed under this chapter.

(13) "Individual subject to guardianship" means an adult or minor for whom a guardian has been appointed under this chapter.

(14) "Less restrictive alternative" means an approach to meeting an individual's needs which restricts fewer rights of the individual than would the appointment of a guardian or conservator. The term includes supported decision making, appropriate technological assistance, appointment of a representative payee, and appointment of an agent by the individual, including appointment under a power of attorney for health care or power of attorney for finances.

(15) "Letters of office" means a record issued by a court certifying a guardian's or conservator's authority to act.

(16) "Limited conservatorship" means a conservatorship that grants the conservator less than all powers available under this chapter, grants powers over only certain property, or otherwise restricts the powers of the conservator.

(17) "Limited guardianship" means a guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

(18) "Long-term care facility" has the same meaning as provided in RCW 70.129.010.

(19) "Minor" means an unemancipated individual under eighteen years of age.

(20) "Minor subject to conservatorship" means a minor for whom a conservator has been appointed under this chapter.

(21) "Minor subject to guardianship" means a minor for whom a guardian has been appointed under this chapter.

(22) "Parent" does not include an individual whose parental rights have been terminated.

(23) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(24) "Professional guardian or conservator" means a guardian or conservator appointed under this chapter who is not a relative of the person subject to guardianship or conservatorship established under this chapter and who charges fees for carrying out the duties of court-appointed guardian or conservator for three or more persons.

(25) "Property" includes tangible and intangible property.

(26) "Protective arrangement instead of conservatorship" means a court order entered under section 503 of this act.

(27) "Protective arrangement instead of guardianship" means a court order entered under section 502 of this act.

(28) "Protective arrangement under article 5 of this chapter" means a court order entered under section 502 or 503 of this act.

(29) "Record," used as a noun, 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.

(30) "Relative" means any person related by blood or by law to the person subject to guardianship, conservatorship, or other protective arrangements.

(31) "Respondent" means an individual for whom appointment of a guardian or conservator or a protective arrangement instead of guardianship or conservatorship is sought.

(32) "Sign" means, with present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(33) "Special agent" means the person appointed by the court pursuant to section 404 or 512 of this act.

(34) "Standby guardian" means a person appointed by the court

under section 208 of this act.

(35) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(36) "Supported decision making" means assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions, which enables the individual to make the decisions, and in communicating a decision once made if consistent with the individual's wishes.

(37) "Verified receipt" is a verified receipt signed by the custodian of funds stating that a savings and loan association or bank, trust company, escrow corporation, or other corporations approved by the court hold the cash or securities of the individual subject to conservatorship subject to withdrawal only by order of the court.

(38) "Visitor" means the person appointed by the court pursuant to section 304(1) or 405(1) of this act.

**NEW SECTION. Sec. 103. SUPPLEMENTAL PRINCIPLES OF LAW AND EQUITY APPLICABLE.** Unless displaced by a particular provision of this chapter, the principles of law and equity supplement its provisions.

**NEW SECTION. Sec. 104. SUBJECT MATTER JURISDICTION.** (1) Except to the extent jurisdiction is precluded by the uniform child custody jurisdiction and enforcement act (chapter 26.27 RCW), the superior court of each county has jurisdiction over a guardianship for a minor domiciled or present in this state. The court has jurisdiction over a conservatorship or protective arrangement instead of conservatorship for a minor domiciled or having property in this state.

(2) The superior court of each county has jurisdiction over a guardianship, conservatorship, or protective arrangement under article 5 of this chapter for an adult as provided in the uniform adult guardianship and protective proceedings jurisdiction act (chapter 11.90 RCW).

(3) After notice is given in a proceeding for a guardianship, conservatorship, or protective arrangement under article 5 of this chapter and until termination of the proceeding, the court in which the petition is filed has:

(a) Exclusive jurisdiction to determine the need for the guardianship, conservatorship, or protective arrangement;

(b) Exclusive jurisdiction to determine how property of the respondent must be managed, expended, or distributed to or for the use of the respondent, an individual who is dependent in fact on the respondent, or other claimant;

(c) Nonexclusive jurisdiction to determine the validity of a claim against the respondent or property of the respondent or a question of title concerning the property; and

(d) If a guardian or conservator is appointed, exclusive jurisdiction over issues related to administration of the guardianship or conservatorship.

(4) A court that appoints a guardian or conservator, or authorizes a protective arrangement under article 5 of this chapter, has exclusive and continuing jurisdiction over the proceeding until the court terminates the proceeding or the appointment or protective arrangement expires by its terms.

**NEW SECTION. Sec. 105. TRANSFER OF PROCEEDING.** (1) This section does not apply to a guardianship or conservatorship for an adult that is subject to the transfer provisions of the uniform adult guardianship and protective proceedings jurisdiction act (chapter 11.90 RCW).

(2) After appointment of a guardian or conservator, the court that made the appointment may transfer the proceeding to a court in another county in this state or another state if transfer is in the best interest of the individual subject to the guardianship or conservatorship.

(3) If a proceeding for a guardianship or conservatorship is pending in another state or a foreign country and a petition for guardianship or conservatorship for the same individual is filed in a court in this state, the court shall notify the court in the other state or foreign country and, after consultation with that court, assume or decline jurisdiction, whichever is in the best interest of the respondent.

(4) A guardian or conservator appointed in another state or country may petition the court for appointment as a guardian or conservator in this state for the same individual if jurisdiction in this state is or will be established. The appointment may be made on proof of appointment in the other state or foreign country and presentation of a certified copy of the part of the court record in the other state or country specified by the court in this state.

(5) Notice of hearing on a petition under subsection (4) of this section, together with a copy of the petition, must be given to the respondent, if the respondent is at least twelve years of age at the time of the hearing, and to the persons that would be entitled to notice if the procedures for appointment of a guardian or conservator under this chapter were applicable. The court shall make the appointment unless it determines the appointment would not be in the best interest of the respondent.

(6) Not later than fourteen days after appointment under subsection (5) of this section, the guardian or conservator shall give a copy of the order of appointment to the individual subject to guardianship or conservatorship, if the individual is at least twelve years of age, and to all persons given notice of the hearing on the petition.

**NEW SECTION. Sec. 106. VENUE.** (1) Venue for a guardianship proceeding for a minor is in:

(a) The county in which the minor resides or is present at the time the proceeding commences; or

(b) The county in which another proceeding concerning the custody or parental rights of the minor is pending.

(2) Venue for a guardianship proceeding or protective arrangement instead of guardianship for an adult is in:

(a) The county in which the respondent resides;

(b) If the respondent has been admitted to an institution by court order, the county in which the court is located; or

(c) If the proceeding is for appointment of an emergency guardian for an adult, the county in which the respondent is present.

(3) Venue for a conservatorship proceeding or protective arrangement instead of conservatorship is in:

(a) The county in which the respondent resides, whether or not a guardian has been appointed in another county or other jurisdiction; or

(b) If the respondent does not reside in this state, in any county in which property of the respondent is located.

(4) If proceedings under this chapter are brought in more than one county, the court of the county in which the first proceeding is brought has the exclusive right to proceed unless the court determines venue is properly in another court or the interest of justice otherwise requires transfer of the proceeding.

**NEW SECTION. Sec. 107. PRACTICE IN COURT.** (1) Except as otherwise provided in this chapter, the rules of evidence and civil procedure, including rules concerning appellate review, govern a proceeding under this chapter.

(2) If proceedings for a guardianship, conservatorship, or

protective arrangement under article 5 of this chapter for the same individual are commenced or pending in the same court, the proceedings may be consolidated.

(3) A respondent may demand a jury trial in a proceeding under this chapter on the issue whether a basis exists for appointment of a guardian or conservator.

**NEW SECTION. Sec. 108. LETTERS OF OFFICE.** (1) The court shall issue letters of guardianship to a guardian on filing by the guardian of an acceptance of appointment.

(2) The court shall issue letters of conservatorship to a conservator on filing by the conservator of an acceptance of appointment and filing of any required bond or compliance with any other verified receipt required by the court.

(3) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be stated on the letters of office.

(4) The court at any time may limit the powers conferred on a guardian or conservator. The court shall issue new letters of office to reflect the limitation.

(5) A guardian or conservator may not act on behalf of a person under guardianship or conservatorship without valid letters of office.

(6) The clerk of the superior court shall issue letters of guardianship or conservatorship in or substantially in the same form as set forth in section 605 of this act.

(7) This chapter does not affect the validity of letters of office issued under chapter 11.88 RCW prior to the effective date of this section.

**NEW SECTION. Sec. 109. EFFECT OF ACCEPTANCE OF APPOINTMENT.** On acceptance of appointment, a guardian or conservator submits to personal jurisdiction of the court in this state in any proceeding relating to the guardianship or conservatorship.

**NEW SECTION. Sec. 110. CO-GUARDIAN—CO-CONSERVATOR.** (1) The court at any time may appoint a co-guardian or co-conservator to serve immediately or when a designated event occurs.

(2) A co-guardian or co-conservator appointed to serve immediately may act when that co-guardian or co-conservator complies with section 108 of this act.

(3) A co-guardian or co-conservator appointed to serve when a designated event occurs may act when:

(a) The event occurs; and

(b) That co-guardian or co-conservator complies with section 108 of this act.

(4) Unless an order of appointment under subsection (1) of this section or subsequent order states otherwise, co-guardians or co-conservators shall make decisions jointly.

**NEW SECTION. Sec. 111. JUDICIAL APPOINTMENT OF SUCCESSOR GUARDIAN OR SUCCESSOR CONSERVATOR.** (1) The court at any time may appoint a successor guardian or successor conservator to serve immediately or when a designated event occurs.

(2) A person entitled under section 202 or 302 of this act to petition the court to appoint a guardian may petition the court to appoint a successor guardian. A person entitled under section 402 of this act to petition the court to appoint a conservator may petition the court to appoint a successor conservator.

(3) A successor guardian or successor conservator appointed to serve when a designated event occurs may act as guardian or conservator when:

(a) The event occurs; and

(b) The successor complies with section 108 of this act.

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(4) A successor guardian or successor conservator has the predecessor's powers unless otherwise provided by the court.

**NEW SECTION. Sec. 112. EFFECT OF DEATH, REMOVAL, OR RESIGNATION OF GUARDIAN OR CONSERVATOR.** (1) Appointment of a guardian or conservator terminates on the death or removal of the guardian or conservator, or when the court under subsection (2) of this section approves a resignation of the guardian or conservator.

(2) A guardian or conservator must petition the court to resign. The petition may include a request that the court appoint a successor. Resignation of a guardian or conservator is effective on the date the resignation is approved by the court.

(3) Death, removal, or resignation of a guardian or conservator does not affect liability for a previous act or the obligation to account for:

- (a) An action taken on behalf of the individual subject to guardianship or conservatorship; or
- (b) The individual's funds or other property.

**NEW SECTION. Sec. 113. NOTICE OF HEARING GENERALLY.** (1) Except as otherwise provided in sections 203, 208, 303, 403, and 505 of this act, if notice of a hearing under this chapter is required, the movant shall give notice of the date, time, and place of the hearing to the person to be notified unless otherwise ordered by the court for good cause. Except as otherwise provided in this chapter, notice must be given in compliance with the local superior court's rule of civil procedure at least fourteen days before the hearing.

(2) Proof of notice of a hearing under this chapter must be made before or at the hearing and filed in the proceeding.

(3) Notice of a hearing under this chapter must be in at least sixteen-point font, in plain language, and, to the extent feasible, in a language in which the person to be notified is proficient.

**NEW SECTION. Sec. 114. WAIVER OF NOTICE.** (1) Except as otherwise provided in subsection (2) of this section, a person may waive notice under this chapter in a record signed by the person or person's attorney and filed in the proceeding.

(2) A respondent, individual subject to guardianship, individual subject to conservatorship, or individual subject to a protective arrangement under article 5 of this chapter may not waive notice under this chapter.

**NEW SECTION. Sec. 115. GUARDIAN AD LITEM.** The court at any time may appoint a guardian ad litem for an individual if the court determines the individual's interest otherwise would not be adequately represented. If no conflict of interest exists, a guardian ad litem may be appointed to represent multiple individuals or interests. The guardian ad litem may not be the same individual as the attorney representing the respondent. The court shall state the duties of the guardian ad litem and the reasons for the appointment.

**NEW SECTION. Sec. 116. REQUEST FOR NOTICE.** (1) A person may file with the court a request for notice under this chapter if the person is:

- (a) Not otherwise entitled to notice; and
- (b) Interested in the welfare of a respondent, individual subject to guardianship or conservatorship, or individual subject to a protective arrangement under article 5 of this chapter.

(2) A request under subsection (1) of this section must include a statement showing the interest of the person making the request and the address of the person or an attorney for the person to whom notice is to be given.

(3) If the court approves a request under subsection (1) of this section, the court shall give notice of the approval to the guardian

or conservator, if one has been appointed, or the respondent if no guardian or conservator has been appointed.

**NEW SECTION. Sec. 117. DISCLOSURE OF BANKRUPTCY OR CRIMINAL HISTORY.** (1) Before accepting appointment as a guardian or conservator, a person shall disclose to the court whether the person:

- (a) Is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding;
- (b) Has been convicted of:
  - (i) A felony;
  - (ii) A crime involving dishonesty, neglect, violence, or use of physical force; or
  - (iii) Other crimes relevant to the functions the individual would assume as guardian or conservator; or
- (c) Has any court finding of a breach of fiduciary duty or a violation of any state's consumer protection act, or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of any business.

(2) A guardian or conservator that engages or anticipates engaging an agent the guardian or conservator knows has been convicted of a felony, a crime involving dishonesty, neglect, violence, or use of physical force, or other crimes relevant to the functions the agent is being engaged to perform promptly shall disclose that knowledge to the court.

(3) If a conservator engages or anticipates engaging an agent to manage finances of the individual subject to conservatorship and knows the agent is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding, the conservator promptly shall disclose that knowledge to the court.

(4) If a guardian or conservator that engages or anticipates engaging an agent and knows the agent has any court finding of a breach of fiduciary duty or a violation of any state's consumer protection act, or violation of any other statute proscribing unfair or deceptive acts or practices in the conduct of any business, the guardian or conservator promptly shall disclose that knowledge to the court.

**NEW SECTION. Sec. 118. QUALIFICATIONS.** (1) Any suitable person over the age of twenty-one years, or any parent under the age of twenty-one years or, if the petition is for appointment of a professional guardian or conservator, any individual or guardianship or conservatorship service that meets any certification requirements established by the administrator for the courts, may, if not otherwise disqualified, be appointed guardian or conservator of a person subject to guardianship, conservatorship, or both. A financial institution subject to the jurisdiction of the department of financial institutions and authorized to exercise trust powers, and a federally chartered financial institution when authorized to do so, may be appointed to act as a guardian or conservator of a person subject to guardianship, conservatorship, or both without having to meet the certification requirements established by the administrator for the courts. No person is qualified to serve as a guardian or conservator who is:

- (a) Under eighteen years of age except as otherwise provided herein;
- (b)(i) Except as provided otherwise in (b)(ii) of this subsection, convicted of a crime involving dishonesty, neglect, or use of physical force or other crime relevant to the functions the individual would assume as guardian;
- (ii) A court may, upon consideration of the facts, find that a relative convicted of a crime is qualified to serve as a guardian or conservator;
- (c) A nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings

with respect to the estate and caused such appointment to be filed with the court;

(d) A corporation not authorized to act as a fiduciary, guardian, or conservator in the state;

(e) A person whom the court finds unsuitable.

(2) If a guardian, or conservator is not a certified professional guardian, conservator, or financial institution authorized under this section, the guardian or conservator must complete any standardized training video or web cast for lay guardians or conservators made available by the administrative office of the courts and the superior court where the petition is filed unless granted a waiver by the court. The training video or web cast must be provided at no cost to the guardian, or conservator.

(a) If a petitioner requests the appointment of a specific individual to act as a guardian or conservator, the petition for guardianship or conservatorship must include evidence of the successful completion of the required training video or web cast by the proposed guardian or conservator. The superior court may defer the completion of the training requirement to a date no later than ninety days after appointment if the petitioner requests expedited appointment due to emergent circumstances.

(b) If no person is identified to be appointed guardian or conservator at the time the petition is filed, then the court must require that the petitioner identify within fourteen days from the filing of the petition a specific individual to act as guardian subject to the training requirements set forth herein.

**NEW SECTION. Sec. 119. MULTIPLE NOMINATIONS.** If a respondent or other person makes more than one nomination of a guardian or conservator, the latest in time governs.

**NEW SECTION. Sec. 120. COMPENSATION AND EXPENSES—IN GENERAL.** (1) Unless otherwise compensated or reimbursed, an attorney for a respondent in a proceeding under this chapter is entitled to reasonable compensation for services and reimbursement of reasonable expenses from the property of the respondent.

(2) Unless otherwise compensated or reimbursed, an attorney or other person whose services resulted in an order beneficial to an individual subject to guardianship or conservatorship or for whom a protective arrangement under article 5 of this chapter was ordered is entitled to reasonable compensation for services and reimbursement of reasonable expenses from the property of the individual.

(3) The court must approve compensation and expenses payable under this section before payment. Approval is not required before a service is provided or an expense is incurred.

(4) If the court dismisses a petition under this act and determines the petition was filed in bad faith, the court may assess the cost of any court-ordered professional evaluation or visitor against the petitioner.

(5) Where the person subject to guardianship or conservatorship is a department of social and health services client, or health care authority client, and is required to contribute a portion of their income towards the cost of long-term care services or room and board, the amount of compensation or reimbursement shall not exceed the amount allowed by the department of social and health services or health care authority by rule.

(6) Where the person subject to guardianship or conservatorship receives guardianship, conservatorships, or other protective services from the office of public guardianship, the amount of compensation or reimbursement shall not exceed the amount allowed by the office of public guardianship.

(7) The court must approve compensation and expenses payable under this section before payment. Approval is not

required before a service is provided or an expense is incurred.

(8) If the court dismisses a petition under this chapter and determines the petition was filed in bad faith, the court may assess the cost of any court-ordered professional evaluation or visitor against the petitioner.

**NEW SECTION. Sec. 121. COMPENSATION OF GUARDIAN OR CONSERVATOR.**

(1) Subject to court approval, a guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, clothing, and other appropriate expenses advanced for the benefit of the individual subject to guardianship. If a conservator, other than the guardian or a person affiliated with the guardian, is appointed for the individual, reasonable compensation and reimbursement to the guardian may be approved and paid by the conservator without court approval.

(2) Subject to court approval, a conservator is entitled to reasonable compensation for services and reimbursement for appropriate expenses from the property of the individual subject to conservatorship.

(3) In determining reasonable compensation for a guardian or conservator, the court, or a conservator in determining reasonable compensation for a guardian as provided in subsection (1) of this section, shall approve compensation that shall not exceed the typical amounts paid for comparable services in the community, at a rate for which the service can be performed in the most efficient and cost-effective manner, considering:

(a) The necessity and quality of the services provided;

(b) The experience, training, professional standing, and skills of the guardian or conservator;

(c) The difficulty of the services performed, including the degree of skill and care required;

(d) The conditions and circumstances under which a service was performed, including whether the service was provided outside regular business hours or under dangerous or extraordinary conditions;

(e) The effect of the services on the individual subject to guardianship or conservatorship;

(f) The extent to which the services provided were or were not consistent with the guardian's plan under section 317 of this act or conservator's plan under section 419 of this act; and

(g) The fees customarily paid to a person that performs a like service in the community.

(4) A guardian or conservator need not use personal funds of the guardian or conservator for the expenses of the individual subject to guardianship or conservatorship.

(5) Where the person subject to guardianship or conservatorship is a department of social and health services client, or health care authority client, and is required to contribute a portion of their income towards the cost of long-term care services or room and board, the amount of compensation or reimbursement shall not exceed the amount allowed by the department of social and health services or health care authority by rule.

(6) Where the person subject to guardianship or conservatorship receives guardianship, conservatorship, or other protective services from the office of public guardianship, the amount of compensation or reimbursement shall not exceed the amount allowed by the office of public guardianship.

(7) If an individual subject to guardianship or conservatorship seeks to modify or terminate the guardianship or conservatorship or remove the guardian or conservator, the court may order compensation to the guardian or conservator for time spent opposing modification, termination, or removal only to the extent the court determines the opposition was reasonably necessary to protect the interests of the individual subject to guardianship or



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conservatorship.

**NEW SECTION. Sec. 122. LIABILITY OF GUARDIAN OR CONSERVATOR FOR ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP.** A guardian or conservator is not personally liable to another person solely because of the guardianship or conservatorship for an act or omission of the individual subject to guardianship or conservatorship.

**NEW SECTION. Sec. 123. PETITION AFTER APPOINTMENT FOR INSTRUCTION OR RATIFICATION.** (1) A guardian or conservator may petition the court for instruction concerning fiduciary responsibility or ratification of a particular act related to the guardianship or conservatorship.

(2) On reasonable notice and hearing on a petition under subsection (1) of this section, the court may give an instruction and issue an appropriate order.

(3) The petitioner must provide reasonable notice of the petition and hearing to the individual subject to a guardianship or conservatorship.

**NEW SECTION. Sec. 124. THIRD-PARTY ACCEPTANCE OF AUTHORITY OF GUARDIAN OR CONSERVATOR.** (1) A person must not recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

(a) The person has actual knowledge or a reasonable belief that the letters of office of the guardian or conservator are invalid or the conservator or guardian is exceeding or improperly exercising authority granted by the court; or

(b) The person has actual knowledge that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation, or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator.

(2) A person may refuse to recognize the authority of a guardian or conservator to act on behalf of an individual subject to guardianship or conservatorship if:

(a) The guardian's or conservator's proposed action would be inconsistent with this chapter; or

(b) The person makes, or has actual knowledge that another person has made, a report to the department of children, youth, and families or the department of social and health services stating a good-faith belief that the individual subject to guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation, or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator.

(3) A person that refuses to accept the authority of a guardian or conservator in accordance with subsection (2) of this section may report the refusal and the reason for refusal to the court. The court on receiving the report shall consider whether removal of the guardian or conservator or other action is appropriate.

(4) A guardian or conservator may petition the court to require a third party to accept a decision made by the guardian or conservator on behalf of the individual subject to guardianship or conservatorship.

(5) If the court determines that a third party has failed to recognize the legitimate authority of a guardian or requires a third party to accept a decision made by the guardian on behalf of the individual subject to guardianship, the court may order that third party to compensate the guardian for the time spent only to the extent the court determines the opposition was reasonably necessary to protect the interests of the individual subject to guardianship.

**NEW SECTION. Sec. 125. USE OF AGENT BY GUARDIAN OR CONSERVATOR.** (1) Except as otherwise provided in subsection (3) of this section, a guardian or conservator may delegate a power to an agent which a prudent guardian or conservator of comparable skills could delegate prudently under the circumstances if the delegation is consistent with the guardian's or conservator's fiduciary duties and the guardian's plan under section 317 of this act or the conservator's plan under section 419 of this act.

(2) In delegating a power under subsection (1) of this section, the guardian or conservator shall exercise reasonable care, skill, and caution in:

(a) Selecting the agent;

(b) Establishing the scope and terms of the agent's work in accordance with the guardian's plan under section 317 of this act or the conservator's plan under section 419 of this act;

(c) Monitoring the agent's performance and compliance with the delegation;

(d) Redressing an act or omission of the agent which would constitute a breach of the guardian's or conservator's duties if done by the guardian or conservator; and

(e) Ensuring a background check is conducted on the agent, or conducted on persons employed by the agent when those persons are providing services to the individual subject to a guardianship or conservatorship.

(3) A guardian or conservator may not delegate all powers to an agent.

(4) In performing a power delegated under this section, an agent shall:

(a) Exercise reasonable care to comply with the terms of the delegation and use reasonable care in the performance of the power; and

(b) If the guardian or conservator has delegated to the agent the power to make a decision on behalf of the individual subject to guardianship or conservatorship, use the same decision-making standard the guardian or conservator would be required to use.

(5) By accepting a delegation of a power under subsection (1) of this section from a guardian or conservator, an agent submits to the personal jurisdiction of the courts of this state in an action involving the agent's performance as agent.

(6) A guardian or conservator that delegates and monitors a power in compliance with this section is not liable for the decision, act, or omission of the agent.

**NEW SECTION. Sec. 126. TEMPORARY SUBSTITUTE GUARDIAN OR CONSERVATOR.** (1) The court may appoint a temporary substitute guardian for an individual subject to guardianship for a period not exceeding six months if:

(a) A proceeding to remove a guardian for the individual is pending; or

(b) The court finds a guardian is not effectively performing the guardian's duties and the welfare of the individual requires immediate action.

(2) The court may appoint a temporary substitute conservator for an individual subject to conservatorship for a period not exceeding six months if:

(a) A proceeding to remove a conservator for the individual is pending; or

(b) The court finds that a conservator for the individual is not effectively performing the conservator's duties and the welfare of the individual or the conservatorship estate requires immediate action.

(3) The court shall hold a hearing to appoint a temporary substitute guardian pursuant to subsection (1)(a) or (b) of this section, or to appoint a temporary substitute conservator pursuant to subsection (2)(a) or (b) of this section. The court shall give

notice under section 113 of this act to the adult subject to guardianship or conservatorship and to any other person the court determines should receive notice. The adult subject to guardianship or conservatorship shall have the right to attend the hearing and to be represented by counsel of the adult subject to guardianship or conservatorship's choosing.

(4) Except as otherwise ordered by the court, a temporary substitute guardian or temporary substitute conservator appointed under this section has the powers stated in the order of appointment of the guardian or conservator. The authority of the existing guardian or conservator is suspended for as long as the temporary substitute guardian or conservator has authority.

(5) The court shall give notice of appointment of a temporary substitute guardian or temporary substitute conservator, not later than five days after the appointment, to:

- (a) The individual subject to guardianship or conservatorship;
- (b) The affected guardian or conservator; and
- (c) In the case of a minor, each parent of the minor and any person currently having care or custody of the minor.

(6) The court may remove a temporary substitute guardian or temporary substitute conservator at any time. The temporary substitute guardian or temporary substitute conservator shall make any report the court requires.

**NEW SECTION. Sec. 127. REGISTRATION OF ORDER—EFFECT.** (1) If a guardian has been appointed in another state for an individual, and a petition for guardianship for the individual is not pending in this state, the guardian appointed in the other state, after giving notice to the appointing court, may register the guardianship order in this state by filing as a foreign judgment, in a court of an appropriate county of this state, certified copies of the order and letters of office.

(2) If a conservator has been appointed in another state for an individual, and a petition for conservatorship for the individual is not pending in this state, the conservator appointed for the individual in the other state, after giving notice to the appointing court, may register the conservatorship in this state by filing as a foreign judgment, in a court of a county in which property belonging to the individual subject to conservatorship is located, certified copies of the order of conservatorship, letters of office, and any bond or other verified receipt required by the court.

(3) On registration under this section of a guardianship or conservatorship order from another state, the guardian or conservator may exercise in this state all powers authorized in the order except as prohibited by this chapter and law of this state other than this chapter. If the guardian or conservator is not a resident of this state, the guardian or conservator may maintain an action or proceeding in this state subject to any condition imposed by this state on an action or proceeding by a nonresident party.

(4) The court may grant any relief available under this chapter and law of this state other than this chapter to enforce an order registered under this section.

**NEW SECTION. Sec. 128. GRIEVANCE AGAINST GUARDIAN OR CONSERVATOR.** (1) An individual who is subject to guardianship or conservatorship, or person interested in the welfare of an individual subject to guardianship or conservatorship, that reasonably believes the guardian or conservator is breaching the guardian's or conservator's fiduciary duty or otherwise acting in a manner inconsistent with this chapter may file a grievance in a record with the court.

(2) Subject to subsection (3) of this section, after receiving a grievance under subsection (1) of this section, the court:

(a) Shall promptly review the grievance against a guardian and shall act to protect the autonomy, values, preferences, and independence of the individual subject to guardianship or

conservatorship;

(b) Shall schedule a hearing if the individual subject to guardianship or conservatorship is an adult and the grievance supports a reasonable belief that:

(i) Removal of the guardian and appointment of a successor may be appropriate under section 319 of this act;

(ii) Termination or modification of the guardianship may be appropriate under section 320 of this act;

(iii) Removal of the conservator and appointment of a successor may be appropriate under section 430 of this act;

(iv) Termination or modification of the conservatorship may be appropriate under section 431 of this act; or

(v) A hearing is necessary to resolve the allegations set forth in the grievance; and

(c) May take any action supported by the evidence, including:

(i) Ordering the guardian or conservator to provide the court a report, accounting, inventory, updated plan, or other information;

(ii) Appointing a guardian ad litem;

(iii) Appointing an attorney for the individual subject to guardianship or conservatorship; or

(iv) Holding a hearing.

(3) The court may decline to act under subsection (2) of this section if a similar grievance was filed within the six months preceding the filing of the current grievance and the court followed the procedures of subsection (2) of this section in considering the earlier grievance; and may levy necessary sanctions, including but not limited to the imposition of reasonable attorney fees, costs, striking pleadings, or other appropriate relief, if after consideration the court finds that the grievance is made for reason to harass, delay, with malice, or other bad faith.

(4) In any court action under this section where the court finds the professional guardian or conservator breached a fiduciary duty, the court must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board.

(5) A court shall not dismiss a grievance that has been filed against a guardian or conservator due to an inability to resolve the grievance in a timely manner.

**NEW SECTION. Sec. 129. DELEGATION BY PARENT.** Except as otherwise provided in RCW 11.125.410, a parent of a minor, by a power of attorney, may delegate to another person for a period not exceeding twenty-four months any of the parent's powers regarding care, custody, or property of the minor, other than power to consent to marriage or adoption.

**NEW SECTION. Sec. 130. EX PARTE COMMUNICATIONS—REMOVAL.** A guardian ad litem or visitor shall not engage in ex parte communications with any judicial officer involved in the matter for which he or she is appointed during the pendency of the proceeding, except as permitted by court rule or statute for ex parte motions. Ex parte motions shall be heard in open court on the record. The record may be preserved in a manner deemed appropriate by the county where the matter is heard. The court, upon its own motion, or upon the motion of a party, may consider the removal of any guardian ad litem or visitor who violates this section from any pending case or from any court-authorized registry, and if so removed may require forfeiture of any fees for professional services on the pending case.

**NEW SECTION. Sec. 131. REGISTRY FOR GUARDIANS AD LITEM AND VISITORS.** (1) The superior court of each county shall develop and maintain a registry of persons who are willing and qualified to serve as guardians ad litem and visitors in guardianship and conservatorship matters.

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The court shall choose as guardian ad litem or visitor a person whose name appears on the registry in a system of consistent rotation, except in extraordinary circumstances such as the need for particular expertise. The court shall develop procedures for periodic review of the persons on the registry and for probation, suspension, or removal of persons on the registry for failure to perform properly their duties as guardian ad litem or visitor. In the event the court does not select the person next on the list, it shall include in the order of appointment a written reason for its decision.

(2) To be eligible for the registry a person shall:

(a) Present a written statement outlining his or her background and qualifications. The background statement shall include, but is not limited to, the following information:

(i) Level of formal education;

(ii) Training related to the duties of a guardian ad litem or visitor;

(iii) Number of years' experience as a guardian ad litem or visitor;

(iv) Number of appointments as a guardian ad litem or visitor and the county or counties of appointment;

(v) Criminal history, as defined in RCW 9.94A.030; and

(vi) Evidence of the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of persons subject to guardianship or conservatorship, legal procedure, and the requirements of this chapter.

The written statement of qualifications shall include the names of any counties in which the person was removed from a guardian ad litem or visitor registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and

(b) Complete the training as described in subsection (5) of this section. The training is not applicable to guardians ad litem appointed pursuant to special proceeding rule 98.16W.

(3) The superior court shall remove any person from the guardian ad litem or visitor registry who misrepresents his or her qualifications pursuant to a grievance procedure established by the court.

(4) The background and qualification information shall be updated annually.

(5) The department of social and health services shall convene an advisory group to develop a model lay guardian, guardian ad litem, and visitor training program and shall update the program biennially. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities, mental illness, domestic violence, aging, legal, court administration, the Washington state bar association, and other interested parties.

(6) The superior court shall require utilization of the model program developed by the advisory group as described in subsection (5) of this section to assure that candidates applying for registration as a qualified guardian ad litem or visitor shall have satisfactorily completed training to attain these essential minimum qualifications to act as guardian ad litem or visitor.

**NEW SECTION. Sec. 132. GUARDIANSHIP/CONSERVATORSHIP SUMMARY.**

Every order appointing a guardian or conservator and every court order approving accounts or reports filed by a guardian or conservator must include a guardianship/conservatorship summary placed directly below the case caption or on a separate cover page in or substantially in the same form as set forth in section 606 of this act.

**NEW SECTION. Sec. 133. GUARDIANSHIP/CONSERVATORSHIP COURTHOUSE FACILITATOR PROGRAM.** A county may create a guardianship/conservatorship courthouse facilitator program to provide basic services to pro se litigants in guardianship and conservatorship cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to twenty dollars, or both, on superior court cases filed under this chapter, chapter 11.90 RCW, and chapter 73.36 RCW to pay for the expenses of the guardianship/conservatorship courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate guardianship/conservatorship courthouse facilitator account to be used as provided in this section.

**NEW SECTION. Sec. 134. FILING FEE.** (1)(a) The attorney general may petition for the appointment of a guardian, conservator, or other protective arrangement under sections 302, 402, and 504 of this act in which there is cause to believe that a guardianship, conservatorship, or protective arrangement is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship, conservatorship, or protective arrangement proceeding brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the respondent person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the respondent, in which case the filing shall be waived.

(2) No filing fee shall be charged by the court for filing a petition for guardianship, conservatorship, or other protective arrangement filed under sections 302, 402, and 504 of this act if the petition alleges that the respondent has total assets of a value of less than three thousand dollars.

(3) No filing fee shall be charged by the court for filing a petition for guardianship or conservatorship filed under article 2 of this act, where the potential guardian is a relative and not a professional guardian or conservator.

**NEW SECTION. Sec. 135. GUARDIANSHIPS INVOLVING VETERANS.** For guardianships involving veterans see chapter 73.36 RCW.

**NEW SECTION. Sec. 136. CONSTRUCTION—CHAPTER APPLICABLE TO STATE REGISTERED DOMESTIC PARTNERSHIPS—2009 c 521.** For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and relative shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

**ARTICLE 2  
GUARDIANSHIP OF MINOR**

**NEW SECTION. Sec. 201. BASIS FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) A person becomes a guardian for a minor only on appointment by the court.

(2) The court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is in the minor's

best interest and:

- (a) Each parent of the minor, after being fully informed of the nature and consequences of guardianship, consents;
- (b) All parental rights have been terminated; or
- (c) There is clear and convincing evidence that no parent of the minor is willing or able to exercise the powers the court is granting the guardian.

**NEW SECTION. Sec. 202. PETITION FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) A person interested in the welfare of a minor, including the minor, may petition for appointment of a guardian for the minor.

(2) A petition under subsection (1) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the minor, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

- (a) The minor's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the minor will reside if the appointment is made;
- (b) The name and current street address of the minor's parents;
- (c) The name and address, if known, of each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;
- (d) The name and address of any attorney for the minor and any attorney for each parent of the minor;
- (e) The reason guardianship is sought and would be in the best interest of the minor;
- (f) The name and address of any proposed guardian and the reason the proposed guardian should be selected;
- (g) If the minor has property other than personal effects, a general statement of the minor's property with an estimate of its value;
- (h) Whether the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;
- (i) Whether any parent of the minor needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings; and
- (j) Whether any other proceeding concerning the care or custody of the minor is pending in any court in this state or another jurisdiction.

**NEW SECTION. Sec. 203. NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) If a petition is filed under section 202 of this act, the court shall schedule a hearing and the petitioner shall:

- (a) Serve notice of the date, time, and place of the hearing, together with a copy of the petition, personally on each of the following that is not the petitioner:
  - (i) The minor, if the minor will be twelve years of age or older at the time of the hearing;
  - (ii) Each parent of the minor or, if there is none, the adult nearest in kinship who can be found with reasonable diligence;
  - (iii) Any adult with whom the minor resides;
  - (iv) Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition; and
  - (v) Any other person the court determines should receive personal service of notice; and
- (b) Give notice under section 113 of this act of the date, time,

and place of the hearing, together with a copy of the petition, to:

- (i) Any person nominated as guardian by the minor, if the minor is twelve years of age or older;
- (ii) Any nominee of a parent;
- (iii) Each grandparent and adult sibling of the minor;
- (iv) Any guardian or conservator acting for the minor in any jurisdiction; and
- (v) Any other person the court determines.

(2) Notice required by subsection (1) of this section must include a statement of the right to request appointment of an attorney for the minor or object to appointment of a guardian and a description of the nature, purpose, and consequences of appointment of a guardian.

(3) The court may not grant a petition for guardianship of a minor if notice substantially complying with subsection (1)(a) of this section is not served on:

- (a) The minor, if the minor is twelve years of age or older; and
  - (b) Each parent of the minor, unless the court finds by clear and convincing evidence that the parent cannot with due diligence be located and served or the parent waived, in a record, the right to notice.
- (4) If a petitioner is unable to serve notice under subsection (1)(a) of this section on a parent of a minor or alleges that the parent waived, in a record, the right to notice under this section, the court shall appoint a visitor who shall:
- (a) Interview the petitioner and the minor;
  - (b) If the petitioner alleges the parent cannot be located, ascertain whether the parent cannot be located with due diligence;
  - (c) Investigate any other matter relating to the petition the court directs; and
  - (d) Ascertain whether the parent consents to the guardian for the minor.

**NEW SECTION. Sec. 204. ATTORNEY FOR MINOR OR PARENT.** (1) The court is not required, but may appoint an attorney to represent a minor who is the subject of a proceeding under section 202 of this act if:

- (a) Requested by the minor and the minor is twelve years of age or older;
  - (b) Recommended by a guardian ad litem; or
  - (c) The court determines the minor needs representation.
- (2) An attorney appointed under subsection (1) of this section shall:

- (a) Make a reasonable effort to ascertain the minor's wishes;
- (b) Advocate for the minor's wishes to the extent reasonably ascertainable; and
- (c) If the minor's wishes are not reasonably ascertainable, advocate for the minor's legal rights.

(3) A minor who is the subject of a proceeding under section 202 of this act may retain an attorney to represent the minor in the proceeding.

(4) A parent of a minor who is the subject of a proceeding under section 202 of this act may retain an attorney to represent the parent in the proceeding.

(5) The court must appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 202 of this act if:

- (a) The parent has appeared in the proceeding;
- (b) The parent is indigent; and
- (c) Any of the following is true:
  - (i) The parent objects to appointment of a guardian for the minor; or
  - (ii) The court determines that counsel is needed to ensure that consent to appointment of a guardian is informed; or
  - (iii) The court otherwise determines the parent needs representation.

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(6) The court must inquire about whether a parent is indigent to ensure that counsel is appointed in a timely manner. For purposes of this section, "indigent" has the same meaning as under RCW 10.101.010.

(7) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 202 of this act, even if the parent is not indigent, if:

(a) The parent objects to appointment of a guardian for the minor;

(b) The court determines that counsel is needed to ensure that consent to appointment of a guardian is informed; or

(c) The court otherwise determines that the parent needs representation.

(8) A party represented by an attorney in proceedings under this article has the right to introduce evidence, to be heard in his or her own behalf, and to examine witnesses. If a party to an action under this article is represented by counsel, no order may be provided to that party for signature without prior notice and provision of the order to counsel.

**NEW SECTION. Sec. 205. ATTENDANCE AND PARTICIPATION AT HEARING FOR APPOINTMENT OF GUARDIAN FOR MINOR.** (1) The court shall allow a minor who is the subject of a hearing under section 203 of this act to attend the hearing and allow the minor to participate in the hearing unless the court determines, by clear and convincing evidence presented at the hearing or a separate hearing, that:

(a) The minor lacks the ability or maturity to participate meaningfully in the hearing; or

(b) Attendance would be harmful to the minor.

(2) Unless excused by the court for good cause, the person proposed to be appointed as guardian for a minor shall attend a hearing under section 203 of this act.

(3) Each parent of a minor who is the subject of a hearing under section 203 of this act has the right to attend the hearing.

(4) A person may request permission to participate in a hearing under section 203 of this act. The court may grant the request, with or without hearing, on determining that it is in the best interest of the minor who is the subject of the hearing. The court may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 206. CUSTODY ORDERS—BACKGROUND INFORMATION TO BE CONSULTED.** (1) Before granting any order regarding the custody of a child under this chapter, the court must consult the judicial information system, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child.

(2) Before entering a final order, the court must:

(a) Direct the department of children, youth, and families to release information as provided under RCW 13.50.100; and

(b) Require the petitioner to provide the results of an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW for the petitioner and adult members of the petitioner's household.

**NEW SECTION. Sec. 207. ORDER OF APPOINTMENT—PRIORITY OF NOMINEE—LIMITED GUARDIANSHIP FOR MINOR.** (1) After a hearing under section 203 of this act, the court may appoint a guardian for a minor, if appointment is proper under section 201 of this act, dismiss the proceeding, or take other appropriate action consistent with this chapter or law of this state other than this chapter.

(2) In appointing a guardian under subsection (1) of this section, the following rules apply:

(a) The court shall appoint a person nominated as guardian by a parent of the minor in a will or other record unless the court

finds the appointment is contrary to the best interest of the minor.

(b) If multiple parents have nominated different persons to serve as guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(c) If a guardian is not appointed under (a) or (b) of this subsection, the court shall appoint the person nominated by the minor if the minor is twelve years of age or older unless the court finds that appointment is contrary to the best interest of the minor. In that case, the court shall appoint as guardian a person whose appointment is in the best interest of the minor.

(3) In the interest of maintaining or encouraging involvement by a minor's parent in the minor's life, developing self-reliance of the minor, or for other good cause, the court, at the time of appointment of a guardian for the minor or later, on its own or on motion of the minor or other interested person, may create a limited guardianship by limiting the powers otherwise granted by this article to the guardian. Following the same procedure, the court may grant additional powers or withdraw powers previously granted.

(4) The court, as part of an order appointing a guardian for a minor, shall state rights retained by any parent of the minor, which may include contact or visitation with the minor, decision making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

(5) An order granting a guardianship for a minor must state that each parent of the minor is entitled to notice that:

(a) The guardian has delegated custody of the minor subject to guardianship;

(b) The court has modified or limited the powers of the guardian; or

(c) The court has removed the guardian.

(6) An order granting a guardianship for a minor must identify any person in addition to a parent of the minor which is entitled to notice of the events listed in subsection (5) of this section.

(7) An order granting guardianship for a minor must direct the clerk of the court to issue letters of office to the guardian containing an expiration date which should be the minor's eighteenth birthday.

**NEW SECTION. Sec. 208. STANDBY GUARDIAN FOR MINOR.** (1) A standby guardian appointed under this section may act as guardian, with all duties and powers of a guardian under sections 210 and 211 of this act, when no parent of the minor is willing or able to exercise the duties and powers granted to the guardian.

(2) A parent of a minor, in a signed record, may nominate a person to be appointed by the court as standby guardian for the minor. The parent, in a signed record, may state desired limitations on the powers to be granted the standby guardian. The parent, in a signed record, may revoke or amend the nomination at any time before the court appoints a standby guardian.

(3) The court may appoint a standby guardian for a minor on:

(a) Petition by a parent of the minor or a person nominated under subsection (2) of this section; and

(b) Finding that no parent of the minor likely will be able or willing to care for or make decisions with respect to the minor not later than two years after the appointment.

(4) A petition under subsection (3)(a) of this section must include the same information required under section 202 of this act for the appointment of a guardian for a minor.

(5) On filing a petition under subsection (3)(a) of this section, the petitioner shall:

(a) Serve a copy of the petition personally on:

(i) The minor, if the minor is twelve years of age or older, and

the minor's attorney, if any;

- (ii) Each parent of the minor;
- (iii) The person nominated as standby guardian; and
- (iv) Any other person the court determines; and

(b) Include with the copy of the petition served under (a) of this subsection a statement of the right to request appointment of an attorney for the minor or to object to appointment of the standby guardian, and a description of the nature, purpose, and consequences of appointment of a standby guardian.

(6) A person entitled to notice under subsection (5) of this section, not later than sixty days after service of the petition and statement, may object to appointment of the standby guardian by filing an objection with the court and giving notice of the objection to each other person entitled to notice under subsection (5) of this section.

(7) If an objection is filed under subsection (6) of this section, the court shall hold a hearing to determine whether a standby guardian should be appointed and, if so, the person that should be appointed. If no objection is filed, the court may make the appointment.

(8) The court may not grant a petition for a standby guardian of the minor if notice substantially complying with subsection (5) of this section is not served on:

- (a) The minor, if the minor is twelve years of age or older; and
- (b) Each parent of the minor, unless the court finds by clear and convincing evidence that the parent, in a record, waived the right to notice or cannot be located and served with due diligence.

(9) If a petitioner is unable to serve notice under subsection (5) of this section on a parent of the minor or alleges that a parent of the minor waived the right to notice under this section, the court shall appoint a visitor who shall:

- (a) Interview the petitioner and the minor;
- (b) If the petitioner alleges the parent cannot be located and served, ascertain whether the parent cannot be located with due diligence; and
- (c) Investigate any other matter relating to the petition the court directs.

(10) If the court finds under subsection (3) of this section that a standby guardian should be appointed, the following rules apply:

(a) The court shall appoint the person nominated under subsection (2) of this section unless the court finds the appointment is contrary to the best interest of the minor.

(b) If the parents have nominated different persons to serve as standby guardian, the court shall appoint the nominee whose appointment is in the best interest of the minor, unless the court finds that appointment of none of the nominees is in the best interest of the minor.

(11) An order appointing a standby guardian under this section must state that each parent of the minor is entitled to notice, and identify any other person entitled to notice, if:

- (a) The standby guardian assumes the duties and powers of the guardian;
- (b) The guardian delegates custody of the minor;
- (c) The court modifies or limits the powers of the guardian; or
- (d) The court removes the guardian.

(12) Before assuming the duties and powers of a guardian, a standby guardian must file with the court an acceptance of appointment as guardian and give notice of the acceptance to:

- (a) Each parent of the minor, unless the parent, in a record, waived the right to notice or cannot be located and served with due diligence;
- (b) The minor, if the minor is twelve years of age or older; and
- (c) Any person, other than the parent, having care or custody of the minor.

(13) A person that receives notice under subsection (12) of this

section or any other person interested in the welfare of the minor may file with the court an objection to the standby guardian's assumption of duties and powers of a guardian. The court shall hold a hearing if the objection supports a reasonable belief that the conditions for assumption of duties and powers have not been satisfied.

**NEW SECTION. Sec. 209. EMERGENCY GUARDIAN FOR MINOR.** (1) On its own, or on petition by a person interested in a minor's welfare, the court may appoint an emergency guardian for the minor if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the minor's health, safety, or welfare; and

(b) No other person appears to have authority and willingness to act in the circumstances.

(2) The duration of authority of an emergency guardian for a minor may not exceed sixty days and the emergency guardian may exercise only the powers specified in the order of appointment. The emergency guardian's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) of this section continue.

(3) Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on a petition for appointment of an emergency guardian for a minor must be given to:

- (a) The minor, if the minor is twelve years of age or older;
- (b) Any attorney appointed under section 204 of this act;
- (c) Each parent of the minor;
- (d) Any person, other than a parent, having care or custody of the minor; and
- (e) Any other person the court determines.

(4) The court may appoint an emergency guardian for a minor without notice under subsection (3) of this section and a hearing only if the court finds from an affidavit or testimony that the minor's health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without notice to an unrepresented minor or the attorney for a represented minor, notice of the appointment must be given not later than forty-eight hours after the appointment to the individuals listed in subsection (3) of this section. Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(5) Appointment of an emergency guardian under this section, with or without notice, is not a determination that a basis exists for appointment of a guardian under section 201 of this act.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian shall make any report the court requires.

(7) Notwithstanding subsection (2) of this section, the court may extend an emergency guardianship pending the outcome of a full hearing under section 202 or 208 of this act.

**NEW SECTION. Sec. 210. DUTIES OF GUARDIAN FOR MINOR.** (1) A guardian for a minor is a fiduciary. Except as otherwise limited by the court, a guardian for a minor has the duties and responsibilities of a parent regarding the minor's support, care, education, health, safety, and welfare. A guardian shall act in the minor's best interest and exercise reasonable care, diligence, and prudence.

