

**ONE HUNDRED FIRST DAY**

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MORNING SESSION

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Senate Chamber, Olympia  
 Wednesday, April 21, 2021

The Senate was called to order at 11:03 a.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Washington State Patrol Honor Guard presented the Colors.

Miss Maddie Wasser, Miss Hannah Wasser and Miss Lizzie Phillips led the Senate in the Pledge of Allegiance. The Wassers are the daughters of Aaron Wasser, Communications Director for the Senate Democratic Caucus.

The prayer was offered by Reverend Albert Gillin of the Walla Walla Presbyterian Church. Reverend Gillen is a guest of Senator Dozier.

MOTIONS

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

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

MESSAGES FROM THE HOUSE

April 20, 2021

MR. PRESIDENT:

The Speaker has signed:

- SECOND SUBSTITUTE SENATE BILL NO. 5000,
- SUBSTITUTE SENATE BILL NO. 5003,
- SUBSTITUTE SENATE BILL NO. 5011,
- SENATE BILL NO. 5027,
- SUBSTITUTE SENATE BILL NO. 5030,
- SENATE BILL NO. 5031,
- SENATE BILL NO. 5032,
- SUBSTITUTE SENATE BILL NO. 5034,
- SENATE BILL NO. 5063,
- SUBSTITUTE SENATE BILL NO. 5080,
- SENATE BILL NO. 5145,
- SENATE BILL NO. 5146,
- ENGROSSED SENATE BILL NO. 5158,
- SENATE BILL NO. 5159,
- SENATE BILL NO. 5225,
- SUBSTITUTE SENATE BILL NO. 5230,
- SUBSTITUTE SENATE BILL NO. 5258,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5259,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5287,

SENATE BILL NO. 5345,

SENATE BILL NO. 5367,

SUBSTITUTE SENATE BILL NO. 5403,

ENGROSSED SUBSTITUTE SENATE BILL NO. 5452,

ENGROSSED SENATE BILL NO. 5454,

SUBSTITUTE SENATE BILL NO. 5460,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

April 20, 2021

MR. PRESIDENT:

The Speaker has signed:

- SECOND SUBSTITUTE HOUSE BILL NO. 1044,
- SECOND SUBSTITUTE HOUSE BILL NO. 1127,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1139,

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1140,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1152,

SUBSTITUTE HOUSE BILL NO. 1155,

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1176,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1186,

SUBSTITUTE HOUSE BILL NO. 1193,

- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1194,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1196,

- SECOND SUBSTITUTE HOUSE BILL NO. 1219,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1220,

SUBSTITUTE HOUSE BILL NO. 1223,

- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1227,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1267,

- SUBSTITUTE HOUSE BILL NO. 1269,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1273,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1287,

- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1295,

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1297,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1320,

- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1335,

HOUSE BILL NO. 1399,

SUBSTITUTE HOUSE BILL NO. 1416,

SUBSTITUTE HOUSE BILL NO. 1425,

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1443,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1457,
- SUBSTITUTE HOUSE BILL NO. 1484,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1504,

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1512,

SUBSTITUTE HOUSE BILL NO. 1532,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTIONS

On motion of Senator Liias, the Senate advanced to the eighth order of business.

Senator Liias moved adoption of the following resolution:

SENATE RESOLUTION

8626

By Senators Liias and Honeyford

WHEREAS, Senator Paull Shin lived a profoundly impactful and extraordinary life dedicated to serving the people of

Washington State; and

WHEREAS, Senator Shin embodied the American dream through his lifetime of kindness, leadership, and service which inspired countless others; and

WHEREAS, Senator Shin courageously conquered vast obstacles, which allowed his passion for service to spring from a vision to a reality; and

WHEREAS, Paull Shin was born September 27, 1935, in Kumchon, Korea where he lived on the war-torn streets as an orphan child, begging for food; and

WHEREAS, Paull Shin was adopted by an American GI, Dr. Ray Paull, and given the opportunity to live an American life; and

WHEREAS, Though he had not been taught how to read and write as a child, Paull Shin made up for his lack of childhood schooling and swiftly educated himself in his teenage years, becoming literate in both English and Korean; and

WHEREAS, Paull Shin met the love of his life, Donna, at Brigham Young University and will be remembered as a devoted husband, father, and grandfather; and

WHEREAS, Paull Shin earned a B.A. from Brigham Young University, a M.A. from the University of Pittsburgh, and a Ph.D. from the University of Washington; and

WHEREAS, Paull Shin became a professor in Washington's higher education system, where he inspired generations of students through his teachings in East Asian Studies; and

WHEREAS, Paull Shin was elected to the House of Representatives in 1992 and then elected to the Senate in 1998, nobly serving the people of Washington and the 21st District as the first Korean American elected to the Washington State Legislature; and

WHEREAS, While striving to be active in Washington's community, Senator Shin spent much of his time building relationships with his colleagues in the Senate and with his constituents; and

WHEREAS, Senator Shin was deeply loved and respected by all members of the legislature, regardless of political party; and

WHEREAS, While Senator Shin did not speak on the floor often, when he did, everyone, whether they were Senators, staff, lobbyists, or members of the public, would stop to listen to every word he said, proof of the great amount of respect everyone in Washington had for him; and

WHEREAS, Senator Shin had a deep love for those who were also adopted, like him, and spent much of his time working with and supporting them; and

WHEREAS, Senator Shin's life story informed his deep dedication to expanding educational opportunities, and protecting and supporting our most vulnerable residents; and

WHEREAS, Senator Shin represented Washington ably on numerous trade missions abroad, building relationships with foreign leaders and promoting Washington products and companies; and

WHEREAS, Senator Shin, who was also a veteran himself, never forgot about the sacrifices our men and women of the armed forces have made and was the original prime sponsor of the policy that expanded access to higher education to nonresident service members; and

WHEREAS, Senator Shin was a champion for Washington State's Asian-American community, passing legislation to erase derogatory and outdated language regarding Asian Americans from state statutes, codes, regulations, and other official documents which started the conversation nation-wide; and

WHEREAS, Senator Shin recognized the relationship between business and education, passing legislation to develop customized workforce training, believing that the growth of new businesses was being limited by an unmet need for customized training; and

WHEREAS, Senator Shin had an affinity for doing push-ups

and would challenge interns and legislative staff to do more than him even though no one could ever beat him; and

WHEREAS, Senator Shin's affinity for push-ups was so strong that he challenged everyone at his 50th wedding anniversary to do more push-ups than him even though no one stood a chance; and

WHEREAS, Senator Shin's life embodied the word "sarang" which means love in Korean; and

WHEREAS, Senator Shin's dignity, service, and compassion provided admirable examples for others to emulate;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate mourn the loss of the Honorable Paull Shin, former State Senator of the 21st legislative district and Vice President Pro Tempore; and

BE IT FURTHER RESOLVED, That the Washington State Senate recognize and honor the life and work of Senator Paull Shin for his lifetime of contributions to the people and state of Washington; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the family members of Senator Paull Shin.

Senators Liias, Sheldon, Honeyford, Wellman, Keiser, Rivers, Conway, Braun, Hasegawa, Brown, Padden, Darneille, King, Carlyle and Warnick spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8626.

The motion by Senator Liias carried and the resolution was adopted by voice vote.

#### MOTIONS

Senator Liias moved that all members names be added to Senate Resolution No. 8626.

At 11:46 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Rivers announced a meeting of the Republican Caucus.

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#### AFTERNOON SESSION

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The Senate was called to order at 1:05 p.m. by President Heck

#### MOTION

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

#### MESSAGE FROM THE HOUSE

April 20, 2021

MR. PRESIDENT:

The House grants the request for a conference on ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5237. The Speaker has appointed the following members as Conferees: Representatives Senn, Bergquist, Dent and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MESSAGE FROM THE HOUSE

April 7, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5051 with the following amendment(s):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.101.010 and 2020 c 119 s 2 are each amended to read as follows:

When used in this chapter:

(1) ~~((The term "commission"))~~ "Applicant" means an individual who has received a conditional offer of employment with a law enforcement or corrections agency.

(2) "Commission" means the Washington state criminal justice training commission.

~~((2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.)~~

(3) ~~((The term "criminal"))~~ "Criminal justice personnel" means any person who serves ((in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law)) as a peace officer, reserve officer, or corrections officer.

(4) ~~((The term "law"))~~ "Law enforcement personnel" means any ((public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made)) person elected, appointed, or employed as a general authority Washington peace officer as defined in RCW 10.93.020.

(5) ~~((The term "correctional"))~~ "Correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

(6) "Chief for a day program" means a program in which commissioners and staff partner with local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, "chief for a day," occurs on one day, annually or every other year and may occur on the grounds and in the facilities of the commission. The program may include any appropriate honoring of the child as a "chief," such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts such as games, puzzles, and art supplies.

(7) ~~((A peace officer or corrections officer is "convicted"))~~ "Convicted" means at the time a plea of guilty, nolo contendere, or deferred sentence has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals. "Conviction" includes ((a deferral of sentence)) all instances in which a plea of guilty or nolo contendere is the basis for conviction, all proceedings in which there is a case disposition agreement, and ((also includes the)) any equivalent disposition by a court in a jurisdiction other than the state of Washington.

(8) ~~((a) "Discharged for disqualifying misconduct" has the following meanings:~~

~~(i) A peace officer terminated from employment for: (A) Conviction of (I) any crime committed under color of authority as~~

~~a peace officer, (II) any crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a), (III) the unlawful use or possession of a controlled substance, or (IV) any other crime the conviction of which disqualifies a Washington citizen from the legal right to possess a firearm under state or federal law; (B) conduct that would constitute any of the crimes addressed in (a)(i)(A) of this subsection; or (C) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination; or~~

~~(ii) A corrections officer terminated from employment for: (A) Conviction of (I) any crime committed under color of authority as a corrections officer, (II) any crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a), or (III) the unlawful use or possession of a controlled substance; (B) conduct that would constitute any of the crimes addressed in (a)(ii)(A) of this subsection; or (C) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination.~~

~~(b) A peace officer or corrections officer is "discharged for disqualifying misconduct" within the meaning of this subsection (8) under the ordinary meaning of the term and when the totality of the circumstances support a finding that the officer resigned in anticipation of discipline, whether or not the misconduct was discovered at the time of resignation, and when such discipline, if carried forward, would more likely than not have led to discharge for disqualifying misconduct within the meaning of this subsection (8).~~

~~(9) When used in context of proceedings referred to in this chapter, "final" means that the peace officer or corrections officer has exhausted all available civil service appeals, collective bargaining remedies, and all other such direct administrative appeals, and the officer has not been reinstated as the result of the action. Finality is not affected by the pendency or availability of state or federal administrative or court actions for discrimination, or by the pendency or availability of any remedies other than direct civil service and collective bargaining remedies.~~

~~(10)) "Peace officer" ((means any law enforcement personnel subject to the basic law enforcement training requirement of RCW 43.101.200 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.200)) has the same meaning as a general authority Washington peace officer as defined in RCW 10.93.020. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter.~~

~~((11)) (9) "Corrections officer" means any corrections agency employee whose primary job function is to provide for the custody, safety, and security of adult ((prisoners)) persons in jails and detention facilities ((and who is subject to the basic corrections training requirement of RCW 43.101.220 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.220. For the purpose of RCW 43.101.080, 43.101.096, 43.101.106, 43.101.116, 43.101.121, 43.101.126, 43.101.136, 43.101.146, 43.101.156, 43.101.380, and 43.101.400, "corrections)) in the state. "Corrections officer" does not include individuals employed by state agencies.~~

(10) "Finding" means a determination based on a

preponderance of the evidence whether alleged misconduct occurred; did not occur; occurred, but was consistent with law and policy; or could neither be proven or disproven.