(2) A guardian for a minor shall:

- (a) Be personally acquainted with the minor and maintain sufficient contact with the minor to know the minor's abilities, limitations, needs, opportunities, and physical and mental health;
- (b) Take reasonable care of the minor's personal effects and

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bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect other property of the minor;

(c) Expend funds of the minor which have been received by the guardian for the minor's current needs for support, care, education, health, safety, and welfare;

(d) Conserve any funds of the minor not expended under (c) of this subsection for the minor's future needs, but if a conservator is appointed for the minor, pay the funds at least quarterly to the conservator to be conserved for the minor's future needs;

(e) Report the condition of the minor and account for funds and other property of the minor in the guardian's possession or subject to the guardian's control, as required by court rule or ordered by the court on application of a person interested in the minor's welfare;

(f) Inform the court of any change in the minor's dwelling or address; and

(g) In determining what is in the minor's best interest, take into account the minor's preferences to the extent actually known or reasonably ascertainable by the guardian.

**NEW SECTION. Sec. 211. POWERS OF GUARDIAN FOR MINOR.** (1) Except as otherwise limited by court order, a guardian of a minor has the powers a parent otherwise would have regarding the minor's support, care, education, health, safety, and welfare.

(2) Except as otherwise limited by court order, a guardian for a minor may:

(a) Apply for and receive funds and benefits otherwise payable for the support of the minor to the minor's parent, guardian, or custodian under a statutory system of benefits or insurance or any private contract, devise, trust, conservatorship, or custodianship;

(b) Unless inconsistent with a court order entitled to recognition in this state, take custody of the minor and establish the minor's place of dwelling in this state and, after following the process in RCW 26.09.405 through 26.09.560 and on authorization of the court, establish or move the minor's dwelling outside this state;

(c) If the minor is not subject to conservatorship, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel a person to support the minor, pay child support, or make other payments for the benefit of the minor;

(d) Consent to health or other care, treatment, or service for the minor; or

(e) To the extent reasonable, delegate to the minor responsibility for a decision affecting the minor's well-being.

(3) The court may authorize a guardian for a minor to consent to the adoption of the minor if the minor does not have a parent.

**NEW SECTION. Sec. 212. REMOVAL OF GUARDIAN FOR MINOR—TERMINATION OF GUARDIANSHIP—APPOINTMENT OF SUCCESSOR.** (1) Guardianship under this chapter for a minor terminates:

(a) On the minor's death, adoption, emancipation, or attainment of majority; or

(b) When the court finds that the standard in section 201 of this act for appointment of a guardian is not satisfied, unless the court finds that:

(i) Termination of the guardianship would be harmful to the minor; and

(ii) The minor's interest in the continuation of the guardianship outweighs the interest of any parent of the minor in restoration of the parent's right to make decisions for the minor.

(2) A minor subject to guardianship or a person interested in the welfare of the minor, including a parent, may petition the court

to terminate the guardianship, modify the guardianship, remove the guardian and appoint a successor guardian, or remove a standby guardian and appoint a different standby guardian.

(3) A petitioner under subsection (2) of this section shall give notice of the hearing on the petition to the minor, if the minor is twelve years of age or older and is not the petitioner, the guardian, each parent of the minor, and any other person the court determines.

(4) The court shall follow the priorities in section 207(2) of this act when selecting a successor guardian for a minor.

(5) Not later than thirty days after appointment of a successor guardian for a minor, the court shall give notice of the appointment to the minor subject to guardianship, if the minor is twelve years of age or older, each parent of the minor, and any other person the court determines.

(6) When terminating a guardianship for a minor under this section, the court may issue an order providing for transitional arrangements that will assist the minor with a transition of custody and is in the best interest of the minor.

(7) A guardian for a minor that is removed shall cooperate with a successor guardian to facilitate transition of the guardian's responsibilities and protect the best interest of the minor.

**NEW SECTION. Sec. 213. PRIOR COURT ORDER VALIDITY.** This chapter does not affect the validity of any court order issued under chapter 26.10 RCW prior to the effective date of this section. Orders issued under chapter 26.10 RCW prior to the effective date of this section remain in effect and do not need to be reissued in a new order under this chapter.

**NEW SECTION. Sec. 214. APPLICATION OF THE INDIAN CHILD WELFARE ACT.** (1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the child is or may be an Indian child as defined in RCW 13.38.040. If the child is an Indian child, chapter 13.38 RCW shall apply.

(2) Every order or decree entered in any proceeding under this chapter shall contain a finding that the federal Indian child welfare act or chapter 13.38 RCW does or does not apply. Where there is a finding that the federal Indian child welfare act or chapter 13.38 RCW does apply, the decree or order must also contain a finding that all notice and evidentiary requirements under the federal Indian child welfare act and chapter 13.38 RCW have been satisfied.

**NEW SECTION. Sec. 215. CHILD SUPPORT.** In entering or modifying an order under this chapter, the court may order one or more parents of the child to pay an amount reasonable or necessary for the child's support pursuant to chapter 26.19 RCW.

**NEW SECTION. Sec. 216. HEALTH INSURANCE COVERAGE—CONDITIONS.** (1) In entering or modifying a custody order under this chapter, the court must require one or more parents to maintain or provide health insurance coverage for any dependent child if the following conditions are met:

(a) Health insurance that can be extended to cover the child is available to that parent through an employer or other organization; and

(b) The employer or other organization offering health insurance will contribute all or a part of the premium for coverage of the child.

(2) A parent who is required to extend insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

(3) This section may not be construed to limit the authority of the court to enter or modify support orders containing provisions

for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

### ARTICLE 3 GUARDIANSHIP OF ADULT

**NEW SECTION. Sec. 301. BASIS FOR APPOINTMENT OF GUARDIAN FOR ADULT.** (1) On petition and after notice and hearing, the court may:

(a) Appoint a guardian for an adult if the court finds by clear and convincing evidence that:

(i) The respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(ii) The respondent's identified needs cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative; or

(b) With appropriate findings, treat the petition as one for a conservatorship under article 4 of this chapter or protective arrangement under article 5 of this chapter, issue any appropriate order, or dismiss the proceeding.

(2) The court shall grant a guardian appointed under subsection (1) of this section only those powers necessitated by the demonstrated needs and limitations of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full guardianship if a limited guardianship, protective arrangement instead of guardianship, or other less restrictive alternative would meet the needs of the respondent.

**NEW SECTION. Sec. 302. PETITION FOR APPOINTMENT OF GUARDIAN FOR ADULT.** (1) A person interested in an adult's welfare, including the adult for whom the order is sought, may petition for appointment of a guardian for the adult.

(2) A petition under subsection (1) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(a) The respondent's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the respondent will reside if the petition is granted;

(b) The name and address of the respondent's:

(i) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period immediately before the filing of the petition;

(ii) Adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(iii) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship in the two-year period immediately before the filing of the petition;

(c) The name and current address of each of the following, if applicable:

(i) A person responsible for care of the respondent;

(ii) Any attorney currently representing the respondent;

(iii) Any representative payee appointed by the social security administration for the respondent;

(iv) A guardian or conservator acting for the respondent in this state or in another jurisdiction;

(v) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

(vi) Any fiduciary for the respondent appointed by the department of veterans affairs;

(vii) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;

(viii) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(ix) A person nominated as guardian by the respondent;

(x) A person nominated as guardian by the respondent's parent or spouse or domestic partner in a will or other signed record;

(xi) A proposed guardian and the reason the proposed guardian should be selected; and

(xii) A person known to have routinely assisted the respondent with decision making during the six months immediately before the filing of the petition;

(d) The reason a guardianship is necessary, including a brief description of:

(i) The nature and extent of the respondent's alleged need;

(ii) Any protective arrangement instead of guardianship or other less restrictive alternatives for meeting the respondent's alleged need which have been considered or implemented;

(iii) If no protective arrangement instead of guardianship or other less restrictive alternatives have been considered or implemented, the reason they have not been considered or implemented; and

(iv) The reason a protective arrangement instead of guardianship or other less restrictive alternative is insufficient to meet the respondent's alleged need;

(e) Whether the petitioner seeks a limited guardianship or full guardianship;

(f) If the petitioner seeks a full guardianship, the reason a limited guardianship or protective arrangement instead of guardianship is not appropriate;

(g) If a limited guardianship is requested, the powers to be granted to the guardian;

(h) The name and current address, if known, of any person with whom the petitioner seeks to limit the respondent's contact;

(i) If the respondent has property other than personal effects, a general statement of the respondent's property, with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts; and

(j) Whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings.

**NEW SECTION. Sec. 303. NOTICE OF HEARING FOR APPOINTMENT OF GUARDIAN FOR ADULT.** (1) All petitions filed under section 302 of this act for appointment of a guardian for an adult shall be heard within sixty-days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(2) A copy of a petition under section 302 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 304 of this act not more than five court days after the petition under section 302 of this act has been filed. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent.



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(3) In a proceeding on a petition under section 302 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 302(2) (a) through (c) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from appointing a guardian.

(4) After the appointment of a guardian, notice of a hearing on a petition for an order under this article, together with a copy of the petition, must be given to:

- (a) The adult subject to guardianship;
- (b) The guardian; and
- (c) Any other person the court determines.

**NEW SECTION. Sec. 304. APPOINTMENT AND ROLE OF VISITOR.** (1) On receipt of a petition under section 302 of this act for appointment of a guardian for an adult, the court shall appoint a visitor. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(2) The court, in the order appointing a visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the visitor may charge without additional court review and approval.

(3)(a) The visitor appointed under subsection (1) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under section 116 of this act with a statement including: His or her training relating to the duties as a visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the visitor has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the visitor should not be removed for one of the following three reasons:

- (i) Lack of expertise necessary for the proceeding;
- (ii) An hourly rate higher than what is reasonable for the particular proceeding; or
- (iii) A conflict of interest.

(b) Notice of the hearing shall be provided to the visitor and all parties. If, after a hearing, the court enters an order replacing the visitor, findings shall be included, expressly stating the reasons for the removal. If the visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(4) A visitor appointed under subsection (1) of this section shall interview the respondent in person and, in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the general powers and duties of a guardian;

(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed guardian, the guardian's proposed powers and duties, and the scope and duration of the proposed guardianship; and

(c) Inform the respondent that all costs and expenses of the proceeding, including the respondent's attorney's fees, may be paid from the respondent's assets.

(5) The visitor appointed under subsection (1) of this section

shall:

(a) Interview the petitioner and proposed guardian, if any;

(b) Visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the appointment is made;

(c) Obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition; and

(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(6) A visitor appointed under subsection (1) of this section shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under section 116 of this act at least fifteen days prior to the hearing on the petition filed under section 302 of this act, which must include:

(a) A summary of self-care and independent living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making, and cannot manage;

(b) A recommendation regarding the appropriateness of guardianship, including whether a protective arrangement instead of guardianship or other less restrictive alternative for meeting the respondent's needs is available and:

(i) If a guardianship is recommended, whether it should be full or limited; and

(ii) If a limited guardianship is recommended, the powers to be granted to the guardian;

(c) A statement of the qualifications of the proposed guardian and whether the respondent approves or disapproves of the proposed guardian;

(d) A statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to residence;

(e) A recommendation whether a professional evaluation under section 306 of this act is necessary;

(f) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(g) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(h) Any other matter the court directs.

**NEW SECTION. Sec. 305. APPOINTMENT AND ROLE OF ATTORNEY FOR ADULT.** (1)(a) The respondent shall have the right to be represented by a willing attorney of their choosing at any stage in guardianship proceedings.

(b) Unless the respondent in a proceeding for appointment of a guardian for an adult is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay, except as provided otherwise in (c) of this subsection.

(c)(i) The court must appoint an attorney to represent the respondent at public expense when either:

(A) The respondent is unable to afford an attorney;

(B) The expense of an attorney would result in substantial hardship to the respondent; or

(C) The respondent does not have practical access to funds with which to pay an attorney. If the respondent can afford an attorney but lacks practical access to funds, the court must provide an attorney and may impose a reimbursement requirement as part of a final order.

(ii) When, in the opinion of the court, the rights and interests of the respondent cannot otherwise be adequately protected and

represented, the court on its own motion must appoint an attorney at any time to represent the respondent.

(iii) An attorney must be provided under this subsection (1)(c) as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks is presumed by a reviewing court to be inadequate time for consultation and preparation.

(2) An attorney representing the respondent in a proceeding for appointment of a guardian for an adult shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive in type, duration, and scope, consistent with the respondent's interests.

**NEW SECTION. Sec. 306. PROFESSIONAL EVALUATION.** (1) At or before a hearing on a petition for a guardianship for an adult, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

(b) In other cases, unless the court finds that it has sufficient information to determine the respondent's needs and abilities without the evaluation.

(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, or advanced registered nurse practitioner licensed under chapter 18.79 RCW selected by the visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file report in a record with the court. Unless otherwise directed by the court, the report must contain:

(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;

(b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;

(c) A prognosis for improvement and recommendation for the appropriate treatment, support, or habilitation plan; and

(d) The date of the examination on which the report is based.

(3) The respondent may decline to participate in an evaluation ordered under subsection (1) of this section.

**NEW SECTION. Sec. 307. ATTENDANCE AND RIGHTS AT HEARING.** (1) Except as otherwise provided in subsection (2) of this section, a hearing under section 303 of this act may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under section 303 of this act may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

(a) The respondent consistently and repeatedly has refused to attend the hearing after having been fully informed of the right to attend and the potential consequences of failing to do so; or

(b) There is no practicable way for the respondent to attend and participate in the hearing even with appropriate supportive

services and technological assistance.

(3) The respondent may be assisted in a hearing under section 303 of this act by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under section 303 of this act.

(5) At a hearing held under section 303 of this act, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses, including any court-appointed evaluator and the visitor; and

(c) Otherwise participate in the hearing.

(6) Unless excused by the court for good cause, a proposed guardian shall attend a hearing under section 303 of this act.

(7) A hearing under section 303 of this act must be closed on request of the respondent and a showing of good cause.

(8) Any person may request to participate in a hearing under section 303 of this act. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 308. CONFIDENTIALITY OF RECORDS.** (1) The existence of a proceeding for or the existence of a guardianship for an adult is a matter of public record unless the court seals the record after:

(a) The respondent or individual subject to guardianship requests the record be sealed; and

(b) Either:

(i) The petition for guardianship is dismissed; or

(ii) The guardianship is terminated.

(2) An adult subject to a proceeding for a guardianship, whether or not a guardian is appointed, an attorney designated by the adult, and a person entitled to notice under section 310(5) of this act or a subsequent order are entitled to access court records of the proceeding and resulting guardianship, including the guardian's plan under section 317 of this act and report under section 318 of this act. A person not otherwise entitled to access court records under this subsection for good cause may petition the court for access to court records of the guardianship, including the guardian's report and plan. The court shall grant access if access is in the best interest of the respondent or adult subject to guardianship or furthers the public interest and does not endanger the welfare or financial interests of the adult.

(3) A report under section 304 of this act of a visitor or a professional evaluation under section 306 of this act is confidential and must be sealed on filing, but is available to:

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(d) Unless the court orders otherwise, an agent appointed under a power of attorney for health care or power of attorney for finances in which the respondent is the principal; and

(e) Any other person if it is in the public interest or for a purpose the court orders for good cause.

**NEW SECTION. Sec. 309. WHO MAY BE GUARDIAN FOR ADULT—ORDER OF PRIORITY.** (1) Except as otherwise provided in subsection (3) of this section, the court in appointing a guardian for an adult shall consider persons qualified

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to be guardian in the following order of priority:

(a) A guardian, other than a temporary or emergency guardian, currently acting for the respondent in another jurisdiction;

(b) A person nominated as guardian by the respondent, including the respondent's most recent nomination made in a power of attorney;

(c) An agent appointed by the respondent under a power of attorney for health care;

(d) A spouse or domestic partner of the respondent;

(e) A relative or other individual who has shown special care and concern for the respondent; and

(f) A certified professional guardian or conservator.

(2) If two or more persons have equal priority under subsection (1) of this section, the court shall select as guardian the person the court considers best qualified. In determining the best qualified person, the court shall consider the person's relationship with the respondent, the person's skills, the expressed wishes of the respondent, the extent to which the person and the respondent have similar values and preferences, and the likelihood the person will be able to perform the duties of a guardian successfully.

(3) The court, acting in the best interest of the respondent, may decline to appoint as guardian a person having priority under subsection (1) of this section and appoint a person having a lower priority or no priority.

(4) A person that provides paid services to the respondent, or an individual who is employed by a person that provides paid services to the respondent or is the spouse, domestic partner, parent, or child of an individual who provides or is employed to provide paid services to the respondent, may not be appointed as guardian unless:

(a) The individual is related to the respondent by blood, marriage, or adoption; or

(b) The court finds by clear and convincing evidence that the person is the best qualified person available for appointment and the appointment is in the best interest of the respondent.

(5) An owner, operator, or employee of a long-term care facility at which the respondent is receiving care may not be appointed as guardian unless the owner, operator, or employee is related to the respondent by blood, marriage, or adoption.

**NEW SECTION. Sec. 310. ORDER OF APPOINTMENT FOR GUARDIAN.** (1) A court order appointing a guardian for an adult must:

(a) Include a specific finding that clear and convincing evidence established that the identified needs of the respondent cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative, including use of appropriate supportive services, technological assistance, or supported decision making;

(b) Include a specific finding that clear and convincing evidence established the respondent was given proper notice of the hearing on the petition;

(c) State whether the adult subject to guardianship retains the right to vote and, if the adult does not retain the right to vote, include findings that support removing that right which must include a finding that the adult cannot communicate, with or without support, a specific desire to participate in the voting process; and

(d) State whether the adult subject to guardianship retains the right to marry and, if the adult does not retain the right to marry, include findings that support removing that right.

(2) An adult subject to guardianship retains the right to vote unless the order under subsection (1) of this section includes the statement required by subsection (1)(c) of this section. An adult subject to guardianship retains the right to marry unless the order under subsection (1) of this section includes the findings required

by subsection (1)(d) of this section.

(3) A court order establishing a full guardianship for an adult must state the basis for granting a full guardianship and include specific findings that support the conclusion that a limited guardianship would not meet the functional needs of the adult subject to guardianship.

(4) A court order establishing a limited guardianship for an adult must state the specific powers granted to the guardian.

(5) The court, as part of an order establishing a guardianship for an adult, shall identify any person that subsequently is entitled to:

(a) Notice of the rights of the adult under section 311(2) of this act;

(b) Notice of a change in the primary dwelling of the adult;

(c) Notice that the guardian has delegated:

(i) The power to manage the care of the adult;

(ii) The power to make decisions about where the adult lives;

(iii) The power to make major medical decisions on behalf of the adult;

(iv) A power that requires court approval under section 315 of this act; or

(v) Substantially all powers of the guardian;

(d) Notice that the guardian will be unavailable to visit the adult for more than two months or unavailable to perform the guardian's duties for more than one month;

(e) A copy of the guardian's plan under section 317 of this act and the guardian's report under section 318 of this act;

(f) Access to court records relating to the guardianship;

(g) Notice of the death or significant change in the condition of the adult;

(h) Notice that the court has limited or modified the powers of the guardian; and

(i) Notice of the removal of the guardian.

(6) A spouse, domestic partner, and adult children of an adult subject to guardianship are entitled to notice under subsection (5) of this section unless the court determines notice would be contrary to the preferences or prior directions of the adult subject to guardianship or not in the best interest of the adult.

(7) All orders establishing a guardianship for an adult must contain:

(a) A guardianship summary placed directly below the case caption or on a separate cover page in the form or substantially the same form as set forth in section 606 of this act;

(b) The date which the limited guardian or guardian must file the guardian's plan under section 317(1) of this act;

(c) The date by which the court will review the guardian's plan as required by section 317(4) of this act;

(d) The report interval which the guardian shall file its guardian's plan under section 318 of this act. The report interval may be annual, biennial, or triennial;

(e) The date the limited guardian or guardian must file its guardian's plan under section 318 of this act. The due date of the filing of the report shall be within ninety days after the anniversary date of the appointment;

(f) The date for the court to review the guardian's plan under section 318 of this act and enter its order. The court shall conduct the review within one hundred twenty days after the anniversary date of the appointment.

**NEW SECTION. Sec. 311. NOTICE OF ORDER OF APPOINTMENT—RIGHTS.** (1) A guardian appointed under section 309 of this act shall give the adult subject to guardianship and all other persons given notice under section 303 of this act a copy of the order of appointment, together with notice of the right to request termination or modification. The order and notice must be given not later than fourteen days after the appointment.

(2) Not later than thirty days after appointment of a guardian under section 309 of this act, the guardian shall give to the adult subject to guardianship and any other person entitled to notice under section 310(5) of this act or a subsequent order a statement of the rights of the adult subject to guardianship and procedures to seek relief if the adult is denied those rights. The statement must be in at least sixteen-point font, in plain language, and, to the extent feasible, in a language in which the adult subject to guardianship is proficient. The statement must notify the adult subject to guardianship of the right to:

(a) Seek termination or modification of the guardianship, or removal of the guardian, and choose an attorney to represent the adult in these matters;

(b) Be involved in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions, to the extent reasonably feasible;

(c) Be involved in health care decision making to the extent reasonably feasible and supported in understanding the risks and benefits of health care options to the extent reasonably feasible;

(d) Be notified at least fourteen days before a change in the adult's primary dwelling or permanent move to a nursing home, mental health facility, or other facility that places restrictions on the individual's ability to leave or have visitors unless the change or move is proposed in the guardian's plan under section 317 of this act or authorized by the court by specific order;

(e) Object to a change or move described in (d) of this subsection and the process for objecting;

(f) Communicate, visit, or interact with others, including receiving visitors, and making or receiving telephone calls, personal mail, or electronic communications, including through social media, unless:

(i) The guardian has been authorized by the court by specific order to restrict communications, visits, or interactions;

(ii) A protective order or protective arrangement instead of guardianship is in effect that limits contact between the adult and a person; or

(iii) The guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological, or financial harm to the adult, and the restriction is:

(A) For a period of not more than seven business days if the person has a relative or preexisting social relationship with the adult; or

(B) For a period of not more than sixty days if the person does not have a relative or preexisting social relationship with the adult;

(g) Receive a copy of the guardian's plan under section 317 of this act and the guardian's report under section 318 of this act;

(h) Object to the guardian's plan or report; and

(i) Associate with persons of their choosing as provided in section 315(5) of this act.

**NEW SECTION. Sec. 312. EMERGENCY GUARDIAN FOR ADULT.** (1) On its own after a petition has been filed under section 302 of this act, or on petition by a person interested in an adult's welfare, the court may appoint an emergency guardian for the adult if the court finds:

(a) Appointment of an emergency guardian is likely to prevent substantial harm to the adult's physical health, safety, or welfare;

(b) No other person appears to have authority and willingness to act in the circumstances; and

(c) There is reason to believe that a basis for appointment of a guardian under section 301 of this act exists.

(2) The duration of authority of an emergency guardian for an adult may not exceed sixty days, and the emergency guardian may exercise only the powers specified in the order of appointment.

The emergency guardian's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency guardian in subsection (1) of this section continue.

(3) Immediately on filing of a petition for appointment of an emergency guardian for an adult, the court shall appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency guardian for an adult without notice to the adult and any attorney for the adult only if the court finds from an affidavit or testimony that the respondent's physical health, safety, or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without giving notice under subsection (3) of this section, the court must:

(a) Give notice of the appointment not later than forty-eight hours after the appointment to:

(i) The respondent;

(ii) The respondent's attorney; and

(iii) Any other person the court determines; and

(b) Hold a hearing on the appropriateness of the appointment not later than five days after the appointment.

(5) Appointment of an emergency guardian under this section is not a determination that a basis exists for appointment of a guardian under section 301 of this act.

(6) The court may remove an emergency guardian appointed under this section at any time. The emergency guardian shall make any report the court requires.

**NEW SECTION. Sec. 313. DUTIES OF GUARDIAN FOR ADULT.** (1) A guardian for an adult is a fiduciary and owes the highest duty of good faith and care to the person under a guardianship. The guardian shall not substitute his or her moral or religious values, opinions, or philosophical beliefs for those of the person under a guardianship. Except as otherwise limited by the court, a guardian for an adult shall make decisions regarding the support, care, education, health, and welfare of the adult subject to guardianship to the extent necessitated by the adult's limitations.

(2) A guardian for an adult shall promote the self-determination of the adult and, to the extent reasonably feasible, encourage the adult to participate in decisions, act on the adult's own behalf, and develop or regain the capacity to manage the adult's personal affairs. In furtherance of this duty, the guardian shall:

(a) Become or remain personally acquainted with the adult and maintain sufficient contact with the adult, including through regular visitation, to know the adult's abilities, limitations, needs, opportunities, and physical and mental health;

(b) To the extent reasonably feasible, identify the values and preferences of the adult and involve the adult in decisions affecting the adult, including decisions about the adult's care, dwelling, activities, or social interactions; and

(c) Make reasonable efforts to identify and facilitate supportive relationships and services for the adult.

(3) A guardian for an adult at all times shall exercise reasonable care, diligence, and prudence when acting on behalf of or making decisions for the adult. In furtherance of this duty, the guardian shall:

(a) Take reasonable care of the personal effects, pets, and service or support animals of the adult and bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect the adult's property;

(b) Expend funds and other property of the adult received by

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the guardian for the adult's current needs for support, care, education, health, and welfare;

(c) Conserve any funds and other property of the adult not expended under (b) of this subsection for the adult's future needs, but if a conservator has been appointed for the adult, pay the funds and other property at least quarterly to the conservator to be conserved for the adult's future needs; and

(d) Monitor the quality of services, including long-term care services, provided to the adult.

(4) In making a decision for an adult subject to guardianship, the guardian shall make the decision the guardian reasonably believes the adult would make if the adult were able unless doing so would unreasonably harm or endanger the welfare or personal or financial interests of the adult. To determine the decision the adult subject to guardianship would make if able, the guardian shall consider the adult's previous or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the guardian.

(5) If a guardian for an adult cannot make a decision under subsection (4) of this section because the guardian does not know and cannot reasonably determine the decision the adult probably would make if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian shall act in accordance with the best interests of the adult. In determining the best interests of the adult, the guardian shall consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the adult;

(b) Other information the guardian believes the adult would have considered if the adult were able to act; and

(c) Other factors a reasonable person in the circumstances of the adult would consider, including consequences for others.

(6) A guardian for an adult immediately shall notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed.

(7) The guardian shall file with the court within thirty days of any substantial change in the condition of the person under guardianship or any changes in the residence of the person under guardianship and shall provide a copy of the notice to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court has determined is entitled to notice.

(8) To inform any person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court has determined is entitled to notice, but in no case more than five business days, after the person subject to guardianship:

(a) Makes a change in residence that is intended or likely to last more than fourteen calendar days;

(b) Has been admitted to a medical facility for acute care in response to a life-threatening injury or medical condition that requires inpatient care;

(c) Has been treated in an emergency room setting or kept for hospital observation for more than twenty-four hours; or

(d) Dies, in which case the notification must be made in person, by telephone, or by certified mail.

**NEW SECTION. Sec. 314. POWERS OF GUARDIAN FOR ADULT.** (1) Except as limited by court order, a guardian for an adult may:

(a) Apply for and receive funds and benefits for the support of the adult, unless a conservator is appointed for the adult and the application or receipt is within the powers of the conservator;

(b) Unless inconsistent with a court order, establish the adult's place of dwelling;

(c) Consent to health or other care, treatment, or service for the

adult;

(d) If a conservator for the adult has not been appointed, commence a proceeding, including an administrative proceeding, or take other appropriate action to compel another person to support the adult or pay funds for the adult's benefit;

(e) To the extent reasonable, delegate to the adult responsibility for a decision affecting the adult's well-being; and

(f) Receive personally identifiable health care information regarding the adult.

(2) The court by specific order may authorize a guardian for an adult to consent to the adoption of the adult.

(3) The court by specific order may authorize a guardian for an adult to:

(a) Consent or withhold consent to the marriage of the adult if the adult's right to marry has been removed under section 310 of this act;

(b) Petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage; or

(c) Support or oppose a petition for divorce, dissolution, or annulment of marriage of the adult or a declaration of invalidity of the adult's marriage.

(4) In determining whether to authorize a power under subsection (2) or (3) of this section, the court shall consider whether the underlying act would be in accordance with the adult's preferences, values, and prior directions and whether the underlying act would be in the adult's best interest.

(5) In exercising a guardian's power under subsection (1)(b) of this section to establish the adult's place of dwelling, the guardian shall:

(a) Select a residential setting the guardian believes the adult would select if the adult were able, in accordance with the decision-making standard in section 313 (4) and (5) of this act. If the guardian does not know and cannot reasonably determine what setting the adult subject to guardianship probably would choose if able, or the guardian reasonably believes the decision the adult would make would unreasonably harm or endanger the welfare or personal or financial interests of the adult, the guardian shall choose in accordance with section 313(5) of this act a residential setting that is consistent with the adult's best interest;

(b) In selecting among residential settings, give priority to a residential setting in a location that will allow the adult to interact with persons important to the adult and meet the adult's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in section 313 (4) and (5) of this act;

(c) Not later than thirty days after a change in the dwelling of the adult:

(i) Give notice of the change to the court, the adult, and any person identified as entitled to the notice in the court order appointing the guardian or a subsequent order; and

(ii) Include in the notice the address and nature of the new dwelling and state whether the adult received advance notice of the change and whether the adult objected to the change;

(d) Establish or move the permanent place of dwelling of the adult to a nursing home, mental health facility, or other facility that places restrictions on the adult's ability to leave or have visitors only if:

(i) The establishment or move is in the guardian's plan under section 317 of this act;

(ii) The court authorizes the establishment or move; or

(iii) The guardian gives notice of the establishment or move at least fourteen days before the establishment or move to the adult and all persons entitled to notice under section 310(5)(b) of this act or a subsequent order, and no objection is filed;

(e) Establish or move the place of dwelling of the adult outside this state only if consistent with the guardian's plan and authorized by the court by specific order; and

(f) Take action that would result in the sale of or surrender of the lease to the primary dwelling of the adult only if:

(i) The action is specifically included in the guardian's plan under section 317 of this act;

(ii) The court authorizes the action by specific order; or

(iii) Notice of the action was given at least fourteen days before the action to the adult and all persons entitled to the notice under section 310(5)(b) of this act or a subsequent order and no objection has been filed.

(6) In exercising a guardian's power under subsection (1)(c) of this section to make health care decisions, the guardian shall:

(a) Involve the adult in decision making to the extent reasonably feasible, including, when practicable, by encouraging and supporting the adult in understanding the risks and benefits of health care options;

(b) Defer to a decision by an agent under a power of attorney for health care executed by the adult and cooperate to the extent feasible with the agent making the decision; and

(c) Take into account:

(i) The risks and benefits of treatment options; and

(ii) The current and previous wishes and values of the adult, if known or reasonably ascertainable by the guardian.

(7) Notwithstanding subsection (1)(b) of this section no residential treatment facility which provides nursing or other care may detain a person within such facility against their will. Any court order, other than an order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize a guardian or limited guardian to consent to such involuntary detention on behalf of an individual subject to a guardianship shall be void and of no force or effect. This section does not apply to the detention of a minor as provided in chapter 71.34 RCW.

(8) Nothing in this section shall be construed to require a court order authorizing placement of an incapacitated person in a residential treatment facility if such order is not otherwise required by law: PROVIDED, That notice of any residential placement of an individual subject to a guardianship shall be served, either before or after placement, by the guardian or limited guardian on such individual, any visitor of record, any guardian ad litem of record, and any attorney of record.

**NEW SECTION. Sec. 315. SPECIAL LIMITATIONS ON GUARDIAN'S POWER.** (1) Unless authorized by the court by specific order, a guardian for an adult does not have the power to revoke or amend a power of attorney for health care or power of attorney for finances executed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent which the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible.

(2) A guardian for an adult may not initiate the commitment of the adult to an evaluation and treatment facility except in accordance with the state's procedure for involuntary civil commitment.

(3) Unless authorized by the court in accordance with subsection (4) of this section within the past thirty days, a guardian for an adult may not consent to any of the following

procedures for the adult:

(a) Therapy or other procedure to induce convulsion;

(b) Surgery solely for the purpose of psychosurgery; or

(c) Other psychiatric or mental health procedures that restrict physical freedom of movement or the rights set forth in RCW 71.05.217.

(4) The court may order a procedure listed in subsection (3) of this section only after giving notice to the adult's attorney and holding a hearing. If the adult does not have an attorney, the court must appoint an attorney for the adult prior to entering an order under this subsection.

**(5) PERSONS UNDER A GUARDIANSHIP, CONSERVATORSHIP, OR OTHER PROTECTIVE ARRANGEMENTS—RIGHT TO ASSOCIATE WITH PERSONS OF THEIR CHOOSING.**

(a) Except as otherwise provided in this section, a person under a guardianship retains the right to associate with persons of the person under a guardianship's choosing. This right includes, but is not limited to, the right to freely communicate and interact with other persons, whether through in-person visits, telephone calls, electronic communication, personal mail, or other means. If the person under a guardianship is unable to express consent for communication, visitation, or interaction with another person, or is otherwise unable to make a decision regarding association with another person, a guardian of a person under a guardianship, whether full or limited, must:

(i) Personally inform the person under a guardianship of the decision under consideration, using plain language, in a manner calculated to maximize the understanding of the person under a guardianship;

(ii) Maximize the person under a guardianship's participation in the decision-making process to the greatest extent possible, consistent with the person under a guardianship's abilities; and

(iii) Give substantial weight to the person under a guardianship's preferences, both expressed and historical.

(b) A guardian or limited guardian may not restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing, unless:

(i) The restriction is specifically authorized by the guardianship court in the court order establishing or modifying the guardianship or limited guardianship under chapter 11.--- RCW (the new chapter created in section 806 of this act);

(ii) The restriction is pursuant to a protection order issued under chapter 74.34 RCW, chapter 26.50 RCW, or other law, that limits contact between the person under a guardianship and other persons;

(iii)(A) The guardian or limited guardian has good cause to believe that there is an immediate need to restrict a person under a guardianship's right to communicate, visit, interact, or otherwise associate with persons of the person under a guardianship's choosing in order to protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation, as those terms are defined in RCW 74.34.020, or to protect the person under a guardianship from activities that unnecessarily impose significant distress on the person under a guardianship; and

(B) Within fourteen calendar days of imposing the restriction under (b)(iii)(A) of this subsection, the guardian or limited guardian files a petition for a protection order under chapter 74.34 RCW. The immediate need restriction may remain in place until the court has heard and issued an order or decision on the petition; or

(iv) The restriction is pursuant to participation in the community protection program under chapter 71A.12 RCW.

(6) A protection order under chapter 74.34 RCW issued to protect the person under a guardianship as described in subsection

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(5)(b)(iii)(B) of this section:

(a) Must include written findings of fact and conclusions of law;

(b) May not be more restrictive than necessary to protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation as those terms are defined in RCW 74.34.020; and

(c) May not deny communication, visitation, interaction, or other association between the person under a guardianship and another person unless the court finds that placing reasonable time, place, or manner restrictions is unlikely to sufficiently protect the person under a guardianship from abuse, neglect, abandonment, or financial exploitation as those terms are defined in RCW 74.34.020.

**Sec. 316.** RCW 11.125.080 and 2016 c 209 s 108 are each amended to read as follows:

(1) In a power of attorney, a principal may nominate a guardian of the principal's estate or guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(2) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of all of the principal's property, the power of attorney ~~((is terminated and the agent's authority does not continue unless continued by the court))~~ remains in effect subject to the provisions of section 315(1) of this act.

(3) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some but not all of the principal's property, the power of attorney shall not terminate or be modified, except to the extent ordered by the court.

**NEW SECTION. Sec. 317. GUARDIAN'S PLAN.** (1) A guardian for an adult, not later than ninety days after appointment, shall file with the court a plan for the care of the adult and shall provide a copy of the plan to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The plan must be based on the needs of the adult and take into account the best interest of the adult as well as the adult's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the guardian. The guardian shall include in the plan:

(a) The living arrangement, services, and supports the guardian expects to arrange, facilitate, or continue for the adult;

(b) Social and educational activities the guardian expects to facilitate on behalf of the adult;

(c) Any person with whom the adult has a close personal relationship or relationship involving regular visitation and any plan the guardian has for facilitating visits with the person;

(d) The anticipated nature and frequency of the guardian's visits and communication with the adult;

(e) Goals for the adult, including any goal related to the restoration of the adult's rights, and how the guardian anticipates achieving the goals;

(f) Whether the adult has an existing plan and, if so, whether the guardian's plan is consistent with the adult's plan; and

(g) A statement or list of the amount the guardian proposes to charge for each service the guardian anticipates providing to the adult.

(2) A guardian shall give notice of the filing of the guardian's plan under subsection (1) of this section, together with a copy of

the plan, to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and be given not later than fourteen days after the filing.

(3) An adult subject to guardianship and any person entitled under subsection (2) of this section to receive notice and a copy of the guardian's plan may object to the plan.

(4) The court shall review the guardian's plan filed under subsection (1) of this section and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (3) of this section and whether the plan is consistent with the guardian's duties and powers under sections 313 and 314 of this act. The court may not approve the plan until thirty days after its filing.

(5) After the guardian's plan filed under this section is approved by the court, the guardian shall provide a copy of the order approving the plan to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines.

**NEW SECTION. Sec. 318. GUARDIAN'S REPORT— MONITORING OF GUARDIANSHIP.** (1) A guardian for an adult shall file with the court by the date established by the court a report in a record regarding the condition of the adult and accounting for funds and other property in the guardian's possession or subject to the guardian's control. The guardian shall provide a copy of the report to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines.

(2) A report under subsection (1) of this section must state or contain:

(a) The mental, physical, and social condition of the adult;

(b) The living arrangements of the adult during the reporting period;

(c) A summary of the supported decision making, technological assistance, medical services, educational and vocational services, and other supports and services provided to the adult and the guardian's opinion as to the adequacy of the adult's care;

(d) A summary of the guardian's visits with the adult, including the dates of the visits;

(e) Action taken on behalf of the adult;

(f) The extent to which the adult has participated in decision making;

(g) If the adult is living in an evaluation and treatment facility or living in a facility that provides the adult with health care or other personal services, whether the guardian considers the facility's current plan for support, care, treatment, or habilitation consistent with the adult's preferences, values, prior directions, and best interests;

(h) Anything of more than de minimis value which the guardian, any individual who resides with the guardian, or the spouse, domestic partner, parent, child, or sibling of the guardian has received from an individual providing goods or services to the adult. A professional guardian must abide by the standards of practice regarding the acceptance of gifts;

(i) If the guardian delegated a power to an agent, the power delegated and the reason for the delegation;

(j) Any business relation the guardian has with a person the guardian has paid or that has benefited from the property of the adult;

(k) A copy of the guardian's most recently approved plan under section 317 of this act and a statement whether the guardian has deviated from the plan and, if so, how the guardian has deviated and why;

- (l) Plans for future care and support of the adult;
- (m) A recommendation as to the need for continued guardianship and any recommended change in the scope of the guardianship; and
- (n) Whether any co-guardian or successor guardian appointed to serve when a designated event occurs is alive and able to serve.
- (3) The court may appoint a visitor to review a report submitted under this section or a guardian's plan submitted under section 317 of this act, interview the guardian or adult subject to guardianship, or investigate any other matter involving the guardianship.
- (4) Notice of the filing under this section of a guardian's report, together with a copy of the report, must be given to the adult subject to guardianship, a person entitled to notice under section 310(5) of this act or a subsequent order, and any other person the court determines. The notice and report must be given not later than fourteen days after the filing.
- (5) The court shall establish procedures for monitoring a report submitted under this section and review each report to determine whether:
- The report provides sufficient information to establish the guardian has complied with the guardian's duties;
  - The guardianship should continue; and
  - The guardian's requested fees, if any, should be approved.
- (6) If the court determines there is reason to believe a guardian for an adult has not complied with the guardian's duties or the guardianship should be modified or terminated, the court:
- Shall notify the adult, the guardian, and any other person entitled to notice under section 310(5) of this act or a subsequent order;
  - May require additional information from the guardian;
  - May appoint a visitor to interview the adult or guardian or investigate any matter involving the guardianship; and
  - Consistent with sections 318 and 319 of this act, may hold a hearing to consider removal of the guardian, termination of the guardianship, or a change in the powers granted to the guardian or terms of the guardianship.
- (7) If the court has reason to believe fees requested by a guardian for an adult are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.
- (8) A guardian for an adult must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.
- (9) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review interval at annual, biennial, or triennial with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the guardian has been serving the person under guardianship; whether the guardian has timely filed all required reports with the court; whether the guardian is monitored by other state or local agencies; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the guardian.
- (10) If the court approves a report filed under this section, the order approving the report shall contain a guardianship summary or be accompanied by a guardianship summary in the form or substantially in the same form as set forth in section 606 of this act.
- (11) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in section 605 of this act to the guardian

containing an expiration date which will be within one hundred twenty days after the date the court directs the guardian file its next report.

(12) Any requirement to establish a monitoring program under this section is subject to appropriation.

**NEW SECTION. Sec. 319. REMOVAL OF GUARDIAN FOR ADULT—APPOINTMENT OF SUCCESSOR.** (1) The court may remove a guardian for an adult for failure to perform the guardian's duties or for other good cause and appoint a successor guardian to assume the duties of guardian.

(2) The court shall hold a hearing to determine whether to remove a guardian for an adult and appoint a successor guardian on:

(a) Petition of the adult, guardian, or person interested in the welfare of the adult, which contains allegations that, if true, would support a reasonable belief that removal of the guardian and appointment of a successor guardian may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the adult, guardian, or person interested in the welfare of the adult which supports a reasonable belief that removal of the guardian and appointment of a successor guardian may be appropriate; or

(c) Determination by the court that a hearing would be in the best interest of the adult.

(3) Notice of a hearing under subsection (2)(a) of this section and notice of the adult subject to guardianship's right to be represented at the hearing by counsel of the individual's choosing must be given to the adult subject to guardianship, the guardian, and any other person the court determines.

(4) An adult subject to guardianship who seeks to remove the guardian and have a successor guardian appointed has the right to choose an attorney to represent the adult in this matter. The court shall award reasonable attorneys' fees to the attorney for the adult as provided in section 120 of this act.

(5) In selecting a successor guardian for an adult, the court shall follow the priorities under section 309 of this act.

(6) Not later than fourteen days after appointing a successor guardian, the successor guardian shall give notice of the appointment to the adult subject to guardianship and any person entitled to notice under section 310(5) of this act or a subsequent order.

**NEW SECTION. Sec. 320. TERMINATION OR MODIFICATION OF GUARDIANSHIP FOR ADULT.** (1) An adult subject to guardianship, the guardian for the adult, or a person interested in the welfare of the adult may petition for:

(a) Termination of the guardianship on the ground that a basis for appointment under section 301 of this act does not exist or termination would be in the best interest of the adult or for other good cause; or

(b) Modification of the guardianship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(2) The court shall hold a hearing to determine whether termination or modification of a guardianship for an adult is appropriate on:

(a) Petition under subsection (1) of this section that contains allegations that, if true, would support a reasonable belief that termination or modification of the guardianship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the adult, guardian, or person



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interested in the welfare of the adult which supports a reasonable belief that termination or modification of the guardianship may be appropriate, including because the functional needs of the adult or supports or services available to the adult have changed;

(c) A report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs of the adult or supports or services available to the adult have changed or a protective arrangement instead of guardianship or other less restrictive alternative for meeting the adult's needs is available; or

(d) A determination by the court that a hearing would be in the best interest of the adult.

(3) Notice of a petition under subsection (2)(a) of this section must be given to the adult subject to guardianship, the guardian, and any other person the court determines.

(4) On presentation of prima facie evidence for termination of a guardianship for an adult, the court shall order termination unless it is proven that a basis for appointment of a guardian under section 301 of this act exists.

(5) The court shall modify the powers granted to a guardian for an adult if the powers are excessive or inadequate due to a change in the abilities or limitations of the adult, the adult's supports, or other circumstances.

(6) Unless the court otherwise orders for good cause, before terminating or modifying a guardianship for an adult, the court shall follow the same procedures to safeguard the rights of the adult which apply to a petition for guardianship.

(7) An adult subject to guardianship who seeks to terminate or modify the terms of the guardianship has the right to choose an attorney to represent the adult in the matter. The court shall award reasonable attorneys' fees to the attorney for the adult as provided in section 120 of this act.

#### **ARTICLE 4 CONSERVATORSHIP**

**NEW SECTION. Sec. 401. BASIS FOR APPOINTMENT OF CONSERVATOR.** (1) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of a minor if the court finds by a preponderance of evidence that appointment of a conservator is in the minor's best interest, and:

(a) If the minor has a parent, the court gives weight to any recommendation of the parent whether an appointment is in the minor's best interest; and

(b) Either:

(i) The minor owns funds or other property requiring management or protection that otherwise cannot be provided;

(ii) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(iii) Appointment is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the minor.

(2) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that:

(a) The adult is unable to manage property or financial affairs because:

(i) Of a limitation in the adult's ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate supportive services, technological assistance, or supported decision making; or

(ii) The adult is missing, detained, or unable to return to the United States;

(b) Appointment is necessary to:

(i) Avoid harm to the adult or significant dissipation of the

property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or of an individual entitled to the adult's support; and

(c) The respondent's identified needs cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternatives.

(3) The court shall grant a conservator only those powers necessitated by demonstrated limitations and needs of the respondent and issue orders that will encourage development of the respondent's maximum self-determination and independence. The court may not establish a full conservatorship if a limited conservatorship, protective arrangement instead of conservatorship, or other less restrictive alternative would meet the needs of the respondent.

**NEW SECTION. Sec. 402. PETITION FOR APPOINTMENT OF CONSERVATOR.** (1) The following may petition for the appointment of a conservator:

(a) The individual for whom the order is sought;

(b) A person interested in the estate, financial affairs, or welfare of the individual, including a person that would be adversely affected by lack of effective management of property or financial affairs of the individual; or

(c) The guardian for the individual.

(2) A petition under subsection (1) of this section must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the appointment, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(a) The respondent's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the respondent will reside if the petition is granted;

(b) The name and address of the respondent's:

(i) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period before the filing of the petition;

(ii) Adult children or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(iii) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship during the two years immediately before the filing of the petition;

(c) The name and current address of each of the following, if applicable:

(i) A person responsible for the care or custody of the respondent;

(ii) Any attorney currently representing the respondent;

(iii) The representative payee appointed by the social security administration for the respondent;

(iv) A guardian or conservator acting for the respondent in this state or another jurisdiction;

(v) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

(vi) The fiduciary appointed for the respondent by the department of veterans affairs;

(vii) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;

(viii) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(ix) A person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition;

(x) Any proposed conservator, including a person nominated by the respondent, if the respondent is twelve years of age or older; and

(xi) If the individual for whom a conservator is sought is a minor:

(A) An adult not otherwise listed with whom the minor resides; and

(B) Each person not otherwise listed that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

(d) A general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts;

(e) The reason conservatorship is necessary, including a brief description of:

(i) The nature and extent of the respondent's alleged need;

(ii) If the petition alleges the respondent is missing, detained, or unable to return to the United States, the relevant circumstances, including the time and nature of the disappearance or detention and any search or inquiry concerning the respondent's whereabouts;

(iii) Any protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(iv) If no protective arrangement or other less restrictive alternatives have been considered or implemented, the reason it has not been considered or implemented; and

(v) The reason a protective arrangement or other less restrictive alternative is insufficient to meet the respondent's need;

(f) Whether the petitioner seeks a limited conservatorship or a full conservatorship;

(g) If the petitioner seeks a full conservatorship, the reason a limited conservatorship or protective arrangement instead of conservatorship is not appropriate;

(h) If the petition includes the name of a proposed conservator, the reason the proposed conservator should be appointed;

(i) If the petition is for a limited conservatorship, a description of the property to be placed under the conservator's control and any requested limitation on the authority of the conservator;

(j) Whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings; and

(k) The name and address of an attorney representing the petitioner, if any.

**NEW SECTION. Sec. 403. NOTICE AND HEARING FOR APPOINTMENT OF CONSERVATOR.** (1) All petitions filed under section 402 of this act for appointment of a conservator shall be heard within sixty days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

(2) A copy of a petition under section 402 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 405 of this act not more than five court days after the petition under section 402 of this act has been filed. If the respondent's whereabouts are unknown or personal service cannot be made, service on the respondent must be made by publication. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant a petition for appointment of a conservator if notice substantially complying

with this subsection is not served on the respondent.

(3) In a proceeding on a petition under section 402 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 402(2) (a) through (c) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from appointing a conservator.

(4) After the appointment of a conservator, notice of a hearing on a petition for an order under this article, together with a copy of the petition, must be given to:

(a) The individual subject to conservatorship, if the individual is twelve years of age or older and not missing, detained, or unable to return to the United States;

(b) The conservator; and

(c) Any other person the court determines.

**NEW SECTION. Sec. 404. ORDER TO PRESERVE OR APPLY PROPERTY WHILE PROCEEDING PENDING.** While a petition under section 402 of this act is pending, after preliminary hearing and without notice to others, the court may issue an order to preserve and apply property of the respondent as required for the support of the respondent or an individual who is in fact dependent on the respondent. The court may appoint a special agent to assist in implementing the order.

**NEW SECTION. Sec. 405. APPOINTMENT AND ROLE OF VISITOR.** (1) If the respondent in a proceeding to appoint a conservator is a minor, the court may appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(2) If the respondent in a proceeding to appoint a conservator is an adult, the court shall appoint a visitor. The duties and reporting requirements of the visitor are limited to the relief requested in the petition. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(3) The court, in the order appointing visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the visitor may charge without additional court review and approval.

(4)(a) The visitor appointed under subsection (1) or (2) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under section 116 of this act with a statement including: His or her training relating to the duties as a visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the visitor should not be removed for one of the following three reasons:

(i) Lack of expertise necessary for the proceeding;

(ii) An hourly rate higher than what is reasonable for the particular proceeding; or

(iii) A conflict of interest.

(b) Notice of the hearing shall be provided to the visitor and all parties. If, after a hearing, the court enters an order replacing the visitor, findings shall be included, expressly stating the reasons for the removal. If the visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs

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related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(5) A visitor appointed under subsection (2) of this section for an adult shall interview the respondent in person and in a manner the respondent is best able to understand:

(a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, the respondent's rights at the hearing on the petition, and the general powers and duties of a conservator;

(b) Determine the respondent's views about the appointment sought by the petitioner, including views about a proposed conservator, the conservator's proposed powers and duties, and the scope and duration of the proposed conservatorship; and

(c) Inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys' fees, may be paid from the respondent's assets.

(6) A visitor appointed under subsection (2) of this section for an adult shall:

(a) Interview the petitioner and proposed conservator, if any;

(b) Review financial records of the respondent, if relevant to the visitor's recommendation under subsection (7)(b) of this section;

(c) Investigate whether the respondent's needs could be met by a protective arrangement instead of conservatorship or other less restrictive alternative and, if so, identify the arrangement or other less restrictive alternative; and

(d) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(7) A visitor appointed under subsection (2) of this section for an adult shall file a report in a record with the court and provide a copy of the report to the respondent, petitioner, and any interested party entitled to notice under section 116 of this act at least fifteen days prior to the hearing on the petition filed under section 402 of this act, which must include:

(a) A recommendation:

(i) Regarding the appropriateness of conservatorship, or whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available;

(ii) If a conservatorship is recommended, whether it should be full or limited;

(iii) If a limited conservatorship is recommended, the powers to be granted to the conservator, and the property that should be placed under the conservator's control; and

(iv) If a conservatorship is recommended, the amount of the bond or other verified receipt needed under sections 416 and 417 of this act;

(b) A statement of the qualifications of the proposed conservator and whether the respondent approves or disapproves of the proposed conservator;

(c) A recommendation whether a professional evaluation under section 407 of this act is necessary;

(d) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(e) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(f) Any other matter the court directs.

**NEW SECTION. Sec. 406. APPOINTMENT AND ROLE OF ATTORNEY.** (1)(a) The respondent shall have the right to be represented by a willing attorney of their choosing at any stage in conservatorship proceedings.

(b) Unless the respondent in a proceeding for appointment of a conservator is represented by an attorney, the court is not

required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay, except as provided otherwise in (c) of this subsection.

(c)(i) The court must appoint an attorney to represent the respondent at public expense when either:

(A) The respondent is unable to afford an attorney;

(B) The expense of an attorney would result in substantial hardship to the respondent; or

(C) The respondent does not have practical access to funds with which to pay an attorney. If the respondent can afford an attorney but lacks practical access to funds, the court must provide an attorney and may impose a reimbursement requirement as part of a final order.

(ii) When, in the opinion of the court, the rights and interests of the respondent cannot otherwise be adequately protected and represented, the court on its own motion must appoint an attorney at any time to represent the respondent.

(iii) An attorney must be provided under this subsection (1)(c) as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks is presumed by a reviewing court to be inadequate time for consultation and preparation.

(2) An attorney representing the respondent in a proceeding for appointment of a conservator shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive in type, duration, and scope, consistent with the respondent's interests.

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 402 of this act if:

(a) The parent objects to appointment of a conservator;

(b) The court determines that counsel is needed to ensure that consent to appointment of a conservator is informed; or

(c) The court otherwise determines the parent needs representation.

**NEW SECTION. Sec. 407. PROFESSIONAL EVALUATION.** (1) At or before a hearing on a petition for conservatorship for an adult, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

(b) In other cases, unless the court finds it has sufficient information to determine the respondent's needs and abilities without the evaluation.

(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, or advanced registered nurse practitioner licensed under chapter 18.79 RCW selected by the visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file a report in a record with the court. Unless otherwise directed by the court, the report must contain:

(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations with regard to the management of the respondent's property and financial affairs;

(b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;

(c) A prognosis for improvement with regard to the ability to manage the respondent's property and financial affairs; and

(d) The date of the examination on which the report is based.

(3) A respondent may decline to participate in an evaluation ordered under subsection (1) of this section.

**NEW SECTION. Sec. 408. ATTENDANCE AND RIGHTS AT HEARING.** (1) Except as otherwise provided in subsection (2) of this section, a hearing under section 403 of this act may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under section 403 of this act may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

(a) The respondent consistently and repeatedly has refused to attend the hearing after having been fully informed of the right to attend and the potential consequences of failing to do so;

(b) There is no practicable way for the respondent to attend and participate in the hearing even with appropriate supportive services or technological assistance; or

(c) The respondent is a minor who has received proper notice and attendance would be harmful to the minor.

(3) The respondent may be assisted in a hearing under section 403 of this act by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under section 403 of this act.

(5) At a hearing under section 403 of this act, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses, including any court-appointed evaluator and the visitor; and

(c) Otherwise participate in the hearing.

(6) Unless excused by the court for good cause, a proposed conservator shall attend a hearing under section 403 of this act.

(7) A hearing under section 403 of this act must be closed on request of the respondent and a showing of good cause.

(8) Any person may request to participate in a hearing under section 403 of this act. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 409. CONFIDENTIALITY OF RECORDS.** (1) The existence of a proceeding for or the existence of conservatorship is a matter of public record unless the court seals the record after:

(a) The respondent, the individual subject to conservatorship, or the parent of a minor subject to conservatorship requests the record be sealed; and

(b) Either:

(i) The petition for conservatorship is dismissed; or

(ii) The conservatorship is terminated.

(2) An individual subject to a proceeding for a conservatorship, whether or not a conservator is appointed, an attorney designated

by the individual, and a person entitled to notice under section 411(6) of this act or a subsequent order may access court records of the proceeding and resulting conservatorship, including the conservator's plan under section 419 of this act and the conservator's report under section 423 of this act. A person not otherwise entitled access to court records under this section for good cause may petition the court for access to court records of the conservatorship, including the conservator's plan and report. The court shall grant access if access is in the best interest of the respondent or individual subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(3) A report under section 405 of this act of a visitor or professional evaluation under section 407 of this act is confidential and must be sealed on filing, but is available to:

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;

(d) Unless the court directs otherwise, an agent appointed under a power of attorney for finances in which the respondent is identified as the principal; and

(e) Any other person if it is in the public interest or for a purpose the court orders for good cause.

**NEW SECTION. Sec. 410. WHO MAY BE CONSERVATOR—ORDER OF PRIORITY.** (1) Except as otherwise provided in subsection (3) of this section, the court in appointing a conservator shall consider persons qualified to be a conservator in the following order of priority:

(a) A conservator, other than a temporary or emergency conservator, currently acting for the respondent in another jurisdiction;

(b) A person nominated as conservator by the respondent, including the respondent's most recent nomination made in a power of attorney for finances;

(c) An agent appointed by the respondent to manage the respondent's property under a power of attorney for finances;

(d) A spouse or domestic partner of the respondent;

(e) A relative or other individual who has shown special care and concern for the respondent; and

(f) A certified professional guardian or conservator or other entity the court determines is suitable.

(2) If two or more persons have equal priority under subsection (1) of this section, the court shall select as conservator the person the court considers best qualified. In determining the best qualified person, the court shall consider the person's relationship with the respondent, the person's skills, the expressed wishes of the respondent, the extent to which the person and the respondent have similar values and preferences, and the likelihood the person will be able to perform the duties of a conservator successfully.

(3) The court, acting in the best interest of the respondent, may decline to appoint as conservator a person having priority under subsection (1) of this section and appoint a person having a lower priority or no priority.

(4) A person that provides paid services to the respondent, or an individual who is employed by a person that provides paid services to the respondent or is the spouse, domestic partner, parent, or child of an individual who provides or is employed to provide paid services to the respondent, may not be appointed as conservator unless:

(a) The individual is related to the respondent by blood, marriage, or adoption; or

(b) The court finds by clear and convincing evidence that the person is the best qualified person available for appointment and

the appointment is in the best interest of the respondent.

(5) An owner, operator, or employee of a long-term care facility at which the respondent is receiving care may not be appointed as conservator unless the owner, operator, or employee is related to the respondent by blood, marriage, or adoption.

**NEW SECTION. Sec. 411. ORDER OF APPOINTMENT OF CONSERVATOR.** (1) A court order appointing a conservator for a minor must include findings to support appointment of a conservator and, if a full conservatorship is granted, the reason a limited conservatorship would not meet the identified needs of the minor.

(2) A court order appointing a conservator for a minor may dispense with the requirement for the conservator to file reports with the court under section 423 of this act if all the property of the minor subject to the conservatorship is protected by a verified receipt.

(3) A court order appointing a conservator for an adult must:

(a) Include a specific finding that clear and convincing evidence has established that the identified needs of the respondent cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternatives, including use of appropriate supportive services, technological assistance, or supported decision making; and

(b) Include a specific finding that clear and convincing evidence established the respondent was given proper notice of the hearing on the petition.

(4) A court order establishing a full conservatorship for an adult must state the basis for granting a full conservatorship and include specific findings to support the conclusion that a limited conservatorship would not meet the functional needs of the adult.

(5) A court order establishing a limited conservatorship must state the specific property placed under the control of the conservator and the powers granted to the conservator.

(6) The court, as part of an order establishing a conservatorship, shall identify any person that subsequently is entitled to:

(a) Notice of the rights of the individual subject to conservatorship under section 412(2) of this act;

(b) Notice of a sale of or surrender of a lease to the primary dwelling of the individual;

(c) Notice that the conservator has delegated a power that requires court approval under section 414 of this act or substantially all powers of the conservator;

(d) Notice that the conservator will be unavailable to perform the conservator's duties for more than one month;

(e) A copy of the conservator's plan under section 419 of this act and the conservator's report under section 423 of this act;

(f) Access to court records relating to the conservatorship;

(g) Notice of a transaction involving a substantial conflict between the conservator's fiduciary duties and personal interests;

(h) Notice of the death or significant change in the condition of the individual;

(i) Notice that the court has limited or modified the powers of the conservator; and

(j) Notice of the removal of the conservator.

(7) If an individual subject to conservatorship is an adult, the spouse, domestic partner, and adult children of the adult subject to conservatorship are entitled under subsection (6) of this section to notice unless the court determines notice would be contrary to the preferences or prior directions of the adult subject to conservatorship or not in the best interest of the adult.

(8) If an individual subject to conservatorship is a minor, each parent and adult sibling of the minor is entitled under subsection (6) of this section to notice unless the court determines notice would not be in the best interest of the minor.

(9) All orders establishing a conservatorship for an adult must

contain:

(a) A conservatorship summary placed directly below the case caption or on a separate cover page in the form or substantially the same form as set forth in section 606 of this act;

(b) The date which the limited conservator or conservator must file the conservator's plan under section 419 of this act;

(c) The date which the limited conservator or conservator must file an inventory under section 420 of this act;

(d) The date by which the court will review the conservator's plan as required by section 419 of this act;

(e) The report interval which the conservator must file its report under section 423 of this act. The report interval may be annual, biennial, or triennial;

(f) The date the limited conservator or conservator must file its report under section 423 of this act. The due date of the filing of the report shall be within ninety days after the anniversary date of the appointment;

(g) The date for the court to review the report under section 423 of this act and enter its order. The court shall conduct the review within one hundred twenty days after the anniversary date of the appointment.

**NEW SECTION. Sec. 412. NOTICE OF ORDER OF APPOINTMENT—RIGHTS.** (1) A conservator appointed under section 411 of this act shall give to the individual subject to conservatorship and to all other persons given notice under section 403 of this act a copy of the order of appointment, together with notice of the right to request termination or modification. The order and notice must be given not later than fourteen days after the appointment.

(2) Not later than thirty days after appointment of a conservator under section 411 of this act, the conservator shall give to the individual subject to conservatorship and any other person entitled to notice under section 411(6) of this act a statement of the rights of the individual subject to conservatorship and procedures to seek relief if the individual is denied those rights. The statement must be in plain language, in at least sixteen-point font, and to the extent feasible, in a language in which the individual subject to conservatorship is proficient. The statement must notify the individual subject to conservatorship of the right to:

(a) Seek termination or modification of the conservatorship, or removal of the conservator, and choose an attorney to represent the individual in these matters;

(b) Participate in decision making to the extent reasonably feasible;

(c) Receive a copy of the conservator's plan under section 419 of this act, the conservator's inventory under section 420 of this act, and the conservator's report under section 423 of this act; and

(d) Object to the conservator's inventory, plan, or report.

(3) If a conservator is appointed for the reasons stated in section 401(2)(a)(ii) of this act and the individual subject to conservatorship is missing, notice under this section to the individual is not required.

**NEW SECTION. Sec. 413. EMERGENCY CONSERVATOR.** (1) On its own or on petition by a person interested in an individual's welfare after a petition has been filed under section 402 of this act, the court may appoint an emergency conservator for the individual if the court finds:

(a) Appointment of an emergency conservator is likely to prevent substantial and irreparable harm to the individual's property or financial interests;

(b) No other person appears to have authority and willingness to act in the circumstances; and

(c) There is reason to believe that a basis for appointment of a

conservator under section 401 of this act exists.

(2) The duration of authority of an emergency conservator may not exceed sixty days and the emergency conservator may exercise only the powers specified in the order of appointment. The emergency conservator's authority may be extended once for not more than sixty days if the court finds that the conditions for appointment of an emergency conservator under subsection (1) of this section continue.

(3) Immediately on filing of a petition for an emergency conservator, the court shall appoint an attorney to represent the respondent in the proceeding. Except as otherwise provided in subsection (4) of this section, reasonable notice of the date, time, and place of a hearing on the petition must be given to the respondent, the respondent's attorney, and any other person the court determines.

(4) The court may appoint an emergency conservator without notice to the respondent and any attorney for the respondent only if the court finds from an affidavit or testimony that the respondent's property or financial interests will be substantially and irreparably harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency conservator without giving notice under subsection (3) of this section, the court must give notice of the appointment not later than forty-eight hours after the appointment to:

- (a) The respondent;
- (b) The respondent's attorney; and
- (c) Any other person the court determines.

(5) Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(6) Appointment of an emergency conservator under this section is not a determination that a basis exists for appointment of a conservator under section 401 of this act.

(7) The court may remove an emergency conservator appointed under this section at any time. The emergency conservator shall make any report the court requires.

**NEW SECTION. Sec. 414. POWERS OF CONSERVATOR REQUIRING COURT APPROVAL.** (1) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under section 403(4) of this act and receive specific authorization by the court before the conservator may exercise with respect to the conservatorship the power to:

- (a) Make a gift, except a gift of de minimis value;
- (b) Sell, encumber an interest in, or surrender a lease to the primary dwelling of the individual subject to conservatorship;
- (c) Convey, release, or disclaim a contingent or expectant interest in property, including marital property and any right of survivorship incident to joint tenancy or tenancy by the entireties;
- (d) Exercise or release a power of appointment;
- (e) Create a revocable or irrevocable trust of property of the conservatorship estate, whether or not the trust extends beyond the duration of the conservatorship, or revoke or amend a trust revocable by the individual subject to conservatorship;
- (f) Exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value;
- (g) Exercise a right to an elective share in the estate of a deceased spouse or domestic partner of the individual subject to conservatorship or renounce or disclaim a property interest;
- (h) Grant a creditor priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the individual subject to conservatorship and preferential treatment otherwise would be impermissible under section 428(5) of this act; and

(i) Make, modify, amend, or revoke the will of the individual subject to conservatorship in compliance with chapter 11.12 RCW.

(2) In approving a conservator's exercise of a power listed in subsection (1) of this section, the court shall consider primarily the decision the individual subject to conservatorship would make if able, to the extent the decision can be ascertained.

(3) To determine under subsection (2) of this section the decision the individual subject to conservatorship would make if able, the court shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator. The court also shall consider:

- (a) The financial needs of the individual subject to conservatorship and individuals who are in fact dependent on the individual subject to conservatorship for support, and the interests of creditors of the individual;
- (b) Possible reduction of income, estate, inheritance, or other tax liabilities;
- (c) Eligibility for governmental assistance;
- (d) The previous pattern of giving or level of support provided by the individual;
- (e) Any existing estate plan or lack of estate plan of the individual;
- (f) The life expectancy of the individual and the probability the conservatorship will terminate before the individual's death; and
- (g) Any other relevant factor.

(4) A conservator may not revoke or amend a power of attorney for finances executed by the individual subject to conservatorship. If a power of attorney for finances is in effect, a decision of the agent takes precedence over that of the conservator, unless the court orders otherwise.

**NEW SECTION. Sec. 415. PETITION FOR ORDER AFTER APPOINTMENT.** An individual subject to conservatorship or a person interested in the welfare of the individual may petition for an order:

- (1) Requiring the conservator to furnish a bond or collateral or additional bond or collateral or allowing a reduction in a bond or collateral previously furnished;
- (2) Requiring an accounting for the administration of the conservatorship estate;
- (3) Directing distribution;
- (4) Removing the conservator and appointing a temporary or successor conservator;
- (5) Modifying the type of appointment or powers granted to the conservator, if the extent of protection or management previously granted is excessive or insufficient to meet the individual's needs, including because the individual's abilities or supports have changed;
- (6) Rejecting or modifying the conservator's plan under section 419 of this act, the conservator's inventory under section 420 of this act, or the conservator's report under section 423 of this act; or
- (7) Granting other appropriate relief.

**NEW SECTION. Sec. 416. BOND—ALTERNATIVE VERIFIED RECEIPT.** (1) Except as otherwise provided in subsections (3) and (4) of this section, the court shall require a conservator to furnish a bond with a surety the court specifies, or require a verified receipt, conditioned on faithful discharge of all duties of the conservator. The court may waive the requirement only if the court finds that a bond or other verified receipt is not necessary to protect the interests of the individual subject to conservatorship. Except as otherwise provided in subsections (3) and (4) of this section, the court may not waive the requirement if

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the conservator is in the business of serving as a conservator and is being paid for the conservator's service.

(2) Unless the court directs otherwise, the bond required under this section must be in the amount of the aggregate capital value of the conservatorship estate, plus the estimated income for the accounting and report review interval, less the value of property deposited under a verified receipt requiring a court order for its removal and real property the conservator lacks power to sell or convey without specific court authorization. The court, in place of surety on a bond, may accept collateral for the performance of the bond, including a pledge of securities or a mortgage of real property.

(3) A regulated financial institution qualified to do trust business in this state is not required to give a bond under this section.

(4) In all conservatorships where the person subject to conservatorship has total assets of a value of less than three thousand dollars, the court may dispense with the requirement of a bond: PROVIDED, That the conservator swears to report to the court any changes in the total assets of the person subject to conservatorship increasing their value to over three thousand dollars: PROVIDED FURTHER, That the conservator files a yearly statement showing the monthly income of the person subject to conservatorship if such monthly income, excluding moneys from state or federal benefits, is over the sum of five hundred dollars per month for any three consecutive months.

**NEW SECTION. Sec. 417. TERMS AND REQUIREMENTS OF BOND.** (1) The following rules apply to the bond required under section 416 of this act:

(a) Except as otherwise provided by the bond, the surety and the conservator are jointly and severally liable.

(b) By executing a bond provided by a conservator, the surety submits to the personal jurisdiction of the court that issued letters of office to the conservator in a proceeding relating to the duties of the conservator in which the surety is named as a party. Notice of the proceeding must be given to the surety at the address shown in the records of the court in which the bond is filed and any other address of the surety then known to the person required to provide the notice.

(c) On petition of a successor conservator or person affected by a breach of the obligation of the bond, a proceeding may be brought against the surety for breach of the obligation of the bond.

(d) A proceeding against the bond may be brought until liability under the bond is exhausted.

(2) A proceeding may not be brought under this section against a surety of a bond on a matter as to which a proceeding against the conservator is barred.

(3) If a bond under section 416 of this act is not renewed by the conservator, the surety or sureties immediately shall give notice to the court and the individual subject to conservatorship.

**NEW SECTION. Sec. 418. DUTIES OF CONSERVATOR.** (1) A conservator is a fiduciary and has duties of prudence and loyalty to the individual subject to conservatorship.

(2) A conservator shall promote the self-determination of the individual subject to conservatorship and, to the extent feasible, encourage the individual to participate in decisions, act on the individual's own behalf, and develop or regain the capacity to manage the individual's personal affairs.

(3) In making a decision for an individual subject to conservatorship, the conservator shall make the decision the conservator reasonably believes the individual would make if able, unless doing so would fail to preserve the resources needed to maintain the individual's well-being and lifestyle or otherwise

unreasonably harm or endanger the welfare or personal or financial interests of the individual. To determine the decision the individual would make if able, the conservator shall consider the individual's prior or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the conservator.

(4) If a conservator cannot make a decision under subsection (3) of this section because the conservator does not know and cannot reasonably determine the decision the individual subject to conservatorship probably would make if able, or the conservator reasonably believes the decision the individual would make would fail to preserve resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual, the conservator shall act in accordance with the best interests of the individual. In determining the best interests of the individual, the conservator shall consider:

(a) Information received from professionals and persons that demonstrate sufficient interest in the welfare of the individual;

(b) Other information the conservator believes the individual would have considered if the individual were able to act; and

(c) Other factors a reasonable person in the circumstances of the individual would consider, including consequences for others.

(5) Except when inconsistent with the conservator's duties under subsections (1) through (4) of this section, a conservator shall invest and manage the conservatorship estate as a prudent investor would, by considering:

(a) The circumstances of the individual subject to conservatorship and the conservatorship estate;

(b) General economic conditions;

(c) The possible effect of inflation or deflation;

(d) The expected tax consequences of an investment decision or strategy;

(e) The role of each investment or course of action in relation to the conservatorship estate as a whole;

(f) The expected total return from income and appreciation of capital;

(g) The need for liquidity, regularity of income, and preservation or appreciation of capital; and

(h) The special relationship or value, if any, of specific property to the individual subject to conservatorship.

(6) The propriety of a conservator's investment and management of the conservatorship estate is determined in light of the facts and circumstances existing when the conservator decides or acts and not by hindsight.

(7) A conservator shall make a reasonable effort to verify facts relevant to the investment and management of the conservatorship estate.

(8) A conservator that has special skills or expertise, or is named conservator in reliance on the conservator's representation of special skills or expertise, has a duty to use the special skills or expertise in carrying out the conservator's duties.

(9) In investing, selecting specific property for distribution, and invoking a power of revocation or withdrawal for the use or benefit of the individual subject to conservatorship, a conservator shall consider any estate plan of the individual known or reasonably ascertainable to the conservator and may examine the will or other donative, nominative, or appointive instrument of the individual.

(10) A conservator shall maintain insurance on the insurable real and personal property of the individual subject to conservatorship, unless the conservatorship estate lacks sufficient funds to pay for insurance or the court finds:

(a) The property lacks sufficient equity; or

(b) Insuring the property would unreasonably dissipate the

conservatorship estate or otherwise not be in the best interest of the individual.

(11) If a power of attorney for finances is in effect, a conservator shall cooperate with the agent to the extent feasible.

(12) A conservator has access to and authority over a digital asset of the individual subject to conservatorship to the extent provided by the revised uniform fiduciary access to digital assets act (chapter 11.120 RCW) or court order.

(13) A conservator for an adult shall notify the court if the condition of the adult has changed so that the adult is capable of exercising rights previously removed. The notice must be given immediately on learning of the change.

(14) A conservator shall notify the court within thirty days of any substantial change in the value of the property of the person subject to conservatorship and shall provide a copy of the notice to the person subject to guardianship, a person entitled to notice under section 403 of this act or a subsequent order, and any other person the court has determined is entitled to notice and schedule a hearing for the court to review the adequacy of the bond or other verified receipt under sections 416 and 417 of this act.

**NEW SECTION. Sec. 419. CONSERVATOR'S PLAN.**

(1) A conservator, not later than ninety days after appointment, shall file with the court a plan for protecting, managing, expending, and distributing the assets of the conservatorship estate. The plan must be based on the needs of the individual subject to conservatorship and take into account the best interest of the individual as well as the individual's preferences, values, and prior directions, to the extent known to or reasonably ascertainable by the conservator. The conservator shall include in the plan:

(a) A budget containing projected expenses and resources, including an estimate of the total amount of fees the conservator anticipates charging per year and a statement or list of the amount the conservator proposes to charge for each service the conservator anticipates providing to the individual;

(b) How the conservator will involve the individual in decisions about management of the conservatorship estate;

(c) Any step the conservator plans to take to develop or restore the ability of the individual to manage the conservatorship estate; and

(d) An estimate of the duration of the conservatorship.

(2) A conservator shall give notice of the filing of the conservator's plan under subsection (1) of this section, together with a copy of the plan, to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and be given not later than fourteen days after the filing.

(3) An individual subject to conservatorship and any person entitled under subsection (2) of this section to receive notice and a copy of the conservator's plan may object to the plan.

(4) The court shall review the conservator's plan filed under subsection (1) of this section and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (3) of this section and whether the plan is consistent with the conservator's duties and powers. The court may not approve the plan until thirty days after its filing.

(5) After a conservator's plan under this section is approved by the court, the conservator shall provide a copy of the plan to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines.

**NEW SECTION. Sec. 420. INVENTORY—RECORDS.**

(1) Not later than sixty days after appointment, a conservator shall prepare and file with the appointing court a detailed inventory of the conservatorship estate, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits.

(2) A conservator shall give notice of the filing of an inventory to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and any other person the court determines. The notice must be given not later than fourteen days after the filing.

(3) A conservator shall keep records of the administration of the conservatorship estate and make them available for examination on reasonable request of the individual subject to conservatorship, a guardian for the individual, or any other person the conservator or the court determines.

**NEW SECTION. Sec. 421. ADMINISTRATIVE POWERS OF CONSERVATOR NOT REQUIRING COURT APPROVAL.**

(1) Except as otherwise provided in section 414 of this act or qualified or limited in the court's order of appointment and stated in the letters of office, a conservator has all powers granted in this section and any additional power granted to a trustee by law of this state other than this chapter.

(2) A conservator, acting reasonably and consistent with the fiduciary duties of the conservator to accomplish the purpose of the conservatorship, without specific court authorization or confirmation, may with respect to the conservatorship estate:

(a) Collect, hold, and retain property, including property in which the conservator has a personal interest and real property in another state, until the conservator determines disposition of the property should be made;

(b) Receive additions to the conservatorship estate;

(c) Continue or participate in the operation of a business or other enterprise;

(d) Acquire an undivided interest in property in which the conservator, in a fiduciary capacity, holds an undivided interest;

(e) Invest assets;

(f) Deposit funds or other property in a financial institution, including one operated by the conservator;

(g) Acquire or dispose of property, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of, or abandon property;

(h) Make ordinary or extraordinary repairs or alterations in a building or other structure, demolish any improvement, or raze an existing or erect a new party wall or building;

(i) Subdivide or develop land, dedicate land to public use, make or obtain the vacation of a plat and adjust a boundary, adjust a difference in valuation of land, exchange or partition land by giving or receiving consideration, and dedicate an easement to public use without consideration;

(j) Enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term within or extending beyond the term of the conservatorship;

(k) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or a pooling or unitization agreement;

(l) Grant an option involving disposition of property or accept or exercise an option for the acquisition of property;

(m) Vote a security, in person or by general or limited proxy;

(n) Pay a call, assessment, or other sum chargeable or accruing against or on account of a security;

(o) Sell or exercise a stock subscription or conversion right;

(p) Consent, directly or through a committee or agent, to the reorganization, consolidation, merger, dissolution, or liquidation



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of a corporation or other business enterprise;

(q) Hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery;

(r) Insure:

(i) The conservatorship estate, in whole or in part, against damage or loss in accordance with section 418(10) of this act; and

(ii) The conservator against liability with respect to a third person;

(s) Borrow funds, with or without security, to be repaid from the conservatorship estate or otherwise;

(t) Advance funds for the protection of the conservatorship estate or the individual subject to conservatorship and all expenses, losses, and liability sustained in the administration of the conservatorship estate or because of holding any property for which the conservator has a lien on the conservatorship estate;

(u) Pay or contest a claim, settle a claim by or against the conservatorship estate or the individual subject to conservatorship by compromise, arbitration, or otherwise, or release, in whole or in part, a claim belonging to the conservatorship estate to the extent the claim is uncollectible;

(v) Pay a tax, assessment, compensation of the conservator or any guardian, and other expense incurred in the collection, care, administration, and protection of the conservatorship estate;

(w) Pay a sum distributable to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship by paying the sum to the distributee or for the use of the distributee:

(i) To the guardian for the distributee;

(ii) To the custodian of the distributee under the uniform transfers to minors act (chapter 11.114 RCW); or

(iii) If there is no guardian, custodian, or custodial trustee, to a relative or other person having physical custody of the distributee;

(x) Bring or defend an action, claim, or proceeding in any jurisdiction for the protection of the conservatorship estate or the conservator in the performance of the conservator's duties;

(y) Structure the finances of the individual subject to conservatorship to establish eligibility for a public benefit, including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties; and

(z) Execute and deliver any instrument that will accomplish or facilitate the exercise of a power of the conservator.

**NEW SECTION. Sec. 422. DISTRIBUTION FROM CONSERVATORSHIP ESTATE.** Except as otherwise provided in section 414 of this act or qualified or limited in the court's order of appointment and stated in the letters of office, and unless contrary to a conservator's plan under section 419 of this act, the conservator may expend or distribute income or principal of the conservatorship estate without specific court authorization or confirmation for the support, care, education, health, or welfare of the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship, including the payment of child or spousal support, in accordance with the following rules:

(1) The conservator shall consider a recommendation relating to the appropriate standard of support, care, education, health, or welfare for the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship, made by a guardian for the individual subject to conservatorship, if any, and, if the individual subject to conservatorship is a minor, a recommendation made by a parent of the minor.

(2) The conservator acting in compliance with the conservator's duties under section 418 of this act is not liable for an expenditure

or distribution made based on a recommendation under subsection (1) of this section unless the conservator knows the expenditure or distribution is not in the best interest of the individual subject to conservatorship.

(3) In making an expenditure or distribution under this section, the conservator shall consider:

(a) The size of the conservatorship estate, the estimated duration of the conservatorship, and the likelihood the individual subject to conservatorship, at some future time, may be fully self-sufficient and able to manage the individual's financial affairs and the conservatorship estate;

(b) The accustomed standard of living of the individual subject to conservatorship and individual who is dependent on the individual subject to conservatorship;

(c) Other funds or source used for the support of the individual subject to conservatorship; and

(d) The preferences, values, and prior directions of the individual subject to conservatorship.

(4) Funds expended or distributed under this section may be paid by the conservator to any person, including the individual subject to conservatorship, as reimbursement for expenditures the conservator might have made, or in advance for services to be provided to the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship if it is reasonable to expect the services will be performed and advance payment is customary or reasonably necessary under the circumstances.

**NEW SECTION. Sec. 423. CONSERVATOR'S REPORT AND ACCOUNTING—MONITORING.** (1) A conservator shall file with the court by the date established by the court a report in a record regarding the administration of the conservatorship estate unless the court otherwise directs, on resignation or removal, on termination of the conservatorship, and at any other time the court directs.

(2) A report under subsection (1) of this section must state or contain:

(a) An accounting that lists property included in the conservatorship estate and the receipts, disbursements, liabilities, and distributions during the period for which the report is made;

(b) A list of the services provided to the individual subject to conservatorship;

(c) A copy of the conservator's most recently approved plan and a statement whether the conservator has deviated from the plan and, if so, how the conservator has deviated and why;

(d) A recommendation as to the need for continued conservatorship and any recommended change in the scope of the conservatorship;

(e) To the extent feasible, a copy of the most recent reasonably available financial statements evidencing the status of bank accounts, investment accounts, and mortgages or other debts of the individual subject to conservatorship with all but the last four digits of the account numbers and social security number redacted;

(f) Anything of more than de minimis value which the conservator, any individual who resides with the conservator, or the spouse, domestic partner, parent, child, or sibling of the conservator has received from a person providing goods or services to the individual subject to conservatorship;

(g) Any business relation the conservator has with a person the conservator has paid or that has benefited from the property of the individual subject to conservatorship; and

(h) Whether any co-conservator or successor conservator appointed to serve when a designated event occurs is alive and able to serve.

(3) The court may appoint a visitor to review a report under this

section or conservator's plan under section 419 of this act, interview the individual subject to conservatorship or conservator, or investigate any other matter involving the conservatorship. In connection with the report, the court may order the conservator to submit the conservatorship estate to appropriate examination in a manner the court directs.

(4) Notice of the filing under this section of a conservator's report, together with a copy of the report, must be provided to the individual subject to conservatorship, a person entitled to notice under section 411(6) of this act or a subsequent order, and other persons the court determines. The notice and report must be given not later than fourteen days after filing.

(5) The court shall establish procedures for monitoring a report submitted under this section and review each report at least annually to determine whether:

(a) The reports provide sufficient information to establish the conservator has complied with the conservator's duties;

(b) The conservatorship should continue; and

(c) The conservator's requested fees, if any, should be approved.

(6) If the court determines there is reason to believe a conservator has not complied with the conservator's duties or the conservatorship should not continue, the court:

(a) Shall notify the individual subject to conservatorship, the conservator, and any other person entitled to notice under section 411(6) of this act or a subsequent order;

(b) May require additional information from the conservator;

(c) May appoint a visitor to interview the individual subject to conservatorship or conservator or investigate any matter involving the conservatorship; and

(d) Consistent with sections 430 and 431 of this act, may hold a hearing to consider removal of the conservator, termination of the conservatorship, or a change in the powers granted to the conservator or terms of the conservatorship.

(7) If the court has reason to believe fees requested by a conservator are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

(8) A conservator must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

(9) An order, after notice and hearing, approving an interim report of a conservator filed under this section adjudicates liabilities concerning a matter adequately disclosed in the report, as to a person given notice of the report or accounting.

(10) If the court approves a report filed under this section, the order approving the report shall set the due date for the filing of the next report to be filed under this section. The court may set the review at annual, biennial, or triennial intervals with the report due date to be within ninety days of the anniversary date of appointment. When determining the report interval, the court can consider: The length of time the conservator has been serving the person under conservatorship; whether the conservator has timely filed all required reports with the court; whether the conservator is monitored by other state or local agencies; the income of the person subject to conservatorship; the value of the property of the person subject to conservatorship; the adequacy of the bond and other verified receipt; and whether there have been any allegations of abuse, neglect, or a breach of fiduciary duty against the conservator.

(11) If the court approves a report filed under this section, the order approving the report shall contain a conservatorship summary or accompanied by a conservatorship summary in the form or substantially in the same form as set forth in section 606 of this act.

(12) If the court approves a report filed under this section, the order approving the report shall direct the clerk of the court to reissue letters of office in the form or substantially in the same form as set forth in section 605 of this act to the conservator containing an expiration date which will be within one hundred twenty days after the date the court directs the conservator file its next report.

(13) An order, after notice and hearing, approving a final report filed under this section discharges the conservator from all liabilities, claims, and causes of action by a person given notice of the report and the hearing as to a matter adequately disclosed in the report.

(14) Any requirement to establish a monitoring program under this section is subject to appropriation.

**NEW SECTION. Sec. 424. ATTEMPTED TRANSFER OF PROPERTY BY INDIVIDUAL SUBJECT TO CONSERVATORSHIP.** (1) The interest of an individual subject to conservatorship in property included in the conservatorship estate is not transferable or assignable by the individual and is not subject to levy, garnishment, or similar process for claims against the individual unless allowed under section 428 of this act.

(2) If an individual subject to conservatorship enters into a contract after having the right to enter the contract removed by the court, the contract is void against the individual and the individual's property but is enforceable against the person that contracted with the individual.

(3) A person other than the conservator that deals with an individual subject to conservatorship with respect to property included in the conservatorship estate is entitled to protection provided by law of this state other than this chapter.

**NEW SECTION. Sec. 425. TRANSACTION INVOLVING CONFLICT OF INTEREST.** A transaction involving a conservatorship estate which is affected by a substantial conflict between the conservator's fiduciary duties and personal interests is voidable unless the transaction is authorized by court order after notice to persons entitled to notice under section 411(6) of this act or a subsequent order. A transaction affected by a substantial conflict includes a sale, encumbrance, or other transaction involving the conservatorship estate entered into by the conservator, an individual with whom the conservator resides, the spouse, domestic partner, descendant, sibling, agent, or attorney of the conservator, or a corporation or other enterprise in which the conservator has a substantial beneficial interest.

**NEW SECTION. Sec. 426. PROTECTION OF PERSON DEALING WITH CONSERVATOR.** (1) A person that assists or deals with a conservator in good faith and for value in any transaction, other than a transaction requiring a court order under section 414 of this act, is protected as though the conservator properly exercised any power in question. Knowledge by a person that the person is dealing with a conservator alone does not require the person to inquire into the existence of authority of the conservator or the propriety of the conservator's exercise of authority, but restrictions on authority stated in letters of office, or otherwise provided by law, are effective as to the person. A person that pays or delivers property to a conservator is not responsible for proper application of the property.

(2) Protection under subsection (1) of this section extends to a procedural irregularity or jurisdictional defect in the proceeding leading to the issuance of letters of office and does not substitute for protection for a person that assists or deals with a conservator provided by comparable provisions in law of this state other than this chapter relating to a commercial transaction or simplifying a transfer of securities by a fiduciary.

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**NEW SECTION. Sec. 427. DEATH OF INDIVIDUAL SUBJECT TO CONSERVATORSHIP.** (1) If an individual subject to conservatorship dies, the conservator shall deliver to the court for safekeeping any will of the individual in the conservator's possession and inform the personal representative named in the will if feasible, or if not feasible, a beneficiary named in the will, of the delivery.

(2) If forty days after the death of an individual subject to conservatorship no personal representative has been appointed and no application or petition for appointment is before the court, the conservator may apply to exercise the powers and duties of a personal representative to administer and distribute the decedent's estate. The conservator shall give notice of his or her appointment and the pendency of any probate proceedings as provided in RCW 11.28.237 and shall also give notice to a person nominated as personal representative by a will of the decedent of which the conservator is aware. The court may grant the application if there is no objection and endorse the letters of office to note that the individual formerly subject to conservatorship is deceased and the conservator has acquired the powers and duties of a personal representative.

(3) On the death of an individual subject to conservatorship, the conservator shall conclude the administration of the conservatorship estate as provided in section 431 of this act.

**NEW SECTION. Sec. 428. PRESENTATION AND ALLOWANCE OF CLAIM.** (1) A conservator may pay, or secure by encumbering property included in the conservatorship estate, a claim against the conservatorship estate or the individual subject to conservatorship arising before or during the conservatorship, on presentation and allowance in accordance with the priorities under subsection (4) of this section. A claimant may present a claim by:

(a) Sending or delivering to the conservator a statement in a record of the claim, indicating its basis, the name and address of the claimant, and the amount claimed; or

(b) Filing the claim with the court, in a form acceptable to the court, and sending or delivering a copy of the claim to the conservator.

(2) A claim under subsection (1) of this section is presented on receipt by the conservator of the statement of the claim or the filing with the court of the claim, whichever first occurs. A presented claim is allowed if it is not disallowed in whole or in part by the conservator in a record sent or delivered to the claimant not later than sixty days after its presentation. Before payment, the conservator may change an allowance of the claim to a disallowance in whole or in part, but not after allowance under a court order or order directing payment of the claim. Presentation of a claim tolls until thirty days after disallowance of the claim the running of a statute of limitations that has not expired relating to the claim.

(3) A claimant whose claim under subsection (1) of this section has not been paid may petition the court to determine the claim at any time before it is barred by a statute of limitations, and the court may order its allowance, payment, or security by encumbering property included in the conservatorship estate. If a proceeding is pending against the individual subject to conservatorship at the time of appointment of the conservator or is initiated thereafter, the moving party shall give the conservator notice of the proceeding if it could result in creating a claim against the conservatorship estate.

(4) If a conservatorship estate is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

(a) Costs and expenses of administration;

(b) A claim of the federal or state government having priority under law other than this chapter;

(c) A claim incurred by the conservator for support, care, education, health, or welfare previously provided to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship;

(d) A claim arising before the conservatorship; and

(e) All other claims.

(5) Preference may not be given in the payment of a claim under subsection (4) of this section over another claim of the same class. A claim due and payable may not be preferred over a claim not due unless:

(a) Doing so would leave the conservatorship estate without sufficient funds to pay the basic living and health care expenses of the individual subject to conservatorship; and

(b) The court authorizes the preference under section 414(1)(h) of this act.

(6) If assets of a conservatorship estate are adequate to meet all existing claims, the court, acting in the best interest of the individual subject to conservatorship, may order the conservator to grant a security interest in the conservatorship estate for payment of a claim at a future date.

**NEW SECTION. Sec. 429. PERSONAL LIABILITY OF CONSERVATOR.** (1) Except as otherwise agreed by a conservator, the conservator is not personally liable on a contract properly entered into in a fiduciary capacity in the course of administration of the conservatorship estate unless the conservator fails to reveal the conservator's representative capacity in the contract or before entering into the contract.

(2) A conservator is personally liable for an obligation arising from control of property of the conservatorship estate or an act or omission occurring in the course of administration of the conservatorship estate only if the conservator is personally at fault.

(3) A claim based on a contract entered into by a conservator in a fiduciary capacity, an obligation arising from control of property included in the conservatorship estate, or a tort committed in the course of administration of the conservatorship estate may be asserted against the conservatorship estate in a proceeding against the conservator in a fiduciary capacity, whether or not the conservator is personally liable for the claim.

(4) A question of liability between a conservatorship estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification or another appropriate proceeding or action.

**NEW SECTION. Sec. 430. REMOVAL OF CONSERVATOR—APPOINTMENT OF SUCCESSOR.** (1) The court may remove a conservator for failure to perform the conservator's duties or other good cause and appoint a successor conservator to assume the duties of the conservator.

(2) The court shall hold a hearing to determine whether to remove a conservator and appoint a successor on:

(a) Petition of the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which contains allegations that, if true, would support a reasonable belief that removal of the conservator and appointment of a successor may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(b) Communication from the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which supports a reasonable belief that removal of the conservator and appointment of a successor may be appropriate; or

(c) Determination by the court that a hearing would be in the best interest of the individual subject to conservatorship.

(3) Notice of a hearing under subsection (2)(a) of this section and notice of the individual's right to be represented at the hearing by counsel of the individual's choosing must be given to the individual subject to conservatorship, the conservator, and any other person the court determines.

(4) An individual subject to conservatorship who seeks to remove the conservator and have a successor appointed has the right to choose an attorney to represent the individual in this matter. The court shall award reasonable attorneys' fees to the attorney as provided in section 120 of this act.

(5) In selecting a successor conservator, the court shall follow the priorities under section 410 of this act.

(6) Not later than fourteen days after appointing a successor conservator, the successor conservator shall give notice of the appointment to the individual subject to conservatorship and any person entitled to notice under section 411(6) of this act or a subsequent order.

**NEW SECTION. Sec. 431. TERMINATION OR MODIFICATION OF CONSERVATORSHIP.** (1) A conservatorship for a minor terminates on the earliest of:

(a) A court order terminating the conservatorship;  
 (b) The minor becoming an adult or, if the minor consents or the court finds by clear and convincing evidence that substantial harm to the minor's interests is otherwise likely, attaining twenty-one years of age;

(c) Emancipation of the minor; or

(d) Death of the minor.

(2) A conservatorship for an adult terminates on order of the court or when the adult dies.

(3) An individual subject to conservatorship, the conservator, or a person interested in the welfare of the individual may petition for:

(a) Termination of the conservatorship on the ground that a basis for appointment under section 401 of this act does not exist or termination would be in the best interest of the individual or for other good cause; or

(b) Modification of the conservatorship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(4) The court shall hold a hearing to determine whether termination or modification of a conservatorship is appropriate on:

(a) Petition under subsection (3) of this section that contains allegations that, if true, would support a reasonable belief that termination or modification of the conservatorship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed within the preceding six months;

(b) A communication from the individual subject to conservatorship, conservator, or person interested in the welfare of the individual which supports a reasonable belief that termination or modification of the conservatorship may be appropriate, including because the functional needs of the individual or supports or services available to the individual have changed;

(c) A report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs or supports or services available to the individual have changed or a protective arrangement instead of conservatorship or other less restrictive alternative is available; or

(d) A determination by the court that a hearing would be in the best interest of the individual.

(5) Notice of a petition under subsection (3) of this section must

be given to the individual subject to conservatorship, the conservator, and any such other person the court determines.

(6) On presentation of prima facie evidence for termination of a conservatorship, the court shall order termination unless it is proven that a basis for appointment of a conservator under section 401 of this act exists.

(7) The court shall modify the powers granted to a conservator if the powers are excessive or inadequate due to a change in the abilities or limitations of the individual subject to conservatorship, the individual's supports, or other circumstances.

(8) Unless the court otherwise orders for good cause, before terminating a conservatorship, the court shall follow the same procedures to safeguard the rights of the individual subject to conservatorship which apply to a petition for conservatorship.

(9) An individual subject to conservatorship who seeks to terminate or modify the terms of the conservatorship has the right to choose an attorney to represent the individual in this matter. The court shall award reasonable attorneys' fees to the attorney as provided in section 120 of this act.

(10) On termination of a conservatorship other than by reason of the death of the individual subject to conservatorship, property of the conservatorship estate passes to the individual. The order of termination must direct the conservator to file a final report and petition for discharge on approval by the court of the final report.

(11) On termination of a conservatorship by reason of the death of the individual subject to conservatorship, the conservator shall file a final report and petition for discharge on approval by the court of the final report within ninety days of death of the person subject to conservatorship. On approval of the final report, the conservator shall proceed expeditiously to distribute the conservatorship estate to the individual's estate or as otherwise ordered by the court. The conservator may take reasonable measures necessary to preserve the conservatorship estate until distribution can be made.

(12) The court shall issue a final order of discharge on the approval by the court of the final report and satisfaction by the conservator of any other condition the court imposed on the conservator's discharge.

**NEW SECTION. Sec. 432. TRANSFER FOR BENEFIT OF MINOR WITHOUT APPOINTMENT OF CONSERVATOR.** (1) Unless a person required to transfer funds or other property to a minor knows that a conservator for the minor has been appointed or a proceeding is pending for conservatorship, the person may transfer an amount or value not exceeding fifteen thousand dollars in a twelve-month period to:

(a) A person that has care or custody of the minor and with whom the minor resides;

(b) A guardian for the minor;

(c) A custodian under the uniform transfers to minors act (chapter 11.114 RCW); or

(d) A financial institution as a deposit in an interest-bearing account or certificate solely in the name of the minor and shall give notice to the minor of the deposit.

(2) A person that transfers funds or other property under this section is not responsible for its proper application.

(3) A person that receives funds or other property for a minor under subsection (1)(a) or (b) of this section may apply it only to the support, care, education, health, or welfare of the minor, and may not derive a personal financial benefit from it, except for reimbursement for necessary expenses. Funds not applied for these purposes must be preserved for the future support, care, education, health, or welfare of the minor, and the balance, if any, transferred to the minor when the minor becomes an adult or otherwise is emancipated.

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**ARTICLE 5****OTHER PROTECTIVE ARRANGEMENTS**

**NEW SECTION. Sec. 501. AUTHORITY FOR PROTECTIVE ARRANGEMENT.** (1) Under this article, a court:

(a) On receiving a petition for a guardianship for an adult may order a protective arrangement instead of guardianship as a less restrictive alternative to guardianship; and

(b) On receiving a petition for a conservatorship for an individual may order a protective arrangement instead of conservatorship as a less restrictive alternative to conservatorship.

(2) A person interested in an adult's welfare, including the adult or a conservator for the adult, may petition under this article for a protective arrangement instead of guardianship.

(3) The following persons may petition under this article for a protective arrangement instead of conservatorship:

(a) The individual for whom the protective arrangement is sought;

(b) A person interested in the property, financial affairs, or welfare of the individual, including a person that would be affected adversely by lack of effective management of property or financial affairs of the individual; and

(c) The guardian for the individual.