(11) "Reserve officer" means any person who does not serve as a peace officer of this state on a full-time basis, but who, when called by an agency into active service, is fully commissioned on the same basis as full-time officers to enforce the criminal laws of this state and includes:

(a) Specially commissioned Washington peace officers as defined in RCW 10.93.020;

(b) Limited authority Washington peace officers as defined in RCW 10.93.020;

(c) Persons employed as security by public institutions of higher education as defined in RCW 28B.10.016; and

(d) Persons employed for the purpose of providing security in the K-12 Washington state public school system as defined in RCW 28A.150.010 and who are authorized to use force in fulfilling their responsibilities.

(12) "Tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government.

**Sec. 2.** RCW 43.101.020 and 1974 ex.s. c 94 s 2 are each amended to read as follows:

(1) There is hereby created and established a state commission to be known and designated as the Washington state criminal justice training commission.

(2) The purpose of ~~((such))~~ the commission shall be to ~~((provide programs and standards for the training of criminal justice personnel))~~ establish and administer standards and processes for certification, suspension, and decertification of peace officers and corrections officers. The commission shall provide programs and training that enhance the integrity, effectiveness, and professionalism of peace officers and corrections officers while helping to ensure that law enforcement and correctional services are delivered to the people of Washington in a manner that fully complies with the Constitutions and laws of this state and United States. In carrying out its duties, the commission shall strive to promote public trust and confidence in every aspect of the criminal justice system.

**Sec. 3.** RCW 43.101.030 and 2020 c 44 s 1 are each amended to read as follows:

The commission shall consist of ~~((sixteen))~~ 21 members ~~((, who shall be selected))~~ as follows:

(1) The governor shall appoint ~~((two))~~;

(a) One incumbent sheriff ~~((s))~~ and ~~((two))~~ one incumbent chief ~~((s))~~ of police.

~~((2) The governor shall appoint one officer.)~~ The governor shall additionally appoint an alternate incumbent chief of police who may perform commission duties in place of the appointed incumbent chief if that person is unavailable;

(b) Two officers at or below the level of first line supervisor who:

(i) Have at least ten years' experience as law enforcement officers;

(ii) Are from ~~((a county))~~ two different law enforcement ~~((agency and one officer at or below the level of first line supervisor from a municipal law enforcement agency. Each appointee under this subsection (2) shall have at least ten years experience as a law enforcement officer.~~

(3) The governor shall appoint one) agencies that each have at least 15 officers and are different than the agencies with which the members in (a) of this subsection are affiliated; and

(iii) Are affiliated with different labor organizations;

(c) One tribal police officer at or below the level of first line supervisor who has at least 10 years' experience as a law enforcement officer;

~~(d) One person employed ~~((in a county correctional system and one person employed in the state correctional system.~~~~

~~(4) The governor shall appoint one))~~ in a state or county corrections agency;

(e) One incumbent county prosecuting attorney or municipal attorney ~~((~~

~~(5) The governor shall appoint one))~~ and one public defender;

(f) One licensed attorney with background in investigating, advocating, teaching, training, or presiding over matters related to enhancing law enforcement practices and accountability, who has not been employed in law enforcement;

(g) One elected official of a local government ~~((~~

~~(6) The governor shall appoint two private citizens))~~ who is not a sheriff or police chief and has not been employed in the last 10 years as a peace officer or prosecutor in any jurisdiction;

(h) One person with civilian oversight or auditing experience over law enforcement agencies;

(i) Seven community members who are not employed in law enforcement, ~~((one from))~~ including at least two who reside east of the crest of the Cascade mountains and ~~((one from west of the crest of the Cascade mountains. At))~~ at least ~~((one of the private citizens must be))~~ three who are from a historically underrepresented community or communities ~~((~~

~~(7) The governor shall appoint one));~~ and

(j) One tribal chair, board member, councilmember, or ~~((designee))~~ enrolled member from a federally recognized tribe with an active certification agreement under RCW 43.101.157 ~~((~~

~~(8) The three remaining members shall be:~~

~~(a))~~ who is not a sheriff and has not been employed in the last 10 years as a peace officer or prosecutor in any jurisdiction;

(2) The attorney general or the attorney general's designee;

~~((b) The special agent in charge of the Seattle office of the federal bureau of investigation; and~~

~~(e))~~ (3) The chief of the state patrol or the chief's designee.

**Sec. 4.** RCW 43.101.040 and 2009 c 549 s 5167 are each amended to read as follows:

All members appointed to the commission by the governor shall be appointed for terms of six years, such terms to commence on July first, and expire on June thirtieth ~~((PROVIDED, That of the)).~~ However, for members first appointed ~~((three shall be appointed for two year terms, three shall be appointed for four year terms, and three shall be appointed for six year terms: PROVIDED, FURTHER, That the terms of the two members appointed as incumbent police chiefs shall not expire in the same year nor shall the terms of the two members appointed as representing correctional systems expire in the same year nor shall the terms of the two members appointed as incumbent sheriffs expire in the same year))~~ as a result of chapter . . . Laws of 2021 (this act), the governor shall appoint members to terms ranging from two years to six years in order to stagger future appointments. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member ~~((he or she))~~ the appointee is to succeed. Any member may be reappointed for additional terms.

**Sec. 5.** RCW 43.101.060 and 1999 c 97 s 2 are each amended to read as follows:

The commission shall elect a chair and a vice chair from among its members. ~~((Seven))~~ Nine members of the commission shall constitute a quorum. ~~((The governor shall summon the commission to its first meeting.~~

Meetings)) The commission shall meet at least quarterly. Additional meetings may be called by the chair and shall be called by ~~((him or her))~~ the chair upon the written request of six members.

**Sec. 6.** RCW 43.101.080 and 2020 c 119 s 13 are each amended to read as follows:

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The commission shall have all of the following powers:

~~(1) (To meet at such times and places as it may deem proper;~~  
~~(2) To adopt any rules and regulations as it may deem necessary;~~

~~(3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;~~

~~(4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;~~

~~(5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;~~

~~(6) To select and employ an executive director, and to empower him or her to perform such duties and responsibilities as it may deem necessary;~~

~~(7) To~~) Conduct training, including the basic law enforcement academy and in-service training, and assume legal, fiscal, and program responsibility for all training conducted by the commission;

~~((8) To establish))~~ (2) Grant, deny, suspend, or revoke certification of, or require remedial training for, peace officers and corrections officers under the provisions of this chapter;

(3) Grant, deny, suspend, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process;

(4) Related to its duties under subsections (2) and (3) of this section, provide for the comprehensive and timely investigation of complaints where necessary to ensure adherence to law and agency policy, strengthen the integrity and accountability of peace officers and corrections officers, and maintain public trust and confidence in the criminal justice system in this state;

(5) Establish, by rule and regulation, curricula and standards for the training of criminal justice personnel where such curricula and standards are not prescribed by statute;

~~((9) To own))~~ (6) Own, establish, and operate, or ((to)) contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel ((and to purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities necessary to the conducting of such programs;

~~(10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;~~

~~(11) To review));~~

(7) Review and approve or reject standards for instructors of training programs for criminal justice personnel, and ((to)) employ personnel from law enforcement agencies on a temporary basis as instructors without any loss of employee benefits to those instructors from those agencies;

~~((12) To direct))~~ (8) Direct the development of alternative, innovative, and interdisciplinary training techniques;

~~((13) To review))~~ (9) Review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards ~~((recommended by the training standards and education boards)),~~ including continuing education;

~~((14) To allocate))~~ (10) Allocate financial resources among training and education programs conducted by the commission;

~~((15) To))~~ (11) Purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities and allocate training facility space among training and education programs conducted by the commission;

~~((16) To issue))~~ (12) Issue diplomas certifying satisfactory completion of any training or education program conducted or

approved by the commission to any person so completing such a program;

~~((17) To provide))~~ (13) Provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

~~((18) To establish))~~ (14) Establish rules and regulations ~~((recommended by the training standards and education boards))~~ prescribing minimum standards relating to physical, mental, and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;

~~((19) To require))~~ (15) Require county, city, port, or state law enforcement and corrections agencies that make a conditional offer of employment to an applicant as a fully commissioned peace officer, a reserve officer, or a corrections officer to administer a background investigation ~~((including a check of criminal history, verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident, a psychological examination, and a polygraph test or similar assessment to each applicant, the results of which shall be used by the employer to determine the applicant's suitability for employment as a fully commissioned peace officer, a reserve officer, or a corrections officer. The background investigation, psychological examination, and the polygraph examination shall be administered in accordance with the requirements of RCW 43.101.095(2) for peace officers, and RCW 43.101.096 for corrections officers. The employing county, city, or state law enforcement agency may require that each peace officer, reserve officer, or corrections officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer, reserve officer, or corrections officer does not readily have the means to pay for his or her portion of the testing fee. This subsection does not apply to corrections officers employed by state agencies;~~

~~(20) To promote))~~ in accordance with the requirements of RCW 43.101.095 to determine the applicant's suitability for employment as a fully commissioned peace officer, reserve officer, or corrections officer;

(16) Appoint members of a hearings panel as provided under RCW 43.101.380;

(17) Issue public recommendations to the governing body of a law enforcement agency regarding the agency's command decisions, inadequacy of policy or training, investigations or disciplinary decisions regarding misconduct, potential systemic violations of law or policy, unconstitutional policing, or other matters;

(18) Promote positive relationships between law enforcement and the ~~((citizens))~~ residents of the state of Washington ~~((by allowing))~~ through commissioners and staff ~~((to participate))~~ participation in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC(~~(-~~

~~Alt));~~

(19) Adopt, amend, repeal, and administer rules and regulations ~~((adopted by the commission shall be adopted and administered))~~ pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.

**Sec. 7.** RCW 43.101.085 and 2020 c 119 s 1 are each amended to read as follows:

In addition to its other powers granted under this chapter, the commission has authority and power to:

~~(1) ((Adopt, amend, or repeal rules as necessary to carry out this chapter;~~

~~(2)) Contract for services as it deems necessary in order to carry out its duties and responsibilities;~~

~~(2) Cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;~~

~~(3) Select and employ an executive director, and empower the director to perform such duties and responsibilities as the commission may deem necessary;~~

~~(4) Issue subpoenas and statements of charges, and administer oaths in connection with investigations, hearings, or other proceedings held under this chapter, or designate individuals to do so;~~

~~((3)) (5) Employ such staff as necessary for the implementation and enforcement of this chapter;~~

~~(6) Take or cause to be taken depositions and other discovery procedures as needed in investigations, hearings, and other proceedings held under this chapter;~~

~~((4) Appoint members of a hearings board as provided under RCW 43.101.380;~~

~~(5)) (7) Enter into contracts for professional services determined by the commission to be necessary for adequate enforcement of this chapter;~~

~~((6) Grant, deny, or revoke certification of peace officers and corrections officers under the provisions of this chapter;~~

~~(7) Designate individuals authorized to sign subpoenas and statements of charges under the provisions of this chapter;~~

~~(8) Employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter; and~~

~~(9) Grant, deny, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process)) and~~

~~(8) Exercise lawful actions necessary to enable the commission to fully and adequately perform its duties and to exercise the lawful powers granted to the commission.~~

**Sec. 8.** RCW 43.101.095 and 2018 c 32 s 5 are each amended to read as follows:

(1) As a condition of ~~((continuing))~~ employment ~~((as peace officers)),~~ all Washington peace officers~~((:-(a) Shall timely obtain certification as peace officers, or timely obtain certification or exemption therefrom, by meeting all requirements of RCW 43.101.200, as that section is administered under the rules of the commission, as well by meeting any additional requirements under this chapter; and (b) shall maintain the basic certification as peace officers under this chapter)) and corrections officers are required to obtain certification as a peace officer or corrections officer or exemption therefrom and maintain certification as required by this chapter and the rules of the commission.~~

~~(2)(a) ((As a condition of continuing employment for any))~~ Any applicant who has been offered a conditional offer of employment as a ~~((fully commissioned))~~ peace officer or ~~((a))~~ reserve officer ~~((after July 24, 2005))~~ or offered a conditional offer of employment as a corrections officer after July 1, 2021, including any person whose certification has lapsed as a result of a break of more than ~~((twenty-four))~~ 24 consecutive months in the officer's service ~~((as a fully commissioned peace officer or reserve officer, the applicant shall))~~ for a reason other than being recalled to military service, must submit to a background investigation ((including a)) to determine the applicant's suitability for employment. Employing agencies may only make

a conditional offer of employment pending completion of the background check and shall verify in writing to the commission that they have complied with all background check requirements prior to making any nonconditional offer of employment.

(b) The background check must include:

(i) A check of criminal history, ~~((verification))~~ any national decertification index, commission records, and all disciplinary records by any previous law enforcement or correctional employer, including complaints or investigations of misconduct and the reason for separation from employment. Law enforcement or correctional agencies that previously employed the applicant shall disclose employment information within 30 days of receiving a written request from the employing agency conducting the background investigation, including the reason for the officer's separation from the agency. Complaints or investigations of misconduct must be disclosed regardless of the result of the investigation or whether the complaint was unfounded;

(ii) Inquiry to the local prosecuting authority in any jurisdiction in which the applicant has served as to whether the applicant is on any potential impeachment disclosure list;

(iii) Inquiry into whether the applicant has any past or present affiliations with extremist organizations, as defined by the commission;

(iv) A review of the applicant's social media accounts;

(v) Verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident~~((a))~~;

(vi) A psychological examination~~((and a))~~ administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission;

(vii) A polygraph or similar assessment ~~((as))~~ administered by ~~((the county, city, or state law enforcement agency, the results of which shall be used to determine the applicant's suitability for employment as a fully commissioned peace officer or a reserve officer.~~

~~(i) The background investigation including a check of criminal history shall be administered by the county, city, or state law enforcement agency that made the conditional offer of employment in compliance with standards established in the rules of the commission.~~

~~(ii) The psychological examination shall be administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission.~~

~~(iii) The polygraph test shall be administered by an experienced polygrapher who is a graduate of a polygraph school accredited by the American polygraph association and in compliance with standards established in rules of the commission.~~

~~(iv)) an experienced professional with appropriate training and in compliance with standards established in rules of the commission; and~~

~~(viii) ((Any other))~~ Except as otherwise provided in this section, any test or assessment to be administered as part of the background investigation shall be administered in compliance with standards established in rules of the commission.

~~((b)) (c) The commission may establish standards for the background check requirements in this section and any other preemployment background check requirement that may be imposed by an employing agency or the commission.~~

(d) The employing ~~((county, city, or state))~~ law enforcement agency may require that each ~~((peace officer or reserve officer))~~ person who is required to take a psychological examination and a

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polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or ~~((four hundred dollars))~~ \$400, whichever is less. ~~((County, city, and state law enforcement))~~ Employing agencies may establish a payment plan if they determine that the ~~((peace officer or reserve officer))~~ person does not readily have the means to pay ~~((for his or her portion of))~~ the testing fee.

~~((The commission shall certify peace officers who have satisfied, or have been exempted by statute or by rule from, the basic training requirements of RCW 43.101.200 on or before January 1, 2002. Thereafter, the commission may revoke certification pursuant to this chapter.~~

~~((4))~~ The commission shall allow a peace officer or corrections officer to retain status as a certified peace officer or corrections officer as long as the officer: (a) Timely meets the basic ((law enforcement)) training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (b) timely meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification suspended or revoked by the commission.

~~((5))~~ (4) As a ((prerequisite to)) condition of certification, ((as well as a prerequisite to pursuit of a hearing under RCW 43.101.155,)) a peace officer or corrections officer must, on a form devised or adopted by the commission, authorize the release to the employing agency and commission of ((his or her)) the officer's personnel files, including disciplinary, termination ((papers)), civil or criminal investigation ((files)), or other ((files, papers,)) records or information that are directly related to a certification matter or decertification matter before the commission. The peace officer or corrections officer must also consent to and facilitate a review of the officer's social media accounts, however, consistent with RCW 49.44.200, the officer is not required to provide login information. The release of information may not be delayed, limited, or precluded by any agreement or contract between the officer, or the officer's union, and the entity responsible for the records or information.

~~((6))~~ (5) The employing agency and commission ((is)) are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with employment ((by the commission)) or ((peace officer)) certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

~~((7))~~ (6) For a national criminal history records check, the commission shall require fingerprints be submitted and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

(7) Prior to certification, the employing agency shall certify to the commission that the agency has completed the background check, no information has been found that would disqualify the applicant from certification, and the applicant is suitable for employment as a peace officer or corrections officer.

**Sec. 9.** RCW 43.101.105 and 2011 c 234 s 3 are each amended to read as follows:

(1) ~~((Upon))~~ To help prevent misconduct, enhance peace officer and corrections officer accountability through the imposition of sanctions commensurate to the wrongdoing when misconduct occurs, and enhance public trust and confidence in the criminal justice system, upon request by ((a peace)) an officer's employer or on its own initiative, the commission may deny, suspend, or revoke certification of ((any peace)), or require remedial training for, an officer ~~((, after))~~ as provided in this

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section. The commission shall provide the officer with written notice and a hearing, if a hearing is timely requested by the ((peace)) officer under RCW 43.101.155 ~~((, based upon a finding of one or more of the following conditions:~~

(a) ~~The peace officer has failed to timely meet all requirements for obtaining a certificate of basic law enforcement training, a certificate of basic law enforcement training equivalency, or a certificate of exemption from the training;~~

(b) ~~The peace officer has knowingly falsified or omitted material information on an application for training or certification to the commission;~~

(c) ~~The peace officer has been convicted at any time of a felony offense under the laws of this state or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this state; except that if a certified peace officer was convicted of a felony before being employed as a peace officer, and the circumstances of the prior felony conviction were fully disclosed to his or her employer before being hired, the commission may revoke certification only with the agreement of the employing law enforcement agency;~~

(d) ~~The peace officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis for the discharge proceedings occurred on or after January 1, 2002;~~

(e) ~~The peace officer's certificate was previously issued by administrative error on the part of the commission; or~~

(f) ~~The peace officer has interfered with an investigation or action for denial or revocation of certificate by: (i) Knowingly making a materially false statement to the commission; or (ii) in any matter under investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness). Notice and hearing are not required when a peace officer voluntarily surrenders certification.~~

(2) ~~((After July 24, 2005, the))~~ The commission must deny or revoke the certification of an applicant or officer if the applicant or officer:

(a)(i) Has been convicted of:

(A) A felony offense;

(B) A gross misdemeanor domestic violence offense;

(C) An offense with sexual motivation as defined in RCW 9.94A.030;

(D) An offense under chapter 9A.44 RCW; or

(E) A federal or out-of-state offense comparable to an offense listed in (a)(i)(A) through (D) of this subsection (2); and

(ii)(A) The offense was not disclosed at the time of application for initial certification; or

(B) The officer was a certified peace officer or corrections officer at the time of the offense; and

(iii) The offense is not one for which the officer was granted a full and unconditional pardon; and

(iv) The offense was not adjudicated as a juvenile and the record sealed;

(b) Has been terminated by the employing agency or otherwise separated from the employing agency after engaging in, or was found by a court to have engaged in, the use of force which resulted in death or serious injury and the use of force violated the law;

(c) Has been terminated by the employing agency or otherwise separated from the employing agency after witnessing, or found by a court to have witnessed, another officer's use of excessive force and:

(i) Was in a position to intervene to end the excessive use of force and failed to do so; or

(ii) Failed to report the use of excessive force in accordance with agency policy or law;

(d) Has been terminated by the employing agency or otherwise separated from the employing agency after knowingly making, or found by a court to have knowingly made, misleading, deceptive, untrue, or fraudulent representations in the practice of being a peace officer or corrections officer including, but not limited to, committing perjury, filing false reports, hiding evidence, or failing to report exonerating information. This subsection (2)(d) does not apply to representations made in the course and for the purposes of an undercover investigation or other lawful law enforcement purpose; or

(e) Is prohibited from possessing weapons by state or federal law or by a permanent court order entered after a hearing.

(3) The commission may deny, suspend, or revoke certification or require remedial training of an applicant or officer if the applicant or officer:

(a) Failed to timely meet all requirements for obtaining a certificate of basic law enforcement or corrections training, a certificate of basic law enforcement or corrections training equivalency, or a certificate of exemption from the training;

(b) Was previously issued a certificate through administrative error on the part of the commission;

(c) Knowingly falsified or omitted material information on an application to the employer or for training or certification to the commission;

(d) Interfered with an investigation or action for denial or revocation of certification by:

(i) Knowingly making a materially false statement to the commission;

(ii) Failing to timely and accurately report information to the commission as required by law or policy; or

(iii) In any matter under review or investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness;

(e) Engaged in a use of force that could reasonably be expected to cause physical injury, and the use of force violated the law or policy of the officer's employer;

(f) Committed sexual harassment as defined by state law;

(g) Through fraud or misrepresentation, has used the position of peace officer or corrections officer for personal gain;

(h) Engaged in conduct including, but not limited to, verbal statements, writings, online posts, recordings, and gestures, involving prejudice or discrimination against a person on the basis of race, religion, creed, color, national origin, immigration status, disability, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status;

(i) Has affiliation with one or more extremist organizations;

(j) Whether occurring on or off duty, has:

(i) Been found to have committed a felony, without regard to conviction;

(ii) Engaged in a pattern of acts showing an intentional or reckless disregard for the rights of others, including but not limited to violation of an individual's constitutional rights under the state or federal constitution or a violation of RCW 10.93.160;

(iii) Engaged in unsafe practices involving firearms, weapons, or vehicles which indicate either a willful or wanton disregard for the safety of persons or property; or

(iv) Engaged in any conduct or pattern of conduct that: Fails to meet the ethical and professional standards required of a peace officer or corrections officer; disrupts, diminishes, or otherwise jeopardizes public trust or confidence in the law enforcement profession and correctional system; or demonstrates an inability or unwillingness to uphold the officer's sworn oath to enforce the constitution and laws of the United States and the state of Washington;

(k) Has been suspended or discharged, has resigned or retired

in lieu of discharge, or has separated from the agency after the alleged misconduct occurred, for any conduct listed in this section; or

(l) Has voluntarily surrendered the person's certification as a peace officer or corrections officer.