**NEW SECTION. Sec. 502. BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD OF GUARDIANSHIP FOR ADULT.** (1) After the hearing on a petition under section 302 of this act for a guardianship or under section 501(2) of this act for a protective arrangement instead of guardianship, the court may issue an order under subsection (2) of this section for a protective arrangement instead of guardianship if the court finds by clear and convincing evidence that:

(a) The respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and

(b) The respondent's identified needs cannot be met by a less restrictive alternative.

(2) If the court makes the findings under subsection (1) of this section, the court, instead of appointing a guardian, may:

(a) Authorize or direct a transaction necessary to meet the respondent's need for health, safety, or care, including:

(i) A particular medical treatment or refusal of a particular medical treatment;

(ii) A move to a specified place of dwelling; or

(iii) Visitation or supervised visitation between the respondent and another person;

(b) Restrict access to the respondent by a specified person whose access places the respondent at serious risk of physical, psychological, or financial harm; and

(c) Reorder other arrangements on a limited basis that are appropriate.

(3) In deciding whether to issue an order under this section, the court shall consider the factors under sections 314 and 315 of this act that a guardian must consider when making a decision on behalf of an adult subject to guardianship.

**NEW SECTION. Sec. 503. BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD OF CONSERVATORSHIP FOR ADULT OR MINOR.** (1) After the hearing on a petition under section 402 of this act for conservatorship for an adult or under section 501(3) of this act for a protective arrangement instead of a conservatorship for an adult, the court may issue an order under subsection (3) of this section for a protective arrangement instead

of conservatorship for the adult if the court finds by clear and convincing evidence that:

(a) The adult is unable to manage property or financial affairs because:

(i) Of a limitation in the ability to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; or

(ii) The adult is missing, detained, or unable to return to the United States;

(b) An order under subsection (3) of this section is necessary to:

(i) Avoid harm to the adult or significant dissipation of the property of the adult; or

(ii) Obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult or an individual entitled to the adult's support; and

(c) The respondent's identified needs cannot be met by a less restrictive alternative.

(2) After the hearing on a petition under section 402 of this act for conservatorship for a minor or under section 501(3) of this act for a protective arrangement instead of conservatorship for a minor, the court may issue an order under subsection (3) of this section for a protective arrangement instead of conservatorship for the respondent if the court finds by a preponderance of the evidence that the arrangement is in the minor's best interest, and:

(a) If the minor has a parent, the court gives weight to any recommendation of the parent whether an arrangement is in the minor's best interest;

(b) Either:

(i) The minor owns money or property requiring management or protection that otherwise cannot be provided;

(ii) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(iii) The arrangement is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the minor; and

(iv) The order under subsection (3) of this section is necessary or desirable to obtain or provide money needed for the support, care, education, health, or welfare of the minor.

(3) If the court makes the findings under subsection (1) or (2) of this section, the court, instead of appointing a conservator, may:

(a) Authorize or direct a transaction necessary to protect the financial interest or property of the respondent, including:

(i) An action to establish eligibility for benefits;

(ii) Payment, delivery, deposit, or retention of funds or property;

(iii) Sale, mortgage, lease, or other transfer of property;

(iv) Purchase of an annuity;

(v) Entry into a contractual relationship, including a contract to provide for personal care, supportive services, education, training, or employment;

(vi) Addition to or establishment of a trust;

(vii) Ratification or invalidation of a contract, trust, will, or other transaction, including a transaction related to the property or business affairs of the respondent; or

(viii) Settlement of a claim; or

(b) Restrict access to the respondent's property by a specified person whose access to the property places the respondent at serious risk of financial harm.

(4) After the hearing on a petition under section 501 (1)(b) or (3) of this act, whether or not the court makes the findings under subsection (1) or (2) of this section, the court may issue an order to restrict access to the respondent or the respondent's property by

a specified person that the court finds by clear and convincing evidence:

(a) Through fraud, coercion, duress, or the use of deception and control caused or attempted to cause an action that would have resulted in financial harm to the respondent or the respondent's property; and

(b) Poses a serious risk of substantial financial harm to the respondent or the respondent's property.

(5) Before issuing an order under subsection (3) or (4) of this section, the court shall consider the factors under section 418 of this act a conservator must consider when making a decision on behalf of an individual subject to conservatorship.

(6) Before issuing an order under subsection (3) or (4) of this section for a respondent who is a minor, the court also shall consider the best interest of the minor, the preference of the parents of the minor, and the preference of the minor, if the minor is twelve years of age or older.

**NEW SECTION. Sec. 504. PETITION FOR PROTECTIVE ARRANGEMENT.** A petition for a protective arrangement instead of guardianship or conservatorship must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the protective arrangement, the name and address of any attorney representing the petitioner, and, to the extent known, the following:

(1) The respondent's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed the respondent will reside if the petition is granted;

(2) The name and address of the respondent's:

(a) Spouse or domestic partner or, if the respondent has none, an adult with whom the respondent has shared household responsibilities for more than six months in the twelve-month period before the filing of the petition;

(b) Adult children or, if none, each parent and adult sibling of the respondent, or, if none, at least one adult nearest in kinship to the respondent who can be found with reasonable diligence; and

(c) Adult stepchildren whom the respondent actively parented during the stepchildren's minor years and with whom the respondent had an ongoing relationship in the two-year period immediately before the filing of the petition;

(3) The name and current address of each of the following, if applicable:

(a) A person responsible for the care or custody of the respondent;

(b) Any attorney currently representing the respondent;

(c) The representative payee appointed by the social security administration for the respondent;

(d) A guardian or conservator acting for the respondent in this state or another jurisdiction;

(e) A trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

(f) The fiduciary appointed for the respondent by the department of veterans affairs;

(g) An agent designated under a power of attorney for health care in which the respondent is identified as the principal;

(h) An agent designated under a power of attorney for finances in which the respondent is identified as the principal;

(i) A person nominated as guardian or conservator by the respondent if the respondent is twelve years of age or older;

(j) A person nominated as guardian by the respondent's parent, spouse, or domestic partner in a will or other signed record;

(k) A person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition; and

(l) If the respondent is a minor:

(i) An adult not otherwise listed with whom the respondent resides; and

(ii) Each person not otherwise listed that had primary care or custody of the respondent for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

(4) The nature of the protective arrangement sought;

(5) The reason the protective arrangement sought is necessary, including a brief description of:

(a) The nature and extent of the respondent's alleged need;

(b) Any less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(c) If no less restrictive alternative has been considered or implemented, the reason less restrictive alternatives have not been considered or implemented; and

(d) The reason other less restrictive alternatives are insufficient to meet the respondent's alleged need;

(6) The name and current address, if known, of any person with whom the petitioner seeks to limit the respondent's contact;

(7) Whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;

(8) If a protective arrangement instead of guardianship is sought and the respondent has property other than personal effects, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts; and

(9) If a protective arrangement instead of conservatorship is sought, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts.

**NEW SECTION. Sec. 505. NOTICE AND HEARING.**

(1) All petitions filed under section 504 of this act for appointment of a guardian for an adult shall be heard within sixty days unless an extension of time is requested by a party or the visitor within such sixty-day period and granted for good cause shown.

(2) A copy of a petition under section 501 of this act and notice of a hearing on the petition must be served personally on the respondent and the visitor appointed under section 506 of this act not more than five court days after the petition under section 504 of this act has been filed. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose, and consequences of granting the petition. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent.

(3) In a proceeding on a petition under section 501 of this act, the notice required under subsection (2) of this section must be given to the persons required to be listed in the petition under section 504 (1) through (3) of this act and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from granting the petition.

(4) After the court has ordered a protective arrangement under this article, notice of a hearing on a petition filed under this chapter, together with a copy of the petition, must be given to the respondent and any other person the court determines.

**NEW SECTION. Sec. 506. APPOINTMENT AND ROLE OF VISITOR.** (1) On filing of a petition under section 501 of

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this act for a protective arrangement instead of guardianship, the court shall appoint a visitor. The visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(2) On filing of a petition under section 501 of this act for a protective arrangement instead of conservatorship for a minor, the court may appoint a visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(3) On filing of a petition under section 501 of this act or a protective arrangement instead of conservatorship for an adult, the court shall appoint a visitor unless the respondent is represented by an attorney appointed by the court. The visitor must be an individual with training or experience in the types of abilities, limitations, and needs alleged in the petition.

(4) The court, in the order appointing visitor, shall specify the hourly rate the visitor may charge for his or her services, and shall specify the maximum amount the visitor may charge without additional court review and approval.

(5)(a) The visitor appointed under subsection (1) or (3) of this section shall within five days of receipt of notice of appointment file with the court and serve, either personally or by certified mail with return receipt, the respondent or his or her legal counsel, the petitioner or his or her legal counsel, and any interested party entitled to notice under section 116 of this act with a statement including: His or her training relating to the duties as a visitor; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the guardian ad litem has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest. Within three days of the later of the actual service or filing of the visitor's statement, any party may set a hearing and file and serve a motion for an order to show cause why the visitor should not be removed for one of the following three reasons:

- (i) Lack of expertise necessary for the proceeding;
  - (ii) An hourly rate higher than what is reasonable for the particular proceeding; or
  - (iii) A conflict of interest.
- (b) Notice of the hearing shall be provided to the visitor and all parties. If, after a hearing, the court enters an order replacing the visitor, findings shall be included, expressly stating the reasons for the removal. If the visitor is not removed, the court has the authority to assess to the moving party attorneys' fees and costs related to the motion. The court shall assess attorneys' fees and costs for frivolous motions.

(6) A visitor appointed under subsection (1) or (3) of this section shall interview the respondent in person and in a manner the respondent is best able to understand:

- (a) Explain to the respondent the substance of the petition, the nature, purpose, and effect of the proceeding, and the respondent's rights at the hearing on the petition;
- (b) Determine the respondent's views with respect to the order sought;
- (c) Inform the respondent that all costs and expenses of the proceeding, including respondent's attorneys' fees, may be paid from the respondent's assets;
- (d) If the petitioner seeks an order related to the dwelling of the respondent, visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the order is granted;
- (e) If a protective arrangement instead of guardianship is sought, obtain information from any physician or other person known to have treated, advised, or assessed the respondent's relevant physical or mental condition;

(f) If a protective arrangement instead of conservatorship is sought, review financial records of the respondent, if relevant to the visitor's recommendation under subsection (7)(b) of this section; and

(g) Investigate the allegations in the petition and any other matter relating to the petition the court directs.

(7) A visitor under this section promptly shall file a report in a record with the court, which must include:

(a) To the extent relevant to the order sought, a summary of self-care, independent living tasks, and financial management tasks the respondent:

- (i) Can manage without assistance or with existing supports;
- (ii) Could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making; and
- (iii) Cannot manage;

(b) A recommendation regarding the appropriateness of the protective arrangement sought and whether a less restrictive alternative for meeting the respondent's needs is available;

(c) If the petition seeks to change the physical location of the dwelling of the respondent, a statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to the respondent's dwelling;

(d) A recommendation whether a professional evaluation under section 508 of this act is necessary;

(e) A statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;

(f) A statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and

(g) Any other matter the court directs.

**NEW SECTION. Sec. 507. APPOINTMENT AND ROLE OF ATTORNEY.** (1)(a) The respondent shall have the right to be represented by a willing attorney of their choosing at any stage in protective arrangement proceedings.

(b) Unless the respondent in a proceeding under this article is represented by an attorney, the court is not required, but may appoint an attorney to represent the respondent, regardless of the respondent's ability to pay, except as provided otherwise in (c) of this subsection.

(c)(i) The court must appoint an attorney to represent the respondent at public expense when either:

- (A) The respondent is unable to afford an attorney;
- (B) The expense of an attorney would result in substantial hardship to the respondent; or

(C) The respondent does not have practical access to funds with which to pay an attorney. If the respondent can afford an attorney but lacks practical access to funds, the court must provide an attorney and may impose a reimbursement requirement as part of a final order.

(ii) When, in the opinion of the court, the rights and interests of the respondent cannot otherwise be adequately protected and represented, the court on its own motion must appoint an attorney at any time to represent the respondent.

(iii) An attorney must be provided under this subsection (1)(c) as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks is presumed by a reviewing court to be inadequate time for consultation and preparation.

(2) An attorney representing the respondent in a proceeding under this article shall:

(a) Make reasonable efforts to ascertain the respondent's wishes;

(b) Advocate for the respondent's wishes to the extent reasonably ascertainable; and

(c) If the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive alternative in type, duration, and scope, consistent with the respondent's interests.

(3) The court is not required, but may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under this article if:

(a) The parent objects to the entry of an order for a protective arrangement instead of guardianship or conservatorship;

(b) The court determines that counsel is needed to ensure that consent to the entry of an order for a protective arrangement is informed; or

(c) The court otherwise determines the parent needs representation.

**NEW SECTION. Sec. 508. PROFESSIONAL EVALUATION.** (1) At or before a hearing on a petition under this article for a protective arrangement, the court shall order a professional evaluation of the respondent:

(a) If the respondent requests the evaluation; or

(b) In other cases, unless the court finds that it has sufficient information to determine the respondent's needs and abilities without the evaluation.

(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a licensed physician, psychologist, social worker, or other individual appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file a report in a record with the court. Unless otherwise directed by the court, the report must contain:

(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;

(b) An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills;

(c) A prognosis for improvement, including with regard to the ability to manage the respondent's property and financial affairs if a limitation in that ability is alleged, and recommendation for the appropriate treatment, support, or habilitation plan; and

(d) The date of the examination on which the report is based.

(3) The respondent may decline to participate in an evaluation ordered under subsection (1) of this section.

**NEW SECTION. Sec. 509. ATTENDANCE AND RIGHTS AT HEARING.** (1) Except as otherwise provided in subsection (2) of this section, a hearing under this article may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(2) A hearing under this article may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

(a) The respondent consistently and repeatedly has refused to attend the hearing after having been fully informed of the right to attend and the potential consequences of failing to do so;

(b) There is no practicable way for the respondent to attend and

participate in the hearing even with appropriate supportive services and technological assistance; or

(c) The respondent is a minor who has received proper notice and attendance would be harmful to the minor.

(3) The respondent may be assisted in a hearing under this article by a person or persons of the respondent's choosing, assistive technology, or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(4) The respondent has a right to choose an attorney to represent the respondent at a hearing under this article.

(5) At a hearing under this article, the respondent may:

(a) Present evidence and subpoena witnesses and documents;

(b) Examine witnesses, including any court-appointed evaluator and the visitor; and

(c) Otherwise participate in the hearing.

(6) A hearing under this article must be closed on request of the respondent and a showing of good cause.

(7) Any person may request to participate in a hearing under this article. The court may grant the request, with or without a hearing, on determining that the best interests of the respondent will be served. The court may impose appropriate conditions on the person's participation.

**NEW SECTION. Sec. 510. NOTICE OF ORDER.** The court shall give notice of an order under this article to the individual who is subject to the protective arrangement instead of guardianship or conservatorship, a person whose access to the individual is restricted by the order, and any other person the court determines.

**NEW SECTION. Sec. 511. CONFIDENTIALITY OF RECORDS.** (1) The existence of a proceeding for or the existence of a protective arrangement instead of guardianship or conservatorship is a matter of public record unless the court seals the record after:

(a) The respondent, the individual subject to the protective arrangement, or the parent of a minor subject to the protective arrangement requests the record be sealed; and

(b) Either:

(i) The proceeding is dismissed;

(ii) The protective arrangement is no longer in effect; or

(iii) An act authorized by the order granting the protective arrangement has been completed.

(2) A respondent, an individual subject to a protective arrangement instead of guardianship or conservatorship, an attorney designated by the respondent or individual, a parent of a minor subject to a protective arrangement, and any other person the court determines are entitled to access court records of the proceeding and resulting protective arrangement. A person not otherwise entitled access to court records under this subsection for good cause may petition the court for access. The court shall grant access if access is in the best interest of the respondent or individual subject to the protective arrangement or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(3) A report of a visitor or professional evaluation generated in the course of a proceeding under this article must be sealed on filing but is available to:

(a) The court;

(b) The individual who is the subject of the report or evaluation, without limitation as to use;

(c) The petitioner, visitor, and petitioner's and respondent's attorneys, for purposes of the proceeding;



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(d) Unless the court orders otherwise, an agent appointed under a power of attorney for finances in which the respondent is the principal;

(e) If the order is for a protective arrangement instead of guardianship and unless the court orders otherwise, an agent appointed under a power of attorney for health care in which the respondent is identified as the principal; and

(f) Any other person if it is in the public interest or for a purpose the court orders for good cause.

**NEW SECTION. Sec. 512.** APPOINTMENT OF SPECIAL AGENT. The court may appoint a special agent, to assist in implementing a protective arrangement under this article. The special agent has the authority conferred by the order of appointment and serves until discharged by court order.

**ARTICLE 6  
FORMS**

**NEW SECTION. Sec. 601.** USE OF FORMS. Unless otherwise provided in this chapter, use of the forms contained in this article is optional. Failure to use these forms does not prejudice any party.

**NEW SECTION. Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR. This form may be used to petition for guardianship for a minor.

Petition for Guardianship for Minor

State of:

County of:

Name and address of attorney representing petitioner, if applicable:

Note to petitioner: This form can be used to petition for a guardian for a minor. A court may appoint a guardian for a minor who does not have a guardian if the court finds the appointment is in the minor's best interest, and: The parents, after being fully informed of the nature and consequences of guardianship, consent; all parental rights have been terminated; or the court finds by clear and convincing evidence that the parents are unwilling or unable to exercise their parental rights.

(1) Information about the person filing this petition (the petitioner.)

(a) Name:

(b) Principal residence:

(c) Current street address (if different):

(d) Relationship to minor:

(e) Interest in this petition:

(f) Telephone number (optional):

(g) Email address (optional):

(2) Information about the minor alleged to need a guardian. Provide the following information to the extent known.

(a) Name:

(b) Age:

(c) Principal residence:

(d) Current street address (if different):

(e) If petitioner anticipates the minor moving, or seeks to move the minor, proposed new address:

(f) Does the minor need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain:

(g) Telephone number (optional):

(h) Email address (optional):

(3) Information about the minor's parent(s).

(a) Name(s) of living parent(s):

(b) Current street address(es) of living parent(s):

(c) Does any parent need an interpreter, translator, or other

form of support to communicate with the court or understand court proceedings? If so, please explain:

(4) People who are required to be notified of this petition. State the name and current address of the people listed in Appendix A.

(5) Appointment requested. State the name and address of any proposed guardian and the reason the proposed guardian should be selected.

(6) State why petitioner seeks the appointment. Include a description of the nature and extent of the minor's alleged need.

(7) Property. If the minor has property other than personal effects, state the minor's property with an estimate of its value.

(8) Other proceedings. If there are any other proceedings concerning the care or custody of the minor currently pending in any court in this state or another jurisdiction, please describe them.

(9) Attorney(s). If the minor or the minor's parent is represented by an attorney in this matter, state the name, telephone number, email address, and address of the attorney(s).

**SIGNATURE**

Signature of Petitioner ..... Date

Signature of Petitioner's Attorney if ..... Date  
Petitioner is Represented by Counsel

**APPENDIX A:**

People whose name and address must be listed in subsection (4) of this petition if they are not the petitioner:

The minor, if the minor is twelve years of age or older;

Each parent of the minor or, if there are none, the adult nearest in kinship that can be found;

An adult with whom the minor resides;

Each person that had primary care or custody of the minor for at least sixty days during the two years immediately before the filing of the petition or for at least seven hundred thirty days during the five years immediately before the filing of the petition;

If the minor is twelve years of age or older, any person nominated as guardian by the minor;

Any person nominated as guardian by a parent of the minor;

The grandparents of the minor;

Adult siblings of the minor; and

Any current guardian or conservator for the minor appointed in this state or another jurisdiction.

**NEW SECTION. Sec. 603.** PETITION FOR GUARDIANSHIP, CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to petition for:

Guardianship for an adult;

Conservatorship for an adult or minor;

A protective arrangement instead of guardianship for an adult; or

A protective arrangement instead of conservatorship for an adult or minor.

Petition for Guardianship, Conservatorship, or Protective Arrangement

State of:

County of:

Name and address of attorney representing petitioner, if applicable:

Note to petitioner: This form can be used to petition for a guardian, conservator, or both, or for a protective arrangement instead of either a guardianship or conservatorship. This form should not be used to petition for guardianship for a minor.

The court may appoint a guardian or order a protective arrangement instead of guardianship for an adult if the adult lacks the ability to meet essential requirements for physical health, safety, or self-care because (1) the adult is unable to receive and evaluate information or make or communicate decisions even with the use of supportive services, technological assistance, and supported decision making, and (2) the adult's identified needs cannot be met by a less restrictive alternative.

The court may appoint a conservator or order a protective arrangement instead of conservatorship for an adult if (1) the adult is unable to manage property and financial affairs because of a limitation in the ability to receive and evaluate information or make or communicate decisions even with the use of supportive services, technological assistance, and supported decision making or the adult is missing, detained, or unable to return to the United States, and (2) appointment is necessary to avoid harm to the adult or significant dissipation of the property of the adult, or to obtain or provide funds or other property needed for the support, care, education, health, or welfare of the adult, or of an individual who is entitled to the adult's support, and protection is necessary or desirable to provide funds or other property for that purpose.

The court may appoint a conservator or order a protective arrangement instead of conservatorship for a minor if: (1) The minor owns funds or other property requiring management or protection that cannot otherwise be provided; or (2) it would be in the minor's best interests, and the minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age, or appointment is necessary or desirable to provide funds or other property needed for the support, care, education, health, or welfare of the minor.

The court may also order a protective arrangement instead of conservatorship that restricts access to an individual or an individual's property by a person that the court finds: (1) Through fraud, coercion, duress, or the use of deception and control, caused, or attempted to cause, an action that would have resulted in financial harm to the individual or the individual's property; and (2) poses a serious risk of substantial financial harm to the individual or the individual's property.

(1) Information about the person filing this petition (the petitioner.)

- (a) Name:
- (b) Principal residence:
- (c) Current street address (if different):
- (d) Relationship to respondent:
- (e) Interest in this petition:
- (f) Telephone number (optional):
- (g) Email address (optional):

(2) Information about the individual alleged to need protection (the "respondent"). Provide the following information to the extent known.

- (a) Name:
- (b) Age:
- (c) Principal residence:
- (d) Current street address (if different):
- (e) If petitioner anticipates respondent moving, or seeks to move respondent, proposed new address:
- (f) Does respondent need an interpreter, translator, or other form of support to communicate with the court or understand court proceedings? If so, please explain:
- (g) Telephone number (optional):
- (h) Email address (optional):

(3) People who are required to be notified of this petition. State the name and address of the people listed in Appendix A.

(4) Existing agents. State the name and address of any person appointed as an agent under a power of attorney for finances or power of attorney for health care, or who has been appointed as

the individual's representative for payment of benefits.

(5) Action requested. State whether petitioner is seeking appointment of a guardian, a conservator, or a protective arrangement instead of an appointment.

(6) Order requested or appointment requested. If seeking a protective arrangement instead of a guardianship or conservatorship, state the transaction or other action you want the court to order. If seeking appointment of a guardian or conservator, state the powers petitioner requests the court grant to a guardian or conservator.

(7) State why the appointment or protective arrangement sought is necessary. Include a description of the nature and extent of respondent's alleged need.

(8) State all less restrictive alternatives to meeting respondent's alleged need that have been considered or implemented. Less restrictive alternatives could include supported decision making, technological assistance, or the appointment of an agent by respondent including appointment under a power of attorney for health care or power of attorney for finances. If no alternative has been considered or implemented, state the reason why not.

(9) Explain why less restrictive alternatives will not meet respondent's alleged need.

(10) Provide a general statement of respondent's property and an estimate of its value. Include any real property such as a house or land, insurance or pension, and the source and amount of any other anticipated income or receipts. As part of this statement, indicate, if known, how the property is titled (for example, is it jointly owned?).

(11) For a petition seeking appointment of a conservator. (Skip this section if not asking for appointment of a conservator.)

(a) If seeking appointment of a conservator with all powers permissible under this state's law, explain why appointment of a conservator with fewer powers (i.e., a "limited conservatorship") or other protective arrangement instead of conservatorship will not meet the individual's alleged needs.

(b) If seeking a limited conservatorship, state the property petitioner requests be placed under the conservator's control and any proposed limitation on the conservator's powers and duties.

(c) State the name and address of any proposed conservator and the reason the proposed conservator should be selected.

(d) If respondent is twelve years of age or older, state the name and address of any person respondent nominates as conservator.

(e) If alleging a limitation in respondent's ability to receive and evaluate information, provide a brief description of the nature and extent of respondent's alleged limitation.

(f) If alleging that respondent is missing, detained, or unable to return to the United States, state the relevant circumstances, including the time and nature of the disappearance or detention and a description of any search or inquiry concerning respondent's whereabouts.

(12) For a petition seeking appointment of a guardian. (Skip this section if not asking for appointment of a guardian.)

(a) If seeking appointment of a guardian with all powers permissible under this state's law, explain why appointment of a guardian with fewer powers (i.e., a "limited guardianship") or other protective arrangement instead of guardianship will not meet the individual's alleged needs.

(b) If seeking a limited guardianship, state the powers petitioner requests be granted to the guardian.

(c) State the name and address of any proposed guardian and the reason the proposed guardian should be selected.

(d) State the name and address of any person nominated as guardian by respondent, or, in a will or other signed writing or other record, by respondent's parent or spouse or domestic partner.

(13) Attorney. If petitioner, respondent, or, if respondent is a

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minor, respondent's parent is represented by an attorney in this matter, state the name, telephone number, email address, and address of the attorney(s).

SIGNATURE

Signature of Petitioner Date
Signature of Petitioner's Attorney if Petitioner is Represented by Counsel Date

APPENDIX A:

People whose name and address must be listed in subsection (3) of this petition, if they are not the petitioner.

Respondent's spouse or domestic partner, or if respondent has none, any adult with whom respondent has shared household responsibilities in the past six months;

Respondent's adult children, or, if respondent has none, respondent's parents and adult siblings, or if respondent has none, one or more adults nearest in kinship to respondent who can be found with reasonable diligence;

Respondent's adult stepchildren whom respondent actively parented during the stepchildren's minor years and with whom respondent had an ongoing relationship within two years of this petition;

Any person responsible for the care or custody of respondent;

Any attorney currently representing respondent;

Any representative payee for respondent appointed by the social security administration;

Any current guardian or conservator for respondent appointed in this state or another jurisdiction;

Any trustee or custodian of a trust or custodianship of which respondent is a beneficiary;

Any veterans administration fiduciary for respondent;

Any person respondent has designated as agent under a power of attorney for finances;

Any person respondent has designated as agent under a power of attorney for health care;

Any person known to have routinely assisted the individual with decision making in the previous six months;

Any person respondent nominates as guardian or conservator; and

Any person nominated as guardian by respondent's parent or spouse or domestic partner in a will or other signed writing or other record.

NEW SECTION. Sec. 604. NOTIFICATION OF RIGHTS FOR ADULT SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify an adult subject to guardianship or conservatorship of the adult's rights under sections 311 and 412 of this act.

Notification of Rights

You are getting this notice because a guardian, conservator, or both have been appointed for you. It tells you about some important rights you have. It does not tell you about all your rights. If you have questions about your rights, you can ask an attorney or another person, including your guardian or conservator, to help you understand your rights.

General rights:

You have the right to exercise any right the court has not given to your guardian or conservator.

You also have the right to ask the court to:

End your guardianship, conservatorship, or both;

Increase or decrease the powers granted to your guardian, conservator, or both;

Make other changes that affect what your guardian or conservator can do or how they do it; and

Replace the person that was appointed with someone else.

You also have a right to hire an attorney to help you do any of these things.

Additional rights for persons for whom a guardian has been appointed:

As an adult subject to guardianship, you have a right to:

(1) Be involved in decisions affecting you, including decisions about your care, where you live, your activities, and your social interactions, to the extent reasonably feasible;

(2) Be involved in decisions about your health care to the extent reasonably feasible, and to have other people help you understand the risks and benefits of health care options;

(3) Be notified at least fourteen days in advance of a change in where you live or a permanent move to a nursing home, mental health facility, or other facility that places restrictions on your ability to leave or have visitors, unless the guardian has proposed this change in the guardian's plan or the court has expressly authorized it;

(4) Ask the court to prevent your guardian from changing where you live or selling or surrendering your primary dwelling by following the appropriate process for objecting to such a move in compliance with section 314(5) of this act;

(5) Vote and get married unless the court order appointing your guardian states that you cannot do so;

(6) Receive a copy of your guardian's report and your guardian's plan; and

(7) Communicate, visit, or interact with other people (this includes the right to have visitors, to make and receive telephone calls, personal mail, or electronic communications) unless:

(a) Your guardian has been authorized by the court by specific order to restrict these communications, visits, or interactions;

(b) A protective order is in effect that limits contact between you and other people; or

(c) Your guardian has good cause to believe the restriction is needed to protect you from significant physical, psychological, or financial harm and the restriction is for not more than seven business days if the person has a relative or preexisting social relationship with you or not more than sixty days if the person does not have that kind of relationship with you.

Additional rights for persons for whom a conservator has been appointed:

As an adult subject to conservatorship, you have a right to:

Participate in decisions about how your property is managed to the extent feasible; and

Receive a copy of your conservator's inventory, report, and plan.

NEW SECTION. Sec. 605. LETTERS OF OFFICE. All letters of guardianship/conservatorship must be in the following form or a substantially similar form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR THE COUNTY OF .....

IN THE MATTER OF THE GUARDIANSHIP/ CONSERVATORSHIP OF Cause No. ....

LETTERS OF GUARDIANSHIP/CONSERVATORSHIP

Date letters expire

THESE LETTERS OF GUARDIANSHIP/CONSERVATORSHIP PROVIDE OFFICIAL VERIFICATION OF THE FOLLOWING:

On the . . . . . day of . . . . ., (year) . . . . the Court appointed . . . . .to serve as:

- Guardian of the Person       Full       Limited
- Conservator of the Estate       Full       Limited

for . . . . ., in the above referenced matter.

The Guardian/Conservator has fulfilled all legal requirements to serve including, but not limited to: Taking and filing the oath; filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's order; and appointing a resident agent for a nonresident guardian.

The Court, having found the Guardian/Conservator duly qualified, now makes it known . . . . . is authorized as the Guardian for . . . . . designated in the Court's order as referenced above.

The next filing and reporting deadline in this matter is on the . . . day of . . . . ., . . . . .

THESE LETTERS ARE NO LONGER VALID ON . . . . .

These letters can only be renewed by a new court order. If the court grants an extension, new letters will be issued.

This matter is before the Honorable . . . . . of Superior Court, the seal of the Court being affixed this . . . . day of . . . . .

State of Washington )

) ss.

County of . . . . .)

I, . . . . ., Clerk of the Superior Court of said County and State, certify that this document represents true and correct Letters of Guardianship/Conservatorship in the above entitled case, entered upon the record on this . . . . . day of . . . . .

These letters remain in full force and effect until the date of expiration set forth above.

The seal of Superior Court has been affixed and witnessed by my hand this . . . . . day of . . . . ., . . . . .

. . . . ., Clerk of Superior Court

By . . . . ., Deputy

. . . . .

(Signature of Deputy)

NEW SECTION. Sec. 606. GUARDIANSHIP/CONSERVATORSHIP SUMMARY. The guardianship/conservatorship summary shall be in or substantially similar form:

GUARDIANSHIP/CONSERVATORSHIP SUMMARY

Date Guardian/Conservator Appointed:

Due Date for Report and Accounting:

Date of Next Review:

Letters Expire On:

Bond Amount: \$

Restricted Account Agreements Required:

Due Date for Inventory, if applicable:

Due Date for Guardian's Plan, if applicable:

Person subject to guardianship/conservatorship	Guardian/Conservator
Name:	Name:
Address:	Address:
Phone:	Phone:
Facsimile:	Facsimile:

Interested Parties	Address	Relation

ARTICLE 7 CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD OF RESOLUTION GRIEVANCES

NEW SECTION. Sec. 701. CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD RESOLUTION OF GRIEVANCES.

(1) The certified professional guardianship board must resolve grievances against professional guardians and/or conservators within a reasonable time for alleged violations of the certified professional guardianship board's standards of practice.

(a) All grievances must initially be reviewed within thirty days by certified professional guardianship board members, or a subset thereof, to determine if the grievance is complete, states facts that allege a violation of the standards of practice, and relates to the conduct of a professional guardian and/or conservator, before any investigation or response is requested from the professional guardian or the superior court. Grievances must provide the dates of the alleged violations and must be signed and dated by the person filing the grievance. Grievance investigations by the board are limited to the allegations contained in the grievance unless, after review by a majority of the members of the certified professional guardianship board, further investigation is justified.

(b) If the certified professional guardianship board determines the grievance is complete, states facts that allege a violation of the standards of practice, and relates to the conduct of a professional guardian and/or conservator, the certified professional guardianship board must forward that grievance within ten days to the superior court for that guardianship or conservatorship and to the professional guardian and/or conservator. The court must

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review the matter as set forth in section 128 of this act, and must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board. The certified professional guardianship board must act consistently with any finding of fact issued in that order.

(2) Grievances received by the certified professional guardianship board must be resolved within one hundred eighty days of receipt.

(3) If the grievance cannot be resolved within one hundred eighty days, the certified professional guardianship board must notify the professional guardian and/or conservator. The professional guardian or conservator may propose a resolution of the grievance with facts and/or arguments. The certified professional guardianship board may accept the proposed resolution or determine that an additional ninety days are needed to review the grievance. If the certified professional guardianship board has not resolved the grievance within the additional ninety days the professional guardian or conservator may:

(a) File a motion for a court order to compel the certified professional guardianship board to resolve the grievance within a reasonable time; or

(b) Move for the court to resolve the grievance instead of being resolved by the certified professional guardianship board.

(4) The court has authority to enforce the certified professional guardianship board's standards of practice in this article to the extent those standards are related to statutory or fiduciary duties of guardians and conservators.

(5) Any unresolved grievances filed with the certified professional guardianship board at the time of the effective date of this section must be forwarded to the superior court for that guardianship or conservatorship for review by the court as set forth in section 128 of this act.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

**NEW SECTION. Sec. 801. REPEALS.** The following acts or parts of acts are each repealed:

(1)RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

(2)RCW 11.88.008 ("Professional guardian" defined) and 1997 c 312 s 2;

(3)RCW 11.88.010 (Authority to appoint guardians—Definitions—Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802, 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

(4)RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c 145 s 11.88.020;

(5)RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2, 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965 c 145 s 11.88.030;

(6)RCW 11.88.040 (Notice and hearing, when required—Service—Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

(7)RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, & 1975 1st ex.s. c 95 s 7;

(8)RCW 11.88.080 (Guardians nominated by will or durable power of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, & 1965 c 145 s 11.88.080;

(9)RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—Qualifications—Notice of and statement by guardian ad litem—Hearing and notice—Attorneys' fees and costs—Registry—Duties—Report—Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1, 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

(10)RCW 11.88.093 (Ex parte communications—Removal) and 2000 c 124 s 10;

(11)RCW 11.88.095 (Disposition of guardianship petition) and 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

(12)RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

(13)RCW 11.88.100 (Oath and bond of guardian or limited guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

(14)RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

(15)RCW 11.88.107 (When bond not required) and 1990 c 122 s 12, 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s 11.88.107;

(16)RCW 11.88.110 (Law on executors' and administrators' bonds applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

(17)RCW 11.88.120 (Modification or termination of guardianship—Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c 145 s 11.88.120;

(18)RCW 11.88.125 (Standby limited guardian or limited guardian) and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8, 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st ex.s. c 95 s 6;

(19)RCW 11.88.127 (Guardianship—Incapacitated person—Letters of guardianship) and 2011 c 329 s 6;

(20)RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

(21)RCW 11.88.140 (Termination of guardianship or limited guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9, 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, & 1965 c 145 s 11.88.140;

(22)RCW 11.88.150 (Administration of deceased incapacitated person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

(23)RCW 11.88.160 (Guardianships involving veterans) and 1990 c 122 s 13;

(24)RCW 11.88.170 (Guardianship courthouse facilitator program) and 2015 c 295 s 1;

(25)RCW 11.88.900 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

(26)RCW 11.92.010 (Guardians or limited guardians under court control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, & 1965 c 145 s 11.92.010;

(27)RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c 95 s 19, & 1965 c 145 s 11.92.035;

(28)RCW 11.92.040 (Duties of guardian or limited guardian in general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985 c 30 s 9;

(29)RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

(30)RCW 11.92.050 (Intermediate accounts or reports—Hearing—Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

(31)RCW 11.92.053 (Settlement of estate upon termination) and 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s 11.92.053;

(32)RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

(33)RCW 11.92.060 (Guardian to represent incapacitated person—Compromise of claims—Service of process) and 1990 c 122 s 26, 1975 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

(34)RCW 11.92.090 (Sale, exchange, lease, or mortgage of property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145 s 11.92.090;

(35)RCW 11.92.096 (Guardian access to certain held assets) and 1991 c 289 s 13;

(36)RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

(37)RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29, 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

(38)RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s 11.92.115;

(39)RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c 95 s 28 & 1965 c 145 s 11.92.120;

(40)RCW 11.92.125 (Broker's fee and closing expenses—Sale, exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s 15 & 1965 c 145 s 11.92.125;

(41)RCW 11.92.130 (Performance of contracts) and 1990 c 122 s 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

(42)RCW 11.92.140 (Court authorization for actions regarding guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s 32, 1990 c 122 s 32, & 1985 c 30 s 10;

(43)RCW 11.92.150 (Request for special notice of proceedings) and 1990 c 122 s 33 & 1985 c 30 s 11;

(44)RCW 11.92.160 (Citation for failure to file account or report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s 11.92.160;

(45)RCW 11.92.170 (Removal of property of nonresident incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16, 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

(46)RCW 11.92.180 (Compensation and expenses of guardian or limited guardian—Attorney's fees—Department of social and health services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33, & 1965 c 145 s 11.92.180;

(47)RCW 11.92.185 (Concealed or embezzled property) and 1990 c 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

(48)RCW 11.92.190 (Detention of person in residential placement facility against will prohibited—Effect of court order—Service of notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c 249 s 11, & 1977 ex.s. c 309 s 14;

(49)RCW 11.92.195 (Incapacitated persons—Right to associate with persons of their choosing) and 2017 c 268 s 1;

(50)RCW 26.10.010 (Intent) and 1987 c 460 s 25;

(51)RCW 26.10.015 (Mandatory use of approved forms) and 1992 c 229 s 4 & 1990 1st ex.s. c 2 s 27;

(52)RCW 26.10.020 (Civil practice to govern—Designation of proceedings—Decrees) and 1987 c 460 s 26;

(53)RCW 26.10.030 (Child custody proceeding—Commencement—Notice—Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, & 1987 c 460 s 27;

(54)RCW 26.10.032 (Child custody motion—Affidavit required—Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

(55)RCW 26.10.034 (Petitions—Indian child statement—Application of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s 1, & 2003 c 105 s 7;

(56)RCW 26.10.040 (Provisions for child support, custody, and visitation—Federal tax exemption—Continuing restraining orders—Domestic violence or antiharassment protection orders—Notice of modification or termination of restraining order) and 2000 c 119 s 8, 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s 28;

(57)RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

(58)RCW 26.10.050 (Child support by parents—Apportionment of expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

(59)RCW 26.10.060 (Health insurance coverage—Conditions) and 1989 c 375 s 19 & 1987 c 460 s 30;

(60)RCW 26.10.070 (Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees, and disbursements) and 1989 c 375 s 20 & 1987 c 460 s 31;

(61)RCW 26.10.080 (Payment of costs, attorney's fees, etc) and 1987 c 460 s 35;

(62)RCW 26.10.090 (Failure to comply with decree or temporary injunction—Obligation to make support payments or permit visitation not suspended—Motion) and 1987 c 460 s 36;

(63)RCW 26.10.100 (Determination of custody—Child's best interests) and 1987 c 460 s 38;

(64)RCW 26.10.110 (Temporary custody order—Vacation of order) and 1987 c 460 s 39;

(65)RCW 26.10.115 (Temporary orders—Support—Restraining orders—Domestic violence or antiharassment protection orders—Notice of modification or termination of restraining order—Preservation of support debt) and 2000 c 119 s 9, 1995 c 246 s 29, 1994 sp.s. c 7 s 454, & 1989 c 375 s 32;

(66)RCW 26.10.120 (Interview with child by court—Advice of professional personnel) and 1987 c 460 s 40;

(67)RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2 & 1987 c 460 s 41;

(68)RCW 26.10.135 (Custody orders—Background information to be consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;

(69)RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and 1987 c 460 s 42;

(70)RCW 26.10.150 (Access to child's education and medical records) and 1987 c 460 s 43;

(71)RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2, 1989 c 326 s 2, & 1987 c 460 s 44;

(72)RCW 26.10.170 (Powers and duties of custodian—Supervision by appropriate agency when necessary) and 1987 c 460 s 45;

(73)RCW 26.10.180 (Remedies when a child is taken, enticed, or concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;

(74)RCW 26.10.190 (Petitions for modification and proceedings concerning relocation of child—Assessment of attorneys' fees) and 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;

(75)RCW 26.10.200 (Temporary custody order or modification of custody decree—Affidavits required) and 1987 c 460 s 48;

(76)RCW 26.10.210 (Venue) and 1987 c 460 s 49;

(77)RCW 26.10.220 (Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s 50; and

(78)RCW 26.10.910 (Short title—1987 c 460).

**NEW SECTION. Sec. 802. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In applying and

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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.

**NEW SECTION. Sec. 803. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.** This act modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

**NEW SECTION. Sec. 804. APPLICABILITY.** This chapter applies to:

(1) A proceeding for appointment of a guardian or conservator or for a protective arrangement instead of guardianship or conservatorship commenced after the effective date of this section; and

(2) A guardianship, conservatorship, or protective arrangement instead of a guardianship or conservatorship in existence on the effective date of this section unless the court finds application of a particular provision of this act would substantially interfere with the effective conduct of the proceeding or prejudice the rights of a party, in which case the particular provision of this act does not apply and the superseded law applies.

**NEW SECTION. Sec. 805. SEVERABILITY.** 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. 806.** Articles I through VII and sections 802 through 804 and 807 of this act constitute a new chapter in Title 11 RCW.

**NEW SECTION. Sec. 807. EFFECTIVE DATE.** This act takes effect January 1, 2021."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5604.

Senators Pedersen, Conway and Rivers spoke in favor of the motion.

Senator Padden spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Pedersen that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5604.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5604 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5604, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5604, as amended by the House, and

the bill passed the Senate by the following vote: Yeas, 43; Nays, 6; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Sheldon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Bailey, Ericksen, Fortunato, Padden, Schoesler and Short

SECOND SUBSTITUTE SENATE BILL NO. 5604, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 25, 2019

MR. PRESIDENT:

The House receded from its amendment(s) to SENATE BILL NO. 5640. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5640 AMH VOLZ H3092.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**Sec. 1.** RCW 3.72.005 and 2017 c 9 s 1 are each amended to read as follows:

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

(1) "Court" when used without further qualification means the district court under chapter 3.30 RCW, the municipal department under chapter 3.46 RCW, or the municipal court under chapter 3.50 or 35.20 RCW.

(2) "Traffic infraction" means those acts defined as traffic infractions by RCW 46.63.020.

(3) "Transit infraction" means an infraction issued by a transit authority as defined in RCW 9.91.025(2)(c), including those infractions authorized under RCW 35.58.580, 36.57A.230, and 81.112.220.

(4) "Youth court" means an alternative method of hearing and disposing of traffic infractions ~~((for juveniles age sixteen or))~~, transit infractions, and civil infractions for juveniles age twelve through seventeen.

**Sec. 2.** RCW 3.72.010 and 2017 c 9 s 2 are each amended to read as follows:

(1) A court created under chapter 3.30, 3.46, 3.50, or 35.20 RCW may create a youth court. The youth court shall have concurrent jurisdiction over traffic ~~((and))~~ infractions, transit infractions, and civil infractions alleged to have been committed by juveniles age ~~((sixteen or))~~ twelve through seventeen. The court may refer a juvenile to the youth court upon request of any party or upon its own motion. However, a juvenile shall not be required under this section to have his or her traffic ~~((or))~~ infraction, transit infraction, or civil infraction, referred to or disposed of by a youth court.

(2) To be referred to a youth court pursuant to this chapter, a juvenile:

(a) ~~((May not have had a prior traffic or transit infraction referred to a youth court;~~

~~or))~~ May not be under the jurisdiction of any court for a

violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025; and

~~((e) May not have any convictions for a violation of any provision of Title 46 RCW or for unlawful transit conduct under RCW 9.91.025; and~~

~~((d))~~ (b) Must acknowledge that there is a high likelihood that he or she would be found to have committed the traffic ~~((e))~~ infraction, transit infraction, or civil infraction.

(3)(a) Nothing in this chapter shall interfere with the ability of juvenile courts to refer matters to youth courts that have been established to provide a diversion for matters involving juvenile offenders who are eligible for diversion pursuant to RCW 13.40.070 (6) and (8) and who agree, along with a parent, guardian, or legal custodian, to comply with the provisions of RCW 13.40.600.

(b) Nothing in this chapter shall interfere with the ability of student courts to work with students who violate school rules and policies pursuant to RCW 28A.300.420.

**Sec. 3.** RCW 3.72.020 and 2017 c 9 s 3 are each amended to read as follows:

(1) A youth court agreement shall be a contract between a juvenile accused of a traffic ~~((e))~~ infraction, transit infraction, or civil infraction and a court whereby the juvenile agrees to fulfill certain conditions imposed by a youth court in lieu of a determination that a traffic ~~((e))~~ infraction, transit infraction, or civil infraction occurred. Such agreements may be entered into only after the law enforcement authority has determined that probable cause exists to believe that a traffic ~~((e))~~ infraction, transit infraction, or civil infraction has been committed and that the juvenile committed it. A youth court agreement shall be reduced to writing and signed by the court and the youth accepting the terms of the agreement. Such agreements shall be entered into as expeditiously as possible.

(2) Conditions imposed on a juvenile by a youth court shall be limited to one or more of the following:

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

(b) Attendance at defensive driving school or driver improvement education classes or, in the discretion of the court, a like means of fulfilling this condition. The state shall not be liable for costs resulting from the youth court or the conditions imposed upon the juvenile by the youth court;

(c) A monetary penalty, not to exceed one hundred dollars. All monetary penalties assessed and collected under this section shall be deposited and distributed in the same manner as costs, fines, forfeitures, and penalties are assessed and collected under RCW 2.68.040, 3.46.120, 3.50.100, 3.62.020, 3.62.040, 35.20.220, and 46.63.110(7), regardless of the juvenile's successful or unsuccessful completion of the youth court agreement;

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

(e) Participating in law-related education classes;

(f) Providing periodic reports to the youth court or the court;

(g) Participating in mentoring programs;

(h) Serving as a participant in future youth court proceedings;

(i) Writing apology letters; or

(j) Writing essays.

(3) Youth courts may require that the youth pay any costs associated with conditions imposed upon the youth by the youth court.

(a) A youth court disposition shall be completed within one hundred eighty days from the date of referral.

(b) The court, as specified in RCW 3.72.010, shall monitor the

successful or unsuccessful completion of the disposition.

(4) A youth court agreement may extend beyond the eighteenth birthday of the youth.

(5) Any juvenile who is, or may be, referred to a youth court shall be afforded due process in all contacts with the youth court regardless of whether the juvenile is accepted by the youth court or whether the youth court program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written agreement shall be executed stating all conditions in clearly understandable language and the action that will be taken by the court upon successful or unsuccessful completion of the agreement;

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

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

(7) The court shall be responsible for advising a juvenile of his or her rights as provided in this chapter.

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

(a) The fact that a traffic ~~((e))~~ infraction, transit infraction, or civil infraction was alleged to have been committed;

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

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

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

(e) The facts of the alleged traffic ~~((e))~~ infraction, transit infraction, or civil infraction.

(9) A court may refuse to enter into a youth court agreement with a juvenile. When a court refuses to enter a youth court agreement with a juvenile, it shall set the matter for hearing in accordance with all applicable court rules and statutory provisions governing the hearing and disposition of traffic ~~((and))~~ infractions, transit infractions, or civil infractions.

(10) If a monetary penalty required by a youth court agreement cannot reasonably be paid due to a lack of financial resources of the youth, the court may convert any or all of the monetary penalty into community service. The modification of the youth court agreement shall be in writing and signed by the juvenile and the court. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

**Sec. 4.** RCW 3.72.040 and 2017 c 9 s 5 are each amended to read as follows:

The administrative office of the courts shall encourage the courts to work with cities, counties, and schools to implement, expand, or use youth court programs for juveniles who commit traffic ~~((e))~~ infractions, transit infractions, or civil infractions. Program operations of youth court programs may be funded by government and private grants. Youth court programs are limited to those that:

(1) Are developed using the guidelines for creating and operating youth court programs developed by nationally recognized experts in youth court projects;

(2) Target ~~((youth ages sixteen and seventeen))~~ juveniles who are alleged to have committed a traffic ~~((e))~~ infraction, transit infraction, or civil infraction; and

(3) Emphasize the following principles:

(a) Youth must be held accountable for their problem behavior;

(b) Youth must be educated about the impact their actions have on themselves and others including their victims, their families,



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and their community;

(c) Youth must develop skills to resolve problems with their peers more effectively; and

(d) Youth should be provided a meaningful forum to practice and enhance newly developed skills.