(4) In addition to the penalties set forth in subsection (3) of this section, the commission may require mandatory retraining or placement on probation for up to two years, or both. In determining the appropriate penalty or sanction, the commission shall consider: The findings and conclusions, and the basis for the findings and conclusions, of any due process hearing or disciplinary appeals hearing following an investigation by a law enforcement agency regarding the alleged misconduct, if such hearing has occurred prior to the commission's action; any sanctions or training ordered by the employing agency regarding the alleged misconduct; and whether the employing agency bears any responsibility for the situation.

(5) The commission shall deny certification to any applicant who ~~((has))~~ lost ~~((his or her))~~ certification as a result of a break in service of more than ~~((twenty-four))~~ 24 consecutive months if that applicant failed to comply with the requirements set forth in RCW 43.101.080~~((49))~~ (15) and 43.101.095(2).

(6) The fact that the commission has suspended an officer's certification is not, in and of itself, a bar to the employing agency's maintenance of the officer's health and retirement benefits.

(7) Any suspension or period of probation imposed by the commission shall run concurrently to any leave or discipline imposed by the employing agency for the same incident.

(8) A law enforcement agency may not terminate a peace officer based solely on imposition of suspension or probation by the commission. This subsection does not prohibit a law enforcement agency from terminating a peace officer based on the underlying acts or omissions for which the commission took such action.

(9) Any of the misconduct listed in subsections (2) and (3) of this section is grounds for denial, suspension, or revocation of certification of a reserve officer to the same extent as applied to a peace officer, if the reserve officer is certified pursuant to RCW 43.101.095.

**Sec. 10.** RCW 43.101.115 and 2001 c 167 s 4 are each amended to read as follows:

(1) A person denied a certification based upon dismissal or withdrawal from a basic law enforcement academy ~~((for any reason not also involving discharge for disqualifying misconduct))~~ or basic corrections academy under RCW 43.101.105(3)(a) is eligible for readmission and certification upon meeting standards established in rules of the commission, which rules may provide for probationary terms on readmission.

(2) A person whose certification is denied or revoked based upon prior administrative error of issuance, failure to cooperate, or interference with an investigation is eligible for certification upon meeting standards established in rules of the commission, ~~((rules which may))~~ which rules shall provide for a probationary period of certification in the event of reinstatement of eligibility.

(3) A person whose certification is mandatorily denied or revoked ~~((based upon a felony criminal conviction))~~ pursuant to RCW 43.101.105(2) is not eligible for certification at any time.

(4) A ~~((peace officer))~~ person whose certification is denied or revoked ~~((based upon discharge for disqualifying misconduct, but not also based upon a felony criminal conviction))~~ for reasons other than provided in subsections (1) through (3) of this section may, five years after the revocation or denial, petition the commission for reinstatement of the certificate or for eligibility for reinstatement. The commission ~~((shall))~~ may hold a hearing on the petition to consider reinstatement, and the commission may allow reinstatement based upon standards established in rules of



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the commission. If the certificate is reinstated or eligibility for certification is determined, the commission ~~((may))~~ shall establish a probationary period of certification.

(5) A ~~((peace officer))~~ person whose certification is revoked based solely upon a criminal conviction may petition the commission for reinstatement immediately upon a final judicial reversal of the conviction. The commission shall hold a hearing on request to consider reinstatement, and the commission may allow reinstatement based on standards established in rules of the commission. If the certificate is reinstated or if eligibility for certification is determined, the commission ~~((may))~~ shall establish a probationary period of certification.

(6) The commission's rules and decisions regarding reinstatement shall align with its responsibilities to enhance public trust and confidence in the law enforcement profession and correctional system.

**Sec. 11.** RCW 43.101.135 and 2001 c 167 s 6 are each amended to read as follows:

(1)(a) Upon ~~((termination))~~ separation of a peace officer or corrections officer from an employing agency for any reason, including termination, resignation, or retirement, the agency ~~((of termination))~~ shall ~~((within fifteen days of the termination,))~~ notify the commission within 15 days of the separation date on a personnel action report form provided by the commission. ~~((The agency of termination shall, upon))~~

(b) If the employer accepts an officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale in the information provided to the commission, including the findings from any internal or external investigations into alleged misconduct.

(2) In addition to those circumstances under subsection (1) of this section and whether or not disciplinary proceedings have been concluded, the employing agency shall:

(a) Notify the commission within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by an officer or any time an officer has been charged with a crime. Employing agencies must have a policy requiring officers to report any pending criminal charges and any conviction, plea, or other case disposition immediately to their agency; and

(b) Notify the commission within 15 days of an initial disciplinary decision by an employing agency for alleged behavior or conduct by an officer that is noncriminal and may result in revocation of certification pursuant to RCW 43.101.105.

(3) To better enable the commission to act swiftly and comprehensively when misconduct has occurred that may undermine public trust and confidence in law enforcement or the correctional system, if the totality of the circumstances support a conclusion that the officer resigned or retired in anticipation of discipline, whether or not the misconduct was discovered at the time, and when such discipline, if carried forward, would more likely than not have led to discharge, or if the officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge, the employing agency shall conduct and complete the investigation and provide all relevant information to the commission as if the officer were still employed by the agency.

(4) Upon request of the commission, the employing agency shall provide such additional documentation or information as the commission deems necessary to determine whether the ~~((termination))~~ separation or event provides grounds for suspension or revocation ~~((under RCW 43.101.105)).~~

(5) At its discretion, the commission may:

(a) Initiate decertification proceedings upon conclusion of any investigation or disciplinary proceedings initiated by the employing agency;

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(b) Separately pursue action against the officer's certification under RCW 43.101.105; or

(c) Wait to proceed until any investigation, disciplinary proceedings, or appeals through the employing agency are final before taking action. Where a decertification decision requires a finding that the officer's conduct violated policy and the employing agency has begun its investigation into the underlying event, the commission shall await notification of a finding by the employing agency before beginning the decertification process.

(6) No action or failure to act by an employing agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certification.

(7) An employing agency may not enter into any agreement or contract with an officer, or union:

(a) Not to report conduct, delay reporting, or preclude disclosure of any relevant information, including a promise not to check the box on a commission notice that indicates the officer may have committed misconduct, in exchange for allowing an officer to resign or retire or for any other reason; or

(b) That allows the agency to destroy or remove any personnel record while the officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and other disciplinary appeals and litigation records.

(8) The commission shall maintain ~~((these notices))~~ all information provided pursuant to this section in a permanent file ~~((subject to RCW 43.101.400)).~~

(9) In addition to disciplinary action authorized in RCW 43.101.105, the commission may impose a civil penalty not to exceed \$10,000 for the failure by an officer or an employing agency to timely and accurately report information pursuant to this section.

**Sec. 12.** RCW 43.101.145 and 2001 c 167 s 8 are each amended to read as follows:

~~((A law enforcement officer or duly authorized representative of a law enforcement agency))~~ (1) Any individual may submit a written complaint to the commission ~~((charging))~~ stating that ~~((a peace))~~ an officer's certificate should be denied, suspended, or revoked, and specifying the grounds for the ~~((charge))~~ complaint. Filing a complaint does not make a complainant a party to the commission's action.

(2) The commission has sole discretion whether to investigate a complaint, and the commission has sole discretion whether to investigate matters relating to certification, denial of certification, or revocation of certification on any other basis, without restriction as to the source or the existence of a complaint. All complaints must be resolved with a written determination, regardless of the decision to investigate.

(3) The commission may initiate an investigation in any instance where there is a pattern of complaints or other actions that may not have resulted in a formal adjudication of wrongdoing, but when considered together demonstrate conduct that would constitute a violation of RCW 43.101.105 (2) or (3). The commission must consider the agency's policies and procedures and the officer's job duties and assignment in determining what constitutes a pattern.

(4) A person who files a complaint in good faith under this section is immune from suit or any civil action related to the filing or the contents of the complaint.

**Sec. 13.** RCW 43.101.155 and 2001 c 167 s 9 are each amended to read as follows:

(1) If the commission determines, upon investigation, that there is ~~((probable))~~ cause to believe that a peace officer's or corrections

officer's certification should be denied, suspended, or revoked under RCW 43.101.105, the commission must prepare and serve upon the officer a statement of charges. Service on the officer must be by mail or by personal service on the officer unless the officer has consented to service in some other manner, including electronic notification. Notice of the charges must also be mailed to or otherwise served upon the officer's agency of ~~((termination))~~ separation and any current ~~((law enforcement))~~ agency employer. The statement of charges must be accompanied by a notice that to receive a hearing on the denial or revocation, the officer must, within ~~((sixty))~~ 60 days of ~~((communication of))~~ the statement of charges, request a hearing before the ~~((board))~~ panel appointed under RCW 43.101.380. Failure of the officer to request a hearing within the ~~((sixty-day))~~ 60-day period constitutes a default, whereupon the commission may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the officer is required to provide an email address that constitutes the officer's legal address for purposes of any subsequent communication from the commission. Unless otherwise agreed to by the mutual agreement of the parties or for good cause, within two weeks of receipt of the officer's request for a hearing, the commission shall set a date ~~((of))~~ for the hearing, which must be ~~((scheduled not earlier than ninety days nor later than one hundred eighty days after communication of the statement of charges to the officer; the one hundred eighty day period may be extended on mutual agreement of the parties or for good cause))~~ held within 90 days thereafter. ~~((The))~~ On the date the hearing is set, the commission shall ~~((give))~~ transmit electronic and written notice of the hearing ~~((at least twenty days prior to the hearing))~~ to the officer, and provide public notice on the commission website, specifying the time, date, and place of hearing.

**Sec. 14.** RCW 43.101.157 and 2006 c 22 s 2 are each amended to read as follows:

(1) Tribal governments may voluntarily request certification for their police officers. Tribal governments requesting certification for their police officers must enter into a written agreement with the commission. The agreement must require the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as those requirements are applied to peace officers certified under this chapter and the rules of the commission. To ensure clarity regarding the requirements with which the tribal government and its police officers must comply should the tribal government request certification, a tribal government may first request consultation with the commission.