**Sec. 5.** RCW 7.80.010 and 2009 c 279 s 2 are each amended to read as follows:

(1) All violations of state law, local law, ordinance, regulation, or resolution designated as civil infractions may be heard and determined by a district court, except as otherwise provided in this section.

(2) Any municipal court has the authority to hear and determine pursuant to this chapter civil infractions that are established by municipal ordinance or by local law or resolution of a transit agency authorized to issue civil infractions, and that are committed within the jurisdiction of the municipality.

(3) Any city or town with a municipal court under chapter 3.50 RCW may contract with the county to have civil infractions that are established by city or town ordinance and that are committed within the city or town adjudicated by a district court.

(4) District court commissioners have the authority to hear and determine civil infractions pursuant to this chapter.

(5) Youth court under chapter 3.72 RCW shall have concurrent jurisdiction over civil infractions alleged to have been committed by juveniles age twelve through seventeen if the requirements of RCW 3.72.010 are met.

(6) Nothing in this chapter prevents any city, town, or county from hearing and determining civil infractions pursuant to its own system established by ordinance."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Holy moved that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5640 and ask the House to recede therefrom.

Senator Holy spoke in favor of the motion.

Senator Darneille spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Holy that the Senate refuse to concur in the House amendment(s) to Senate Bill No. 5640 and ask the House to recede therefrom.

The motion by Senator Holy carried and the Senate refused to concur in the House amendment(s) to Senate Bill No. 5640 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1504.

Senator Pedersen spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Pedersen that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1504.

The motion by Senator Pedersen carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1504.

MOTION

On motion of Senator Pedersen, the rules were suspended and Engrossed Substitute House Bill No. 1504 was returned to second reading for the purposes of amendment.

MOTION

Senator Pedersen moved that the following striking amendment no. 802 by Senator Pedersen be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.533 and 2018 c 7 s 8 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:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, 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 or bump-fire stock 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:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun or bump-fire stock, 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 or bump-fire stock 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.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.

Notwithstanding any other provision of law, all impaired driving enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other impaired driving enhancements, for all offenses sentenced under this chapter.

An offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(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

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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 (a)(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 (a)(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:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(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.

(13) An additional twelve months 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 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other minor child enhancements, for all offenses sentenced under this chapter. If the addition of a minor child 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.

(14) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.832.

**Sec. 2.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. The department may approve a jail certification from a correctional agency that calculates early release time based on

the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence. The department must adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department's facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

(2)(a) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(b) An offender whose sentence includes any impaired driving enhancements under RCW 9.94A.533(7), minor child enhancements under RCW 9.94A.533(13), or both, shall not receive any good time credits or earned release time for any portion of his or her sentence that results from those enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or 10.95.035, the offender may not receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender, the aggregate earned release time may not exceed ten percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(d) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (d)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(e) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool

recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(~~(5)~~) (1)(e);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan.

A voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) The department shall maintain a list of housing providers that meets the requirements of RCW 72.09.285. If more than two voucher recipients will be residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list;

(f) For each offender who is the recipient of a rental voucher, the department shall gather data as recommended by the Washington state institute for public policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

**Sec. 3.** RCW 10.21.055 and 2016 c 203 s 16 are each amended to read as follows:

(1)(a) When any person charged with a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior offense as defined in RCW 46.61.5055 and the current offense involves alcohol, is released from custody at arraignment or trial on bail or personal recognizance, the court authorizing the release shall require, as a condition of release that person comply with one of the following four requirements:

(i) Have a functioning ignition interlock device installed on all motor vehicles operated by the person, with proof of installation filed with the court by the person or the certified interlock

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provider within five business days of the date of release from custody or as soon thereafter as determined by the court based on availability within the jurisdiction; or

(ii) Comply with 24/7 sobriety program monitoring, as defined in RCW 36.28A.330; or

(iii) Have an ignition interlock device on all motor vehicles operated by the person pursuant to (a)(i) of this subsection and submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of this subsection, if available, or alcohol monitoring, at the expense of the person, as provided in RCW 46.61.5055(5) (b) and (c); or

(iv) Have an ignition interlock device on all motor vehicles operated by the person and that such person agrees not to operate any motor vehicle without an ignition interlock device as required by the court. Under this subsection (1)(a)(iv), the person must file a sworn statement with the court upon release at arraignment that states the person will not operate any motor vehicle without an ignition interlock device while the ignition interlock restriction is imposed by the court. Such person must also submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of this subsection, if available, or alcohol monitoring, at the expense of the person, as provided in RCW 46.61.5055(5) (b) and (c).

(b) The court shall immediately notify the department of licensing when an ignition interlock restriction is imposed ~~((+4))~~ as a condition of release ~~((pursuant to (a) of this subsection))~~ or ~~((4))~~ after conviction in instances where a person is charged with, or convicted of, a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522 ~~((, and the offense involves alcohol))~~. If the court imposes an ignition interlock restriction, the department of licensing shall attach or imprint a notation on the driving record of any person restricted under this section stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device.

(2)(a) Upon acquittal or dismissal of all pending or current charges relating to a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, or equivalent local ordinance, the court shall authorize removal of the ignition interlock device and lift any requirement to comply with electronic alcohol/drug monitoring imposed under subsection (1) of this section. Nothing in this section limits the authority of the court or department under RCW 46.20.720.

(b) If the court authorizes removal of an ignition interlock device imposed under this section, the court shall immediately notify the department of licensing regarding the lifting of the ignition interlock restriction and the department of licensing shall release any attachment, imprint, or notation on such person's driving record relating to the ignition interlock requirement imposed under this section.

(3) When an ignition interlock restriction imposed as a condition of release is canceled, the court shall provide a defendant with a written order confirming release of the restriction. The written order shall serve as proof of release of the restriction until which time the department of licensing updates the driving record.

**Sec. 4.** RCW 38.52.430 and 2012 c 183 s 6 are each amended to read as follows:

A person whose intoxication causes an incident resulting in an appropriate emergency response, and who, in connection with the incident, has been found guilty of or has had their prosecution deferred for (1) driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502; (2) physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, RCW 46.61.504; (3) operating an aircraft under the influence of intoxicants or drugs, RCW 47.68.220; ~~((3))~~ (4) use of a vessel while under the influence of alcohol or drugs, RCW 79A.60.040; ~~((4))~~ (5) vehicular homicide while under the

influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a); or ~~((5))~~ (6) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), is liable for the expense of an emergency response by a public agency to the incident.

The expense of an emergency response is a charge against the person liable for expenses under this section. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied. Following a conviction of an offense listed in this section, and prior to sentencing, the prosecution may present to the court information setting forth the expenses incurred by the public agency for its emergency response to the incident. Upon a finding by the court that the expenses are reasonable, the court shall order the defendant to reimburse the public agency. The cost reimbursement shall be included in the sentencing order as an additional monetary obligation of the defendant and may not be substituted for any other fine or cost required or allowed by statute. The court may establish a payment schedule for the payment of the cost reimbursement, separate from any payment schedule imposed for other fines and costs. All payments for the cost reimbursement must be remitted directly to the public agency or agencies that incurred the cost associated with the emergency response.

In no event shall a person's liability under this section for the expense of an emergency response exceed two thousand five hundred dollars for a particular incident.

If more than one public agency makes a claim for payment from an individual for an emergency response to a single incident under the provisions of this section, and the sum of the claims exceeds the amount recovered, the division of the amount recovered shall be determined by an interlocal agreement consistent with the requirements of chapter 39.34 RCW.

**Sec. 5.** RCW 46.20.245 and 2005 c 288 s 1 are each amended to read as follows:

(1) Whenever the department proposes to withhold the driving privilege of a person or disqualify a person from operating a commercial motor vehicle and this action is made mandatory by the provisions of this chapter or other law, the department must give notice to the person in writing by posting in the United States mail, appropriately addressed, postage prepaid, or by personal service. Notice by mail is given upon deposit in the United States mail. Notice given under this subsection must specify the date upon which the driving privilege is to be withheld which shall not be less than forty-five days after the original notice is given.

(2) For persons subject to suspension, revocation, or denial of a driver's license who are eligible for full credit under RCW 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section must also notify the person of the obligation to complete the requirements under RCW 46.20.311 and pay the probationary license fee under RCW 46.20.355 by the date specified in the notice in order to avoid license suspension.

(3) Within fifteen days after notice has been given to a person under subsection (1) of this section, the person may request in writing an administrative review before the department. If the request is mailed, it must be postmarked within fifteen days after the date the department has given notice. If a person fails to request an administrative review within fifteen days after the date the department gives notice, the person is considered to have defaulted and loses his or her right to an administrative review unless the department finds good cause for a request after the fifteen-day period.

(a) An administrative review under this subsection shall consist solely of an internal review of documents and records submitted

or available to the department, unless the person requests an interview before the department, in which case all or any part of the administrative review may, at the discretion of the department, be conducted by telephone or other electronic means.

(b) The only issues to be addressed in the administrative review are:

(i) Whether the records relied on by the department identify the correct person; and

(ii) Whether the information transmitted from the court or other reporting agency or entity regarding the person accurately describes the action taken by the court or other reporting agency or entity.

(c) For the purposes of this section, the notice received from a court or other reporting agency or entity, regardless of form or format, is prima facie evidence that the information from the court or other reporting agency or entity regarding the person is accurate. A person requesting administrative review has the burden of showing by a preponderance of the evidence that the person is not subject to the withholding of the driving privilege.

(d) The action subject to the notification requirements of subsection (1) of this section shall be stayed during the administrative review process.

(e) Judicial review of a department order affirming the action subject to the notification requirements of subsection (1) of this section after an administrative review shall be available in the same manner as provided in RCW 46.20.308~~((9))~~ (8). The department shall certify its record to the court within thirty days after service upon the department of the petition for judicial review. The action subject to the notification requirements of subsection (1) of this section shall not automatically be stayed during the judicial review. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury.

~~((3))~~ (4) The department may adopt rules that are considered necessary or convenient by the department for purposes of administering this section, including, but not limited to, rules regarding expedited procedures for issuing orders and expedited notice procedures.

~~((4))~~ (5) This section does not apply where an opportunity for an informal settlement, driver improvement interview, or formal hearing is otherwise provided by law or rule of the department.

**Sec. 6.** RCW 46.20.3101 and 2016 c 203 s 18 are each amended to read as follows:

Pursuant to RCW 46.20.308, the department shall suspend, revoke, or deny the arrested person's license, permit, or privilege to drive as follows:

(1) In the case of a person who has refused a test or tests:

(a) For a first refusal within seven years, where there has not been a previous incident within seven years that resulted in administrative action under this section, revocation or denial for one year;

(b) For a second or subsequent refusal within seven years, or for a first refusal where there has been one or more previous incidents within seven years that have resulted in administrative action under this section, revocation or denial for two years or until the person reaches age twenty-one, whichever is longer.

(2) In the case of an incident where a person has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.08 or more, or that the THC concentration of the person's blood was 5.00 or more:

(a) For a first incident within seven years, where there has not been a previous incident within seven years that resulted in

administrative action under this section, suspension for ninety days, unless the person successfully completes or is enrolled in a pretrial 24/7 sobriety program;

(b) For a second or subsequent incident within seven years, revocation or denial for two years.

(3) In the case of an incident where a person under age twenty-one has submitted to or been administered a test or tests indicating that the alcohol concentration of the person's breath or blood was 0.02 or more, or that the THC concentration of the person's blood was above 0.00:

(a) For a first incident within seven years, suspension or denial for ninety days;

(b) For a second or subsequent incident within seven years, revocation or denial for one year or until the person reaches age twenty-one, whichever is longer.

(4) The department shall grant credit on a day-for-day basis for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already served))~~ imposed under this section for any portion of a suspension, revocation, or denial ~~((imposed))~~ already served under RCW 46.61.5055 arising out of the same incident. If a person has already served a suspension, revocation, or denial under RCW 46.61.5055 for a period equal to or greater than the period imposed under this section, the department shall provide notice of full credit, shall provide for no further suspension or revocation under this section, and shall impose no additional reissue fees for this credit.

**Sec. 7.** RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are each reenacted and amended to read as follows:

(1) Upon receipt of an abstract indicating a deferred prosecution has been granted under RCW 10.05.060, or upon receipt of a notice of conviction of RCW 46.61.502 or 46.61.504, the department of licensing shall order the person to surrender any nonprobationary Washington state driver's license that may be in his or her possession. The department shall revoke the license, permit, or privilege to drive of any person who fails to surrender it as required by this section for one year, unless the license has been previously surrendered to the department, a law enforcement officer, or a court, or the person has completed an affidavit of lost, stolen, destroyed, or previously surrendered license, such revocation to take effect thirty days after notice is given of the requirement for license surrender.

(2) The department shall place a person's driving privilege in probationary status as required by RCW 10.05.060 or 46.61.5055 for a period of five years from the date the probationary status is required to go into effect.

(3) Following receipt of an abstract indicating a deferred prosecution has been granted under RCW 10.05.060, or upon reinstatement or reissuance of a driver's license suspended or revoked as the result of a conviction of RCW 46.61.502 or 46.61.504, the department shall require the person to obtain a probationary license in order to operate a motor vehicle in the state of Washington, except as otherwise exempt under RCW 46.20.025. The department shall not issue the probationary license unless the person is otherwise qualified for licensing, and the person must renew the probationary license on the same cycle as the person's regular license would have been renewed until the expiration of the five-year probationary status period imposed under subsection (2) of this section.

(4) If a person is eligible for full credit under RCW 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued under RCW 46.20.245, has completed the requirements under RCW 46.20.311 and paid the fee under subsection (5) of this section, the department shall issue a probationary license on the date specified in the notice with no further action required of the person.

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(5) For each original issue or renewal of a probationary license under this section, the department shall charge a fee of fifty dollars in addition to any other licensing fees required. Except for when renewing a probationary license, the department shall waive the requirement to obtain an additional probationary license and the fifty dollar fee if the person has a probationary license in his or her possession at the time a new probationary license is required.

~~((5))~~ (6) A probationary license shall enable the department and law enforcement personnel to determine that the person is on probationary status. The fact that a person's driving privilege is in probationary status or that the person has been issued a probationary license shall not be a part of the person's record that is available to insurance companies.

**Sec. 8.** RCW 46.20.720 and 2017 c 336 s 5 are each amended to read as follows:

(1) **Ignition interlock restriction.** The department shall require that a person may drive only a motor vehicle equipped with a functioning ignition interlock device:

(a) **Pretrial release.** Upon receipt of notice from a court that an ignition interlock device restriction has been imposed under RCW 10.21.055;

(b) **Ignition interlock driver's license.** As required for issuance of an ignition interlock driver's license under RCW 46.20.385;

(c) **Deferred prosecution.** Upon receipt of notice from a court that the person is participating in a deferred prosecution program under RCW 10.05.020 for a violation of:

(i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance; or

(ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person would be 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 in the event of a conviction;

(d) **Post conviction.** After any applicable period of mandatory suspension, revocation, or denial of driving privileges:

(i) Due to a conviction of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance; or

(ii) Due to a conviction of a violation of RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance if the person 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; or

(e) **Court order.** Upon receipt of an order by a court having jurisdiction that a person charged or 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 ignition interlock will prevent the vehicle from being started. The court shall also establish the period of time for which ignition interlock use will be required.

(2) **Calibration.** Unless otherwise specified by the court for a restriction imposed under subsection (1)(e) of this section, 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))~~ 0.020 or more.

(3) **Duration of restriction.** A restriction imposed under:

(a) Subsection (1)(a) of this section shall remain in effect until:

(i) The court has authorized the removal of the device under RCW 10.21.055; or

(ii) The department has imposed a restriction under subsection (1)(b), (c), or (d) of this section arising out of the same incident.

(b) Subsection (1)(b) of this section remains in effect during the validity of any ignition interlock driver's license that has been issued to the person.

(c) Subsection (1)(c)(i) or (d)(i) of this section shall be for no less than:

(i) For a person who has not previously been restricted under this subsection, a period of one year;

(ii) For a person who has previously been restricted under (c)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (c)(ii) of this subsection, a period of ten years.

The restriction of a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who committed the offense while ~~((a))~~ one or more passengers under the age of sixteen ~~((was))~~ were in the vehicle shall be extended for an additional ~~((six-month))~~ period as required by RCW 46.61.5055(6)(a).

(d) Subsection (1)(c)(ii) or (d)(ii) of this section shall be for a period of no less than six months.

(e) The period of restriction under (c) or (d) of this subsection shall be extended by one hundred eighty days whenever the department receives notice that the restricted person has been convicted under RCW 46.20.740 or 46.20.750.

(f) Subsection (1)(e) of this section shall remain in effect for the period of time specified by the court.

(g) The period of restriction under (c) and (d) of this subsection based on incidents occurring on or after June 9, 2016, must be tolled for any period in which the person does not have an ignition interlock device installed on a vehicle owned or operated by the person unless the person receives a determination from the department that the person is unable to operate an ignition interlock device due to a physical disability. The department's determination that a person is unable to operate an ignition interlock device must be reasonable and be based upon good and substantial evidence. This determination is subject to review by a court of competent jurisdiction. The department may charge a person seeking a medical exemption under this subsection a reasonable fee for the assessment.

(4) **Requirements for removal.** A restriction imposed under subsection (1)(c) or (d) 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 one hundred eighty consecutive days prior to the date of release:

(a) Any attempt to start the vehicle with a breath alcohol concentration of 0.04 or more unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than 0.04 and the digital image confirms the same person provided both samples;

(b) Failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test;

(c) Failure to pass any random retest with a breath alcohol concentration of ~~((0.025))~~ 0.020 or lower unless a subsequent test performed within ten minutes registers a breath alcohol concentration lower than ~~((0.025))~~ 0.020, and the digital image confirms the same person provided both samples; or

(d) 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) **Day-for-day credit.** (a) The time period during which a person has an ignition interlock device installed in order to meet the requirements of subsection (1)(b) of this section shall apply on a day-for-day basis toward satisfying the period of time the

ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident.

(b) The department must also give the person a day-for-day credit for any 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, other than those subject to the employer exemption under subsection (6) of this section.

(c) If the day-for-day credit granted under this subsection equals or exceeds the period of time the ignition interlock device restriction is imposed under subsection (1)(c) or (d) of this section arising out of the same incident, and the person has already met the requirements for removal of the device under subsection (4) of this section, the department may waive the requirement that a device be installed or that the person again meet the requirements for removal.

(6) **Employer exemption.** (a) Except as provided in (b) of this subsection, 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.

(b) The employer exemption does not apply when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment.

(7) **Ignition interlock device revolving account.** In addition to any other costs associated with the use of an ignition interlock device imposed on the person restricted under this section, the person shall pay an additional fee of twenty-one dollars per month. Payments must be made directly to the ignition interlock company. The company shall remit the additional fee to the department to be deposited into the ignition interlock device revolving account, except that the company may retain twenty-five cents per month of the additional fee to cover the expenses associated with administering the fee. The department may waive the monthly fee if the person is indigent under RCW 10.101.010.

(8) **Foreign jurisdiction.** For a person restricted under this section who is residing outside of the state of Washington, the department may accept verification of installation of an ignition interlock device by an ignition interlock company authorized to do business in the jurisdiction in which the person resides, provided the device meets any applicable requirements of that jurisdiction. The department may waive the monthly fee required by subsection (7) of this section if collection of the fee would be impractical in the case of a person residing in another jurisdiction.

**Sec. 9.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720, 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance

with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped, unless the notation resulted from a restriction imposed as a condition of release and the restriction has been released by the court prior to driving. Any time a person is convicted under this section, the court shall immediately notify the department for purposes of RCW 46.20.720(3)(e).

(3) Any sentence imposed for a violation of subsection (2) of this section shall be served consecutively with any sentence imposed under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

**Sec. 10.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each amended to read as follows:

(1) A person who is restricted to the use of a vehicle equipped with an ignition interlock device is guilty of a gross misdemeanor if the restricted driver:

(a) Tampered with the device by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle;

(b) Uses or requests another person to use a filter or other device to circumvent the ignition interlock or to start or operate the vehicle to allow the restricted driver to operate the vehicle;

(c) Has, directs, authorizes, or requests another person to tamper with the device by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle; or

(d) Has, allows, directs, authorizes, or requests another person to blow or otherwise exhale into the device in order to circumvent the device to allow the restricted driver to operate the vehicle.

(2) A person who knowingly assists another person who is restricted to the use of a vehicle equipped with an ignition interlock device to circumvent the device or to start and operate that vehicle is guilty of a gross misdemeanor. The provisions of this subsection do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle and the person subject to the court order does not operate the vehicle.

(3) Any sentence imposed for a violation of subsection (1) of this section shall be served consecutively with any sentence imposed under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055, 46.61.520(1)(a), or 46.61.522(1)(b).

(4) Any time a person is convicted under subsection (1) of this section, the court shall immediately notify the department for purposes of RCW 46.20.720(3)(e).

**Sec. 11.** RCW 46.55.113 and 2011 c 167 s 6 are each amended to read as follows:

(1) Whenever the driver of a vehicle is arrested for a violation of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary impoundment, pursuant to the terms and conditions of an applicable local ordinance or state agency rule at the direction of a law enforcement officer.

(2) In addition, a police officer may take custody of a vehicle, at his or her discretion, and provide for its prompt removal to a place of safety under any of the following circumstances:

(a) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the



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vehicle to a position off the roadway;

(b) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(c) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable of deciding upon steps to be taken to protect his or her property;

(d) Whenever the driver of a vehicle is arrested and taken into custody by a police officer;

(e) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(f) Whenever a vehicle without a special license plate, placard, or decal indicating that the vehicle is being used to transport a person with disabilities under RCW 46.19.010 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property;

(g) Upon determining that a person is operating a motor vehicle without a valid and, if required, a specially endorsed driver's license or with a license that has been expired for ninety days or more;

(h) When a vehicle is illegally occupying a truck, commercial loading zone, restricted parking zone, bus, loading, hooded-meter, taxi, street construction or maintenance, or other similar zone where, by order of the director of transportation or chiefs of police or fire or their designees, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at all times, if the zone has been established with signage for at least twenty-four hours and where the vehicle is interfering with the proper and intended use of the zone. Signage must give notice to the public that a vehicle will be removed if illegally parked in the zone;

(i) When a vehicle with an expired registration of more than forty-five days is parked on a public street;

(j) Upon determining that a person restricted to use of only a motor vehicle equipped with a functioning ignition interlock device is operating a motor vehicle that is not equipped with such a device in violation of RCW 46.20.740(2).

(3) When an arrest is made for a violation of RCW 46.20.342, if the vehicle is a commercial vehicle or farm transport vehicle and the driver of the vehicle is not the owner of the vehicle, before the summary impoundment directed under subsection (1) of this section, the police officer shall attempt in a reasonable and timely manner to contact the owner of the vehicle and may release the vehicle to the owner if the owner is reasonably available, as long as the owner was not in the vehicle at the time of the stop and arrest and the owner has not received a prior release under this subsection or RCW 46.55.120(1)(~~(a)~~) (b)(ii).

(4) Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

(5) For purposes of this section "farm transport vehicle" means a motor vehicle owned by a farmer and that is being actively used in the transportation of the farmer's or another farmer's farm, orchard, aquatic farm, or dairy products, including livestock and plant or animal wastes, from point of production to market or disposal, or supplies or commodities to be used on the farm, orchard, aquatic farm, or dairy, and that has a gross vehicle weight rating of 7,258 kilograms (16,001 pounds) or more.

**Sec. 12.** RCW 46.61.500 and 2012 c 183 s 11 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 for up to three hundred sixty-four days and by a fine of not more than five thousand dollars.

(2)(a) Subject to (b) of this subsection, 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.

(b) When a reckless driving conviction is a 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, the department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under an administrative action arising out of the same incident. In the case of a person whose day-for-day credit is for a period equal to or greater than the period of suspension required under this section, the department shall provide notice of full credit, shall provide for no further suspension under this section, and shall impose no additional reissue fees for this credit. During any period of suspension, revocation, or denial due to a conviction for reckless driving as the result of a charge originally filed as a violation of RCW 46.61.502 or 46.61.504, any person who has obtained an ignition interlock driver's license under RCW 46.20.385 may continue to drive a motor vehicle pursuant to the provision of the ignition interlock driver's license without obtaining a separate temporary restricted driver's license under RCW 46.20.391.

(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. 13.** RCW 46.61.504 and 2017 c 335 s 2 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) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) 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 and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny the privilege to drive if, prior to being pursued by a law enforcement officer, the person

has moved the vehicle safely off the roadway.

(3)(a) 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.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. 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)(a) 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)(c) or (d) of this section.

(b) Analyses of blood 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 control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) 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 three or more prior offenses within ~~((ten))~~ fifteen 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. 14.** RCW 46.61.5055 and 2018 c 201 s 9009 are each amended to read as follows:

(1) **No prior offenses in seven years.** 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) **Penalty for alcohol concentration less than 0.15.** 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 three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 or a ninety-day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. 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 or other separate alcohol 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 unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** 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 three hundred sixty-four days. Forty-eight consecutive hours of the imprisonment may not be suspended 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 or a one hundred twenty day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program testing as fulfilling a portion of posttrial sentencing. 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 or other separate alcohol monitoring device, 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 unless the court finds the offender to be indigent.

(2) **One prior offense in seven years.** 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) **Penalty for alcohol concentration less than 0.15.** 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:

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(i) By imprisonment for not less than thirty days nor more than three hundred sixty-four days and sixty days of electronic home monitoring. In lieu of the mandatory term of imprisonment and electronic home monitoring under this subsection (2)(a)(i), the court may order a minimum of four days in jail and either one hundred eighty days of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** 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 three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of imprisonment and electronic home monitoring under this subsection (2)(b)(i), the court may order a minimum of six days in jail and either six months of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent.

(3) **Two prior offenses in seven years.** 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 prior offenses within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** 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 three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred twenty days of electronic home monitoring, the court may order at least an additional eight days in jail. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** 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 three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent.

(4) **Three or more prior offenses in ((ten)) fifteen years.** 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 three or more prior offenses within ((ten)) fifteen 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;

(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) **Monitoring.** (a) **Ignition interlock device.** 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 comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) **Monitoring devices.** If the court orders that a person refrain from consuming any alcohol, the court may 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. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) **24/7 sobriety program monitoring.** In any county or city where a 24/7 sobriety program is available and verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) **Penalty for having a minor passenger in vehicle.** 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) Order the use of an ignition interlock or other device for an additional six months;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment and a fine of not less than one thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment and a fine of not less than two thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment and a fine of not less than three thousand dollars and not more than ten thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent.

(7) **Other items courts must consider while setting penalties.** 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;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

(8) **Treatment and information school.** An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) **Driver's license privileges of the defendant.** 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) **Penalty for alcohol concentration less than 0.15.** 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 or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a ninety-day period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for fewer than two days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a six-month period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for less than one year; 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) **Penalty for alcohol concentration at least 0.15.** 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 or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a one hundred twenty day period of 24/7 sobriety program monitoring. In no circumstances shall the license revocation be for fewer than four days;

(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) **Penalty for refusing to take test.** 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:

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(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.

Upon receipt of a notice from the court under RCW 36.28A.390 that a participant has been removed from a 24/7 sobriety program, the department must resume any suspension, revocation, or denial that had been terminated early under this subsection due to participation in the program, granting credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under RCW 46.20.3101 or this section arising out of the same incident.

Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

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) **Probation of driving privilege.** 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) **Conditions of probation.** (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days 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; (ii) not driving a motor vehicle within this state without proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (iii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; (iv) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug 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 or drug; and (v) not driving a motor vehicle in this state without a functioning ignition interlock device as required by the department under RCW 46.20.720. 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), (iii), (iv), or (v) 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) **Waiver of electronic home monitoring.** 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. However, if a court determines that an alcohol monitoring device utilizing wireless reporting technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(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, use of an ignition interlock device, the 24/7 sobriety program monitoring, 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-four 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-four days.

(13) **Extraordinary medical placement.** 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(1)(c).

(14) **Definitions.** 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 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(v) A conviction for a violation of RCW 79A.60.040(1) or an equivalent local ordinance committed in a reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed while under the influence of intoxicating liquor or any drug;

(vii) A conviction for a violation of RCW 47.68.220 or an

equivalent local ordinance committed in a careless or reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 47.68.220 or an equivalent local ordinance while under the influence of intoxicating liquor or any drug;

(viii) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

(ix) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

(x) 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;

(xi) 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;

(xii) 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;

(xiii) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (x), (xi), or (xii) of this subsection if committed in this state;

(xiv) 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;

(xv) 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;

(xvi) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement that the defendant participate in a chemical dependency treatment program; or

(xvii) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation 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) "Treatment" means substance use disorder treatment licensed or certified by the department of health;

(c) "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

(d) "Within ~~((ten))~~ fifteen years" means that the arrest for a prior offense occurred within ~~((ten))~~ fifteen years before or after the arrest for the current offense.

(15) All fines imposed by this section apply to adult offenders

only.

**Sec. 15.** RCW 46.61.5055 and 2019 c ... s 14 (section 14 of this act) are each amended to read as follows:

(1) **No prior offenses in seven years.** 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) **Penalty for alcohol concentration less than 0.15.** 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))~~ twenty-four consecutive hours nor more than three hundred sixty-four days. (~~((Twenty four consecutive hours of the imprisonment may not be suspended 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based.))~~) In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court, in its discretion, may order not less than fifteen days of electronic home monitoring or a ninety-day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. 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 or other separate alcohol 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 unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** 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))~~ forty-eight consecutive hours nor more than three hundred sixty-four days. (~~((Forty eight consecutive hours of the imprisonment may not be suspended 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based.))~~) In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court, in its discretion, may order not less than thirty days of electronic home monitoring or a one hundred twenty day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program testing as fulfilling a portion of posttrial sentencing. 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 or other separate alcohol monitoring device, 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 unless the court finds the offender to be indigent.

(2) **One prior offense in seven years.** 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) **Penalty for alcohol concentration less than 0.15.** 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 three hundred sixty-four days and sixty days of electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended 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. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory term of imprisonment and electronic home monitoring under this subsection (2)(a)(i), the court may order a minimum of ((four days in jail and)) either one hundred eighty days of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** 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 three hundred sixty-four days and ninety days of electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended 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. If the offender shows that the imposition of this mandatory minimum sentence would impose a

substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of imprisonment and electronic home monitoring under this subsection (2)(b)(i), the court may order a minimum of ((six days in jail and)) either six months of electronic home monitoring or a one hundred twenty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The court may consider the offender's pretrial 24/7 sobriety program monitoring as fulfilling a portion of posttrial sentencing. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent.

(3) **Two prior offenses in seven years.** 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 prior offenses within seven years shall be punished as follows:

(a) **Penalty for alcohol concentration less than 0.15.** 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 three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred twenty days of electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended 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. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of ninety days of imprisonment and one hundred twenty days of electronic home monitoring, the court may order ((at least an additional eight days in jail)) three hundred sixty days of electronic home monitoring or a three hundred sixty-day period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent; or

(b) **Penalty for alcohol concentration at least 0.15.** 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 three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended 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. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of one hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring, the court may order ((at least an additional ten days in jail)) three hundred sixty days of electronic home monitoring or a three hundred sixty-day period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. The offender shall pay for the cost of the electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. 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 or other separate alcohol monitoring device, 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 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, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension 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 unless the court finds the offender to be indigent.

(4) **Three or more prior offenses in fifteen years.** 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 three or more prior offenses within fifteen 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;

(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) **Monitoring.** (a) **Ignition interlock device.** 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 comply with the rules and requirements of the department regarding the installation and use of a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) **Monitoring devices.** If the court orders that a person refrain from consuming any alcohol, the court may 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. The person shall pay for the cost of the monitoring, unless the court specifies that the cost of monitoring will be paid with funds that are available from an alternative source identified by the court. The county or municipality where the penalty is being imposed shall determine the cost.

(c) **24/7 sobriety program monitoring.** In any county or city where a 24/7 sobriety program is available and verified by the Washington association of sheriffs and police chiefs, the court shall:

(i) Order the person to install and use a functioning ignition interlock or other device in lieu of such period of 24/7 sobriety program monitoring;

(ii) Order the person to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section; or

(iii) Order the person to install and use a functioning ignition interlock or other device in addition to a period of 24/7 sobriety program monitoring pursuant to subsections (1) through (3) of this section.

(6) **Penalty for having a minor passenger in vehicle.** If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while ((~~a~~)) one or more passengers under the age of sixteen ((~~was~~)) were in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional ((~~six~~)) twelve months for each passenger under the age of sixteen when the person is subject to the penalties under subsection (1)(a), (2)(a), or (3)(a) of this section; and order the use of an ignition interlock device for an additional eighteen months for each passenger under the age of sixteen when the person is subject to the penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this section;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional twenty-four hours of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than one thousand dollars and not more than five thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional five days of imprisonment to be served consecutively for each passenger under the age of sixteen,



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and a fine of not less than two thousand dollars and not more than five thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment to be served consecutively for each passenger under the age of sixteen, and a fine of not less than three thousand dollars and not more than ten thousand dollars for each passenger under the age of sixteen. One thousand dollars of the fine for each passenger under the age of sixteen may not be suspended unless the court finds the offender to be indigent.

(7) **Other items courts must consider while setting penalties.** 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;

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers;

(c) Whether the driver was driving in the opposite direction of the normal flow of traffic on a multiple lane highway, as defined by RCW 46.04.350, with a posted speed limit of forty-five miles per hour or greater; and

(d) Whether a child passenger under the age of sixteen was an occupant in the driver's vehicle.

(8) **Treatment and information school.** An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

(9) **Driver's license privileges of the defendant.** (a) 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:

((+)) (i) **Penalty for alcohol concentration less than 0.15.** 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:

((+)) (A) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a ninety-day period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for fewer than two days;

((+)) (B) Where there has been one prior offense within seven years, be revoked or denied by the department for two years or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a six-month period of 24/7 sobriety program monitoring. In no circumstances shall the license suspension be for less than one year; or

((+)) (C) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

((+)) (ii) **Penalty for alcohol concentration at least 0.15.** If the person's alcohol concentration was at least 0.15:

((+)) (A) Where there has been no prior offense within seven years, be revoked or denied by the department for one year or until the person is evaluated by an alcoholism agency or probation department pursuant to RCW 46.20.311 and the person completes or is enrolled in a one hundred twenty day period of 24/7 sobriety program monitoring. In no circumstances shall the license

revocation be for fewer than four days;

((+)) (B) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

((+)) (C) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

((+)) (iii) **Penalty for refusing to take test.** 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:

((+)) (A) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

((+)) (B) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

((+)) (C) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

(b)(i) The department shall grant credit on a day-for-day basis for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already served))~~ imposed under this subsection (9) for any portion of a suspension, revocation, or denial ~~((imposed))~~ already served under RCW 46.20.3101 arising out of the same incident.

(ii) If a person has already served a suspension, revocation, or denial under RCW 46.20.3101 for a period equal to or greater than the period imposed under this subsection (9), the department shall provide notice of full credit, shall provide for no further suspension or revocation under this subsection provided the person has completed the requirements under RCW 46.20.311 and paid the probationary license fee under RCW 46.20.355 by the date specified in the notice under RCW 46.20.245, and shall impose no additional reissue fees for this credit.

(c) Upon receipt of a notice from the court under RCW 36.28A.390 that a participant has been removed from a 24/7 sobriety program, the department must resume any suspension, revocation, or denial that had been terminated early under this subsection due to participation in the program, granting credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under RCW 46.20.3101 or this section arising out of the same incident.

(d) Upon its own motion or upon motion by a person, a court may find, on the record, that notice to the department under RCW 46.20.270 has been delayed for three years or more as a result of a clerical or court error. If so, the court may order that the person's license, permit, or nonresident privilege shall not be revoked, suspended, or denied for that offense. The court shall send notice of the finding and order to the department and to the person. Upon receipt of the notice from the court, the department shall not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

(e) 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) **Probation of driving privilege.** 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) **Conditions of probation.** (a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes up to three hundred sixty-four days 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; (ii) not driving a motor vehicle within this state without proof of liability insurance or other financial responsibility for the future pursuant to RCW 46.30.020; (iii) not driving or being in physical control of a motor vehicle within this state while having an alcohol concentration of 0.08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher, within two hours after driving; (iv) not refusing to submit to a test of his or her breath or blood to determine alcohol or drug 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 or drug; and (v) not driving a motor vehicle in this state without a functioning ignition interlock device as required by the department under RCW 46.20.720. 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), (iii), (iv), or (v) 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) **Waiver of electronic home monitoring.** 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. However, if a court determines that an alcohol monitoring device utilizing wireless reporting technology is reasonably available, the court may require the person to obtain such a device during the period of required electronic home monitoring;

(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, use of an ignition interlock device, the 24/7 sobriety program monitoring, 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-four 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-four days.

(13) **Extraordinary medical placement.** 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(1)(c).

(14) **Definitions.** 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 46.25.110 or an equivalent local ordinance;

(iv) A conviction for a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(v) A conviction for a violation of RCW 79A.60.040(1) or an equivalent local ordinance committed in a reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 79A.60.040(2) or an equivalent local ordinance;

(vi) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed while under the influence of intoxicating liquor or any drug;

(vii) A conviction for a violation of RCW 47.68.220 or an equivalent local ordinance committed in a careless or reckless manner if the conviction is the result of a charge that was originally filed as a violation of RCW 47.68.220 or an equivalent local ordinance while under the influence of intoxicating liquor or any drug;

(viii) A conviction for a violation of RCW 46.09.470(2) or an equivalent local ordinance;

(ix) A conviction for a violation of RCW 46.10.490(2) or an equivalent local ordinance;

(x) 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;

(xi) 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;

(xii) 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;

(xiii) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (x), (xi), or (xii) of this subsection if committed in this state;

(xiv) 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;

(xv) 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;

(xvi) A deferred prosecution granted in another state for a violation of driving or having physical control of a vehicle while under the influence of intoxicating liquor or any drug if the out-of-state deferred prosecution is equivalent to the deferred prosecution under chapter 10.05 RCW, including a requirement

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that the defendant participate in a chemical dependency treatment program; or

(xvii) A deferred sentence imposed in a prosecution for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local ordinance, if the charge under which the deferred sentence was imposed was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or a violation 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) "Treatment" means substance use disorder treatment licensed or certified by the department of health;

(c) "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

(d) "Within fifteen years" means that the arrest for a prior offense occurred within fifteen years before or after the arrest for the current offense.

(15) All fines imposed by this section apply to adult offenders only.

**Sec. 16.** RCW 46.61.502 and 2017 c 335 s 1 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor, marijuana, 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) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, 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)(a) 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.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 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)(a) 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)(c) or (d) of this section.

(b) Analyses of blood 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 a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) 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 B felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ~~(ten)~~ fifteen 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. 17.** RCW 9.94A.525 and 2017 c 272 s 3 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 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)), all predicate crimes for the offense as defined by RCW 46.61.5055(14) shall be included in the offender score, and prior convictions for 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)) shall always be included in the offender score. All other convictions of the defendant shall be scored according to this section.

(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

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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~~) 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~~) 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 pleaded 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 pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a no-contact or protection order RCW 26.50.110, felony Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

(b) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after July 23, 2017, for any of the following offenses: Assault of a child in the first degree, RCW 9A.36.120; Assault of a child in the second degree, RCW 9A.36.130; Assault of a child in the third degree, RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree, RCW 9A.42.030;

(c) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for the offenses listed in (a) of this subsection; and

(d) 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 pleaded 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.

**Sec. 18.** RCW 46.20.311 and 2016 c 203 s 12 are each amended to read as follows:

(1)(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.267, 46.20.342, or other provision of law.

(b) Except for a suspension under RCW 46.20.267, 46.20.289, 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(c) If the suspension is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. The department may waive the requirement for written verification under this subsection if it determines to its satisfaction that a device previously verified as having been installed on a vehicle owned or operated by the person is still installed and functioning or as permitted by RCW 46.20.720(8). If, based upon notification from the interlock provider or otherwise, the department determines that an interlock required under RCW 46.20.720 is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(d) Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order.

(e)(i) The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of seventy-five dollars.

(ii) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be one hundred (~~(fifty)~~) seventy-five dollars.

(2)(a) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (i) After the expiration of one year from the date the license or privilege to drive was revoked; (ii) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the expiration of two years for persons convicted of vehicular homicide; or (iv) after the expiration of the applicable revocation period provided by RCW 46.20.265.

(b)(i) After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of seventy-five dollars.

(ii) If the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one hundred (~~(fifty)~~) seventy-five dollars. If the revocation is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person applying for a new license. The department may waive the requirement for written verification under this subsection if it determines to its satisfaction that a device previously verified as having been installed on a vehicle owned or operated by the person is still installed and functioning or as permitted by RCW 46.20.720(8). If, following issuance of a new license, the department determines, based upon notification from the interlock provider or otherwise, that an interlock required under RCW 46.20.720 is no longer functioning, the department shall suspend the person's license or privilege to drive until the department has received written verification from an interlock provider that a functioning interlock is installed.

(c) Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a

motor vehicle on the public highways.

(3)(a) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of seventy-five dollars.

(b) If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (i) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (ii) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be one hundred (~~(fifty)~~) seventy-five dollars.

**Sec. 19.** RCW 46.20.385 and 2017 c 336 s 4 are each amended to read as follows:

(1)(a) Any person licensed under this chapter or who has a valid driver's license from another state, who is convicted of: (i) A violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or (ii) a violation of RCW 46.61.520(1)(a) or an equivalent local or out-of-state statute or ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1) (b) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW 46.61.522(1)(b) or an equivalent local or out-of-state statute or ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522(1)(b) committed while under the influence of intoxicating liquor or any drug, or (vi) who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, or who is otherwise permitted under subsection (8) of this section, 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.

(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, unless otherwise permitted under RCW 46.20.720(6).

(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.

(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

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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-one dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional fee to the department, except that the company may retain twenty-five cents per month of the additional fee to cover the expenses associated with administering the fee.

(b) The department shall deposit the proceeds of the twenty-one 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.

(8)(a) Any person licensed under this chapter who is convicted of a violation of RCW 46.61.500 when the charge was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, may submit to the department an application for an ignition interlock driver's license under this section.

(b) A person who does not have any driver's license under this chapter, but who would otherwise be eligible under this section to apply for an ignition interlock license, may submit to the department an application for an ignition interlock license. The department may require the person to take any driver's licensing examination under this chapter and may require the person to also apply and qualify for a temporary restricted driver's license under RCW 46.20.391.

**NEW SECTION. Sec. 20.** (1) Within existing resources, the Washington association of sheriffs and police chiefs shall review current laws and regulations regarding the sentencing structure for impaired driving offenses in an effort to reduce fatalities from

individuals driving under the influence. The review must include looking at lookback periods, number of previous offenses, and other possible recommendations to reduce these fatalities. The Washington association of sheriffs and police chiefs shall provide its recommendations to the governor and appropriate committees of the legislature by December 1, 2019.

(2) This section expires June 30, 2020.

**NEW SECTION. Sec. 21.** RCW 43.43.3951 (Ignition interlock devices—Limited exemption for companies not using devices employing fuel cell technology) and 2010 c 268 s 3 are each repealed.

**NEW SECTION. Sec. 22.** Sections 2, 3, 5 through 10, 12, 15, and 19 of this act take effect January 1, 2020."

On page 1, line 1 of the title, after "driving;" strike the remainder of the title and insert "amending RCW 9.94A.533, 9.94A.729, 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500, 46.61.504, 46.61.5055, 46.61.5055, 46.61.502, 9.94A.525, 46.20.311, and 46.20.385; reenacting and amending RCW 46.20.355; creating a new section; repealing RCW 43.43.3951; prescribing penalties; providing an effective date; and providing an expiration date."

Senators Pedersen and Padden spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking amendment no. 802 by Senator Pedersen to Engrossed Substitute House Bill No. 1504.

The motion by Senator Pedersen carried and striking amendment no. 802 was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1504 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1504 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Erickson, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Mullet, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Hasegawa

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1504, as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 26, 2019

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Ormsby,

Robinson, Stokesbary

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

On motion of Senator Rolfes, the Senate granted the request of the House for a conference on Engrossed Substitute House Bill No. 1109 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute House Bill No. 1109 and the House amendment(s) there to: Senators Braun, Frockt and Rolfes.

MOTION

On motion of Senator Liias, the appointments to the conference committee were confirmed by voice vote.

MOTION

On motion of Senator Liias, the Senate advanced to the sixth order of business.

SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8405, by Senator Liias

Amending the cutoff resolution.

The measure was read the second time.

MOTION

Senator Braun moved that the following amendment no. 814 by Senator Braun be adopted:

On page 1, line 7, after "funding" insert "or Substitute Senate Bill No. 5532"

Senators Braun and Liias spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of amendment no. 814 by Senator Braun on page 1, line 7 to Senate Concurrent Resolution No. 8405.

The motion by Senator Braun carried and amendment no. 814 was adopted by voice vote.

MOTION

On motion of Senator Liias, the rules were suspended, Engrossed Senate Concurrent Resolution No. 8405 was advanced to third reading, the second reading considered the third and the resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Senate Concurrent Resolution No. 8405.

Senator Liias spoke in favor of adoption of the resolution.

ENGROSSED SENATE CONCURRENT RESOLUTION NO. 8405 having received a majority was adopted by voice vote.

Senator Becker announced a meeting of the Republican Caucus immediately upon going at ease.

MOTION

At 4:04 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

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EVENING SESSION

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The Senate was called to order at 6:38 p.m. by President Habib.

MOTION

On motion of Senator Liias, the Senate reverted to the third order of business.

MESSAGE FROM THE GOVERNOR

April 26, 2019

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 26, 2019, Governor Insee approved the following Senate Bills entitled:

**Senate Bill No. 5000**

Relating to online access to health care resources for veterinarians and veterinary technicians.

**Substitute Senate Bill No. 5003**

Relating to Washington's business corporation act.

**Substitute Senate Bill No. 5004**

Relating to allowing animal care and control agencies and nonprofit humane societies to provide additional veterinary services to low-income households.

**Senate Bill No. 5074**

Relating to enactment of the uniform faithful presidential electors act.

**Senate Bill No. 5119**

Relating to including highway workers employed on a transportation project by a contractor in the tuition and fee exemption for children and surviving spouses of highway workers.

**Substitute Senate Bill No. 5163**

Relating to actions for wrongful injury or death.

**Engrossed Second Substitute Senate Bill No. 5276**

Relating to hemp production.

**Substitute Senate Bill No. 5297**

Relating to extending collective bargaining rights to assistant attorneys general.

**Senate Bill No. 5310**

Relating to correcting agency names and accounts in statutes to reflect the organizational structure, duties, and responsibilities of the office of financial management.



adopted the following amendment(s): 5605 AMH GOOD H2997.1, and passed the bill as amended by the House.

**Engrossed Substitute Senate Bill No. 5311**

Relating to government efficiency by eliminating, revising, or decodifying obsolete or inactive statutory provisions that concern the office of financial management.

**Engrossed Substitute Senate Bill No. 5332**

Relating to vital statistics.

**Substitute Senate Bill No. 5394**

Relating to liquor licensees' use of web sites and social media to promote events.

**Senate Bill No. 5404**

Relating to expanding the definition of fish habitat enhancement projects.

**Substitute Senate Bill No. 5471**

Relating to extending the validity of temporary elevator licenses, expanding membership of the elevator safety advisory committee, and allowing homeowners to remove certain conveyances from their residences.

**Senate Bill No. 5558**

Relating to reinstating the authority of the department of social and health services and the health care authority to purchase interpreter services for applicants and recipients of public assistance who are sensory-impaired.

**Substitute Senate Bill No. 5638**

Relating to recognizing the validity of distributed ledger technology.

**Senate Bill No. 5641**

Relating to electronic notarial acts by remotely located individuals.

**Senate Bill No. 5795**

Relating to construction contractors but only with respect to providing financial recourse to harmed consumers not to include a warranty and creating a work group.

**Senate Bill No. 5909**

Relating to the license to manufacture, import, sell, and export liquor.

**Senate Bill No. 5923**

Relating to establishing an emergency loan program to be administered by the county road administration board.