(2) Officers making application for certification as tribal police officers shall meet the requirements of this chapter and the rules of the commission as those requirements are applied to certification of peace officers. Application for certification as a tribal police officer shall be accepted and processed in the same manner as those for certification of peace officers.

~~((3) For purposes of certification, "tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government.))~~

**Sec. 15.** RCW 43.101.230 and 1981 c 134 s 1 are each amended to read as follows:

~~((Indian tribe))~~ Tribal police officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010~~((, as now law or hereafter amended, may))~~ shall be provided training under this chapter if: (a) The tribe is recognized by the federal government, and (b) the tribe pays to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account.

**Sec. 16.** RCW 43.101.390 and 2001 c 167 s 11 are each amended to read as follows:

~~((1) The commission ~~((, its boards,))~~ and individuals acting on behalf of the commission ~~((and its boards))~~ are immune from suit in any civil or criminal action contesting or based upon proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter.~~

(2) Without limiting the generality of the foregoing, the commission and individuals acting on behalf of the commission are immune from suit in any civil action based on the certification, denial of certification, suspension, or other action regarding decertification of peace officers, reserve officers, or corrections officers.

**Sec. 17.** RCW 43.101.420 and 2009 c 19 s 1 are each amended to read as follows:

(1) The commission shall offer a training session on personal crisis recognition and crisis intervention services to criminal justice, ~~((correctional personnel))~~ corrections, and other public safety employees. The training shall be implemented by the commission in consultation with appropriate public and private organizations that have expertise in crisis referral services and in the underlying conditions leading to the need for crisis referral.

(2) The training shall consist of a minimum of one hour of classroom or internet instruction, and shall include instruction on the following subjects:

(a) The description and underlying causes of problems that may have an impact on the personal and professional lives of public safety employees, including mental health issues, chemical dependency, domestic violence, financial problems, and other personal crises;

(b) Techniques by which public safety employees may recognize the conditions listed in (a) of this subsection and understand the need to seek assistance and obtain a referral for consultation and possible treatment; and

(c) A listing of examples of public and private crisis referral agencies available to public safety employees.

(3) The training developed by the commission shall be made available by the commission to all employees of state and local agencies that perform public safety duties. The commission may charge a reasonable fee to defer the cost of making the training available.

**Sec. 18.** RCW 34.12.035 and 1984 c 141 s 6 are each amended to read as follows:

The chief administrative law judge shall designate an administrative law judge with subject matter expertise to serve, as the need arises, as presiding officer in ~~((state))~~:

(1) State patrol disciplinary hearings conducted under RCW 43.43.090; and

(2) Decertification hearings conducted under RCW 43.101.380.

**Sec. 19.** RCW 40.14.070 and 2011 c 60 s 18 are each amended to read as follows:

(1)(a) ~~((County))~~ Other than those records detailed in subsection (4) of this section, county, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management lists of such records on forms prepared by the division. The archivist, a representative appointed by the state auditor, and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which may veto the destruction of any or all items contained therein.

(b) A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by the agency to

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the local records committee. The schedules are to be submitted on forms provided by the division of archives and records management to the local records committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the local records committee. Upon such approval, the schedule shall constitute authority for the local government agency to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the committee.

(2)(a) Except as otherwise provided by law, and other than the law enforcement records detailed in subsection (4) of this section, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

(i) The records are six or more years old;

(ii) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or

(iii) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of six years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency.

(b)(i) Records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenders contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020 that are not required in the current operation of the law enforcement agency or for pending judicial proceedings shall, following the expiration of the applicable schedule of the law enforcement agency's retention of the records, be transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval. Upon electronic retention of any document, the association shall be permitted to destroy the paper copy of the document.

(ii) Any sealed record transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval, including records sealed after transfer, shall be electronically retained in such a way that the record is clearly marked as sealed.

(iii) The Washington association of sheriffs and police chiefs shall be permitted to destroy both the paper copy and electronic record of any offender verified as deceased.

(c) Any record transferred to the Washington association of sheriffs and police chiefs pursuant to (b) of this subsection shall

be deemed to no longer constitute a public record pursuant to RCW 42.56.010 and shall be exempt from public disclosure. Such records shall be disseminated only to criminal justice agencies as defined in RCW 10.97.030 for the purpose of determining if a sex offender met the criteria of a sexually violent predator as defined in chapter 71.09 RCW and the end-of-sentence review committee as defined by RCW 72.09.345 for the purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420.

Electronic records marked as sealed shall only be accessible by criminal justice agencies as defined in RCW 10.97.030 who would otherwise have access to a sealed paper copy of the document, the end-of-sentence review committee as defined by RCW 72.09.345 for the purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420, and the system administrator for the purposes of system administration and maintenance.

(3) Except as otherwise provided by law, county, municipal, and other local government agencies may, as an alternative to destroying noncurrent public records having no further administrative or legal value, donate the public records to the state library, local library, historical society, genealogical society, or similar society or organization.

Public records may not be donated under this subsection unless:

(a) The records are seventy years old or more;

(b) The local records committee has approved the destruction of the public records; and

(c) The state archivist has determined that the public records have no historic interest.

(4) Personnel records for any peace officer or corrections officer must be retained for the duration of the officer's employment and a minimum of 10 years thereafter. Such records include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, other disciplinary appeals and litigation records, and any other records needed to comply with the requirements set forth in RCW 43.101.095 and 43.101.135.

**Sec. 20.** RCW 43.101.380 and 2020 c 119 s 10 are each amended to read as follows:

(1) The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern hearings before the commission and govern all other actions before the commission unless otherwise provided in this chapter. The standard of proof in actions before the commission is ~~((clear, cogent, and convincing))~~ a preponderance of the evidence.

(2) In all hearings requested under RCW 43.101.155 ~~((or 43.101.156)), an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, shall make all necessary rulings in the course of the hearing, and shall issue a proposed recommendation, but is not entitled to vote. In addition, a five-member hearings panel shall ((both)) hear the case and make the commission's final administrative decision. ((Members of the commission may, but need not, be appointed to the hearings panels.))~~

(3) The commission shall appoint ((as follows two or more panels)) a panel to hear certification actions as follows:

(a) When a hearing is requested in relation to a certification action of a Washington peace officer ~~((who is not a peace officer of the Washington state patrol)),~~ the commission shall appoint to the panel: (i) One police chief ~~((- (ii) one))~~ or sheriff from an agency not a current or past employer of the peace officer; ((iii) two)) (ii) one certified Washington peace officer ~~((s))~~ who ~~((are))~~ is at or below the level of first line supervisor ~~((- one of whom is from a city or county law enforcement agency,))~~ and who ~~((have))~~

has at least ten years' experience as a peace officer(s); ~~((and (iv) one person who is not currently a peace officer and who represents a community college or four year college or university))~~ (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

(b) ~~((When a hearing is requested in relation to a certification action of a peace officer of the Washington state patrol, the commission shall appoint to the panel: (i) Either one police chief or one sheriff; (ii) one administrator of the state patrol; (iii) one certified Washington peace officer who is at or below the level of first line supervisor, who is not a state patrol officer, and who has at least ten years' experience as a peace officer; (iv) one state patrol officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; and (v) one person who is not currently a peace officer and who represents a community college or four year college or university.~~

(e)) When a hearing is requested in relation to a certification action of a Washington corrections officer, the commission shall appoint to the panel: (i) ~~((Two heads of))~~ A person who heads either a city or county corrections agency or facility or of a Washington state department of corrections facility; (ii) ((two)) one corrections officer(s) who ((are)) is at or below the level of first line supervisor((, who are from city, county, or state corrections agencies;)) and who ((have)) has at least ten years' experience as a corrections officer(s); (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and ((iii)) (v) one person with expertise and background in police accountability who is not ((currently)) a current or former peace officer or corrections officer ((and who represents a community college or four year college or university)).

~~((d)) (c)~~ When a hearing is requested in relation to a certification action of a tribal police officer, the commission shall appoint to the panel (i) ~~((either one police chief or one sheriff; (ii))~~ one tribal police chief; ~~((iii) one certified Washington peace officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; (iv))~~ (ii) one tribal police officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; ~~((and (v) one person who is not currently a peace officer and who represents a community college or four year college or university))~~ (iii) one civilian member of the commission as appointed under RCW 43.101.030(1) (f) and (h) through (j); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

~~((e))~~ (d) Persons appointed to hearings panels by the commission shall, in relation to any certification action on which they sit, have the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular commission members.

~~((3) Where the charge upon which revocation or denial is based is that a peace officer or corrections officer was "discharged for disqualifying misconduct," and the discharge is "final," within the meaning of RCW 43.101.105(1)(d) or 43.101.106(4), and the officer received a civil service hearing or arbitration hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if the hearings panel determines that the discharge occurred and was based on disqualifying misconduct;))~~ (4) In

decertification matters where there was a due process hearing or a disciplinary appeals hearing following an investigation by a law enforcement agency, or a criminal hearing regarding the alleged misconduct, the hearings panel need not redetermine the underlying facts but may make ((this)) its determination based solely on review of the records and decision relating to ((the employment separation)) those proceedings and any investigative or summary materials from the administrative law judge, legal counsel, and commission staff. However, the hearings panel may, in its discretion, consider additional evidence to determine whether ((such a discharge)) misconduct occurred ((and was based on such disqualifying misconduct)). The hearings panel shall, upon written request by the subject peace officer or corrections officer, allow the peace officer or corrections officer to present additional evidence of extenuating circumstances.

~~((Where the charge upon which revocation or denial of certification is based is that a peace officer or corrections officer "has been convicted at any time of a felony offense" within the meaning of RCW 43.101.105(1)(c) or 43.101.106(3), the hearings panel shall revoke or deny certification if it determines that the peace officer or corrections officer was convicted of a felony. The hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the criminal proceeding. However, the hearings panel shall, upon the panel's determination of relevancy, consider additional evidence to determine whether the peace officer or corrections officer was convicted of a felony.~~

Where the charge upon which revocation or denial is based is under RCW 43.101.105(1) (a), (b), (e), or (f) or 43.101.106 (1), (2), (5), or (6), the hearings panel shall determine the underlying facts relating to the charge upon which revocation or denial of certification is based.

~~((4))~~ (5) The commission is authorized to proceed regardless of whether an arbitrator or other appellate decision maker overturns the discipline imposed by the officer's employing agency or whether the agency settles an appeal. No action or failure to act by a law enforcement agency or corrections agency or decision resulting from an appeal of that action precludes action by the commission to suspend or revoke an officer's certificate, to place on probation, or to require remedial training for the officer.

(6) The hearings, but not the deliberations of the hearings panel, are open to the public. The transcripts, admitted evidence, and written decisions of the hearings panel on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.

(7) Summary records of hearing dispositions must be made available on an annual basis on a public website.

(8) The commission's final administrative decision is subject to judicial review under RCW 34.05.510 through 34.05.598.

**Sec. 21.** RCW 43.101.400 and 2020 c 119 s 12 are each amended to read as follows:

(1) Except as provided under subsection (2) of this section, ~~((the following records of the commission are confidential and exempt from public disclosure: (a) The contents of personnel action reports filed under RCW 43.101.135 or 43.101.136; (b)))~~ all files, papers, and other information obtained by the commission as part of an initial background investigation pursuant to RCW 43.101.095~~((5) or 43.101.096; and (c) all~~ investigative files of the commission compiled in carrying out the responsibilities of the commission under this chapter)) (2) and (4) are confidential and exempt from public disclosure. Such records are not subject to public disclosure, subpoena, or discovery proceedings in any civil action, except as provided in ~~((subsection (5) of this section))~~ RCW 43.101.380(6) or which become part of the record in a suspension or decertification matter.

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(2) Records which are otherwise confidential and exempt under subsection (1) of this section may be reviewed and copied: (a) By the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional exculpatory or explanatory evidence, statements, or other information, any of which must be included in the file; (b) by a duly authorized representative of (i) the agency of termination, or (ii) a current employing law enforcement or corrections agency, which may review and copy its employee-officer's file; or (c) by a representative of or investigator for the commission.

(3) Records which are otherwise confidential and exempt under subsection (1) of this section may also be inspected at the offices of the commission by a duly authorized representative of a law enforcement or corrections agency considering an application for employment by a person who is the subject of a record. A copy of records which are otherwise confidential and exempt under subsection (1) of this section may later be obtained by an agency after it hires the applicant. In all other cases under this subsection, the agency may not obtain a copy of the record.

~~(4) ((Upon a determination that a complaint is without merit, that a personnel action report filed under RCW 43.101.135 does not merit action by the commission, or that a matter otherwise investigated by the commission does not merit action, the commission shall purge records addressed in subsection (1) of this section.~~

~~(5) The hearings, but not the deliberations, of the hearings board are open to the public. The transcripts, admitted evidence, and written decisions of the hearings board on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.~~

~~(6)) The commission shall maintain a database that is publicly searchable, machine readable, and exportable, and accompanied by a complete, plain-language data dictionary describing the names of officers and employing agencies, all conduct investigated, certifications denied, notices and accompanying information provided by law enforcement or correctional agencies, including the reasons for separation from the agency, decertification or suspension actions pursued, and final disposition and the reasons therefor for at least 30 years after final disposition of each incident. The dates for each material step of the process must be included. Any decertification must be reported to the national decertification index.~~

(5) Every individual, legal entity, and agency of federal, state, or local government is immune from civil liability, whether direct or derivative, for providing information to the commission in good faith.

NEW SECTION. Sec. 22. A new section is added to chapter 43.101 RCW to read as follows:

The commission must develop policies, procedures, and rules to ensure that the goals of this act are fully implemented as intended and in a timely manner, and to provide appropriate clarity to affected persons and entities as to how the commission will process complaints, investigations, and hearings, and impose sanctions, related to officer decertification. The commission must work in collaboration with interested parties and entities in developing the policies, procedures, and rules, and must take into account issues regarding when and how the commission may appropriately exercise authority in relation to simultaneous investigations and disciplinary processes, and how the commission may exercise available remedies in a manner that is appropriate to case circumstances and consistent with the goals of this act. The policies, procedures, and rules must be completed by June 30, 2022.

**Sec. 23.** RCW 41.56.905 and 1983 c 287 s 5 are each amended to read as follows:

The provisions of this chapter are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. Except as provided in RCW 53.18.015, 43.101.095, and 43.101.135, if any provision of this chapter conflicts with any other statute, ordinance, rule or regulation of any public employer, the provisions of this chapter shall control.

**Sec. 24.** RCW 49.44.200 and 2013 c 330 s 1 are each amended to read as follows:

(1) An employer may not:

(a) Request, require, or otherwise coerce an employee or applicant to disclose login information for the employee's or applicant's personal social networking account;

(b) Request, require, or otherwise coerce an employee or applicant to access his or her personal social networking account in the employer's presence in a manner that enables the employer to observe the contents of the account;

(c) Compel or coerce an employee or applicant to add a person, including the employer, to the list of contacts associated with the employee's or applicant's personal social networking account;

(d) Request, require, or cause an employee or applicant to alter the settings on his or her personal social networking account that affect a third party's ability to view the contents of the account; or

(e) Take adverse action against an employee or applicant because the employee or applicant refuses to disclose his or her login information, access his or her personal social networking account in the employer's presence, add a person to the list of contacts associated with his or her personal social networking account, or alter the settings on his or her personal social networking account that affect a third party's ability to view the contents of the account.

(2) This section does not apply to an employer's request or requirement that an employee share content from his or her personal social networking account if the following conditions are met:

(a) The employer requests or requires the content to make a factual determination in the course of conducting an investigation;

(b) The employer undertakes the investigation in response to receipt of information about the employee's activity on his or her personal social networking account;

(c) The purpose of the investigation is to: (i) Ensure compliance with applicable laws, regulatory requirements, or prohibitions against work-related employee misconduct; or (ii) investigate an allegation of unauthorized transfer of an employer's proprietary information, confidential information, or financial data to the employee's personal social networking account; and

(d) The employer does not request or require the employee to provide his or her login information.

(3) This section does not:

(a) Apply to a social network, intranet, or other technology platform that is intended primarily to facilitate work-related information exchange, collaboration, or communication by employees or other workers;

(b) Prohibit an employer from requesting or requiring an employee to disclose login information for access to: (i) An account or service provided by virtue of the employee's employment relationship with the employer; or (ii) an electronic communications device or online account paid for or supplied by the employer;

(c) Prohibit an employer from enforcing existing personnel policies that do not conflict with this section; ~~((e))~~

(d) Prevent an employer from complying with the requirements of state or federal statutes, rules or regulations, case law, or rules

of self-regulatory organizations; or

(e) Apply to a background investigation in accordance with RCW 43.101.095. However, the officer must not be required to provide login information.

(4) If, through the use of an employer-provided electronic communications device or an electronic device or program that monitors an employer's network, an employer inadvertently receives an employee's login information, the employer is not liable for possessing the information but may not use the login information to access the employee's personal social networking account.

(5) For the purposes of this section and RCW 49.44.205:

(a) "Adverse action" means: Discharging, disciplining, or otherwise penalizing an employee; threatening to discharge, discipline, or otherwise penalize an employee; and failing or refusing to hire an applicant.

(b) "Applicant" means an applicant for employment.

(c) "Electronic communications device" means a device that uses electronic signals to create, transmit, and receive information, including computers, telephones, personal digital assistants, and other similar devices.

(d) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or other activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation. "Employer" includes an agent, a representative, or a designee of the employer.

(e) "Login information" means a user name and password, a password, or other means of authentication that protects access to a personal social networking account.

**Sec. 25.** RCW 41.06.040 and 1969 ex.s. c 36 s 22 are each amended to read as follows:

The provisions of this chapter apply to:

(1) Each board, commission or other multimember body, including, but not limited to, those consisting in whole or in part of elective officers;

(2) Each agency, and each employee and position therein, not expressly excluded or exempted under the provisions of RCW 41.06.070 or otherwise excluded or exempted in this chapter.

**NEW SECTION. Sec. 26.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter do not apply in the Washington state criminal justice training commission to two confidential secretaries involved in managing the confidential records under RCW 43.101.135 and 43.101.400.

**NEW SECTION. Sec. 27.** No later than December 1, 2022, the criminal justice training commission shall submit a written report to the governor and the appropriate committees of the legislature detailing progress of implementation of this act.

**NEW SECTION. Sec. 28.** No later than December 1, 2021, the criminal justice training commission shall submit a written report to the governor and the appropriate committees of the legislature detailing the following:

(1) The average total number of peace officers each year who must complete the basic law enforcement academy training and the certification process without delay in order to begin work as full-time officers;

(2) The other categories of officers, and the average total number of such officers, who must complete the basic law enforcement academy training, the certification process, or both, prior to being authorized to enforce the criminal laws of this state on a part-time, as called-upon, or volunteer basis;

(3) Recommendations for amendments to update and align

definitions and categorization of types officers as set forth in statute and administrative rule, to eliminate ambiguity or inconsistencies and provide better clarity for law enforcement agencies, the criminal justice training commission, and the public as to the different types of officers, their authority, and their obligations to fulfill the requirements of chapter 43.101 RCW and other chapters;

(4) The current backlog for admission to the basic law enforcement academy and the approach taken by the criminal justice training commission to prioritize admission to training when there is insufficient capacity to meet the demand;

(5) The current and projected need for the number of basic law enforcement academy classes in order to meet the requirements of chapter 43.101 RCW and other chapters, and recommended funding to meet the projected need; and

(6) Any other related recommendations.

**NEW SECTION. Sec. 29.** The following acts or parts of acts are each repealed:

(1) RCW 43.101.096 (Corrections officer certification) and 2020 c 119 s 3;

(2) RCW 43.101.106 (Denial or revocation of corrections officer certification) and 2020 c 119 s 4;

(3) RCW 43.101.116 (Denial or revocation of corrections officer certification—Readmission to academy—Reinstatement) and 2020 c 119 s 5;

(4) RCW 43.101.136 (Termination of corrections officer—Notification to commission) and 2020 c 119 s 7;

(5) RCW 43.101.146 (Written complaint by corrections officer or corrections agency to deny or revoke corrections officer certification—Immunity of complainant) and 2020 c 119 s 8;

(6) RCW 43.101.156 (Denial or revocation of corrections officer certification—Statement of charges—Notice—Hearing) and 2020 c 119 s 9; and

(7) RCW 43.101.180 (Priorities) and 1981 c 136 s 27 & 1974 ex.s. c 94 s 18.

**NEW SECTION. Sec. 30.** A new section is added to chapter 10.93 RCW to read as follows:

A general authority Washington law enforcement agency or limited authority Washington law enforcement agency is prohibited from considering the application for any office, place, position, or employment within the agency if the applicant has not provided the agency a document, voluntarily and knowingly signed by the applicant, that authorizes each prior employer to release any and all information relating to the applicant's employment, and further releasing and holding harmless the agency and each prior employer from any and all liability that may potentially result from the release and use of such information provided.

**Sec. 31.** RCW 43.101.200 and 2019 c 415 s 969 are each amended to read as follows:

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

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(2) Except as ~~((otherwise))~~ provided in ~~((this chapter))~~ RCW 43.101.170, the commission shall provide the aforementioned training ~~((together with))~~ and shall have the sole authority to do so. The commission shall provide necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week, except during the 2017-2019 and 2019-2021 fiscal biennia when the employing, county, city, or state law enforcement agency shall reimburse the commission for twenty-five percent of the cost of training its personnel. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5051.