Sincerely,

/s/

Drew Shirk, Executive Director of Legislative Affairs

MOTION

On motion of Senator Liias, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

April 23, 2019

MR. PRESIDENT:

The House receded from its amendment(s) to SENATE BILL NO. 5605. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.96.060 and 2017 c 336 s 2, 2017 c 272 s 9, and 2017 c 128 s 1 are each reenacted and amended to read as follows:

(1) ((Every person convicted of a misdemeanor or gross misdemeanor offense who has completed all of the terms of the sentence for the misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the tests prescribed in subsection (2) of this section, the court may in its discretion vacate the record of conviction)) When vacating a conviction under this section, the court effectuates the vacation by: (a)(i) Permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or (ii) if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and (b) the court dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

(2) Every person convicted of a misdemeanor or gross misdemeanor offense may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. If the court finds the applicant meets the requirements of this subsection, the court may in its discretion vacate the record of conviction. Except as provided in subsections (3), (4), and (5) of this section, an applicant may not have the record of conviction for a misdemeanor or gross misdemeanor offense vacated if any one of the following is present:

(a) The applicant has not completed all of the terms of the sentence for the offense;

(b) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court;

((b)) (c) The offense was a violent offense as defined in RCW 9.94A.030 or an attempt to commit a violent offense;

((c)) (d) The offense was a violation of RCW 46.61.502 (driving while under the influence), 46.61.504 (actual physical control while under the influence), 9.91.020 (operating a railroad, etc. while intoxicated), or the offense is considered a "prior offense" under RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug violation within ten years of the date of arrest for the prior offense or less than ten years has elapsed since the date of the arrest for the prior offense;

((d)) (e) The offense was any misdemeanor or gross misdemeanor violation, including attempt, of chapter 9.68 RCW (obscenity and pornography), chapter 9.68A RCW (sexual exploitation of children), or chapter 9A.44 RCW (sex offenses);

((e)) (f) The applicant was convicted of a misdemeanor or gross misdemeanor offense as defined in RCW 10.99.020, or the court determines after a review of the court file that the offense was committed by one family member or household member against another, or the court, after considering the damage to person or property that resulted in the conviction, any prior convictions for crimes defined in RCW 10.99.020, or for comparable offenses in another state or in federal court, and the totality of the records under review by the court regarding the conviction being considered for vacation, determines that the offense involved domestic violence, and any one of the following factors exist:

(i) The applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought, or has not provided that notification to the court;

(ii) The applicant has previously had a conviction for domestic violence. For purposes of this subsection, however, if the current

application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;

(iii) The applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense, and a criminal history check reveals that the applicant has had such a conviction; or

(iv) Less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;

((f)) (g) For any offense other than those described in ((e)) (f) of this subsection, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;

((g)) (h) The offender has been convicted of a new crime in this state, another state, or federal court since the date of conviction;

((h)) (i) The applicant has ever had the record of another conviction vacated; or

((i)) (j) The applicant is currently restrained, or has been restrained within five years prior to the vacation application, by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party.

(3) Subject to RCW 9.96.070, every person convicted of prostitution under RCW 9A.88.030 who committed the offense as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq. may apply to the sentencing court for vacation of the applicant's record of conviction for the prostitution offense. An applicant may not have the record of conviction for prostitution vacated if any one of the following is present:

(a) There are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court, for any crime other than prostitution; or

(b) The offender has been convicted of another crime, except prostitution, in this state, another state, or federal court since the date of conviction. The limitation in this subsection (3)(b) does not apply to convictions where the offender proves by a preponderance of the evidence that he or she committed the crime as a result of being a victim of trafficking, RCW 9A.40.100, promoting prostitution in the first degree, RCW 9A.88.070, promoting commercial sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq., according to the requirements provided in RCW 9.96.070 for each respective conviction.

(4) Every person convicted prior to January 1, 1975, of violating any statute or rule regarding the regulation of fishing activities, including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian fishing right, may apply to the sentencing court for vacation of the applicant's record of the misdemeanor, gross misdemeanor, or felony conviction for the offense. If the person is deceased, a member of the person's family or an official representative of the tribe of which the person was a member may apply to the court on behalf of the deceased person. Notwithstanding the requirements of RCW 9.94A.640, the court shall vacate the record of conviction if:

(a) The applicant is a member of a tribe that may exercise treaty Indian fishing rights at the location where the offense occurred; and

(b) The state has been enjoined from taking enforcement action of the statute or rule to the extent that it interferes with a treaty

Indian fishing right as determined under *United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp. 899 (D. Oregon 1969), and any posttrial orders of those courts, or any other state supreme court or federal court decision.

(5) Every person convicted of a misdemeanor marijuana offense, who was twenty-one years of age or older at the time of the offense, may apply to the sentencing court for a vacation of the applicant's record of conviction for the offense. A misdemeanor marijuana offense includes, but is not limited to: Any offense under RCW 69.50.4014, from July 1, 2004, onward, and its predecessor statutes, including RCW 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense under an equivalent municipal ordinance. If an applicant qualifies under this subsection, the court shall vacate the record of conviction.

(6)(a) Once the court vacates a record of conviction under this section, the person shall be released from all penalties and disabilities resulting from the offense and the fact that the person has been convicted of the offense shall not be included in the person's criminal history for purposes of determining a sentence in any subsequent conviction. For all purposes, including responding to questions on employment or housing applications, a person whose conviction has been vacated under this section may state that he or she has never been convicted of that crime. Except as provided in (b) of this subsection, nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

(b) When a court vacates a record of domestic violence as defined in RCW 10.99.020 under this section, the state may not use the vacated conviction in a later criminal prosecution unless the conviction was for: (i) Violating the provisions of a restraining order, no-contact order, or protection order restraining or enjoining the person or restraining the person from going on to the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, ((26.26.138)) 26.26B.050, 26.44.063, 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145); or (ii) stalking (RCW 9A.46.110). A vacated conviction under this section is not considered a conviction of such an offense for the purposes of 27 C.F.R. 478.11.

((6)) (7) All costs incurred by the court and probation services shall be paid by the person making the motion to vacate the record unless a determination is made pursuant to chapter 10.101 RCW that the person making the motion is indigent, at the time the motion is brought.

((7)) (8) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Nguyen moved that the Senate concur in the House amendment(s) to Senate Bill No. 5605.

Senator Nguyen spoke in favor of the motion.

MOTION

On motion of Senator Wilson, C., Senator Mullet was excused.

The President declared the question before the Senate to be the motion by Senator Nguyen that the Senate concur in the House amendment(s) to Senate Bill No. 5605.

The motion by Senator Nguyen carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5605 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5605, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5605, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 15; Absent, 3; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Saldaña, Salomon, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Holy, Honeyford, O'Ban, Rivers, Schoesler, Short, Wagoner, Warnick and Wilson, L.

Absent: Senators Padden, Rolfes and Sheldon

Excused: Senator Mullet

SENATE BILL NO. 5605, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTIONS

On motion of Senator Rivers, Senators Ericksen, Hawkins, Padden and Sheldon were excused.

On motion of Senator Wilson, C., Senators Mullet and Rolfes were excused.

MESSAGE FROM THE HOUSE

April 24, 2019

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 5741. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5741-S.E AMH CODY H3066.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"Sec. 3. RCW 43.371.005 and 2014 c 223 s 9 are each amended to read as follows:

The legislature finds that:

(1) The activities authorized by this chapter will require collaboration among state agencies and local governments that ((purchase)) are involved in health care, private health carriers, third-party purchasers, health care providers, and hospitals. These activities will identify strategies to increase the quality and effectiveness of health care delivered in Washington state and are therefore in the best interest of the public.

(2) The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature intends to exempt from state antitrust laws, and provide immunity through the state action doctrine from federal antitrust laws, activities that are undertaken, reviewed, and approved by the ((office)) authority pursuant to this chapter that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities including, but not limited to, agreements among competing providers or carriers to set prices or specific levels of reimbursement for health care services.

Sec. 4. RCW 43.371.010 and 2015 c 246 s 1 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) "Authority" means the health care authority.

(2) "Carrier" and "health carrier" have the same meaning as in RCW 48.43.005.

(3) "Claims data" means the data required by RCW 43.371.030 to be submitted to the database, including billed, allowed and paid amounts, and such additional information as defined by the director in rule.

(4) "Data supplier" means: (a) A carrier, third-party administrator, or a public program identified in RCW 43.371.030 that provides claims data; and (b) a carrier or any other entity that provides claims data to the database at the request of an employer-sponsored self-funded health plan or Taft-Hartley trust health plan pursuant to RCW 43.371.030(1).

(5) "Data vendor" means an entity contracted to perform data collection, processing, aggregation, extracts, analytics, and reporting.

(6) "Database" means the statewide all-payer health care claims database established in RCW 43.371.020.

(7) "Direct patient identifier" means a data variable that directly identifies an individual, including: Names; telephone numbers; fax numbers; social security number; medical record numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators; internet protocol address numbers; biometric identifiers, including finger and voice prints; and full face photographic images and any comparable images.

(8) "Director" means the director of ((financial management)) the authority.

(9) "Indirect patient identifier" means a data variable that may identify an individual when combined with other information.

(10) "Lead organization" means the organization selected under RCW 43.371.020.

(11) "Office" means the office of financial management.

(12) "Proprietary financial information" means claims data or reports that disclose or would allow the determination of specific terms of contracts, discounts, or fixed reimbursement arrangements or other specific reimbursement arrangements between an individual health care facility or health care provider, as those terms are defined in RCW 48.43.005, and a specific payer, or internal fee schedule or other internal pricing mechanism of integrated delivery systems owned by a carrier.

(13) "Unique identifier" means an obfuscated identifier assigned to an individual represented in the database to establish

a basis for following the individual longitudinally throughout different payers and encounters in the data without revealing the individual's identity.

**Sec. 5.** RCW 43.371.020 and 2015 c 246 s 2 are each amended to read as follows:

(1) The office shall establish a statewide all-payer health care claims database ((to)). On January 1, 2020, the office must transfer authority and oversight for the database to the authority. The office and authority must develop a transition plan that sustains operations by July 1, 2019. The database shall support transparent public reporting of health care information. The database must improve transparency to: Assist patients, providers, and hospitals to make informed choices about care; enable providers, hospitals, and communities to improve by benchmarking their performance against that of others by focusing on best practices; enable purchasers to identify value, build expectations into their purchasing strategy, and reward improvements over time; and promote competition based on quality and cost. The database must systematically collect all medical claims and pharmacy claims from private and public payers, with data from all settings of care that permit the systematic analysis of health care delivery.

(2) The ((office)) authority shall use a competitive procurement process, in accordance with chapter 39.26 RCW, to select a lead organization from among the best potential bidders to coordinate and manage the database.

(a)(i) In conducting the competitive procurement, the authority must ensure that no state officer or state employee participating in the procurement process:

(A) Has a current relationship or had a relationship within the last three years with any organization that bids on the procurement that would constitute a conflict with the proper discharge of official duties under chapter 42.52 RCW; or

(B) Is a compensated or uncompensated member of a bidding organization's board of directors, advisory committee, or has held such a position in the past three years.

(ii) If any relationship or interest described in (a)(i) of this subsection is discovered during the procurement process, the officer or employee with the prohibited relationship must withdraw from involvement in the procurement process.

(b) Due to the complexities of the all payer claims database and the unique privacy, quality, and financial objectives, the ((office)) authority must ((award extra points in the scoring evaluation for)) give strong consideration to the following elements in determining the appropriate lead organization contractor: (i) the ((bidder's)) organization's degree of experience in health care data collection, analysis, analytics, and security; (ii) whether the ((bidder)) organization has a long-term self-sustainable financial model; (iii) the ((bidder's)) organization's experience in convening and effectively engaging stakeholders to develop reports, especially among groups of health providers, carriers, and self-insured purchasers; (iv) the ((bidder's)) organization's experience in meeting budget and timelines for report generations; and (v) the ((bidder's)) organization's ability to combine cost and quality data to assess total cost of care.

((b) By December 31, 2017,)) (c) The successful lead organization must apply to be certified as a qualified entity pursuant to 42 C.F.R. Sec. 401.703(a) by the centers for medicare and medicaid services.

(d) The authority may not select a lead organization that:

(i) Is a health plan as defined by and consistent with the definitions in RCW 48.43.005;

(ii) Is a hospital as defined in RCW 70.41.020;

(iii) Is a provider regulated under Title 18 RCW;

(iv) Is a third-party administrator as defined in RCW 70.290.010; or

(v) Is an entity with a controlling interest in any entity covered in (d)(i) through (iv) of this subsection.

(3) As part of the competitive procurement process referenced

in subsection (2) of this section, the lead organization shall enter into a contract with a data vendor or multiple data vendors to perform data collection, processing, aggregation, extracts, and analytics. ((The)) A data vendor must:

(a) Establish a secure data submission process with data suppliers;

(b) Review data submitters' files according to standards established by the ((office)) authority;

(c) Assess each record's alignment with established format, frequency, and consistency criteria;

(d) Maintain responsibility for quality assurance, including, but not limited to: (i) The accuracy and validity of data suppliers' data; (ii) accuracy of dates of service spans; (iii) maintaining consistency of record layout and counts; and (iv) identifying duplicate records;

(e) Assign unique identifiers, as defined in RCW 43.371.010, to individuals represented in the database;

(f) Ensure that direct patient identifiers, indirect patient identifiers, and proprietary financial information are released only in compliance with the terms of this chapter;

(g) Demonstrate internal controls and affiliations with separate organizations as appropriate to ensure safe data collection, security of the data with state of the art encryption methods, actuarial support, and data review for accuracy and quality assurance;

(h) Store data on secure servers that are compliant with the federal health insurance portability and accountability act and regulations, with access to the data strictly controlled and limited to staff with appropriate training, clearance, and background checks; and

(i) Maintain state of the art security standards for transferring data to approved data requestors.

(4) The lead organization and data vendor must submit detailed descriptions to the office of the chief information officer to ensure robust security methods are in place. The office of the chief information officer must report its findings to the ((office)) authority and the appropriate committees of the legislature.

(5) The lead organization is responsible for internal governance, management, funding, and operations of the database. At the direction of the ((office)) authority, the lead organization shall work with the data vendor to:

(a) Collect claims data from data suppliers as provided in RCW 43.371.030;

(b) Design data collection mechanisms with consideration for the time and cost incurred by data suppliers and others in submission and collection and the benefits that measurement would achieve, ensuring the data submitted meet quality standards and are reviewed for quality assurance;

(c) Ensure protection of collected data and store and use any data in a manner that protects patient privacy and complies with this section. All patient-specific information must be deidentified with an up-to-date industry standard encryption algorithm;

(d) Consistent with the requirements of this chapter, make information from the database available as a resource for public and private entities, including carriers, employers, providers, hospitals, and purchasers of health care;

(e) Report performance on cost and quality pursuant to RCW 43.371.060 using, but not limited to, the performance measures developed under RCW 41.05.690;

(f) Develop protocols and policies, including prerelease peer review by data suppliers, to ensure the quality of data releases and reports;

(g) Develop a plan for the financial sustainability of the database as ((self-sustaining)) may be reasonable and customary as compared to other states' databases and charge fees for reports and data files as needed to fund the database. Any fees must be approved by the ((office)) authority and should be comparable, accounting for relevant differences across data requests and uses. The lead organization may not charge providers or data suppliers

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fees other than fees directly related to requested reports and data files; and

(h) Convene advisory committees with the approval and participation of the ((office)) authority, including: (i) A committee on data policy development; and (ii) a committee to establish a data release process consistent with the requirements of this chapter and to provide advice regarding formal data release requests. The advisory committees must include in-state representation from key provider, hospital, public health, health maintenance organization, large and small private purchasers, consumer organizations, and the two largest carriers supplying claims data to the database.

(6) The lead organization governance structure and advisory committees for this database must include representation of the third-party administrator of the uniform medical plan. A payer, health maintenance organization, or third-party administrator must be a data supplier to the all-payer health care claims database to be represented on the lead organization governance structure or advisory committees.

**Sec. 6.** RCW 43.371.030 and 2015 c 246 s 3 are each amended to read as follows:

(1) The state medicaid program, public employees' benefits board programs, school employees' benefits board programs beginning July 1, 2020, all health carriers operating in this state, all third-party administrators paying claims on behalf of health plans in this state, and the state labor and industries program must submit claims data to the database within the time frames established by the director in rule and in accordance with procedures established by the lead organization. The director may expand this requirement by rule to include any health plans or health benefit plans defined in RCW 48.43.005(26) (a) through (i) to accomplish the goals of this chapter set forth in RCW 43.371.020(1). Employer-sponsored self-funded health plans and Taft-Hartley trust health plans may voluntarily provide claims data to the database within the time frames and in accordance with procedures established by the lead organization.

(2) Any data supplier used by an entity that voluntarily participates in the database must provide claims data to the data vendor upon request of the entity.

(3) The lead organization shall submit an annual status report to the ((office)) authority regarding compliance with this section.

**Sec. 7.** RCW 43.371.050 and 2015 c 246 s 5 are each amended to read as follows:

(1) Except as otherwise required by law, claims or other data from the database shall only be available for retrieval in processed form to public and private requesters pursuant to this section and shall be made available within a reasonable time after the request. Each request for claims data must include, at a minimum, the following information:

(a) The identity of any entities that will analyze the data in connection with the request;

(b) The stated purpose of the request and an explanation of how the request supports the goals of this chapter set forth in RCW 43.371.020(1);

(c) A description of the proposed methodology;

(d) The specific variables requested and an explanation of how the data is necessary to achieve the stated purpose described pursuant to (b) of this subsection;

(e) How the requester will ensure all requested data is handled in accordance with the privacy and confidentiality protections required under this chapter and any other applicable law;

(f) The method by which the data will be ((stored,)) destroyed((, or returned to the lead organization)) at the conclusion of the data use agreement;

(g) The protections that will be utilized to keep the data from being used for any purposes not authorized by the requester's approved application; and

(h) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient

identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(2) The lead organization may decline a request that does not include the information set forth in subsection (1) of this section that does not meet the criteria established by the lead organization's data release advisory committee, or for reasons established by rule.

(3) Except as otherwise required by law, the ((office)) authority shall direct the lead organization and the data vendor to maintain the confidentiality of claims or other data it collects for the database that include proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Any entity that receives claims or other data must also maintain confidentiality and may only release such claims data or any part of the claims data if:

(a) The claims data does not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof; and

(b) The release is described and approved as part of the request in subsection (1) of this section.

(4) The lead organization shall, in conjunction with the ((office)) authority and the data vendor, create and implement a process to govern levels of access to and use of data from the database consistent with the following:

(a) Claims or other data that include proprietary financial information, direct patient identifiers, indirect patient identifiers, unique identifiers, or any combination thereof may be released only to the extent such information is necessary to achieve the goals of this chapter set forth in RCW 43.371.020(1) to researchers with approval of an institutional review board upon receipt of a signed data use and confidentiality agreement with the lead organization. A researcher or research organization that obtains claims data pursuant to this subsection must agree in writing not to disclose such data or parts of the data set to any other party, including affiliated entities, and must consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

(b) Claims or other data that do not contain direct patient identifiers, but that may contain proprietary financial information, indirect patient identifiers, unique identifiers, or any combination thereof may be released to:

(i) Federal, state, tribal, and local government agencies upon receipt of a signed data use agreement with the ((office)) authority and the lead organization. Federal, state, tribal, and local government agencies that obtain claims data pursuant to this subsection are prohibited from using such data in the purchase or procurement of health benefits for their employees; ((and))

(ii) Any entity when functioning as the lead organization under the terms of this chapter; and

(iii) The Washington health benefit exchange established under chapter 43.71 RCW, upon receipt of a signed data use agreement with the authority and the lead organization as directed by rules adopted under this chapter.

(c) Claims or other data that do not contain proprietary financial information, direct patient identifiers, or any combination thereof, but that may contain indirect patient identifiers, unique identifiers, or a combination thereof may be released to agencies, researchers, and other entities as approved by the lead organization upon receipt of a signed data use agreement with the lead organization.

(d) Claims or other data that do not contain direct patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof may be released upon request.

(5) Reports utilizing data obtained under this section may not contain proprietary financial information, direct patient identifiers, indirect patient identifiers, or any combination thereof. Nothing in this subsection (5) may be construed to

prohibit the use of geographic areas with a sufficient population size or aggregate gender, age, medical condition, or other characteristics in the generation of reports, so long as they cannot lead to the identification of an individual.

(6) Reports issued by the lead organization at the request of providers, facilities, employers, health plans, and other entities as approved by the lead organization may utilize proprietary financial information to calculate aggregate cost data for display in such reports. The ((office)) authority shall approve by rule a format for the calculation and display of aggregate cost data consistent with this chapter that will prevent the disclosure or determination of proprietary financial information. In developing the rule, the ((office)) authority shall solicit feedback from the stakeholders, including those listed in RCW 43.371.020(5)(h), and must consider, at a minimum, data presented as proportions, ranges, averages, and medians, as well as the differences in types of data gathered and submitted by data suppliers.

(7) Recipients of claims or other data under subsection (4) of this section must agree in a data use agreement or a confidentiality agreement to, at a minimum:

(a) Take steps to protect data containing direct patient identifiers, indirect patient identifiers, proprietary financial information, or any combination thereof as described in the agreement;

(b) Not redisclose the claims data except pursuant to subsection (3) of this section;

(c) Not attempt to determine the identity of any person whose information is included in the data set or use the claims or other data in any manner that identifies any individual or their family or attempt to locate information associated with a specific individual;

(d) Destroy ((or return)) claims data ((to the lead organization)) at the conclusion of the data use agreement; and

(e) Consent to the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or proprietary financial information adopted under RCW 43.371.070(1).

**Sec. 8.** RCW 43.371.060 and 2015 c 246 s 6 are each amended to read as follows:

(1)(a) Under the supervision of and through contract with the ((office)) authority, the lead organization shall prepare health care data reports using the database and the statewide health performance and quality measure set. Prior to the lead organization releasing any health care data reports that use claims data, the lead organization must submit the reports to the ((office)) authority for review.

(b) By October 31st of each year, the lead organization shall submit to the director a list of reports it anticipates producing during the following calendar year. The director may establish a public comment period not to exceed thirty days, and shall submit the list and any comment to the appropriate committees of the legislature for review.

(2)(a) Health care data reports that use claims data prepared by the lead organization for the legislature and the public should promote awareness and transparency in the health care market by reporting on:

(i) Whether providers and health systems deliver efficient, high quality care; and

(ii) Geographic and other variations in medical care and costs as demonstrated by data available to the lead organization.

(b) Measures in the health care data reports should be stratified by demography, income, language, health status, and geography when feasible with available data to identify disparities in care and successful efforts to reduce disparities.

(c) Comparisons of costs among providers and health care systems must account for differences in the case mix and severity of illness of patients and populations, as appropriate and feasible, and must take into consideration the cost impact of subsidization for uninsured and government-sponsored patients, as well as

teaching expenses, when feasible with available data.

(3) The lead organization may not publish any data or health care data reports that:

(a) Directly or indirectly identify individual patients;

(b) Disclose a carrier's proprietary financial information; ((or))

(c) Compare performance in a report generated for the general public that includes any provider in a practice with fewer than four providers; or

(d) Contain medicaid data that is in direct conflict with the biannual medicaid forecast.

(4) The lead organization may not release a report that compares and identifies providers, hospitals, or data suppliers unless:

(a) It allows the data supplier, the hospital, or the provider to verify the accuracy of the information submitted to the data vendor, comment on the reasonableness of conclusions reached, and submit to the lead organization and data vendor any corrections of errors with supporting evidence and comments within thirty days of receipt of the report;

(b) It corrects data found to be in error within a reasonable amount of time; and

(c) The report otherwise complies with this chapter.

(5) The ((office)) authority and the lead organization may use claims data to identify and make available information on payers, providers, and facilities, but may not use claims data to recommend or incentivize direct contracting between providers and employers.

(6)(a) The lead organization shall distinguish in advance to the ((office)) authority when it is operating in its capacity as the lead organization and when it is operating in its capacity as a private entity. Where the lead organization acts in its capacity as a private entity, it may only access data pursuant to RCW 43.371.050(4) (b), (c), or (d).

(b) Except as provided in RCW 43.371.050(4), claims or other data that contain direct patient identifiers or proprietary financial information must remain exclusively in the custody of the data vendor and may not be accessed by the lead organization.

**Sec. 9.** RCW 43.371.070 and 2015 c 246 s 7 are each amended to read as follows:

(1) The director shall adopt any rules necessary to implement this chapter, including:

(a) Definitions of claim and data files that data suppliers must submit to the database, including: Files for covered medical services, pharmacy claims, and dental claims; member eligibility and enrollment data; and provider data with necessary identifiers;

(b) Deadlines for submission of claim files;

(c) Penalties for failure to submit claim files as required;

(d) Procedures for ensuring that all data received from data suppliers are securely collected and stored in compliance with state and federal law;

(e) Procedures for ensuring compliance with state and federal privacy laws;

(f) Procedures for establishing appropriate fees;

(g) Procedures for data release; ((and))

(h) Penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, and proprietary financial information; and

(i) A minimum reporting threshold below which a data supplier is not required to submit data.

(2) The director may not adopt rules, policies, or procedures beyond the authority granted in this chapter.

**Sec. 10.** RCW 43.371.080 and 2015 c 246 s 8 are each amended to read as follows:

(1) ((By December 1st of 2016 and 2017, the office shall report to the appropriate committees of the legislature regarding the development and implementation of the database, including but not limited to budget and cost detail, technical progress, and work plan metrics.

(2) Every two years commencing two years following the year

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in which the first report is issued or the first release of data is provided from the database, the office)) The authority shall report every two years to the appropriate committees of the legislature regarding the cost, performance, and effectiveness of the database and the performance of the lead organization under its contract with the ((office)) authority. Using independent economic expertise, subject to appropriation, the report must evaluate whether the database has advanced the goals set forth in RCW 43.371.020(1), as well as the performance of the lead organization. The report must also make recommendations regarding but not limited to how the database can be improved, whether the contract for the lead organization should be modified, renewed, or terminated, and the impact the database has had on competition between and among providers, purchasers, and payers.

((3) Beginning July 1, 2015, and every six months thereafter, the office)) (2) The authority shall annually report to the appropriate committees of the legislature regarding any additional grants received or extended.

NEW SECTION. Sec. 11. A new section is added to chapter 43.371 RCW to read as follows:

(1) To ensure the database is meeting the needs of state agencies and other data users, the authority shall convene a state agency coordinating structure, consisting of state agencies with related data needs and the Washington health benefit exchange to ensure effectiveness of the database and the agencies' programs. The coordinating structure must collaborate in a private/public manner with the lead organization and other partners key to the broader success of the database. The coordinating structure shall advise the authority and lead organization on the development of any database policies and rules relevant to agency data needs.

(2) The office must participate as a key part of the coordinating structure and evaluate progress towards meeting the goals of the database, and, as necessary, recommend strategies for maintaining and promoting the progress of the database in meeting the intent of this section, and report its findings biennially to the governor and the legislature. The authority shall facilitate the office obtaining the information needed to complete the report in a manner that is efficient and not overly burdensome for the parties. The authority must provide the office with access to database processes, procedures, nonproprietary methodologies, and outcomes to conduct the review and issue the biennial report. The biennial review shall assess, at a minimum the following:

(a) The list of approved agency use case projects and related data requirements under RCW 43.371.050(4);

(b) Successful and unsuccessful data requests and outcomes related to agency and nonagency health researchers pursuant to RCW 43.371.050(4);

(c) On-line data portal access and effectiveness related to research requests and data provider review and reconsideration;

(d) Adequacy of data security and policy consistent with the policy of the office of the chief information officer; and

(e) Timeliness, adequacy, and responsiveness of the database with regard to requests made under RCW 43.371.050(4) and for potential improvements in data sharing, data processing, and communication.

(3) To promote the goal of improving health outcomes through better cost and quality information, the authority, in consultation with the agency coordinating structure, the office, lead organization, and data vendor shall make recommendations to the Washington state performance measurement coordinating committee as necessary to improve the effectiveness of the state common measure set as adopted under RCW 70.320.030.

NEW SECTION. Sec. 12. The lead organization and the authority shall provide any persons or entities that have a signed data use agreement with the lead organization in effect on June 1, 2019, with the option to extend the data use agreement through June 30, 2020. Any person or entity that chooses to extend its data use agreement through June 30, 2020, may not be charged any

fees in excess of the fees in the data use agreement in effect on June 1, 2019.

NEW SECTION. Sec. 13. (1) The powers, duties, and functions of the office of financial management provided in chapter 43.371 RCW, except as otherwise specified in this act, are transferred to the health care authority.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material necessary for the health care authority to carry out the powers, duties, and functions in chapter 43.371 RCW being transferred from the office of financial management to the health care authority and that are in the possession of the office of financial management must be delivered to the custody of the health care authority. All funds or credits of the office of financial management that are solely for the purposes of fulfilling the powers, duties, and functions in chapter 43.371 RCW shall be assigned to the health care authority.

(b) Any specific appropriations made to the office of financial management for the sole purpose of fulfilling the duties, powers, and functions in chapter 43.371 RCW must, on the effective date of this section, be transferred and credited to the health care authority.

(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 must make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and pending business before the office of financial management specifically related to its powers, duties, and functions in chapter 43.371 RCW that are being transferred to the health care authority shall be continued and acted upon by the health care authority. All existing contracts and obligations remain in full force and must be performed by the health care authority.

(4) The transfer of the powers, duties, and functions of the office of financial management does 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 must make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. Sec. 14. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 15. 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."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5741.

Senator Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5741.

The motion by Senator Keiser carried and the Senate concurred

in the House amendment(s) to Engrossed Substitute Senate Bill No. 5741 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5741, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5741, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 1; Absent, 0; Excused, 4.

Voting yea: Senators Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rivers, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Bailey

Excused: Senators Mullet, Padden, Rolfes and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5741, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 15, 2019

MR. PRESIDENT:

The House passed SUBSTITUTION SENATE BILL NO. 5748 with the following amendment(s): 5748-S AMH CB H2543.3

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The defense community compatibility account is created in the state treasury. Revenues to the account consist of appropriations by the legislature, private contributions, and all other sources deposited in the account.

(2)(a) Expenditures from the account may only be used for grants to local governments or entities who have entered into an agreement with a military installation in the state under the United States department of defense readiness and environmental protection integration program for purposes of the programs established in subsection (3) of this section, including administrative expenses. Priority must be given for grant applications accompanied by express support from nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, or other community partners. Only the director or the director's designee, may authorize expenditures. In order for the director or the director's designee to authorize an expenditure for the purpose identified in subsection (3) of this section, both federal and applicant funds must be committed to the same purposes or project as the state expenditure.

(b) An applicant must submit an application to the department in order to be eligible for funding under this subsection, and the department may not expend money on a project for which an applicant has not applied to the department to carry out the project.

(3)(a) The department may expend moneys from the account to provide state funds for projects identified by applicants to address incompatible development connected to Washington state military installations. For purposes of this section, "incompatible

development" includes land development and military operations that impact the economy, environment, or quality of life opportunities for local communities.

(b) The department must evaluate and rank applications using objective criteria such as a community cost-benefit analysis, must consider recommendations from a citizens advisory commission comprised of representatives of community stakeholders impacted by military installations or their operations, must hold public hearings at least ninety days prior to any funding decision, and may consider the degree to which each project is compatible with the criteria established in the United States department of defense's readiness and environmental protection integration program.

(c) Eligible projects may include:

(i) Acquisition of real property or real property interests to eliminate an existing incompatible use;

(ii) Projects to jointly assist in the recovery or protection of endangered species dependent on military installation property for habitat;

(iii) Projects or programs to increase the availability of housing affordable to enlisted military personnel and nonmilitary residents in the local community;

(iv) Projects to retrofit existing uses to increase their compatibility with existing or future military operations;

(v) Projects to enable local communities heavily dependent on a nearby military installation to diversify the local economy so as to reduce the economic dependence on the military base;

(vi) Projects that aid communities to replace jobs lost in the event of a reduction of the military presence; and

(vii) Projects that improve or enhance aspects of the local economy, environment, or quality of life impacted by the presence of military activities.

(4) The department may adopt rules to implement this section.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must produce a biennial report identifying a list of projects to address incompatible developments near military installations.

(a) The list must include a description of each project, the estimated cost of the project, the amount of recommended state funding, and the amount of any federal or local funds documented to be available to be used for the project.

(b) Projects on the list must be prioritized with consideration given to:

(i) The recommendations of the recent United States department of defense base realignment and closure (BRAC) processes, joint land use studies, or other federally initiated land use processes; and

(ii) Whether a branch of the United States armed forces has identified the project as increasing the viability of military installations for current or future missions.

(c) The department may consult with the commanders of United States military installations in Washington to understand impacts and identify the viability of community identified projects to reduce incompatibility.

(2) The department must submit the report to appropriate committees of the house of representatives and the senate, including the joint committee on veterans' and military affairs and the house of representatives capital budget committee, by January 1, 2020, and every two years thereafter."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5748.



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Senators Conway, O'Ban and Frockt spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5748.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5748 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5748, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5748, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Saldaña, Salomon, Schoesler, Short, Takko, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Van De Wege

Excused: Senators Mullet, Rolfes and Sheldon

SUBSTITUTE SENATE BILL NO. 5748, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5800 with the following amendment(s): 5800-S2 AMH ENGR H2821.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28B.50 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the college board shall select four college districts, two on each side of the crest of the Cascade mountain range, to participate in a pilot program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The college districts chosen to participate in the pilot program must provide certain accommodations to these students that may include, but are not limited to, the following:

- (a) Access to laundry facilities;
  - (b) Access to storage;
  - (c) Access to locker room and shower facilities;
  - (d) Reduced-price meals or meal plans, and access to food banks;
  - (e) Access to technology;
  - (f) Access to short-term housing or housing assistance, especially during seasonal breaks; and
  - (g) Case management services.
- (2) The college districts may also establish plans to develop surplus property for affordable housing to accommodate the

needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The college districts participating in the pilot program shall provide a joint report to the appropriate committees of the legislature by December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who were attending a community or technical college during the pilot program. The college board shall coordinate with all of the community and technical colleges to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the community and technical colleges;

(b) The number of students assisted by the pilot program;

(c) Strategies for accommodating students experiencing homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(4) The college districts not selected to participate in the pilot program are:

(a) Invited to participate voluntarily; and

(b) Encouraged to submit the data required of the pilot program participants under subsection (3) of this section, regardless of participation status.

(5) The pilot program expires July 1, 2023.

(6) This section expires January 1, 2024.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.77 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the council shall select two public four-year institutions of higher education, one on each side of the crest of the Cascade mountain range, to participate in a pilot program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The four-year institutions of higher education chosen to participate in the pilot program must provide certain accommodations to these students that may include, but are not limited to, the following:

(a) Access to laundry facilities;

(b) Access to storage;

(c) Access to locker room and shower facilities;

(d) Reduced-price meals or meal plans, and access to food banks;

(e) Access to technology;

(f) Access to short-term housing or housing assistance, especially during seasonal breaks; and

(g) Case management services.

(2) The four-year institutions of higher education may also establish plans to develop surplus property for affordable housing to accommodate the needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The four-year institutions of higher education participating in the pilot program shall provide a joint report to the appropriate committees of the legislature by December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who were attending a four-year institution of higher education during the pilot program. The council shall coordinate with all of the four-year institutions of higher education to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the four-year institutions of higher education;

(b) The number of students assisted by the pilot program;

(c) Strategies for accommodating students experiencing

homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(4) The four-year institutions of higher education not selected to participate in the pilot program are:

(a) Invited to participate voluntarily; and

(b) Encouraged to submit the data required of the pilot program participants under subsection (3) of this section, regardless of participation status.

(5) The pilot program expires July 1, 2023.

(6) This section expires January 1, 2024.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Randall moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5800.

Senator Randall spoke in favor of the motion.

Senator Holy spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Randall that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5800.

The motion by Senator Randall carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5800 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5800, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5800, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Walsh, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, King, Padden, Rivers, Schoesler, Short, Wagoner, Warnick and Wilson, L.

Excused: Senators Mullet and Sheldon

SECOND SUBSTITUTE SENATE BILL NO. 5800, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and thereupon did sign in open session:

HOUSE BILL NO. 1016

SUBSTITUTE HOUSE BILL NO. 1083,  
SUBSTITUTE HOUSE BILL NO. 1155,  
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 1324,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1593,  
SECOND SUBSTITUTE HOUSE BILL NO. 1767,  
SECOND SUBSTITUTE HOUSE BILL NO. 1907,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1923,  
ENGROSSED HOUSE BILL NO. 2067,  
and HOUSE BILL NO. 2144.

#### MOTION

On motion of Senator Liias, the Senate advanced to the sixth order of business.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 1789, by Representatives Fey, Barkis, Irwin, Dent, Young, Mead, Chambers, Stanford, Ryu, Caldier, Springer, Walsh, Kloba, Kirby, Wylie, Griffey, Stokesbary, Vick, Appleton, Lovick, Ortiz-Self, Schmick, Steele, Dye, Doglio, Goodman and Santos

Making adjustments to the service and filing fees for vehicle subagents and county auditors.

The measure was read the second time.

#### MOTION

Senator King moved that the following floor amendment no. 812 by Senators Hobbs, King and Nguyen be adopted:

On page 2, line 29, after "((Twelve))", strike "Eighteen" and insert "Fifteen"

Senators King and Nguyen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 812 by Senators Hobbs, King and Pedersen on page 2, line 29 to Engrossed House Bill No. 1789.

The motion by Senator King carried and floor amendment no. 812 was adopted by voice vote.

#### MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 1789 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hobbs and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1789 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1789 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Brown, Carlyle,

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Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Braun, Ericksen, Hasegawa, O'Ban and Padden

Excused: Senators Mullet and Sheldon

ENGROSSED HOUSE BILL NO. 1789, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2161, by House Committee on Transportation (originally sponsored by Fey and Fitzgibbon)

Concerning ferry vessel procurement.

The measure was read the second time.

MOTION

Senator Randall moved that the following floor amendment no. 800 by Senator Randall be adopted:

On page 4, line 4, after "(8)" strike "Beginning" and insert "Except as provided in subsection (10) of this section, beginning"

On page 4, after line 16, insert the following:

"(10) The commission shall not impose the additional vessel replacement surcharge in subsection (8) of this section if doing so would increase fares by more than ten percent."

Senators Randall and Hobbs spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 800 by Senator Randall on page 4, line 4 to Engrossed Substitute House Bill No. 2161.

The motion by Senator Randall carried and floor amendment no. 800 was adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Randall and without objection, floor amendment no. 801 by Senator Randall on page 4, line 4 to Engrossed Substitute House Bill No. 2161 was withdrawn.

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed Substitute House Bill No. 2161 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2161.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2161 and the bill passed the Senate by

the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Ericksen, Fortunato, Hawkins, Holy, Honeyford, Padden, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senators Mullet and Sheldon

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2161, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5815 with the following amendment(s): 5815-S AMH HSEL WICK 415

On page 3, line 36, after "beverage." insert "The department shall adopt and implement rules based on empirically validated best practices to appropriately address offenses involving unlawful use or possession of a controlled substance and unlawful use or possession of alcohol committed by individuals placed in juvenile community facilities."

On page 3, beginning on line 37, strike all of section 3 Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Nguyen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5815.

Senator Nguyen spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nguyen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5815.

The motion by Senator Nguyen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5815 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5815, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5815, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford,

Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Walsh, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senators Wagoner and Warnick

Excused: Senators Mullet and Sheldon

SUBSTITUTE SENATE BILL NO. 5815, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 4, 2019

MR. PRESIDENT:

The House passed SENATE BILL NO. 5817 with the following amendment(s): 5817 AMH HCW H2552.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.25.190 and 2000 c 171 s 8 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit:

(1) The temporary practice in this state of chiropractic by any chiropractor licensed by another state, territory, or country in which he or she resides. However, the chiropractor shall not establish a practice open to the general public and shall not engage in temporary practice under this section for a period longer than thirty days. The chiropractor shall register his or her intention to engage in the temporary practice of chiropractic in this state with the commission before engaging in the practice of chiropractic, and shall agree to be bound by such conditions as may be prescribed by rule by the commission.

(2) The practice of chiropractic(, except the administration of a chiropractic adjustment,) by a person who is a regular senior student in an accredited school of chiropractic approved by the commission if the practice is part of a regular course of instruction offered by the school and the student is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the commission. A senior student practicing chiropractic under this subsection must pass an open book written jurisprudence examination approved by the commission prior to administering a chiropractic adjustment. The commission may adopt rules requiring the student and his or her supervising licensed chiropractor to file information with the commission regarding the practice of chiropractic under this subsection, including the name and contact information of the student, the name and contact information of the supervising licensed chiropractor, and the location where the student will be practicing.

(3) The practice of chiropractic by a person serving a period of postgraduate chiropractic training in a program of clinical chiropractic training sponsored by a school of chiropractic accredited in this state if the practice is part of his or her duties as a clinical postgraduate trainee and the trainee is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the commission.

(4) The practice of chiropractic by a person who is eligible and has applied to take the next available examination for licensing offered by the commission, except that the unlicensed chiropractor must provide all services under the direct control and supervision of a licensed chiropractor approved by the commission. The unlicensed chiropractor may continue to practice as provided by this subsection until the results of the next available examination are published, but in no case for a period longer than six months. The commission shall adopt rules necessary to effectuate the intent of this subsection.

Any provision of chiropractic services by any individual under

subsection (1), (2), (3), or (4) of this section shall be subject to the jurisdiction of the commission as provided in chapter 18.130 RCW."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### MOTION

Senator Braun moved that the Senate concur in the House amendment(s) to Senate Bill No. 5817.

Senator Braun spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Braun that the Senate concur in the House amendment(s) to Senate Bill No. 5817.

The motion by Senator Braun carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5817 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5817, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5817, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Mullet and Sheldon

SENATE BILL NO. 5817, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 12, 2019

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5846 with the following amendment(s): 5846-S2 AMH HCW H2524.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that a shortage of primary care health care providers has created significant provider access issues in Washington.

(2) The legislature further finds that international medical graduates residing in the state could provide increased access to primary care for state residents, but international medical graduates routinely face barriers to practice.

(3) Therefore, the legislature intends to establish the international medical graduate work group to study barriers to practice and make recommendations on how the state can implement an international medical graduate assistance program by January 1, 2022, to assist international medical graduates in integrating into the Washington health care delivery system.

NEW SECTION. **Sec. 2.** (1) Subject to the availability of

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amounts appropriated for this specific purpose, the international medical graduate work group is established. The work group membership must consist of the following members appointed by the governor:

- (a) A representative from the medical quality assurance commission;
  - (b) A representative from the department of health, health systems quality assurance division;
  - (c) A representative from the University of Washington school of medicine graduate medical education program;
  - (d) A representative from the Washington State University Elson S. Floyd college of medicine graduate medical education program;
  - (e) A representative from the Pacific Northwest University of Health Sciences college of osteopathic medicine graduate medical education program;
  - (f) A representative from a statewide association representing physicians;
  - (g) A representative from the Washington state family medicine residency network;
  - (h) A representative from a primary care health care employer in a rural or underserved area of Washington;
  - (i) A representative from a health carrier offering coverage in a rural or underserved area of Washington;
  - (j) A licensed physician with experience working with international medical graduates;
  - (k) A representative from an organization specializing in refugee advocacy in Washington;
  - (l) A representative from an organization serving refugee physicians and international medical graduates;
  - (m) A representative from an organization offering counseling and educational programs to internationally trained health professionals;
  - (n) A representative from an organization representing community and migrant health centers; and
  - (o) At least two international medical graduates.
- (2) The work group must:
- (a) Develop strategies and recommendations for reducing barriers for international medical graduates obtaining residency positions in Washington, including preresidency training;
  - (b) Make recommendations for the appropriate number of residency positions to be designated for international medical graduates, and the locations and specialties of those positions; and
  - (c) Make recommendations on the postresidency service requirements for international medical graduates who graduate from a designated residency position.
- (3) Staff support for the work group must be provided by the medical quality assurance commission.
- (4) The work group must submit a report to the governor and the legislature with its recommendations by December 1, 2019.
- (5) This section expires June 30, 2020."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Saldaña moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5846.

Senator Saldaña spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Saldaña that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5846.

The motion by Senator Saldaña carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5846 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5846, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5846, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 39; Nays, 8; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C. and Zeiger

Voting nay: Senators Becker, Brown, Ericksen, Holy, Honeyford, Schoesler, Short and Wilson, L.

Excused: Senators Mullet and Sheldon

SECOND SUBSTITUTE SENATE BILL NO. 5846, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2019

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5861 with the following amendment(s): 5861-S AMH SGOV H2667.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 44.04 RCW to read as follows:

The chief clerk of the house of representatives and the secretary of the senate shall develop and provide a training course for registered lobbyists regarding the legislative code of conduct and any policies related to appropriate conduct adopted by the senate or the house of representatives.

**Sec. 2.** RCW 42.17A.600 and 2010 c 204 s 801 are each amended to read as follows:

(1) Before lobbying, or within thirty days after being employed as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the commission a lobbyist registration statement, in such detail as the commission shall prescribe, that includes the following information:

- (a) The lobbyist's name, permanent business address, and any temporary residential and business addresses in Thurston county during the legislative session;
- (b) The name, address and occupation or business of the lobbyist's employer;
- (c) The duration of the lobbyist's employment;
- (d) The compensation to be received for lobbying, the amount to be paid for expenses, and what expenses are to be reimbursed;
- (e) Whether the lobbyist is employed solely as a lobbyist or whether the lobbyist is a regular employee performing services for his or her employer which include but are not limited to the influencing of legislation;
- (f) The general subject or subjects to be lobbied;
- (g) A written authorization from each of the lobbyist's employers confirming such employment;
- (h) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this chapter;

(i) If the lobbyist's employer is an entity (including, but not limited to, business and trade associations) whose members include, or which as a representative entity undertakes lobbying activities for, businesses, groups, associations, or organizations, the name and address of each member of such entity or person represented by such entity whose fees, dues, payments, or other consideration paid to such entity during either of the prior two years have exceeded five hundred dollars or who is obligated to or has agreed to pay fees, dues, payments, or other consideration exceeding five hundred dollars to such entity during the current year;

(j) An attestation that the lobbyist has read and completed a training course provided under section 1 of this act regarding the legislative code of conduct and any policies related to appropriate conduct adopted by the senate or the house of representatives.

(2) Any lobbyist who receives or is to receive compensation from more than one person for lobbying shall file a separate notice of representation for each person. However, if two or more persons are jointly paying or contributing to the payment of the lobbyist, the lobbyist may file a single statement detailing the name, business address, and occupation of each person paying or contributing and the respective amounts to be paid or contributed.

(3) Whenever a change, modification, or termination of the lobbyist's employment occurs, the lobbyist shall file with the commission an amended registration statement within one week of the change, modification, or termination.

(4) Each registered lobbyist shall file a new registration statement, revised as appropriate, on the second Monday in January of each odd-numbered year. Failure to do so terminates the lobbyist's registration.

**Sec. 3.** RCW 42.17A.605 and 2010 c 204 s 802 are each amended to read as follows:

Each lobbyist shall at the time he or she registers submit to the commission a recent photograph of himself or herself of a size and format as determined by rule of the commission, together with the name of the lobbyist's employer, the length of his or her employment as a lobbyist before the legislature, a brief biographical description, and any other information he or she may wish to submit not to exceed fifty words in length. The photograph ((and)), information, and attestation submitted under RCW 42.17A.600(1)(j) shall be published by the commission at least biennially in a booklet form for distribution to legislators and the public.

**NEW SECTION. Sec. 4.** A new section is added to chapter 42.17A RCW to read as follows:

(1) A lobbyist who is registered under RCW 42.17A.600 before December 31, 2019, is required to update the lobbyist's registration materials to include the attestation required by RCW 42.17A.600(1)(j) by December 31, 2019.

(2) The commission shall revoke the registration of any lobbyist registered under RCW 42.17A.600 who does not comply with subsection (1) of this section.

(3) The commission may not impose any other penalty on a lobbyist registered under RCW 42.17A.600 for failure to comply with subsection (1) of this section.

(4) The commission shall collaborate with the chief clerk of the house of representatives and the secretary of the senate to develop a process to verify that lobbyists who submit an attestation under RCW 42.17A.600(1)(j) have completed the training course provided under section 1 of this act.

**NEW SECTION. Sec. 5.** Sections 2 and 3 of this act take effect December 31, 2019."

Correct the title.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

MOTION

Senator Dhingra moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5861.

Senator Dhingra spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Dhingra that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5861.

The motion by Senator Dhingra carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5861 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5861, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5861, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hawkins, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Palumbo, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Holy, Honeyford, King, Padden, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senators Mullet and Sheldon

SUBSTITUTE SENATE BILL NO. 5861, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 7:33 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Becker announced a meeting of the Republican Caucus.

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The Senate was called to order at 9:20 p.m. by President Habib.

#### MESSAGE FROM THE HOUSE

April 26, 2019

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on SUBSTITUTE SENATE BILL NO. 5380 and has passed the bill as recommended by the Conference Committee, and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### REPORT OF THE CONFERENCE COMMITTEE

Substitute Senate Bill No. 5380

April 26, 2019

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred

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Substitute Senate Bill No. 5380, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature declares that opioid use disorder is a public health crisis. State agencies must increase access to evidence-based opioid use disorder treatment services, promote coordination of services within the substance use disorder treatment and recovery support system, strengthen partnerships between opioid use disorder treatment providers and their allied community partners, expand the use of the Washington state prescription drug monitoring program, and support comprehensive school and community-based substance use prevention services.

This act leverages the direction provided by the Washington state interagency opioid working plan in order to address the opioid epidemic challenging communities throughout the state.

Agencies administering state purchased health care programs, as defined in RCW 41.05.011, shall coordinate activities to implement the provisions of this act and the Washington state interagency opioid working plan, explore opportunities to address the opioid epidemic, and provide status updates as directed by the joint legislative executive committee on health care oversight to promote legislative and executive coordination.

**Sec. 2.** 2005 c 70 s 1 (uncodified) is amended to read as follows:

The legislature finds that drug use among pregnant ~~((women))~~ individuals is a significant and growing concern statewide. ~~((The legislature further finds that methadone, although an effective alternative to other substance use treatments, can result in babies who are exposed to methadone while in utero being born addicted and facing the painful effects of withdrawal.))~~ Evidence-informed group prenatal care reduces preterm birth for infants, and increases maternal social cohesion and support during pregnancy and postpartum, which is good for maternal mental health.

It is the intent of the legislature to notify all pregnant ~~((mothers))~~ individuals who are receiving ~~((methadone treatment))~~ medication for the treatment of opioid use disorder of the risks and benefits ~~((methadone))~~ such medication could have on their baby during pregnancy through birth and to inform them of the potential need for the newborn baby to be ~~((taken care of))~~ treated in a hospital setting or in a specialized supportive environment designed specifically to address ~~((newborn addiction problems))~~ and manage neonatal opioid or other drug withdrawal syndromes.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.22 RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require podiatric physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the podiatric physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.32 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require dentists who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the dentist must document the patient's request and avoid prescribing

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or ordering opioids, unless the request is revoked by the patient.

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.57 RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require osteopathic physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the osteopathic physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

**NEW SECTION. Sec. 6.** A new section is added to chapter 18.57A RCW to read as follows:

By January 1, 2020, the board must adopt or amend its rules to require osteopathic physicians' assistants who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the osteopathic physician's assistant must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.64 RCW to read as follows:

A pharmacist may partially fill a prescription for a schedule II controlled substance, if the partial fill is requested by the patient or the prescribing practitioner and the total quantity dispensed in all partial fillings does not exceed the quantity prescribed.

**NEW SECTION. Sec. 8.** A new section is added to chapter 18.71 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require physicians who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the physician must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

**NEW SECTION. Sec. 9.** A new section is added to chapter 18.71A RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require physician assistants who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the physician assistant must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

**NEW SECTION. Sec. 10.** A new section is added to chapter 18.79 RCW to read as follows:

By January 1, 2020, the commission must adopt or amend its rules to require advanced registered nurse practitioners who prescribe opioids to inform patients of their right to refuse an opioid prescription or order for any reason. If a patient indicates a desire to not receive an opioid, the advanced registered nurse practitioner must document the patient's request and avoid prescribing or ordering opioids, unless the request is revoked by the patient.

**NEW SECTION. Sec. 11.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department must create a statement warning individuals about the risks of opioid use and abuse and provide information about safe disposal of opioids. The department must provide the warning on its web site.

(2) The department must review the science, data, and best practices around the use of opioids and their associated risks. As

evidence and best practices evolve, the department must update its warning to reflect these changes.

(3) The department must update its patient education materials to reflect the patient's right to refuse an opioid prescription or order.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.70 RCW to read as follows:

The secretary shall be responsible for coordinating the statewide response to the opioid epidemic and executing the state opioid response plan, in partnership with the health care authority. The department and the health care authority must collaborate with each of the agencies and organizations identified in the state opioid response plan.

**Sec. 13.** RCW 69.41.055 and 2016 c 148 s 15 are each amended to read as follows:

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription or order for a legend drug;

(b) ~~((The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the commission. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission;~~

~~((e))~~ An explicit opportunity for practitioners must be made to indicate their preference on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted. This section does not limit the ability of practitioners and pharmacists to permit substitution by default under a prior-consent authorization;

~~((d))~~ (c) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

~~((e))~~ (d) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records~~((The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures));~~ and

~~((f))~~ (e) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The electronic or digital signature of the prescribing

practitioner's agent on behalf of the prescribing practitioner for a resident in a long-term care facility or hospice program, pursuant to a valid order and authorization under RCW 18.64.550, constitutes a valid electronic communication of prescription information. Such an authorized signature and transmission by an agent in a long-term care facility or hospice program does not constitute an intervening person having access to the prescription drug order.

(3) The commission may adopt rules implementing this section.

**Sec. 14.** RCW 69.41.095 and 2015 c 205 s 2 are each amended to read as follows:

(1)(a) A practitioner may prescribe, dispense, distribute, and deliver an opioid overdose reversal medication: (i) Directly to a person at risk of experiencing an opioid-related overdose; or (ii) by prescription, collaborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription, standing order, or protocol ~~((order))~~ is issued for a legitimate medical purpose in the usual course of professional practice.

(b) At the time of prescribing, dispensing, distributing, or delivering the opioid overdose reversal medication, the practitioner shall inform the recipient that as soon as possible after administration of the opioid overdose reversal medication, the person at risk of experiencing an opioid-related overdose should be transported to a hospital or a first responder should be summoned.

(2) A pharmacist may dispense an opioid overdose reversal medication pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with subsection (1)(a) of this section and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate ~~((medication))~~ medical attention must be conspicuously displayed.

(3) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a prescription ~~((or)), collaborative drug therapy agreement, standing order, or protocol~~ issued by a practitioner in accordance with subsection (1) of this section.

(4) The following individuals, if acting in good faith and with reasonable care, are not subject to criminal or civil liability or disciplinary action under chapter 18.130 RCW for any actions authorized by this section or the outcomes of any actions authorized by this section:

(a) A practitioner who prescribes, dispenses, distributes, or delivers an opioid overdose reversal medication pursuant to subsection (1) of this section;

(b) A pharmacist who dispenses an opioid overdose reversal medication pursuant to subsection (2) or (5)(a) of this section;

(c) A person who possesses, stores, distributes, or administers an opioid overdose reversal medication pursuant to subsection (3) of this section.

(5) The secretary or the secretary's designee may issue a standing order prescribing opioid overdose reversal medications to any person at risk of experiencing an opioid-related overdose or any person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. The standing order may be limited to specific areas in the state or issued statewide.

(a) A pharmacist shall dispense an opioid overdose reversal medication pursuant to a standing order issued in accordance with



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this subsection, consistent with the pharmacist's responsibilities to dispense prescribed legend drugs, and may administer an opioid overdose reversal medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose reversal medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate medical attention must be conspicuously displayed.

(b) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose reversal medication pursuant to a standing order issued in accordance with this subsection (5). The department, in coordination with the appropriate entity or entities, shall ensure availability of a training module that provides training regarding the identification of a person suffering from an opioid-related overdose and the use of opioid overdose reversal medications. The training must be available electronically and in a variety of media from the department.

(c) This subsection (5) does not create a private cause of action. Notwithstanding any other provision of law, neither the state nor the secretary nor the secretary's designee has any civil liability for issuing standing orders or for any other actions taken pursuant to this chapter or for the outcomes of issuing standing orders or any other actions taken pursuant to this chapter. Neither the secretary nor the secretary's designee is subject to any criminal liability or professional disciplinary action for issuing standing orders or for any other actions taken pursuant to this chapter.

(d) For purposes of this subsection (5), "standing order" means an order prescribing medication by the secretary or the secretary's designee. Such standing order can only be issued by a practitioner as defined in this chapter.

(6) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section shall ensure that directions for use are provided.

(7) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "First responder" means: (i) A career or volunteer firefighter, law enforcement officer, paramedic as defined in RCW 18.71.200, or first responder or emergency medical technician as defined in RCW 18.73.030; and (ii) an entity that employs or supervises an individual listed in (a)(i) of this subsection, including a volunteer fire department.

(b) "Opioid overdose reversal medication" means any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

(c) "Opioid-related overdose" means a condition including, but not limited to, ~~(extreme physical illness,)~~ decreased level of consciousness, nonresponsiveness, respiratory depression, coma, or death that: (i) Results from the consumption or use of an opioid or another substance with which an opioid was combined; or (ii) a lay person would reasonably believe to be an opioid-related overdose requiring medical assistance.

(d) "Practitioner" means a health care practitioner who is authorized under RCW 69.41.030 to prescribe legend drugs.

(e) "Standing order" or "protocol" means written or electronically recorded instructions, prepared by a prescriber, for distribution and administration of a drug by designated and

trained staff or volunteers of an organization or entity, as well as other actions and interventions to be used upon the occurrence of clearly defined clinical events in order to improve patients' timely access to treatment.

**Sec. 15.** RCW 69.50.312 and 2013 c 276 s 4 and 2013 c 19 s 105 are each reenacted and amended to read as follows:

(1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V ~~((F-Journal 2019 Journal 2019 Leg Day 103, doe))~~, may be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information must ~~((be approved by the commission and in accordance))~~ comply with federal rules for electronically communicated prescriptions for controlled substance ~~((F-Journal 2019 Journal 2019 Leg Day 103 s doe))~~ included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311 ~~((This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission))~~;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records ~~((The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures))~~; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The commission may adopt rules implementing this section.

**Sec. 16.** RCW 69.50.312 and 2013 c 276 s 4 and 2013 c 19 s 105 are each reenacted and amended to read as follows:

(1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V ~~((may))~~, must be electronically communicated to a pharmacy of the patient's choice

pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

~~(b) ((The system used for transmitting electronically communicated prescription information must be approved by the commission and in accordance with federal rules for electronically communicated prescriptions for controlled substance. F:\Journal\2019 Journal\Journal2019\LegDay103\1.s.doc included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission;~~

~~(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;~~

~~(d)) Prescription drug orders ((are confidential health information, and)) may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;~~

~~((e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and~~

~~(f)) (c) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.~~

~~(2) ((The commission may adopt rules implementing this section.)) The following are exempt from subsection (1) of this section:~~

~~(a) Prescriptions issued by veterinarians, as that practice is defined in RCW 18.92.010;~~

~~(b) Prescriptions issued for a patient of a long-term care facility as defined in RCW 18.64.011, or a hospice program as defined in RCW 18.64.011;~~

~~(c) When the electronic system used for the communication of prescription information is unavailable due to a temporary technological or electronic failure;~~

~~(d) Prescriptions issued that are intended for prescription fulfillment and dispensing outside Washington state;~~

~~(e) When the prescriber and pharmacist are employed by the same entity, or employed by entities under common ownership or control;~~

~~(f) Prescriptions issued for a drug that the United States food and drug administration or the United States drug enforcement administration requires to contain certain elements that are not able to be accomplished electronically;~~

~~(g) Any controlled substance prescription that requires compounding as defined in RCW 18.64.011;~~

~~(h) Prescriptions issued for the dispensing of a nonpatient~~

specific prescription under a standing order, approved protocol for drug therapy, collaborative drug therapy agreement, in response to a public health emergency, or other circumstances allowed by statute or rule where a practitioner may issue a nonpatient specific prescription;

(i) Prescriptions issued under a drug research protocol;

(j) Prescriptions issued by a practitioner with the capability of electronic communication of prescription information under this section, when the practitioner reasonably determines it is impractical for the patient to obtain the electronically communicated prescription in a timely manner, and such delay would adversely impact the patient's medical condition; or

(k) Prescriptions issued by a prescriber who has received a waiver from the department.

(3) The department must develop a waiver process for the requirements of subsection (1) of this section for practitioners due to economic hardship, technological limitations that are not reasonably in the control of the practitioner, or other exceptional circumstance demonstrated by the practitioner. The waiver must be limited to one year or less, or for any other specified time frame set by the department.

(4) A pharmacist who receives a written, oral, or faxed prescription is not required to verify that the prescription properly meets any exemptions under this section. Pharmacists may continue to dispense and deliver medications from otherwise valid written, oral, or faxed prescriptions.

(5) An individual who violates this section commits a civil violation. Disciplinary authorities may impose a fine of two hundred fifty dollars per violation, not to exceed five thousand dollars per calendar year. Fines imposed under this section must be allocated to the health professions account.

(6) Systems used for the electronic communication of prescription information must:

(a) Comply with federal laws and rules for electronically communicated prescriptions for controlled substances included in Schedules II through V, as required by Title 21 C.F.R. parts 1300, 1304, 1306, and 1311;

(b) Meet the national council for prescription drug prescriber/pharmacist interface SCRIPT standard as determined by the department in rule;

(c) Have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records;

(d) Provide an explicit opportunity for practitioners to indicate their preference on whether a therapeutically equivalent generic drug may be substituted; and

(e) Include the capability to input and track partial fills of a controlled substance prescription in accordance with section 7 of this act.

**NEW SECTION. Sec. 17.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Any practitioner who writes the first prescription for an opioid during the course of treatment to any patient must, under professional rules, discuss the following with the patient:

(a) The risks of opioids, including risk of dependence and overdose;

(b) Pain management alternatives to opioids, including nonopioid pharmacological treatments, and nonpharmacological treatments available to the patient, at the discretion of the practitioner and based on the medical condition of the patient; and

(c) A written copy of the warning language provided by the department under section 11 of this act.

(2) If the patient is under eighteen years old or is not competent, the discussion required by subsection (1) of this section must include the patient's parent, guardian, or the person identified in

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RCW 7.70.065, unless otherwise provided by law.

(3) The practitioner shall document completion of the requirements in subsection (1) of this section in the patient's health care record.

(4) To fulfill the requirements of subsection (1) of this section, a practitioner may designate any individual who holds a credential issued by a disciplining authority under RCW 18.130.040 to conduct the discussion.

(5) Violation of this section constitutes unprofessional conduct under chapter 18.130 RCW.

(6) This section does not apply to:

(a) Opioid prescriptions issued for the treatment of pain associated with terminal cancer or other terminal diseases, or for palliative, hospice, or other end-of-life care of where the practitioner determines the health, well-being, or care of the patient would be compromised by the requirements of this section and documents such basis for the determination in the patient's health care record; or

(b) Administration of an opioid in an inpatient or outpatient treatment setting.

(7) This section does not apply to practitioners licensed under chapter 18.92 RCW.

(8) The department shall review this section by March 31, 2026, and report to the appropriate committees of the legislature on whether this section should be retained, repealed, or amended.

**Sec. 18.** RCW 70.41.480 and 2015 c 234 s 1 are each amended to read as follows:

(1) The legislature finds that high quality, safe, and compassionate health care services for patients of Washington state must be available at all times. The legislature further finds that there is a need for patients being released from hospital emergency departments to maintain access to emergency medications when community or hospital pharmacy services are not available, including medication for opioid overdose reversal and for the treatment for opioid use disorder as appropriate. It is the intent of the legislature to accomplish this objective by allowing practitioners with prescriptive authority to prescribe limited amounts of prepackaged emergency medications to patients being discharged from hospital emergency departments when access to community or outpatient hospital pharmacy services is not otherwise available.

(2) A hospital may allow a practitioner to prescribe prepackaged emergency medications and allow a practitioner or a registered nurse licensed under chapter 18.79 RCW to distribute prepackaged emergency medications to patients being discharged from a hospital emergency department in the following circumstances:

(a) During times when community or outpatient hospital pharmacy services are not available within fifteen miles by road ~~((or))~~;

(b) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient has no reasonable ability to reach the local community or outpatient pharmacy; or

(c) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient is at risk of opioid overdose and the prepackaged emergency medication being distributed is an opioid overdose reversal medication. The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section must ensure that directions for use are provided.

(3) A hospital may only allow this practice if: The director of the hospital pharmacy, in collaboration with appropriate hospital medical staff, develops policies and procedures regarding the following:

(a) Development of a list, preapproved by the pharmacy director, of the types of emergency medications to be prepackaged and distributed;

(b) Assurances that emergency medications to be prepackaged pursuant to this section are prepared by a pharmacist or under the supervision of a pharmacist licensed under chapter 18.64 RCW;

(c) Development of specific criteria under which emergency prepackaged medications may be prescribed and distributed consistent with the limitations of this section;

(d) Assurances that any practitioner authorized to prescribe prepackaged emergency medication or any nurse authorized to distribute prepackaged emergency medication is trained on the types of medications available and the circumstances under which they may be distributed;

(e) Procedures to require practitioners intending to prescribe prepackaged emergency medications pursuant to this section to maintain a valid prescription either in writing or electronically in the patient's records prior to a medication being distributed to a patient;

(f) Establishment of a limit of no more than a forty-eight hour supply of emergency medication as the maximum to be dispensed to a patient, except when community or hospital pharmacy services will not be available within forty-eight hours. In no case may the policy allow a supply exceeding ninety-six hours be dispensed;

(g) Assurances that prepackaged emergency medications will be kept in a secure location in or near the emergency department in such a manner as to preclude the necessity for entry into the pharmacy; and

(h) Assurances that nurses or practitioners will distribute prepackaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

~~((3))~~ (4) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

~~((4))~~ (5) Nothing in this section restricts the authority of a practitioner in a hospital emergency department to distribute opioid overdose reversal medication under RCW 69.41.095.

(6) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency ~~((room))~~ department patients, including those drugs, substances or immediate precursors listed in schedules II through V of the uniform controlled substances act, chapter 69.50 RCW, as now or hereafter amended.

(b) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(c) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs as defined in RCW 18.64.011~~((24))~~ (29).

(d) "Nurse" means a registered nurse as defined in RCW 18.79.020.

**Sec. 19.** RCW 70.168.090 and 2010 c 52 s 5 are each amended to read as follows:

(1)(a) By July 1991, the department shall establish a statewide data registry to collect and analyze data on the incidence, severity, and causes of trauma, including traumatic brain injury. The department shall collect additional data on traumatic brain injury should additional data requirements be enacted by the legislature. The registry shall be used to improve the availability and delivery of prehospital and hospital trauma care services. Specific data elements of the registry shall be defined by rule by the

department. To the extent possible, the department shall coordinate data collection from hospitals for the trauma registry with the health care data system authorized in chapter 70.170 RCW. Every hospital, facility, or health care provider authorized to provide level I, II, III, IV, or V trauma care services, level I, II, or III pediatric trauma care services, level I, level I-pediatric, II, or III trauma-related rehabilitative services, and prehospital trauma-related services in the state shall furnish data to the registry. All other hospitals and prehospital providers shall furnish trauma data as required by the department by rule.

(b) The department may respond to requests for data and other information from the registry for special studies and analysis consistent with requirements for confidentiality of patient and quality assurance records. The department may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) The department must establish a statewide electronic emergency medical services data system and adopt rules requiring licensed ambulance and aid services to report and furnish patient encounter data to the electronic emergency medical services data system. The data system must be used to improve the availability and delivery of prehospital emergency medical services. The department must establish in rule the specific data elements of the data system and secure transport methods for data. The data collected must include data on suspected drug overdoses for the purposes of including, but not limited to, identifying individuals to engage substance use disorder peer professionals, patient navigators, outreach workers, and other professionals as appropriate to prevent further overdoses and to induct into treatment and provide other needed supports as may be available.

(3) In each emergency medical services and trauma care planning and service region, a regional emergency medical services and trauma care systems quality assurance program shall be established by those facilities authorized to provide levels I, II, and III trauma care services. The systems quality assurance program shall evaluate trauma care delivery, patient care outcomes, and compliance with the requirements of this chapter. The systems quality assurance program may also evaluate emergency cardiac and stroke care delivery. The emergency medical services medical program director and all other health care providers and facilities who provide trauma and emergency cardiac and stroke care services within the region shall be invited to participate in the regional emergency medical services and trauma care quality assurance program.

~~((3))~~ (4) Data elements related to the identification of individual patient's, provider's and facility's care outcomes shall be confidential, shall be exempt from RCW 42.56.030 through 42.56.570 and 42.17.350 through 42.17.450, and shall not be subject to discovery by subpoena or admissible as evidence.

~~((4))~~ (5) Patient care quality assurance proceedings, records, and reports developed pursuant to this section are confidential, exempt from chapter 42.56 RCW, and are not subject to discovery by subpoena or admissible as evidence~~((-))~~ in any civil action, except, after in camera review, pursuant to a court order which provides for the protection of sensitive information of interested parties including the department: (a) In actions arising out of the department's designation of a hospital or health care facility pursuant to RCW 70.168.070; (b) in actions arising out of the department's revocation or suspension of designation status of a hospital or health care facility under RCW 70.168.070; (c) in actions arising out of the department's licensing or verification of an ambulance or aid service pursuant to RCW 18.73.030 or 70.168.080; (d) in actions arising out of the certification of a medical program director pursuant to RCW 18.71.212; or ~~((e))~~ (e) in actions arising out of the restriction or revocation of the clinical or staff privileges of a health care provider as defined in

RCW 7.70.020 (1) and (2), subject to any further restrictions on disclosure in RCW 4.24.250 that may apply. Information that identifies individual patients shall not be publicly disclosed without the patient's consent.

**Sec. 20.** RCW 70.225.010 and 2007 c 259 s 42 are each amended to read as follows:

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

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

(2) "Department" means the department of health.

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

(5) "Prescriber" means any person authorized to order or prescribe legend drugs or schedule II, III, IV, or V controlled substances to the ultimate user.

(6) "Requestor" means any person or entity requesting, accessing, or receiving information from the prescription monitoring program under RCW 70.225.040 (3), (4), or (5).

**Sec. 21.** RCW 70.225.020 and 2013 c 36 s 2 and 2013 C 19 S 126 are each reenacted and amended to read as follows:

(1) The department shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the pharmacy quality assurance commission as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing of controlled substances, and improving controlled substance prescribing practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of controlled substances. As much as possible, the department should establish a common database with other states. This program's management and operations shall be funded entirely from the funds in the account established under RCW 74.09.215. Nothing in this chapter prohibits voluntary contributions from private individuals and business entities as defined under Title 23, 23B, 24, or 25 RCW to assist in funding the prescription monitoring program.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

- (a) Patient identifier;
- (b) Drug dispensed;
- (c) Date of dispensing;
- (d) Quantity dispensed;
- (e) Prescriber; and
- (f) Dispenser.

(3)(a) Until January 1, 2021, each dispenser shall submit the information in accordance with transmission methods established

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by the department, not later than one business day from the date of dispensing or at the interval required by the department in rule, whichever is sooner.

(b) Beginning January 1, 2021, each dispenser must submit the information as soon as readily available, but no later than one business day from the date of distributing, and in accordance with transmission methods established by the department.

(4) The data submission requirements of subsections (1) through (3) of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses;

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution; or

(c) Veterinarians licensed under chapter 18.92 RCW. The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting requirements for veterinarians that allow veterinarians to report:

(i) By either electronic or nonelectronic methods;

(ii) Only those data elements that are relevant to veterinary practices and necessary to accomplish the public protection goals of this chapter; and

(iii) No more frequently than once every three months and no less frequently than once every six months.

(5) The department shall continue to seek federal grants to support the activities described in chapter 259, Laws of 2007. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation and management of the system.

**NEW SECTION. Sec. 22.** A new section is added to chapter 70.225 RCW to read as follows:

(1) In order to expand integration of prescription monitoring program data into certified electronic health record technologies, the department must collaborate with health professional and facility associations, vendors, and others to:

(a) Conduct an assessment of the current status of integration;

(b) Provide recommendations for improving integration among small and rural health care facilities, offices, and clinics;

(c) Comply with federal prescription drug monitoring program qualification requirements under 42 U.S.C. Sec. 1396w-3a to facilitate eligibility for federal grants and establish a program to provide financial assistance to small and rural health care facilities and clinics with integration as funding is available, especially under federal programs;

(d) Conduct security assessments of other commonly used platforms for integrating prescription monitoring program data with certified electronic health records for possible use in Washington; and

(e) Assess improvements to the prescription monitoring program to establish a modality to identify patients that do not wish to receive opioid medications in a manner that allows an ordering or prescribing physician to be able to use the prescription monitoring program to identify patients who do not wish to receive opioids or patients that have had an opioid-related overdose.

(2)(a) By January 1, 2021, a facility, entity, office, or provider group identified in RCW 70.225.040 with ten or more prescribers that is not a critical access hospital as defined in RCW 74.60.010

that uses a federally certified electronic health records system must demonstrate that the facility's or entity's federally certified electronic health record is able to fully integrate data to and from the prescription monitoring program using a mechanism approved by the department under subsection (3) of this section.

(b) The department must develop a waiver process for the requirements of (a) of this subsection for facilities, entities, offices, or provider groups due to economic hardship, technological limitations that are not reasonably in the control of the facility, entity, office, or provider group, or other exceptional circumstance demonstrated by the facility, entity, office, or provider group. The waiver must be limited to one year or less, or for any other specified time frame set by the department.

(3) Electronic health record system vendors who are fully integrated with the prescription monitoring program in Washington state may not charge an ongoing fee or a fee based on the number of transactions or providers. Total costs of connection must not impose unreasonable costs on any facility, entity, office, or provider group using the electronic health record and must be consistent with current industry pricing structures. For the purposes of this subsection, "fully integrated" means that the electronic health records system must:

(a) Send information to the prescription monitoring program without provider intervention using a mechanism approved by the department;

(b) Make current information from the prescription monitoring program available to a provider within the workflow of the electronic health records system; and

(c) Make information available in a way that is unlikely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information, in accordance with the information blocking provisions of the federal twenty-first century cures act, P.L. 114-255.

**Sec. 23.** RCW 70.225.040 and 2017 c 297 s 9 are each amended to read as follows:

(1) ~~((Prescription)) All information submitted to the ((department must be)) prescription monitoring program is confidential, ((in compliance with chapter 70.02 RCW and)) exempt from public inspection, copying, and disclosure under chapter 42.56 RCW, not subject to subpoena or discovery in any civil action, and protected under federal health care information privacy requirements ((and not subject to disclosure)), except as provided in subsections (3)((-4), and (-5)) through (6) of this section. Such confidentiality and exemption from disclosure continues whenever information from the prescription monitoring program is provided to a requestor under subsection (3), (4), (5), or (6) of this section except when used in proceedings specifically authorized in subsection (3), (4), or (5) of this section.~~

(2) The department must maintain procedures to ensure that the privacy and confidentiality of ~~((patients and patient)) all information collected, recorded, transmitted, and maintained including, but not limited to, the prescriber, requestor, dispenser, patient, and persons who received prescriptions from dispensers,~~ is not disclosed to persons except as in subsections (3)((-4), and (-5)) through (6) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances or legend drugs, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) A health professional licensing, certification, or regulatory agency or entity in this or another jurisdiction. Consistent with current practice, the data provided may be used in legal

proceedings concerning the license;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) ~~((Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;~~

~~((f)) The director or the director's designee within the health care authority regarding medicaid ((clients for the purposes of quality improvement, patient safety, and care coordination. The information may not be used for contracting or value based purchasing decisions)) recipients and members of the health care authority self-funded or self-insured health plans;~~

~~((g)) (f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;~~

~~((h)) (g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;~~

~~((i)) (h) Other entities under grand jury subpoena or court order;~~

~~((j)) (i) Personnel of the department for purposes of:~~

~~((i) Assessing prescribing and treatment practices(~~including controlled substances related to mortality and morbidity~~) and morbidity and mortality related to use of controlled substances and developing and implementing initiatives to protect the public health including, but not limited to, initiatives to address opioid use disorder;~~

~~((ii) Providing quality improvement feedback to ((providers)) prescribers, including comparison of their respective data to aggregate data for ((providers)) prescribers with the same type of license and same specialty; and~~

~~((iii) Administration and enforcement of this chapter or chapter 69.50 RCW;~~

~~((k)) (j) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person;~~

~~((l)) (k) A health care facility or entity for the purpose of providing medical or pharmaceutical care to the patients of the facility or entity, or for quality improvement purposes if(~~

~~((i) the facility or entity is licensed by the department or is licensed or certified under chapter 71.24, 71.34, or 71.05 RCW or is an entity deemed for purposes of chapter 71.24 RCW to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body, or is operated by the federal government or a federally recognized Indian tribe; (and~~

~~((ii) The facility or entity is a trading partner with the state's health information exchange;~~

~~((m)) (l) A health care provider group of five or more ((providers)) prescribers or dispensers for purposes of providing medical or pharmaceutical care to the patients of the provider group, or for quality improvement purposes if(~~

~~((i) all the ((providers)) prescribers or dispensers in the provider group are licensed by the department or the provider group is operated by the federal government or a federally recognized Indian tribe; (and~~

~~((ii) The provider group is a trading partner with the state's health information exchange;~~

~~((n)) (m) The local health officer of a local health jurisdiction for the purposes of patient follow-up and care coordination following a controlled substance overdose event. For the purposes of this subsection "local health officer" has the same meaning as~~

in RCW 70.05.010; and

~~((o)) (n) The coordinated care electronic tracking program developed in response to section 213, chapter 7, Laws of 2012 2nd sp. sess., commonly referred to as the seven best practices in emergency medicine, for the purposes of providing:~~

~~((i) Prescription monitoring program data to emergency department personnel when the patient registers in the emergency department; and~~

~~((ii) Notice to local health officers who have made opioid-related overdose a notifiable condition under RCW 70.05.070 as authorized by rules adopted under RCW 43.20.050, providers, appropriate care coordination staff, and prescribers listed in the patient's prescription monitoring program record that the patient has experienced a controlled substance overdose event. The department shall determine the content and format of the notice in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and the notice may be modified as necessary to reflect current needs and best practices.~~

~~(4) The department shall, on at least a quarterly basis, and pursuant to a schedule determined by the department, provide a facility or entity identified under subsection (3)((h)) (k) of this section or a provider group identified under subsection (3)((m)) (l) of this section with facility or entity and individual prescriber information if the facility, entity, or provider group:~~

~~(a) Uses the information only for internal quality improvement and individual prescriber quality improvement feedback purposes and does not use the information as the sole basis for any medical staff sanction or adverse employment action; and~~

~~(b) Provides to the department a standardized list of current prescribers of the facility, entity, or provider group. The specific facility, entity, or provider group information provided pursuant to this subsection and the requirements under this subsection must be determined by the department in consultation with the Washington state hospital association, Washington state medical association, and Washington state health care authority, and may be modified as necessary to reflect current needs and best practices.~~

~~(5)(a) The department may publish or provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used directly or indirectly to identify individual patients, requestors, dispensers, prescribers, and persons who received prescriptions from dispensers. Direct and indirect patient identifiers may be provided for research that has been approved by the Washington state institutional review board and by the department through a data-sharing agreement.~~

~~(b)(i) The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state hospital association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement as specified in RCW 43.70.052(8) with the association. The department may provide dispenser and prescriber data and data that includes indirect patient identifiers to the Washington state medical association for use solely in connection with its coordinated quality improvement program maintained under RCW 43.70.510 after entering into a data use agreement with the association.~~

~~(ii) The department may provide data including direct and indirect patient identifiers to the department of social and health services office of research and data analysis, the department of labor and industries, and the health care authority for research that has been approved by the Washington state institutional review board and, with a data-sharing agreement approved by the department, for public health purposes to improve the prevention~~

or treatment of substance use disorders.

(iii) The department may provide a prescriber feedback report to the largest health professional association representing each of the prescribing professions. The health professional associations must distribute the feedback report to prescribers engaged in the professions represented by the associations for quality improvement purposes, so long as the reports contain no direct patient identifiers that could be used to identify individual patients, dispensers, and persons who received prescriptions from dispensers, and the association enters into a written data-sharing agreement with the department. However, reports may include indirect patient identifiers as agreed to by the department and the association in a written data-sharing agreement.

(c) For the purposes of this subsection(7):

(i) "Indirect patient identifiers" means data that may include: Hospital or provider identifiers, a five-digit zip code, county, state, and country of resident; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name; last name; social security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination; and

(ii) "Prescribing professions" include:

- (A) Allopathic physicians and physician assistants;
- (B) Osteopathic physicians and physician assistants;
- (C) Podiatric physicians;
- (D) Dentists; and
- (E) Advanced registered nurse practitioners.

(6) The department may enter into agreements to exchange prescription monitoring program data with established prescription monitoring programs in other jurisdictions. Under these agreements, the department may share prescription monitoring system data containing direct and indirect patient identifiers with other jurisdictions through a clearinghouse or prescription monitoring program data exchange that meets federal health care information privacy requirements. Data the department receives from other jurisdictions must be retained, used, protected, and destroyed as provided by the agreements to the extent consistent with the laws in this state.

(7) Persons authorized in subsections (3)(~~(4)~~, and ~~(5)~~) through (6) of this section to receive data in the prescription monitoring program from the department, acting in good faith, are immune from any civil, criminal, disciplinary, or administrative liability that might otherwise be incurred or imposed for acting under this chapter.

**Sec. 24.** RCW 71.24.011 and 1982 c 204 s 1 are each amended to read as follows:

This chapter may be known and cited as the community ~~(mental)~~ behavioral health services act.

**NEW SECTION. Sec. 25.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Recognizing that treatment strategies and modalities for the treatment of individuals with opioid use disorder and their newborns continue to evolve, and that improved health outcomes are seen when birth parents and their infants are allowed to room together, the authority must provide recommendations to the office of financial management by October 1, 2019, to better support the care of individuals who have recently delivered and their newborns.

(2) These recommendations must support:

- (a) Successful transition from the early postpartum and newborn period for the birth parent and infant to the next level of care;
- (b) Reducing the risk of parental infant separation; and

(c) Increasing the chance of uninterrupted recovery of the parent and foster the development of positive parenting practices.

(3) The authority's recommendations must include:

- (a) How these interventions could be supported in hospitals, birthing centers, or other appropriate sites of care and descriptions as to current barriers in providing these interventions;
- (b) Estimates of the costs needed to support this enhanced set of services; and
- (c) Mechanisms for funding the services.

**Sec. 26.** RCW 71.24.560 and 2017 c 297 s 11 are each amended to read as follows:

(1) All approved opioid treatment programs that provide services to ~~((women))~~ individuals who are pregnant are required to disseminate up-to-date and accurate health education information to all their pregnant ~~((clients))~~ individuals concerning the ~~((possible addiction and health risks that their treatment may have on their baby))~~ effects opioid use and opioid use disorder medication may have on their baby, including the development of dependence and subsequent withdrawal. All pregnant ~~((clients))~~ individuals must also be advised of the risks to both themselves and their ~~((baby))~~ babies associated with ~~((not remaining on the))~~ discontinuing an opioid treatment program. The information must be provided to these ~~((clients))~~ individuals both verbally and in writing. The health education information provided to the pregnant ~~((clients))~~ individuals must include referral options for ~~((the substance-exposed baby))~~ a baby who has been exposed to opioids in utero.

(2) The department shall adopt rules that require all opioid treatment programs to educate all pregnant ~~((women))~~ individuals in their program on the benefits and risks of medication-assisted treatment to ~~((their))~~ a developing fetus before they are ~~((provided))~~ prescribed these medications, as part of their treatment. The department shall also adopt rules requiring all opioid treatment programs to educate individuals who become pregnant about the risks to both the expecting parent and the fetus of not treating opioid use disorder. The department shall meet the requirements under this subsection within the appropriations provided for opioid treatment programs. The department, working with treatment providers and medical experts, shall develop and disseminate the educational materials to all certified opioid treatment programs.

(3) For pregnant individuals who participate in medicaid, the authority, through its managed care organizations, must ensure that pregnant individuals receive outreach related to opioid use disorder when identified as a person at risk.

**Sec. 27.** RCW 71.24.580 and 2018 c 205 s 2 and 2018 c 201 s 4044 are each reenacted and amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance use disorder treatment and treatment support services for offenders with a substance use disorder that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of substance use disorder treatment services and treatment support services for nonviolent offenders within a drug court program; and (c) the administrative and overhead costs associated with the operation of a drug court. Amounts provided in this subsection must be used for treatment and recovery support services for criminally involved offenders and authorization of these services shall not be subject to determinations of medical necessity. During the 2017-2019 fiscal biennium, the legislature may direct the state treasurer to make transfers of moneys in the criminal justice treatment account to the state general fund. It is the intent of the legislature to continue in the 2019-2021 biennium the

policy of transferring to the state general fund such amounts as reflect the excess fund balance of the account. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance use disorder treatment program, including but not limited to the recovery support and other programmatic elements outlined in RCW 2.30.030 authorizing therapeutic courts; and

(b) "Treatment support" includes transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the department for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the authority from the criminal justice treatment account shall be distributed as specified in this subsection. The authority may retain up to three percent of the amount appropriated under subsection (4)(b) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the authority from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The authority, in consultation with the department of corrections, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance use disorder treatment providers, and any other person deemed by the authority to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the authority from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The authority shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, and substance use disorder treatment providers. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county

prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The submitted plan should incorporate current evidence-based practices in substance use disorder treatment. The funds shall be used solely to provide approved alcohol and substance ((abuse)) use disorder treatment pursuant to RCW 71.24.560 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) If a region or county uses criminal justice treatment account funds to support a therapeutic court, the therapeutic court must allow the use of all medications approved by the federal food and drug administration for the treatment of opioid use disorder as deemed medically appropriate for a participant by a medical professional. If appropriate medication-assisted treatment resources are not available or accessible within the jurisdiction, the health care authority's designee for assistance must assist the court with acquiring the resource.

(10) Counties must meet the criteria established in RCW 2.30.030(3).

**Sec. 28.** RCW 71.24.585 and 2017 c 297 s 12 are each amended to read as follows:

~~((The state of Washington declares that there is no fundamental right to medication-assisted treatment for opioid use disorder.))~~

(1)(a) The state of Washington ((further)) declares that ((while medications used in the treatment of opioid use disorder are addictive substances, that they nevertheless have several legal, important, and justified uses and that one of their appropriate and legal uses is, in conjunction with other required therapeutic procedures, in the treatment of persons with opioid use disorder. The state of Washington recognizes as evidence based for the management of opioid use disorder the medications approved by the federal food and drug administration for the treatment of opioid use disorder. Medication-assisted treatment should only be used for participants who are deemed appropriate to need this level of intervention. Providers must inform patients of all treatment options available. The provider and the patient shall consider alternative treatment options, like abstinence, when developing the treatment plan. If medications are prescribed, follow up must be included in the treatment plan in order to work towards the goal of abstinence.)) substance use disorders are medical conditions. Substance use disorders should be treated in a manner similar to other medical conditions by using interventions that are supported by evidence, including medications approved by the federal food and drug administration for the treatment of opioid use disorder. It is also recognized that many individuals have multiple substance use disorders, as well as histories of trauma, developmental disabilities, or mental health conditions. As such, all individuals experiencing opioid use disorder should be offered evidence-supported treatments to include federal food and drug administration approved



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medications for the treatment of opioid use disorders and behavioral counseling and social supports to address them. For behavioral health agencies, an effective plan of treatment for most persons with opioid use disorder integrates access to medications and psychosocial counseling and should be consistent with the American society of addiction medicine patient placement criteria. Providers must inform patients with opioid use disorder or substance use disorder of options to access federal food and drug administration approved medications for the treatment of opioid use disorder or substance use disorder. Because some such medications are controlled substances in chapter 69.50 RCW, the state of Washington maintains the legal obligation and right to regulate the ((clinical)) uses of these medications in the treatment of opioid use disorder.

((Further:)) (b) The authority must work with other state agencies and stakeholders to develop value-based payment strategies to better support the ongoing care of persons with opioid and other substance use disorders.

(c) The department of corrections shall develop policies to prioritize services based on available grant funding and funds appropriated specifically for opioid use disorder treatment.

(2) The authority must promote the use of medication therapies and other evidence-based strategies to address the opioid epidemic in Washington state. Additionally, by January 1, 2020, the authority must prioritize state resources for the provision of treatment and recovery support services to inpatient and outpatient treatment settings that allow patients to start or maintain their use of medications for opioid use disorder while engaging in services.

(3) The state declares that the main goals of ((opiate substitution treatment is total abstinence from substance use for the individuals who participate in the treatment program, but recognizes the additional goals of reduced morbidity, and restoration of the ability to lead a productive and fulfilling life. The state recognizes that a small percentage of persons who participate in opioid treatment programs require treatment for an extended period of time. Opioid treatment programs shall provide a comprehensive transition program to eliminate substance use, including opioid use of program participants)) treatment for persons with opioid use disorder are the cessation of unprescribed opioid use, reduced morbidity, and restoration of the ability to lead a productive and fulfilling life.

(4) To achieve the goals in subsection (3) of this section, to promote public health and safety, and to promote the efficient and economic use of funding for the medicaid program under Title XIX of the social security act, the authority may seek, receive, and expend alternative sources of funding to support all aspects of the state's response to the opioid crisis.

(5) The authority must partner with the department of social and health services, the department of corrections, the department of health, the department of children, youth, and families, and any other agencies or entities the authority deems appropriate to develop a statewide approach to leveraging medicaid funding to treat opioid use disorder and provide emergency overdose treatment. Such alternative sources of funding may include:

(a) Seeking a section 1115 demonstration waiver from the federal centers for medicare and medicaid services to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities; and

(b) Soliciting and receiving private funds, grants, and donations from any willing person or entity.

(6)(a) The authority shall work with the department of health to promote coordination between medication-assisted treatment prescribers, federally accredited opioid treatment programs,

substance use disorder treatment facilities, and state-certified substance use disorder treatment agencies to:

(i) Increase patient choice in receiving medication and counseling;

(ii) Strengthen relationships between opioid use disorder providers;

(iii) Acknowledge and address the challenges presented for individuals needing treatment for multiple substance use disorders simultaneously; and

(iv) Study and review effective methods to identify and reach out to individuals with opioid use disorder who are at high risk of overdose and not involved in traditional systems of care, such as homeless individuals using syringe service programs, and connect such individuals to appropriate treatment.

(b) The authority must work with stakeholders to develop a set of recommendations to the governor and the legislature that:

(i) Propose, in addition to those required by federal law, a standard set of services needed to support the complex treatment needs of persons with opioid use disorder treated in opioid treatment programs;

(ii) Outline the components of and strategies needed to develop opioid treatment program centers of excellence that provide fully integrated care for persons with opioid use disorder;

(iii) Estimate the costs needed to support these models and recommendations for funding strategies that must be included in the report;

(iv) Outline strategies to increase the number of waived health care providers approved for prescribing buprenorphine by the substance abuse and mental health services administration; and

(v) Outline strategies to lower the cost of federal food and drug administration approved products for the treatment of opioid use disorder.

(7) State agencies shall review and promote positive outcomes associated with the accountable communities of health funded opioid projects and local law enforcement and human services opioid collaborations as set forth in the Washington state interagency opioid working plan.

(8) The authority must partner with the department and other state agencies to replicate effective approaches for linking individuals who have had a nonfatal overdose with treatment opportunities, with a goal to connect certified peer counselors with individuals who have had a nonfatal overdose.

(9) State agencies must work together to increase outreach and education about opioid overdoses to non-English-speaking communities by developing a plan to conduct outreach and education to non-English-speaking communities. The department must submit a report on the outreach and education plan with recommendations for implementation to the appropriate legislative committees by July 1, 2020.

NEW SECTION. Sec. 29. A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to funds appropriated by the legislature, the authority shall implement a pilot project for law enforcement assisted diversion which shall adhere to law enforcement assisted diversion core principles recognized by the law enforcement assisted diversion national support bureau, the efficacy of which have been demonstrated in peer-reviewed research studies.

(2) Under the pilot project, the authority must partner with the law enforcement assisted diversion national support bureau to award a contract, subject to appropriation, for two or more geographic areas in the state of Washington for law enforcement assisted diversion. Cities, counties, and tribes may compete for participation in a pilot project.

(3) The pilot projects must provide for comprehensive

technical assistance from law enforcement assisted diversion implementation experts to develop and implement a law enforcement assisted diversion program in the pilot project's geographic areas in a way that ensures fidelity to the research-based law enforcement assisted diversion model.

(4) The key elements of a law enforcement assisted diversion pilot project must include:

- (a) Long-term case management for individuals with substance use disorders;
- (b) Facilitation and coordination with community resources focusing on overdose prevention;
- (c) Facilitation and coordination with community resources focused on the prevention of infectious disease transmission;
- (d) Facilitation and coordination with community resources providing physical and behavioral health services;
- (e) Facilitation and coordination with community resources providing medications for the treatment of substance use disorders;
- (f) Facilitation and coordination with community resources focusing on housing, employment, and public assistance;
- (g) Twenty-four hours per day and seven days per week response to law enforcement for arrest diversions; and
- (h) Prosecutorial support for diversion services.

**Sec. 30.** RCW 71.24.590 and 2018 c 201 s 4045 are each amended to read as follows:

(1) When making a decision on an application for licensing or certification of a program, the department shall:

- (a) Consult with the county legislative authorities in the area in which an applicant proposes to locate a program and the city legislative authority in any city in which an applicant proposes to locate a program;
- (b) License or certify only programs that will be sited in accordance with the appropriate county or city land use ordinances. Counties and cities may require conditional use permits with reasonable conditions for the siting of programs. Pursuant to RCW 36.70A.200, no local comprehensive plan or development regulation may preclude the siting of essential public facilities;
- (c) Not discriminate in its licensing or certification decision on the basis of the corporate structure of the applicant;
- (d) Consider the size of the population in need of treatment in the area in which the program would be located and license or certify only applicants whose programs meet the necessary treatment needs of that population;
- (e) Consider the availability of other certified opioid treatment programs near the area in which the applicant proposes to locate the program;
- (f) Consider the transportation systems that would provide service to the program and whether the systems will provide reasonable opportunities to access the program for persons in need of treatment;
- (g) Consider whether the applicant has, or has demonstrated in the past, the capability to provide the appropriate services to assist the persons who utilize the program in meeting goals established by the legislature in RCW 71.24.585. The department shall prioritize licensing or certification to applicants who have demonstrated such capability and are able to measure their success in meeting such outcomes;
- (h) Hold one public hearing in the community in which the facility is proposed to be located. The hearing shall be held at a time and location that are most likely to permit the largest number of interested persons to attend and present testimony. The department shall notify all appropriate media outlets of the time, date, and location of the hearing at least three weeks in advance of the hearing.

(2) A county may impose a maximum capacity for a program of not less than three hundred fifty participants if necessary to address specific local conditions cited by the county.

(3) A program applying for licensing or certification from the department and a program applying for a contract from a state agency that has been denied the licensing or certification or contract shall be provided with a written notice specifying the rationale and reasons for the denial.

(4) Opioid treatment programs may order, possess, dispense, and administer medications approved by the United States food and drug administration for the treatment of opioid use disorder, alcohol use disorder, tobacco use disorder, and reversal of opioid overdose. For an opioid treatment program to order, possess, and dispense any other legend drug, including controlled substances, the opioid treatment program must obtain additional licensure as required by the department, except for patient-owned medications.

(5) Opioid treatment programs may accept, possess, and administer patient-owned medications.

(6) Registered nurses and licensed practical nurses may dispense up to a thirty-one day supply of medications approved by the United States food and drug administration for the treatment of opioid use disorder to patients of the opioid treatment program, under an order or prescription and in compliance with 42 C.F.R. Sec. 8.12.

(7) For the purpose of this chapter, "opioid treatment program" means a program that:

- (a) ~~(Dispensing a)~~ Engages in the treatment of opioid use disorder with medications approved by the ~~(federal)~~ United States food and drug administration for the treatment of opioid use disorder and ~~(dispensing medication for the)~~ reversal of opioid overdose; and
- (b) ~~(Providing)~~ Provides a comprehensive range of medical and rehabilitative services.

**Sec. 31.** RCW 71.24.595 and 2018 c 201 s 4046 are each amended to read as follows:

(1) To achieve more medication options, the authority must work with the department and the authority's medicaid managed care organizations, to eliminate barriers and promote access to effective medications known to address opioid use disorders at state-certified opioid treatment programs. Medications include, but are not limited to: Methadone, buprenorphine, and naltrexone. The authority must encourage the distribution of naloxone to patients who are at risk of an opioid overdose.

(2) The department, in consultation with opioid treatment program service providers and counties and cities, shall establish statewide treatment standards for licensed or certified opioid treatment programs. The department shall enforce these treatment standards. The treatment standards shall include, but not be limited to, reasonable provisions for all appropriate and necessary medical procedures, counseling requirements, urinalysis, and other suitable tests as needed to ensure compliance with this chapter.

~~((2))~~ (3) The department, in consultation with opioid treatment programs and counties, shall establish statewide operating standards for certified opioid treatment programs. The department shall enforce these operating standards. The operating standards shall include, but not be limited to, reasonable provisions necessary to enable the department and counties to monitor certified or licensed opioid treatment programs for compliance with this chapter and the treatment standards authorized by this chapter and to minimize the impact of the opioid treatment programs upon the business and residential neighborhoods in which the program is located.