Senator Pedersen 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 Engrossed Second Substitute Senate Bill No. 5051.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5051 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5051, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5051, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

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

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Van De Wege, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5051, 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 5, 2021

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5185 with the following amendment(s): 5185-S AMH CRJ H1322.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 7.70.065 and 2020 c 312 s 705 are each amended to read as follows:

(1) Informed consent for health care for a patient who ~~((is a minor or, to consent))~~ does not have the capacity to make a health care decision may be obtained from a person authorized to consent on behalf of such patient. For purposes of this section, a person who is of the age of consent to make a particular health care decision is presumed to have capacity, unless a health care provider reasonably determines the person lacks capacity to make the health care decision due to the person's demonstrated inability to understand and appreciate the nature and consequences of a health condition, the proposed treatment, including the anticipated results, benefits, risks, and alternatives to the proposed treatment, including nontreatment, and reach an informed decision as a result of cognitive impairment; and the health care provider documents the basis for the determination in the medical record.

(a) Persons authorized to provide informed consent to health care on behalf of ~~((a))~~ an adult patient who ~~((has been placed under a guardianship under RCW 11.130.265 a minor or,))~~ does not have the capacity to make a health care decision shall be a member of one of the following classes of persons in the following order of priority:

- (i) The appointed guardian of the patient, if any;
- (ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
- (iii) The patient's spouse or state registered domestic partner;
- (iv) Children of the patient who are at least eighteen years of age;
- (v) Parents of the patient;
- (vi) Adult brothers and sisters of the patient;
- (vii) Adult grandchildren of the patient who are familiar with the patient;
- (viii) Adult nieces and nephews of the patient who are familiar with the patient;
- (ix) Adult aunts and uncles of the patient who are familiar with the patient; and
- (x)(A) An adult who:
  - (I) Has exhibited special care and concern for the patient;
  - (II) Is familiar with the patient's personal values;
  - (III) Is reasonably available to make health care decisions;
  - (IV) Is not any of the following: A physician to the patient or an employee of the physician; the owner, administrator, or employee of a health care facility, nursing home, or long-term care facility where the patient resides or receives care; or a person who receives compensation to provide care to the patient; and
  - (V) Provides a declaration under (a)(x)(B) of this subsection.
- (B) An adult who meets the requirements of (a)(x)(A) of this subsection shall provide a declaration, which is effective for up to six months from the date of the declaration, signed and dated under penalty of perjury pursuant to chapter 5.50 RCW, that recites facts and circumstances demonstrating that he or she is familiar with the patient and that he or she:
  - (I) Meets the requirements of (a)(x)(A) of this subsection;
  - (II) Is a close friend of the patient;
  - (III) Is willing and able to become involved in the patient's health care;

(IV) Has maintained such regular contact with the patient as to be familiar with the patient's activities, health, personal values, and morals; and

(V) Is not aware of a person in a higher priority class willing and able to provide informed consent to health care on behalf of the patient.

(C) A health care provider may, but is not required to, rely on a declaration provided under (a)(x)(B) of this subsection. The health care provider or health care facility where services are rendered is immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration provided in compliance with (a)(x)(B) of this subsection.

(b) If the health care provider seeking informed consent for proposed health care of the patient who ~~((has been placed under a guardianship under RCW 11.130.265,))~~ does not have the capacity to make a particular health care decision, other than a person who is under the age of consent for the particular health care decision, makes reasonable efforts to locate and secure authorization from a competent person in the first or succeeding class and finds no such person available, authorization may be given by any person in the next class in the order of descending priority. However, no person under this section may provide informed consent to health care:

(i) If a person of higher priority under this section has refused to give such authorization; or

(ii) If there are two or more individuals in the same class and the decision is not unanimous among all available members of that class.

(c) Before any person authorized to provide informed consent on behalf of a patient who ~~((has been placed under a guardianship under RCW 11.130.265,))~~ does not have the capacity to make a health care decision exercises that authority, the person must first determine in good faith that that patient, if ~~((competent))~~ he or she had the capacity to make the health care decision, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests. This subsection (1)(c) does not apply to informed consent provided on behalf of a patient who has not reached the age of consent required to make a particular health care decision.

(d) No rights under Washington's death with dignity act, chapter 70.245 RCW, may be exercised through a person authorized to provide informed consent to health care on behalf of a patient who ~~((is a minor or has been placed under a guardianship under RCW 11.130.265))~~ does not have the capacity to make a health care decision.

(2) Informed consent for health care, including mental health care, for a patient who is under the age of majority and who is not otherwise authorized to provide informed consent, may be obtained from a person authorized to consent on behalf of such a patient.

(a) Persons authorized to provide informed consent to health care, including mental health care, on behalf of a patient who is under the age of majority and who is not otherwise authorized to provide informed consent, shall be a member of one of the following classes of persons in the following order of priority:

(i) The appointed guardian, or legal custodian authorized pursuant to Title 26 RCW, of the minor patient, if any;

(ii) A person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to chapter 13.32A or 13.34 RCW, if any;

(iii) Parents of the minor patient;

(iv) The individual, if any, to whom the minor's parent has given a signed authorization to make health care decisions for the

minor patient; and

(v) A competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury pursuant to chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient. Such declaration shall be effective for up to six months from the date of the declaration.

(b)(i) Informed consent for health care on behalf of a patient who is under the age of majority and who is not otherwise authorized to provide informed consent may be obtained from a school nurse, school counselor, or homeless student liaison when:

(A) Consent is necessary for nonemergency, outpatient, primary care services, including physical examinations, vision examinations and eyeglasses, dental examinations, hearing examinations and hearing aids, immunizations, treatments for illnesses and conditions, and routine follow-up care customarily provided by a health care provider in an outpatient setting, excluding elective surgeries;

(B) The minor patient meets the definition of a "homeless child or youth" under the federal McKinney-Vento homeless education assistance improvements act of 2001, P.L. 107-110, January 8, 2002, 115 Stat. 2005; and

(C) The minor patient is not under the supervision or control of a parent, custodian, or legal guardian, and is not in the care and custody of the department of social and health services.

(ii) A person authorized to consent to care under this subsection (2)(b) and the person's employing school or school district are not subject to administrative sanctions or civil damages resulting from the consent or nonconsent for care, any care, or payment for any care, rendered pursuant to this section. Nothing in this section prevents a health care facility or a health care provider from seeking reimbursement from other sources for care provided to a minor patient under this subsection (2)(b).

(iii) Upon request by a health care facility or a health care provider, a person authorized to consent to care under this subsection (2)(b) must provide to the person rendering care a declaration signed and dated under penalty of perjury pursuant to chapter 5.50 RCW stating that the person is a school nurse, school counselor, or homeless student liaison and that the minor patient meets the elements under (b)(i) of this subsection. The declaration must also include written notice of the exemption from liability under (b)(ii) of this subsection.

(c) A health care provider may, but is not required to, rely on the representations or declaration of a person claiming to be a relative responsible for the care of the minor patient, under (a)(v) of this subsection, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection, if the health care provider does not have actual notice of the falsity of any of the statements made by the person claiming to be a relative responsible for the health care of the minor patient, or person claiming to be authorized to consent to the health care of the minor patient.

(d) A health care facility or a health care provider may, in its discretion, require documentation of a person's claimed status as being a relative responsible for the health care of the minor patient, or a person claiming to be authorized to consent to the health care of the minor patient under (b) of this subsection. However, there is no obligation to require such documentation.

(e) The health care provider or health care facility where services are rendered shall be immune from suit in any action, civil or criminal, or from professional or other disciplinary action when such reliance is based on a declaration signed under penalty of perjury pursuant to chapter 5.50 RCW stating that the adult person is a relative responsible for the health care of the minor patient under (a)(v) of this subsection, or a person claiming to be



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authorized to consent to the health care of the minor patient under (b) of this subsection.

(3) For the purposes of this section, "health care," "health care provider," and "health care facility" shall be defined as established in RCW 70.02.010.

(4) A person who knowingly provides a false declaration under this section shall be subject to criminal penalties under chapter 9A.72 RCW.

**Sec. 2.** RCW 7.70.050 and 2011 c 336 s 252 are each amended to read as follows:

(1) The following shall be necessary elements of proof that injury resulted from health care in a civil negligence case or arbitration involving the issue of the alleged breach of the duty to secure an informed consent by a patient or his or her representatives against a health care provider:

(a) That the health care provider failed to inform the patient of a material fact or facts relating to the treatment;

(b) That the patient consented to the treatment without being aware of or fully informed of such material fact or facts;

(c) That a reasonably prudent patient under similar circumstances would not have consented to the treatment if informed of such material fact or facts;

(d) That the treatment in question proximately caused injury to the patient.

(2) Under the provisions of this section a fact is defined as or considered to be a material fact, if a reasonably prudent person in the position of the patient or his or her representative would attach significance to it deciding whether or not to submit to the proposed treatment.

(3) Material facts under the provisions of this section which must be established by expert testimony shall be either:

(a) The nature and character of the treatment proposed and administered;

(b) The anticipated results of the treatment proposed and administered;

(c) The recognized possible alternative forms of treatment; or

(d) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment administered and in the recognized possible alternative forms of treatment, including nontreatment.

(4) If a recognized health care emergency exists and the patient (~~(is not legally competent)~~) does not have the capacity to give an informed consent and/or a person legally authorized to consent on behalf of the patient is not readily available, his or her consent to required treatment will be implied.

**Sec. 3.** RCW 7.70.060 and 2012 c 101 s 1 are each amended to read as follows:

(1) If a patient (~~(while legally competent)~~) who has capacity to make health a care decision, or his or her representative if he or she (~~(is not competent)~~) does not have the capacity to make a health care decision, signs a consent form which sets forth the following, the signed consent form shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by a preponderance of the evidence:

(a) A description, in language the patient could reasonably be expected to understand, of:

(i) The nature and character of the proposed treatment;

(ii) The anticipated results of the proposed treatment;

(iii) The recognized possible alternative forms of treatment; and

(iv) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment;

(b) Or as an alternative, a statement that the patient elects not to be informed of the elements set forth in (a) of this subsection.

(2) If a patient (~~(while legally competent)~~) who has capacity to make a health care decision, or his or her representative if he or she (~~(is not competent)~~) does not have the capacity to make a health care decision, signs an acknowledgment of shared decision making as described in this section, such acknowledgment shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by clear and convincing evidence. An acknowledgment of shared decision making shall include:

(a) A statement that the patient, or his or her representative, and the health care provider have engaged in shared decision making as an alternative means of meeting the informed consent requirements set forth by laws, accreditation standards, and other mandates;

(b) A brief description of the services that the patient and provider jointly have agreed will be furnished;

(c) A brief description of the patient decision aid or aids that have been used by the patient and provider to address the needs for (i) high-quality, up-to-date information about the condition, including risk and benefits of available options and, if appropriate, a discussion of the limits of scientific knowledge about outcomes; (ii) values clarification to help patients sort out their values and preferences; and (iii) guidance or coaching in deliberation, designed to improve the patient's involvement in the decision process;

(d) A statement that the patient or his or her representative understands: The risk or seriousness of the disease or condition to be prevented or treated; the available treatment alternatives, including nontreatment; and the risks, benefits, and uncertainties of the treatment alternatives, including nontreatment; and

(e) A statement certifying that the patient or his or her representative has had the opportunity to ask the provider questions, and to have any questions answered to the patient's satisfaction, and indicating the patient's intent to receive the identified services.