~~((3))~~ (4) The department shall analyze and evaluate the data

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submitted by each treatment program and take corrective action where necessary to ensure compliance with the goals and standards enumerated under this chapter. Opioid treatment programs are subject to the oversight required for other substance use disorder treatment programs, as described in this chapter.

**NEW SECTION. Sec. 32.** A new section is added to chapter 71.24 RCW to read as follows:

By October 1, 2019, the authority must work with the department, the accountable communities of health, and community stakeholders to develop a plan for the coordinated purchasing and distribution of opioid overdose reversal medication across the state of Washington. The plan must be developed in consultation with the University of Washington's alcohol and drug abuse institute and community agencies participating in the federal demonstration grant titled Washington state project to prevent prescription drug or opioid overdose.

**NEW SECTION. Sec. 33.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The department, in coordination with the authority, must develop a strategy to rapidly deploy a response team to a local community identified as having a high number of fentanyl-related or other drug overdoses by the local emergency management system, hospital emergency department, local health jurisdiction, law enforcement agency, or surveillance data. The response team must provide technical assistance and other support to the local health jurisdiction, health care clinics, hospital emergency departments, substance use disorder treatment providers, and other community-based organizations, and are expected to increase the local capacity to provide medication-assisted treatment and overdose education.

(2) The department and the authority must reduce barriers and promote medication treatment therapies for opioid use disorder in emergency departments and same-day referrals to opioid treatment programs, substance use disorder treatment facilities, and community-based medication treatment prescribers for individuals experiencing an overdose.

**NEW SECTION. Sec. 34.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Subject to funds appropriated by the legislature, or approval of a section 1115 demonstration waiver from the federal centers for medicare and medicaid services, to fund opioid treatment medications for persons eligible for medicaid at or during the time of incarceration and juvenile detention facilities, the authority shall establish a methodology for distributing funds to city and county jails to provide medication for the treatment of opioid use disorder to individuals in the custody of the facility in any status. The authority must prioritize funding for the services required in (a) of this subsection. To the extent that funding is provided, city and county jails must:

(a) Provide medication for the treatment of opioid use disorder to individuals in the custody of the facility, in any status, who were receiving medication for the treatment of opioid use disorder through a legally authorized medical program or by a valid prescription immediately before incarceration; and

(b) Provide medication for the treatment of opioid use disorder to incarcerated individuals not less than thirty days before release when treatment is determined to be medically appropriate by a health care practitioner.

(2) City and county jails must make reasonable efforts to directly connect incarcerated individuals receiving medication for the treatment of opioid use disorder to an appropriate provider or treatment site in the geographic region in which the individual will reside before release. If a connection is not possible, the facility must document its efforts in the individual's record.

**NEW SECTION. Sec. 35.** A new section is added to chapter 74.09 RCW to read as follows:

(1) In order to support prevention of potential opioid use disorders, the authority must develop and recommend for coverage nonpharmacologic treatments for acute, subacute, and chronic noncancer pain and must report to the governor and the appropriate committees of the legislature, including any requests for funding necessary to implement the recommendations under this section. The recommendations must contain the following elements:

(a) A list of which nonpharmacologic treatments will be covered;

(b) Recommendations as to the duration, amount, and type of treatment eligible for coverage;

(c) Guidance on the type of providers eligible to provide these treatments; and

(d) Recommendations regarding the need to add any provider types to the list of currently eligible medicaid provider types.

(2) The authority must ensure only treatments that are evidence-based for the treatment of the specific acute, subacute, and chronic pain conditions will be eligible for coverage recommendations.

**NEW SECTION. Sec. 36.** A new section is added to chapter 41.05 RCW to read as follows:

A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2020, shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

**NEW SECTION. Sec. 37.** A new section is added to chapter 48.43 RCW to read as follows:

For health plans issued or renewed on or after January 1, 2020, a health carrier shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

**NEW SECTION. Sec. 38.** A new section is added to chapter 74.09 RCW to read as follows:

Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed health care system shall provide coverage without prior authorization of at least one federal food and drug administration approved product for the treatment of opioid use disorder in the drug classes opioid agonists, opioid antagonists, and opioid partial agonists.

**NEW SECTION. Sec. 39.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) For the purposes of this section:

(a) "High school" means a school enrolling students in any of grades nine through twelve;

(b) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095;

(c) "Opioid-related overdose" has the meaning provided in RCW 69.41.095; and

(d) "Standing order" has the meaning provided in RCW 69.41.095.

(2)(a) For the purpose of assisting a person at risk of experiencing an opioid-related overdose, a high school may obtain and maintain opioid overdose reversal medication through a standing order prescribed and dispensed in accordance with RCW 69.41.095.

(b) Opioid overdose reversal medication may be obtained from

donation sources, but must be maintained and administered in a manner consistent with a standing order issued in accordance with RCW 69.41.095.

(c) A school district with two thousand or more students must obtain and maintain at least one set of opioid overdose reversal medication doses in each of its high schools as provided in (a) and (b) of this subsection. A school district that demonstrates a good faith effort to obtain the opioid overdose reversal medication through a donation source, but is unable to do so, is exempt from the requirement in this subsection (2)(c).

(3)(a) The following personnel may distribute or administer the school-owned opioid overdose reversal medication to respond to symptoms of an opioid-related overdose pursuant to a prescription or a standing order issued in accordance with RCW 69.41.095: (i) A school nurse; (ii) a health care professional or trained staff person located at a health care clinic on public school property or under contract with the school district; or (iii) designated trained school personnel.

(b) Opioid overdose reversal medication may be used on school property, including the school building, playground, and school bus, as well as during field trips or sanctioned excursions away from school property. A school nurse or designated trained school personnel may carry an appropriate supply of school-owned opioid overdose reversal medication on field trips or sanctioned excursions.

(4) Training for school personnel who have been designated to distribute or administer opioid overdose reversal medication under this section must meet the requirements for training described in section 40 of this act and any rules or guidelines for such training adopted by the office of the superintendent of public instruction. Each high school is encouraged to designate and train at least one school personnel to distribute and administer opioid overdose reversal medication if the high school does not have a full-time school nurse or trained health care clinic staff.

(5)(a) The liability of a person or entity who complies with this section and RCW 69.41.095 is limited as described in RCW 69.41.095.

(b) If a student is injured or harmed due to the administration of opioid overdose reversal medication that a practitioner, as defined in RCW 69.41.095, has prescribed and a pharmacist has dispensed to a school under this section, the practitioner and pharmacist may not be held responsible for the injury unless he or she acted with conscious disregard for safety.

**NEW SECTION. Sec. 40.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) For the purposes of this section:

(a) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095; and

(b) "Opioid-related overdose" has the meaning provided in RCW 69.41.095.

(2)(a) To prevent opioid-related overdoses and respond to medical emergencies resulting from overdoses, by January 1, 2020, the office of the superintendent of public instruction, in consultation with the department of health and the Washington state school directors' association, shall develop opioid-related overdose policy guidelines and training requirements for public schools and school districts.

(b)(i) The opioid-related overdose policy guidelines and training requirements must include information about: The identification of opioid-related overdose symptoms; how to obtain and maintain opioid overdose reversal medication on school property issued through a standing order in accordance with section 39 of this act; how to obtain opioid overdose reversal medication through donation sources; the distribution and administration of opioid overdose reversal medication by

designated trained school personnel; free online training resources that meet the training requirements in this section; and sample standing orders for opioid overdose reversal medication.

(ii) The opioid-related overdose policy guidelines may: Include recommendations for the storage and labeling of opioid overdose reversal medications that are based on input from relevant health agencies or experts; and allow for opioid-related overdose reversal medications to be obtained, maintained, distributed, and administered by health care professionals and trained staff located at a health care clinic on public school property or under contract with the school district.

(c) In addition to being offered by the school, training on the distribution or administration of opioid overdose reversal medication that meets the requirements of this subsection (2) may be offered by nonprofit organizations, higher education institutions, and local public health organizations.

(3)(a) By March 1, 2020, the Washington state school directors' association must collaborate with the office of the superintendent of public instruction and the department of health to either update existing model policy or develop a new model policy that meets the requirements of subsection (2) of this section.

(b) Beginning with the 2020-21 school year, the following school districts must adopt an opioid-related overdose policy: (a) School districts with a school that obtains, maintains, distributes, or administers opioid overdose reversal medication under section 39 of this act; and (b) school districts with two thousand or more students.

(c) The office of the superintendent of public instruction and the Washington state school directors' association must maintain the model policy and procedure on each agency's web site at no cost to school districts.

(4) Subject to the availability of amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall develop and administer a grant program to provide funding to public schools with any of grades nine through twelve and public higher education institutions to purchase opioid overdose reversal medication and train personnel on the administration of opioid overdose reversal medication to respond to symptoms of an opioid-related overdose. The office must publish on its web site a list of annual grant recipients, including award amounts.

**Sec. 41.** RCW 28A.210.260 and 2017 c 186 s 2 are each amended to read as follows:

(1) Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication, topical medication, eye drops, ear drops, or nasal spray, of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

((+)) (a) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications, topical medications, eye drops, ear drops, or nasal spray to students, the acquisition of parent requests and instructions, and the acquisition of requests from licensed health professionals prescribing within the scope of their prescriptive authority and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication;

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~~((2))~~ (b) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

~~((3))~~ (c) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

~~((4))~~ (d) The public school district or the private school is in receipt of ~~((a))~~: (i) A written, current and unexpired request from a licensed health professional prescribing within the scope of his or her prescriptive authority for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials~~((;))~~; and ~~((b))~~ (ii) written, current and unexpired instructions from such licensed health professional prescribing within the scope of his or her prescriptive authority regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive workdays;

~~((5))~~ (e) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to (a) of this subsection ~~((1) of this section))~~ and in substantial compliance with the prescription of a licensed health professional prescribing within the scope of his or her prescriptive authority or the written instructions provided pursuant to (d) of this subsection ~~((4) of this section))~~. If a school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance must be administered by the school nurse. If no school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance may be administered by a trained school employee or parent-designated adult who is not a school nurse. The board of directors shall allow school personnel, who have received appropriate training and volunteered for such training, to administer a nasal spray that is a legend drug or a controlled substance. After a school employee who is not a school nurse administers a nasal spray that is a legend drug or a controlled substance, the employee shall summon emergency medical assistance as soon as practicable;

~~((6))~~ (f) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

~~((7))~~ (g) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 RCW or chapter 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to delegate to, train, and supervise the designated school district personnel in proper medication procedures;

~~((8)(a))~~ For the purposes of this section, "parent designated adult" means a volunteer, who may be a school district employee, who receives additional training from a health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan.

~~((b))~~ (h) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter 18.79 RCW must file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee shall not be subject to any employer reprisal or disciplinary action for refusing to file a letter. A parent-designated adult must be a volunteer, who may be a school district employee, who receives additional training from a

health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan; and

~~((9))~~ (i) The board of directors shall designate a professional person licensed under chapter 18.71, 18.57, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures for care for students with epilepsy to ensure a safe, therapeutic learning environment. Training may also be provided by an epilepsy educator who is nationally certified. Parent-designated adults who are school employees are required to receive the training provided under this subsection. Parent-designated adults who are not school employees must show evidence of comparable training. The parent-designated adult must also receive additional training as established in (h) of this subsection ~~((8)(a) of this section))~~ for the additional care the parents have authorized the parent-designated adult to provide. The professional person designated under this subsection is not responsible for the supervision of the parent-designated adult for those procedures that are authorized by the parents~~((;))~~.

~~((10))~~ (2) This section does not apply to:

(a) Topical sunscreen products regulated by the United States food and drug administration for over-the-counter use. Provisions related to possession and application of topical sunscreen products are in RCW 28A.210.278; and

(b) Opioid overdose reversal medication. Provisions related to maintenance and administration of opioid overdose reversal medication are in section 39 of this act.

**Sec. 42.** RCW 28A.210.270 and 2013 c 180 s 2 are each amended to read as follows:

(1) In the event a school employee administers oral medication, topical medication, eye drops, ear drops, or nasal spray to a student pursuant to RCW 28A.210.260 in substantial compliance with the prescription of the student's licensed health professional prescribing within the scope of the professional's prescriptive authority or the written instructions provided pursuant to RCW 28A.210.260~~((4))~~ (1)(d), and the other conditions set forth in RCW 28A.210.260 have been substantially complied with, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication, topical medication, eye drops, ear drops, or nasal spray to any student pursuant to RCW 28A.210.260 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student.

**NEW SECTION. Sec. 43.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) For the purposes of this section:

(a) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095; and

(b) "Opioid-related overdose" has the meaning provided in RCW 69.41.095.

(2) By the beginning of the 2019-20 academic year, a public institution of higher education with a residence hall housing at least one hundred students must develop a plan: (a) For the maintenance and administration of opioid overdose reversal medication in and around the residence hall; and (b) for the training of designated personnel to administer opioid overdose reversal medication to respond to symptoms of an opioid-related overdose. The training may utilize free online training resources including, but not limited to, the free online training resources identified as appropriate for public schools in section 40 of this act. The plan may identify: The ratio of residents to opioid overdose reversal medication doses; the designated trained personnel, who may include residence hall advisers; and whether the designated trained personnel covers more than one residence hall.

(3) The state board for community and technical colleges shall assist an individual community or technical college with applying for grants or donations to obtain opioid overdose reversal medication at no cost or at a discount.

**NEW SECTION. Sec. 44.** (1) Section 15 of this act expires January 1, 2021.

(2) Section 16 of this act takes effect January 1, 2021.

**NEW SECTION. Sec. 45.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2019, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "amending RCW 69.41.055, 69.41.095, 70.41.480, 70.168.090, 70.225.010, 70.225.040, 71.24.011, 71.24.560, 71.24.585, 71.24.590, 71.24.595, 28A.210.260, and 28A.210.270; amending 2005 c 70 s 1 (uncodified); reenacting and amending RCW 69.50.312, 69.50.312, 70.225.020, and 71.24.580; adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.64 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; adding new sections to chapter 43.70 RCW; adding a new section to chapter 69.50 RCW; adding a new section to chapter 70.225 RCW; adding new sections to chapter 71.24 RCW; adding new sections to chapter 74.09 RCW; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.43 RCW; adding new sections to chapter 28A.210 RCW; adding a new section to chapter 28B.10 RCW; creating new sections; providing an effective date; and providing an expiration date."

And the bill do pass as recommended by the conference committee.

Signed by Senators Cleveland and Dhingra; Representatives Cody and Macri.

#### MOTION

Senator Cleveland moved that the Report of the Conference Committee on Substitute Senate Bill No. 5380 be adopted.

Senators Cleveland and O'Ban spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Cleveland that the Report of the Conference Committee on Substitute Senate Bill No. 5380 be adopted.

The motion by Senator Cleveland carried and the Report of the Conference Committee was adopted by voice vote.

#### MOTIONS

On motion of Senator Rivers, Senator Walsh was excused.

On motion of Senator Hobbs, Senator Mullet was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5380, as recommended by the Conference Committee.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5380, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Voting nay: Senator Braun

Excused: Senators Mullet, Sheldon and Walsh

SUBSTITUTE SENATE BILL NO. 5380, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MESSAGE FROM THE HOUSE

April 25, 2019

MR. PRESIDENT:

The House has adopted the report of the Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 5258 and has passed the bill as recommended by the Conference Committee.

and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

#### REPORT OF THE CONFERENCE COMMITTEE

Senate Bill No. 5258

April 26, 2019

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Senate Bill No. 5258, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 49.60 RCW to read as follows:

(1) Every hotel, motel, retail, or security guard entity, or property services contractor, who employs an employee, must:

(a) Adopt a sexual harassment policy;

(b) Provide mandatory training to the employer's managers, supervisors, and employees to:

(i) Prevent sexual assault and sexual harassment in the

workplace;

(ii) Prevent sexual discrimination in the workplace; and  
 (iii) Educate the employer's workforce regarding protection for employees who report violations of a state or federal law, rule, or regulation;

(c) Provide a list of resources for the employer's employees to utilize. At a minimum, the resources must include contact information of the equal employment opportunity commission, the Washington state human rights commission, and local advocacy groups focused on preventing sexual harassment and sexual assault; and

(d) Provide a panic button to each employee. The department must publish advice and guidance for employers with fifty or fewer employees relating to this subsection (1)(d). This subsection (1)(d) does not apply to contracted security guard companies licensed under chapter 18.170 RCW.

(2)(a) A property services contractor shall submit the following to the department on a form or in a manner determined by the department:

(i) The date of adoption of the sexual harassment policy required in subsection (1)(a) of this section;

(ii) The number of managers, supervisors, and employees trained as required by subsection (1)(b) of this section; and

(iii) The physical address of the work location or locations at which janitorial services are provided by workers of the property services contractor, and for each location: (A) The total number of workers or contractors of the property services contractor who perform janitorial services; and (B) the total hours worked.

(b) The department must make aggregate data submitted as required in this subsection (2) available upon request.

(c) The department may adopt rules to implement this subsection (2).

(3) For the purposes of this section:

(a) "Department" means the department of labor and industries.

(b) "Employee" means an individual who spends a majority of her or his working hours alone, or whose primary work responsibility involves working without another coworker present, and who is employed by an employer as a janitor, security guard, hotel or motel housekeeper, or room service attendant.

(c) "Employer" means any person, association, partnership, property services contractor, or public or private corporation, whether for-profit or not, who employs one or more persons.

(d) "Panic button" means an emergency contact device carried by an employee by which the employee may summon immediate on-scene assistance from another worker, a security guard, or a representative of the employer.

(e) "Property services contractor" means any person or entity that employs workers: (i) To perform labor for another person to provide commercial janitorial services; or (ii) on behalf of an employer to provide commercial janitorial services. "Property services contractor" does not mean the employment security department or individuals who perform labor under an agreement for exchanging their own labor or services with each other, provided the work is performed on land owned or leased by the individuals.

(f) "Security guard" means an individual who is principally employed as, or typically referred to as, a security officer or guard, regardless of whether the individual is employed by a private security company or a single employer or whether the individual is required to be licensed under chapter 18.170 RCW.

(4)(a) Hotels and motels with sixty or more rooms must meet the requirements of this section by January 1, 2020.

(b) All other employers identified in subsection (1) of this section must meet the requirements of this section by January 1, 2021."

On page 1, line 2 of the title, after "workers;" strike the remainder of the title and insert "and adding a new section to chapter 49.60 RCW."

And the bill do pass as recommended by the conference committee.

Signed by Senators Conway, Keiser and King; Representatives Frame, Mosbrucker and Sells.

MOTION

Senator Keiser moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 5258 be adopted.

Senators Keiser and King spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 5258 be adopted.

The motion by Senator Keiser carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5258, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5258, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfs, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger  
 Excused: Senators Mullet, Sheldon and Walsh

ENGROSSED SUBSTITUTE SENATE BILL NO. 5258, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

REPORT OF THE CONFERENCE COMMITTEE  
 Senate Bill No. 5370  
 April 25, 2019

MR. PRESIDENT:

MR. SPEAKER:

We of your conference committee, to whom was referred Senate Bill No. 5370, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that with the increase in air traffic operations, combined with the projections for the rapid expansion of these operations in both the short and the long term, concerns regarding the environmental, health, social, and economic impacts of air traffic are increasing as well.

The legislature also finds that advancing Washington's position as a national and international trading leader is dependent upon the development of a highly competitive, statewide passenger and cargo air transportation system. Therefore, the legislature seeks to identify a location for a new primary commercial aviation facility in Washington, taking into consideration the data and conclusions of appropriate air traffic studies, community representatives, and industry experts. Options for a new primary commercial aviation facility in Washington may include expansion of an existing airport facility. It is the intent of the legislature to establish a state commercial aviation coordinating commission to provide a location recommendation by January 1, 2022. The legislature also recognizes any preferred location will require substantial environmental, land use, governance, and funding decisions from state and local governments.

**NEW SECTION. Sec. 2.** (1) The state commercial aviation coordinating commission is created to carry out the functions of this chapter. The commission shall consist of fifteen voting members.

(2) The governor shall appoint thirteen voting members to represent the following interests:

(a) Four as representatives of commercial service airports and ports, one of whom shall represent a port located in a county with a population of two million or more, one of whom shall represent a port in eastern Washington with an airport runway of at least thirteen thousand five hundred feet in length, one of whom shall represent a commercial service airport in eastern Washington located in a county with a population of four hundred thousand or more, and one representing an association of ports;

(b) Three as representatives from the airline industry and the private sector;

(c) Two citizen representatives with one appointed from eastern Washington and one appointed from western Washington. The citizen appointees must:

(i) Represent the public interests in the communities that are included in the commission's site research; and

(ii) Understand the impacts of a large commercial aviation facility on a community;

(d) A representative from the freight forwarding industry;

(e) A representative from the trucking industry;

(f) A representative from a community organization that understands the impacts of a large commercial aviation facility on a community; and

(g) A representative from a statewide environmental organization.

(3) The remaining two members shall consist of:

(a) A representative from the department of commerce; and

(b) A representative from the division of aeronautics of the department of transportation.

(4) The commission shall invite the following nonvoting members:

(a) A representative from the Washington state aviation alliance;

(b) A representative from the department of defense;

(c) Two members from the senate, with one member from each of the two largest caucuses in the senate, appointed by the president of the senate;

(d) Two members from the house of representatives, with one member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives;

(e) A representative from the division of aeronautics of the department of transportation;

(f) A representative from an eastern Washington metropolitan planning organization;

(g) A representative from a western Washington metropolitan planning organization;

(h) A representative from an eastern Washington regional airport; and

(i) A representative from a western Washington regional airport.

(5) The governor may appoint additional nonvoting members as deemed appropriate.

(6) The commission shall select a chair from among its membership and shall adopt rules related to its powers and duties under this chapter.

(7) Legislative members of the commission are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW. The commission has all powers necessary to carry out its duties as prescribed by this chapter.

(8) The department of transportation shall provide staff support for coordinating and administering the commission and technical assistance as requested by commission members. The department shall consider cost-saving options such as using online conferencing tools. Meetings shall be held in Olympia, Washington unless resources allow for alternative locations.

(9) At the direction of the commission, and as resources allow, the department of transportation is authorized to hire a consultant to assist with the review and research efforts of the commission. The contract is exempt from the competitive procurement requirements in chapter 39.26 RCW.

(10) The department of transportation shall convene the initial meeting of the commission as soon as practicable.

(11) This section expires July 1, 2022.

**NEW SECTION. Sec. 3.** (1) The state commercial aviation coordinating commission will review existing data and conduct research to determine Washington's long-range commercial aviation facility needs and the site of a new primary commercial aviation facility. Research for each potential site must include the feasibility of constructing a commercial aviation facility in that location and its potential environmental, community, and economic impacts. Options for a new primary commercial aviation facility in Washington may include expansion of an existing airport facility but may not include siting a facility on or in the vicinity of a military installation that would be incompatible with the installation's ability to carry out its mission requirements. The work of the commission shall include the following:

(a) Recommendations to the legislature on future Washington state long-range commercial aviation facility needs including possible additional aviation facilities or expansion of current aviation facilities, excluding those located in a county with a population of two million or more, to meet anticipated commercial aviation, general aviation, and air cargo demands; and

(b) Identifying a preferred location for a new primary commercial aviation facility. The commission shall make recommendations and shall select a single preferred location by a sixty percent majority vote using the following process:

(i) Initiating a broad review of potential sites;

(ii) Recommending a final short list of no more than six locations by January 1, 2021;

(iii) Identifying the top two locations from the final six locations by September 1, 2021; and

(iv) Identifying a single preferred location for a new primary commercial aviation facility by January 1, 2022.

(2) The commission shall submit a report of its findings and



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recommendations to the transportation committees of the legislature by January 1, 2022. The commission must allow a minority report to be included with the commission report if requested by a voting member of the commission.

(3) This section expires July 1, 2022.

**NEW SECTION. Sec. 4.** (1) The state commercial aviation coordinating commission shall project a timeline for the development of an additional commercial aviation facility that is completed and functional by 2040.

(2) This section expires July 1, 2022.

**NEW SECTION. Sec. 5.** (1) Nothing in this act shall be construed to endorse, limit, or otherwise alter existing or future plans for capital development and capacity enhancement at existing commercial airports in Washington.

(2) This section expires July 1, 2022."

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "creating new sections; and providing expiration dates."

And the bill do pass as recommended by the conference committee.

Signed by Senators Keiser, Saldaña and Warnick; Representatives Dent, Fey and Orwall.

MOTION

Senator Keiser moved that the Report of the Conference Committee on Substitute Senate Bill No. 5370 be adopted.

Senators Keiser and Warnick spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Report of the Conference Committee on Substitute Senate Bill No. 5370 be adopted.

The motion by Senator Keiser carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5370, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5370, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Fortunato, Frockt, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCoy, Nguyen, O'Ban, Padden, Palumbo, Pedersen, Randall, Rivers, Rolfes, Saldaña, Salomon, Schoesler, Short, Takko, Van De Wege, Wagoner, Walsh, Warnick, Wellman, Wilson, C., Wilson, L. and Zeiger

Excused: Senators Mullet and Sheldon

SUBSTITUTE SENATE BILL NO. 5370, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and

thereupon did sign in open session:

SECOND SUBSTITUTE SENATE BILL NO. 5082,  
ENGROSSED SENATE BILL NO. 5274,  
SUBSTITUTE SENATE BILL NO. 5652,  
SECOND SUBSTITUTE SENATE BILL NO. 5672,  
and SUBSTITUTE SENATE BILL NO. 5714.

MOTION

On motion of Senator Liias, the Senate reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 5313, by Senator Wellman

Concerning school levies. Revised for 1st Substitute:  
Concerning school levies.

MOTIONS

On motion of Senator Wellman, Second Substitute Senate Bill No. 5313 was not substituted Senate Bill No. 5313 and the second substitute bill was not adopted by voice vote.

On motion of Senator Wellman, Substitute Senate Bill No. 5313 was substituted for Senate Bill No. 5313 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Wellman moved that the following striking amendment no. 670 by Senator Wellman be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.500.015 and 2018 c 266 s 303 are each amended to read as follows:

(1) Beginning in calendar year (~~(2019)~~) 2020 and each calendar year thereafter, the state must provide state local effort assistance funding to supplement school district enrichment levies as provided in this section.

(2)(a) For an eligible school district(~~(s)~~) with an actual enrichment levy rate that is less than one dollar and fifty cents per thousand dollars of assessed value in the school district, the annual local effort assistance funding is equal to the school district's maximum local effort assistance multiplied by a fraction equal to the school district's actual enrichment levy rate divided by one dollar and fifty cents per thousand dollars of assessed value in the school district(~~'s maximum allowable~~).

(b) For an eligible school district with an actual enrichment levy rate that is equal to or greater than one dollar and fifty cents per thousand dollars of assessed value in the school district, the annual local effort assistance funding is equal to the school district's maximum local effort assistance.

(3) The state local effort assistance funding provided under this section is not part of the state's program of basic education deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Eligible school district" means a school district (~~(whose maximum allowable enrichment)~~) where the amount generated by

a levy of one dollar and fifty cents per thousand dollars of assessed value in the school district, divided by the school district's total student enrollment in the prior school year, is less than the state local effort assistance threshold.

(b) For the purpose of this section, "inflation" means, for any school year, the rate of the yearly increase of the previous calendar year's annual average consumer price index for all urban consumers, Seattle area, using the official current base compiled by the bureau of labor statistics, United States department of labor. Beginning in 2021, for the purpose of this section, "inflation" means the percentage change in the implicit price deflator for personal consumption expenditures for the United States for the prior calendar year as published in the November economic and revenue forecast by the economic and revenue forecast council or successor agency.

(c) ~~("Maximum allowable enrichment levy" means the maximum levy permitted by RCW 84.52.0531.~~

~~(d))~~ "Maximum local effort assistance" means the difference between the following:

(i) The school district's actual prior school year enrollment multiplied by the state local effort assistance threshold; and

(ii) The amount generated by a levy of one dollar and fifty cents per thousand dollars of assessed value in the school district~~(("Maximum allowable enrichment levy").~~

~~((e))~~ ~~(d)~~ "Prior school year" means the most recent school year completed prior to the year in which the state local effort assistance funding is to be distributed.

~~((f))~~ ~~(e)~~ "State local effort assistance threshold" means one thousand five hundred dollars per student, increased for inflation beginning in calendar year 2020.

~~((g))~~ ~~(f)~~ "Student enrollment" means the average annual full-time equivalent student enrollment.

(5) For districts in a high/nonhigh relationship, the enrollments of the nonhigh students attending the high school shall only be counted by the nonhigh school districts for purposes of funding under this section.

(6) For school districts participating in an innovation academy cooperative established under RCW 28A.340.080, enrollments of students attending the academy shall be adjusted so that each participant district receives its proportional share of student enrollments for purposes of funding under this section.

**Sec. 2.** RCW 84.52.0531 and 2018 c 266 s 307 are each amended to read as follows:

(1) Beginning with taxes levied for collection in ~~((2019))~~ 2020, the maximum dollar amount which may be levied by or for any school district for enrichment levies under RCW 84.52.053 is equal to the lesser of ~~((one))~~ two dollars and fifty cents per thousand dollars of the assessed value of property in the school district or the maximum per-pupil limit. This maximum dollar amount shall be reduced accordingly as provided under RCW 43.09.2856(2).

(2) The definitions in this subsection apply to this section unless the context clearly requires otherwise.

(a) For the purpose of this section, "inflation" means ~~((, for any school year,))~~ the ~~((rate of the yearly increase of))~~ percentage change in the ~~((previous calendar year's annual average consumer))~~ implicit price ~~((index for all urban consumers, Seattle area, using the official current base compiled by))~~ deflator for personal consumption expenditures for the ~~((bureau of labor statistics,))~~ United States ~~((department of labor))~~ for the prior calendar year as published in the November economic and revenue forecast by the economic and revenue forecast council or successor agency.

(b) "Maximum per-pupil limit" means:

(i) Two thousand five hundred dollars, as increased by inflation

beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with fewer than forty thousand annual full-time equivalent students enrolled in the school district in the prior school year; or

(ii) Three thousand dollars, as increased by inflation beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with forty thousand or more annual full-time equivalent students enrolled in the school district in the prior school year. ~~((Beginning with property taxes levied for collection in 2020, the maximum per-pupil limit shall be increased by inflation.))~~

(c) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(3) For districts in a high/nonhigh relationship, the enrollments of the nonhigh students attending the high school shall only be counted by the nonhigh school districts for purposes of funding under this section.

(4) For school districts participating in an innovation academy cooperative established under RCW 28A.340.080, enrollments of students attending the academy shall be adjusted so that each participant district receives its proportional share of student enrollments for purposes of funding under this section.

(5) Beginning with propositions for enrichment levies for collection in calendar year 2020 and thereafter, a district must receive approval of an enrichment levy expenditure plan under RCW 28A.505.240 before submission of the proposition to the voters.

(6) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

(7) Beginning with taxes levied for collection in 2018, enrichment levy revenues must be deposited in a separate subfund of the school district's general fund pursuant to RCW 28A.320.330, and for the 2018-19 school year are subject to the restrictions of RCW 28A.150.276 and the audit requirements of RCW 43.09.2856.

(8) Funds collected from levies for transportation vehicles, construction, modernization, or remodeling of school facilities as established in RCW 84.52.053 are not subject to the levy limitations in subsections (1) through (5) of this section.

**Sec. 3.** RCW 28A.320.330 and 2018 c 266 s 302 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1)(a) A general fund for the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(b) By the 2018-19 school year, a local revenue subfund of its general fund to account for the financial operations of a school district that are paid from local revenues. The local revenues that must be deposited in the local revenue subfund are enrichment levies and transportation vehicle levies collected under RCW 84.52.053, local effort assistance funding received under chapter 28A.500 RCW, and other school district local revenues including, but not limited to, grants, donations, and state and federal payments in lieu of taxes, but do not include other federal revenues, or local revenues that operate as an offset to the district's basic education allocation under RCW 28A.150.250. School districts must track expenditures from this subfund separately to account for the expenditure of each of these streams of revenue by source, and must provide ~~((any))~~ the supplemental expenditure schedule~~((s))~~ under (c) of this subsection, and any

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other supplemental expenditure schedules required by the superintendent of public instruction or state auditor, for purposes of RCW 43.09.2856.

(c) Beginning in the 2019-20 school year, the superintendent of public instruction must require school districts to provide a supplemental expenditure schedule by revenue source that identifies the amount expended by object for each of the following supplementary enrichment activities beyond the state funded amount:

(i) Minimum instructional offerings under RCW 28A.150.220 or 28A.150.260 not otherwise included on other lines;

(ii) Staffing ratios or program components under RCW 28A.150.260, including providing additional staff for class size reduction beyond class sizes allocated in the prototypical school model and additional staff beyond the staffing ratios allocated in the prototypical school formula;

(iii) Program components under RCW 28A.150.200, 28A.150.220, or 28A.150.260, not otherwise included on other lines;

(iv) Program components to support students in the program of special education;

(v) Program components of professional learning, as defined by RCW 28A.415.430, beyond that allocated under RCW 28A.150.415;

(vi) Extracurricular activities;

(vii) Extended school days or an extended school year;

(viii) Additional course offerings beyond the minimum instructional program established in the state's statutory program of basic education;

(ix) Activities associated with early learning programs;

(x) Activities associated with providing the student transportation program;

(xi) Any additional salary costs attributable to the provision or administration of the enrichment activities allowed under RCW 28A.150.276;

(xii) Additional activities or enhancements that the office of the superintendent of public instruction determines to be a documented and demonstrated enrichment of the state's statutory program of basic education under RCW 28A.150.276; and

(xiii) All other costs not otherwise identified in other line items.

(d) For any salary and related benefit costs identified in (c)(xi), (xii), and (xiii) of this subsection, the school district shall maintain a record describing how these expenditures are documented and demonstrated enrichment of the state's statutory program of basic education. School districts shall maintain these records until the state auditor has completed the audit under RCW 43.09.2856.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. Such renovation and replacement shall include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations. Based on the district's most recent two-year history of general fund maintenance expenditures, funds used for this purpose may not replace routine annual preventive maintenance expenditures made from the

district's general fund.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forestland revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

**Sec. 4.** RCW 43.09.2856 and 2018 c 266 s 406 are each amended to read as follows:

(1) Beginning with the 2019-20 school year, to ensure that school district local revenues are used solely for purposes of enriching the state's statutory program of basic education, the state auditor's regular financial audits of school districts must include a review of the expenditure of school district local revenues for compliance with RCW 28A.150.276, including the spending plan approved by the superintendent of public instruction under RCW 28A.505.240 and its implementation, and any supplemental contracts entered into under RCW 28A.400.200. The audit must also include a review of the expenditure schedule and supporting documentation required by RCW 28A.320.330(1)(c).

(2) If an audit under subsection (1) of this section results in findings that a school district has failed to comply with these requirements, then within ninety days of completing the audit the auditor must report the findings to the superintendent of public instruction, the office of financial management, and the education and operating budget committees of the legislature. If the superintendent of public instruction receives a report of findings from the state auditor that an expenditure of a school district is out of compliance with the requirements of RCW 28A.150.276, and the finding is not resolved in the subsequent audit, the maximum taxes levied for collection by the school district under RCW 84.52.0531 in the following calendar year shall be reduced by the expenditure amount identified by the state auditor.

(3) The use of the state allocation provided for professional learning under RCW 28A.150.415 must be audited as part of the regular financial audits of school districts by the state auditor's office to ensure compliance with the limitations and conditions of RCW 28A.150.415."

On page 1, line 1 of the title, after "levies" strike the remainder of the title and insert "and local effort assistance; and amending RCW 28A.500.015, 84.52.0531, 28A.320.330, and 43.09.2856."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Palumbo and without objection, amendment no. 760 by Senator Palumbo on page 1, line 3 to the striking amendment was withdrawn.

#### MOTION

Senator Braun moved that the following amendment no. 819 by Senator Braun be adopted:

Beginning on page 1, line 3, strike all of sections 1 and 2  
Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 9, after line 18, insert the following:

**"Sec. 5.** RCW 28A.150.390 and 2018 c 266 s 102 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.260 (4)(a), (5), (6), and (8) and 28A.150.415.

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9609.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (4)(a), (5), (6), and (8) and the allocation under RCW 28A.150.415, to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means:

(i) The lesser of the district's actual enrollment percent or thirteen and five-tenths percent; or

(ii) For school districts with a student enrollment under one thousand students, the actual enrollment percent, if above thirteen and five-tenths percent.

**NEW SECTION. Sec. 6.** A new section is added to chapter 28A.150 RCW to read as follows:

Subject to amounts appropriated for this specific purpose, school districts shall receive additional funding for students that are eligible for safety net awards under RCW 28A.150.392. Additional funds allocated under this section shall be the difference between:

(1) The base allocation as defined in RCW 28A.150.390(3)(a), multiplied by the excess cost multiplier under RCW 28A.150.390(2)(b); and

(2) The safety net eligibility threshold designated by the office of the superintendent of public instruction in the annual special education safety net application.

**NEW SECTION. Sec. 7.** A new section is added to chapter 28A.300 RCW to read as follows:

Subject to amounts appropriated for this specific purpose, the office of the superintendent of public instruction shall allocate an amount equal to five hundred dollars per annual average full-time equivalent student, as increased for inflation beginning in 2020,

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to school districts that meet the following criteria:

(1) An annual average full-time equivalent enrollment that is less than one thousand students;

(2) An annual average full-time equivalent enrollment that is greater than twenty thousand students, and a percentage of students eligible for free and reduced-price lunch that exceeds the statewide average percentage of students eligible for free and reduced-price lunch; or

(3) An annual average full-time equivalent enrollment that is greater than forty thousand students."

On page 9, beginning on line 20, after "assistance;" strike all material through "43.09.2856" on line 21 and insert "amending RCW 28A.320.330, 43.09.2856, and 28A.150.390; adding a new section to chapter 28A.150 RCW; and adding a new section to chapter 28A.300 RCW"

Senators Braun and Short spoke in favor of adoption of the amendment to the striking amendment.

Senator Wellman spoke against adoption of the amendment to the striking amendment.

Senator Short demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Braun on page 1, line 3 to striking amendment no. 670.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Braun and the amendment was not adopted by the following vote: Yeas, 20; Nays, 27; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Braun, Brown, Fortunato, Hawkins, Holy, Honeyford, King, O'Ban, Padden, Palumbo, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Ericksen, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, McCoy, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Excused: Senators Mullet and Sheldon.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Palumbo and without objection, amendment no. 769 by Senator Palumbo on page 1, line 5 to the striking amendment was withdrawn.

#### MOTION

Senator Palumbo moved that the following amendment no. 817 by Senator Palumbo be adopted:

On page 1, after line 21, insert the following:

"(c) Beginning in calendar year 2022, for state-tribal education compact schools established under chapter 28A.715 RCW, the annual local effort assistance funding is equal to the actual enrichment levy per student as calculated by the superintendent of public instruction for the previous year for the school district in which the state-tribal education compact school is located, up to a maximum per student amount of one thousand five hundred fifty dollars as increased by inflation from the 2019 calendar year, multiplied by the student enrollment of the state-tribal education

compact school in the prior school year.

(d) Beginning in calendar year 2022, for charter schools established under chapter 28A.710 RCW, the annual local effort assistance funding is equal to the actual enrichment levy per student as calculated by the superintendent of public instruction for the previous year for the school district in which the charter school is located, up to a maximum per student amount of one thousand five hundred fifty dollars as increased by inflation from the 2019 calendar year, multiplied by the student enrollment of the charter school in the prior school year. The legislature must appropriate annual local effort assistance funds for charter schools from the Washington opportunity pathways account in accordance with RCW 28A.710.270.

(e) For a school district that meets the criteria in this subsection and is located west of the Cascades in a county that borders another state, the annual local effort assistance funding is equal to the local effort assistance funding authorized under (b) of this subsection and additional local effort assistance funding equal to the following amounts:

(i) Two hundred forty-six dollars per pupil in the 2019-20 school year for a school district with more than twenty-five thousand annual full-time equivalent students; and

(ii) Two hundred eighty-six dollars per pupil in the 2019-20 school year for a school district with more than twenty thousand annual full-time equivalent enrolled students but fewer than twenty-five thousand annual full-time equivalent enrolled students."

On page 2, beginning on line 7, after "department of labor" strike all material through "agency" on line 12

On page 2, line 26, after "five hundred" insert "fifty"

On page 3, beginning on line 12, after "means" strike all material through "agency" on line 20 and insert ", for any school year, the rate of the yearly increase of the previous calendar year's annual average consumer price index for all urban consumers, Seattle area, using the official current base compiled by the bureau of labor statistics, United States department of labor"

On page 9, after line 18, insert the following:

**"Sec. 5.** RCW 28A.710.270 and 2016 c 241 s 127 are each amended to read as follows:

The state legislature shall, at each regular session in an odd-numbered year, appropriate from the Washington opportunity pathways account for the current use of charter public schools amounts as determined in accordance with RCW 28A.710.280, and amounts authorized under RCW 28A.710.230(1) and 28A.500.015(2)(d), for state support to charter schools during the ensuing biennium."

On page 9, line 21, after "28A.320.330," strike "and 43.09.2856" and insert "43.09.2856, and 28A.710.270"

Senators Palumbo, Wellman, Becker, Takko, Zeiger and Braun spoke in favor of adoption of the amendment to the striking amendment.

Senator Hasegawa spoke against adoption of the amendment to the striking amendment.

Senator Zeiger demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Palumbo on page 1, line 21 to striking amendment no. 760.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Palumbo and the amendment was adopted by the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Senators Bailey, Becker, Billig, Braun, Brown, Carlyle, Cleveland, Fortunato, Hawkins, Holy, Honeyford, Hunt, King, Kuderer, McCoy, O'Ban, Padden, Palumbo, Pedersen, Rivers, Rolfes, Salomon, Schoesler, Short, Takko, Wagoner, Walsh, Warnick, Wellman, Wilson, L. and Zeiger

Voting nay: Senators Conway, Darneille, Das, Dhingra, Ericksen, Frockt, Hasegawa, Hobbs, Keiser, Liias, Lovelett, Nguyen, Randall, Saldaña, Van De Wege and Wilson, C.

Excused: Senators Mullet and Sheldon.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Palumbo and without objection, amendment no. 820 by Senator Palumbo on page 1, line 21 to the striking amendment was withdrawn.

The President declared the question before the Senate to be the adoption of striking amendment no. 670 by Senator Wellman as amended to Substitute Senate Bill No. 5313.

The motion by Senator Wellman carried and striking amendment no. 670 as amended was adopted by voice vote.

#### MOTION

On motion of Senator Wellman, the rules were suspended, Engrossed Substitute Senate Bill No. 5313 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman and Rolfes spoke in favor of passage of the bill.

Senators Braun, Padden, Zeiger, Rivers, Ericksen, Short, Fortunato and Wagoner spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5313.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5313 and the bill passed the Senate by the following vote: Yeas, 25; Nays, 23; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, McCoy, Nguyen, Pedersen, Randall, Rolfes, Saldaña, Salomon, Takko, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Bailey, Becker, Braun, Brown, Ericksen, Fortunato, Hawkins, Hobbs, Holy, Honeyford, King, Mullet, O'Ban, Padden, Palumbo, Rivers, Schoesler, Short, Wagoner, Walsh, Warnick, Wilson, L. and Zeiger

Excused: Senator Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5313, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 10:48 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President for the purposes of receiving messages from the house later in the legislative day.

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#### MORNING SESSION

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The Senate was called to order at 6:03 a.m. by the Acting President Pro Tempore, Senator Randall presiding.

#### POINT OF INQUIRY

Senator Liias: "What is your preferred salutation?"

Senator Randall: "How do you pronounce 'm' 'x'? No. 'Madam President.'"

#### MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

#### MESSAGES FROM THE HOUSE

April 26, 2019

MR. PRESIDENT:  
The House has passed:

ENGROSSED SECOND SUBSTITUTE  
HOUSE BILL NO. 2158,  
and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

April 26, 2019

MR. PRESIDENT:  
The House has passed:

ENGROSSED SECOND SUBSTITUTE  
HOUSE BILL NO. 1873,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2140,  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2163,  
SUBSTITUTE HOUSE BILL NO. 2167,  
and the same are herewith transmitted.

NONA SNELL, Deputy Chief Clerk

April 26, 2019

MR. PRESIDENT:  
The House has passed:

HOUSE BILL NO. 1368,  
SUBSTITUTE HOUSE BILL NO. 2168,  
and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

#### MOTION

On motion of Senator Liias, the Senate advanced to the fifth order of business.

#### SECOND SUPPLEMENTAL AND FIRST READING

HB 1368 by Representatives Springer, Kretz, Riccelli, Orcutt, Goodman, Maycumber, Wylie, Dent, Steele and Doglio  
AN ACT Relating to reauthorizing the business and occupation tax deduction for cooperative finance organizations; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

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HB 1368 by Representatives Springer, Kretz, Riccelli, Orcutt, Goodman, Maycumber, Wylie, Dent, Steele and Doglio  
AN ACT Relating to reauthorizing the business and occupation tax deduction for cooperative finance organizations; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Ways & Means.

E2SHB 1873 by House Committee on Appropriations (originally sponsored by Pollet, Harris, Cody, Robinson, Tarleton, Frame, Bergquist, Ryu, Kilduff, Macri, Stonier, Dolan, Orwall, Doglio, Senn, Stanford, Appleton, Callan, Wylie, Peterson, Valdez, Walen, Leavitt, Kloba and Lovick)

AN ACT Relating to the taxation of vapor products as tobacco products; amending RCW 66.08.145, 66.44.010, 70.345.090, 70.345.160, 82.24.510, 82.24.550, 82.26.060, 82.26.080, 82.26.150, 82.26.220, 82.32.300, and 43.06.450; adding new sections to chapter 43.06 RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new chapter to Title 82 RCW; creating new sections; prescribing penalties; making an appropriation; and providing an effective date.

Referred to Committee on Ways & Means.

ESHB 2140 by House Committee on Appropriations (originally sponsored by Sullivan, Dolan and Thai)

AN ACT Relating to K-12 education funding; amending RCW 84.52.0531 and 28A.500.015; and providing an effective date.

Referred to Committee on Ways & Means.

E2SHB 2158 by House Committee on Appropriations (originally sponsored by Hansen, Tarleton, Ormsby, Sullivan, Robinson, Bergquist, Slatter, Pollet, Valdez, Sells, Tharinger, Ortiz-Self, Appleton, Dolan, Macri, Senn, Thai, Kloba, Goodman, Stanford and Orwall)

AN ACT Relating to creating a workforce education investment to train Washington students for Washington jobs; amending RCW 28B.92.030, 43.88C.010, 28B.10.790, 28B.12.030, 28B.92.040, 28B.92.065, 28B.15.065, 28B.15.740, 28B.15.760, 28B.15.762, 28B.15.820, 28B.116.010, 28A.180.120, 28B.76.502, 28B.76.525, 28B.76.526, 28B.76.540, 28B.76.699, 28B.77.020, 28B.117.020, 28B.118.090, 28B.133.010, 28B.133.020, 28C.18.166, 28C.18.060, 43.216.135, 28B.115.070, and 28B.15.621; reenacting and amending RCW 28B.108.010, 28B.118.010, 28B.145.005, 28B.145.010, 28B.145.020, 28B.145.030, 28B.145.040, and 28B.145.090; adding a new section to chapter 43.79 RCW; adding new sections to chapter 28B.92 RCW; adding a new section to chapter 28A.700 RCW; adding a new section to chapter 28B.145 RCW; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 28B RCW; adding a new chapter to Title 28C RCW; creating new sections; repealing RCW 28B.92.010,

28B.92.020, 28B.92.050, 28B.92.060, 28B.92.080, 28B.92.082, 28B.92.084, 28B.97.010, 28B.97.020, 28B.119.005, 28B.119.010, 28B.119.020, 28B.119.030, 28B.119.040, 28B.119.050, and 28B.119.900; making appropriations; providing an effective date; providing a contingent effective date; and providing expiration dates.

Referred to Committee on Ways & Means.

ESHB 2163 by House Committee on Appropriations (originally sponsored by Stokesbary)

AN ACT Relating to transferring extraordinary revenue growth from the budget stabilization account for K-12 education; creating new sections; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2167 by House Committee on Finance (originally sponsored by Tarleton)

AN ACT Relating to tax revenue; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Ways & Means.

SHB 2168 by House Committee on Finance (originally sponsored by Tarleton)

AN ACT Relating to tax preferences; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

SHB 2168 by House Committee on Finance (originally sponsored by Tarleton)

AN ACT Relating to tax preferences; adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Liias, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

MOTION

At 6:06 a.m., on motion of Senator Liias, the Senate adjourned until 2:00 o'clock p.m. Saturday, April 27, 2019.

CYRUS HABIB, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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