(3) As used in this section, "shared decision making" means a process in which the physician or other health care practitioner discusses with the patient or his or her representative the information specified in subsection (2) of this section with the use of a patient decision aid and the patient shares with the provider such relevant personal information as might make one treatment or side effect more or less tolerable than others.

(4)(a) As used in this section, "patient decision aid" means a written, audiovisual, or online tool that provides a balanced presentation of the condition and treatment options, benefits, and harms, including, if appropriate, a discussion of the limits of scientific knowledge about outcomes, for any medical condition or procedure, including abortion as defined in RCW 9.02.170 and:

(i)(A) That is certified by one or more national certifying organizations recognized by the medical director of the health care authority; or

(B) That has been evaluated based on the international patient decision aid standards by an organization located in the United States or Canada and has a current overall score satisfactory to the medical director of the health care authority; or

(ii) That, if a current evaluation is not available from an organization located in the United States or Canada, the medical director of the health care authority has independently assessed and certified based on the international patient decision aid standards.

(b) The health care authority may charge a fee to the certification applicant to defray the costs of the assessment and certification under this subsection.

(5) Failure to use a form or to engage in shared decision making, with or without the use of a patient decision aid, shall not be admissible as evidence of failure to obtain informed consent. There shall be no liability, civil or otherwise, resulting from a health care provider choosing either the signed consent form set forth in subsection (1)(a) of this section or the signed acknowledgment of shared decision making as set forth in subsection (2) of this section.

**Sec. 4.** RCW 69.50.317 and 2019 c 314 s 17 are each amended 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 RCW 43.70.765.

(2) If the patient is under eighteen years old or ~~((is not competent))~~ does not have the capacity to make a health care decision, the discussion required by subsection (1) of this section must include the patient's parent, guardian, or the person identified in 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. 5.** RCW 70.02.220 and 2017 3rd sp.s. c 6 s 332 are each amended to read as follows:

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this section, RCW 70.02.210, or chapter 70.24 RCW.

(2) No person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, RCW 70.02.210, 70.02.205, or chapter 70.24 RCW. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with

the exception of such a representative of a minor fourteen years of age or over and otherwise ~~((competent))~~ capable of making health care decisions;

(b) The state ~~((public))~~ health officer as defined in RCW 70.24.017, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(c) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that was provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(d) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, so long as the record was obtained by means of court-ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;

(e) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure must: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services;

(f) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

(g) A law enforcement officer, firefighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board of health in rule pursuant to RCW 70.24.340~~((4))~~, who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW 70.24.340~~((4))~~, if a state or local public health officer performs the test;

(h) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection must be confidential and may not be released or available to persons who are not involved in handling or determining medical claims payment; and

(i) A department of children, youth, and families worker, a child-placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease, and is in the custody of the department of children, youth, and families or a licensed child-placing agency. This information may also be received by a person responsible for providing residential care for such a child when the department of social and

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health services, the department of children, youth, and families, or a licensed child-placing agency determines that it is necessary for the provision of child care services.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender or detained person, except as provided in subsection (2)(d) of this section, is governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by department of corrections health care providers and local public health officers to the department of corrections health care administrator or infection control coordinator of the facility in which the offender is housed. The information made available to the health care administrator or the infection control coordinator under this subsection (4)(a) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of corrections' jurisdiction according to the provisions of (d) and (e) of this subsection.

(b) The sexually transmitted disease status of a person detained in a jail who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the local public health officer to a jail health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, detainees, and the public. The information may be submitted to transporting officers and receiving facilities according to the provisions of (d) and (e) of this subsection.

(c) Information regarding the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional health care administrator or infection control coordinator or local jail health care administrator or infection control coordinator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080 or any other penalties as may be prescribed by law.

(d) Notwithstanding the limitations on disclosure contained in (a), (b), and (c) of this subsection, whenever any member of a jail staff or department of corrections staff has been substantially exposed to the bodily fluids of an offender or detained person, then the results of any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370, must be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to blood-borne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and treatment. Disclosure must also include notice that subsequent disclosure of the information in violation of this chapter or use of the information to harass or discriminate against the offender or detainee may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080, and imposition of other penalties prescribed by law.

(e) The staff member must also be informed whether the offender or detained person had any other communicable disease,

as defined in RCW 72.09.251(3), when the staff person was substantially exposed to the offender's or detainee's bodily fluids.

(f) The test results of voluntary and anonymous HIV testing or HIV-related condition, as defined in RCW 70.24.017, may not be disclosed to a staff person except as provided in this section and RCW 70.02.050(1)(d) and 70.24.340(~~(4)~~). A health care administrator or infection control coordinator may provide the staff member with information about how to obtain the offender's or detainee's test results under this section and RCW 70.02.050(1)(d) and 70.24.340(~~(4)~~).

(5) The requirements of this section do not apply to the customary methods utilized for the exchange of medical information among health care providers in order to provide health care services to the patient, nor do they apply within health care facilities where there is a need for access to confidential medical information to fulfill professional duties.

(6) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW must be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. The disclosure must be accompanied by appropriate counseling, including information regarding follow-up testing.

(7) A person, including a health care facility or health care provider, shall disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease and information and records related to sexually transmitted diseases to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal certification or registration rules or laws; or when needed to protect the public health. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW.

**NEW SECTION. Sec. 6.** This act takes effect January 1, 2022."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5185.

Senator Pedersen spoke in favor of the motion.

Senator Padden spoke on 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 Substitute Senate Bill No. 5185.

The motion by Senator Pedersen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5185 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5185, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5185, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 14;

Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Gildon, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman and Wilson, C.

Voting nay: Senators Brown, Dozier, Ericksen, Fortunato, Hawkins, Holy, Honeyford, McCune, Muzzall, Padden, Schoesler, Sheldon, Wilson, J. and Wilson, L.

SUBSTITUTE SENATE BILL NO. 5185, 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:

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5022,  
 SUBSTITUTE SENATE BILL NO. 5025,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5118,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5190,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5193,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5194,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5227,  
 SUBSTITUTE SENATE BILL NO. 5236,  
 SECOND SUBSTITUTE SENATE BILL NO. 5313,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5377,  
 and ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5399.

#### MESSAGE FROM THE HOUSE

April 7, 2021

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5203 with the following amendment(s): 5203-S.E AMH HCW H1376.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 70.14 RCW to read as follows:

(1)(a) The authority may enter into partnership agreements with another state, a group of states, a state agency, a nonprofit organization, or any other entity to produce, distribute, or purchase generic prescription drugs and distribute and purchase insulin. Partnership agreements with governmental entities are exempt from competitive solicitation requirements in accordance with RCW 39.26.125(10). However, the authority must comply with state procurement laws related to competitive procurement when purchasing or entering into purchasing agreements with nongovernmental entities.

(b) The generic prescription drugs and insulin must be produced or distributed by a drug company or generic drug manufacturer that is registered with the United States food and drug administration.

(2) The authority shall only enter into partnerships, in consultation with other state agencies as necessary, to produce, distribute, or purchase a generic prescription drug or insulin at a

price that results in savings to public and private purchasers and consumers.

(3) For generic prescription drugs and insulin that the authority has entered into a partnership under this section:

(a) State purchased health care programs must purchase the generic prescription drugs and insulin through the partnership, unless the state purchased health care program can obtain the generic prescription drug or insulin at a cost savings through another purchasing mechanism; and

(b) Local governments, private entities, health carriers, and others may choose to voluntarily purchase the generic prescription drugs and insulin from the authority as available quantities allow.

(4) All information and documents obtained or created under this section is exempt from disclosure under chapter 42.56 RCW.

(5) For purposes of this section, the following definitions apply:

(a) "Authority" means the health care authority.

(b) "Eligible prescription drug" means a prescription drug or biological product, as defined in 42 U.S.C. Sec. 262(i), that is not under patent.

(c) "Generic drug" means a drug that is approved pursuant to an application referencing an eligible prescription drug that is submitted under section 505(j) of the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.), or section 351(k) of the federal public health service act (42 U.S.C. Sec. 262).

(d) "Purchase" means the acquisition of generic drugs and insulin. "Purchase" includes, but is not limited to, entering into contracts with manufacturers on behalf of those dispensing drugs and other innovative purchasing strategies to help increase access for Washington citizens to the best price available for insulin and generic prescription drugs. This subsection should be interpreted broadly to provide the authority flexibility in how it procures generic drugs and insulin in order to obtain the best price.

(e) "State purchased health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, department of health, state health care authority, department of labor and industries, department of corrections, and department of veterans affairs. State purchased health care does not include prescription drugs purchased for medical assistance program clients under chapter 74.09 RCW.

**Sec. 2.** RCW 70.14.060 and 2020 c 346 s 4 are each amended to read as follows:

(1)(a) The (~~administrator~~ ~~[director]~~) director of the state health care authority shall, directly or by contract, adopt policies necessary for establishment of a prescription drug purchasing consortium. The consortium's purchasing activities shall be based upon the evidence-based prescription drug program established under RCW 70.14.050. (~~(State)~~) Except as provided in section 1 of this act or exempted under (b) of this subsection, state purchased health care programs as defined in RCW 41.05.011 shall purchase prescription drugs through the consortium for those prescription drugs that are purchased directly by the state and those that are purchased through reimbursement of pharmacies(~~, unless exempted under (b) of this subsection~~)). The (~~administrator~~ ~~[director]~~) director shall not require any supplemental rebate offered to the health care authority by a pharmaceutical manufacturer for prescription drugs purchased for medical assistance program clients under chapter 74.09 RCW be extended to any other state purchased health care program, or to any other individuals or entities participating in the consortium. The (~~administrator~~ ~~[director]~~) director shall explore joint purchasing opportunities with other states.

(b) State purchased health care programs are exempt from the requirements of this section if they can demonstrate to the

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~~((administrator [director]))~~ director of the state health care authority that, as a result of the availability of federal programs or other purchasing arrangements, their other purchasing mechanisms will result in greater discounts and aggregate cost savings than would be realized through participation in the consortium.

(2) Participation in the purchasing consortium shall be offered as an option beginning January 1, 2006. Participation in the consortium is purely voluntary for units of local government, private entities, labor organizations, health carriers as provided in RCW 48.43.005, state purchased health care services from or through health carriers as provided in RCW 48.43.005, and for individuals who lack or are underinsured for prescription drug coverage. The ~~((administrator [director]))~~ director may set reasonable fees, including enrollment fees, to cover administrative costs attributable to participation in the prescription drug consortium.

(3) The state health care authority is authorized to adopt rules implementing chapter 129, Laws of 2005.

**NEW SECTION. Sec. 3.** 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."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Van De Wege moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5203.

Senator Van De Wege spoke in favor of the motion.

Senator Muzzall spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Van De Wege that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5203.

The motion by Senator Van De Wege carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5203 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5203, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5203, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

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

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5203, 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

March 28, 2021

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5273 with the following amendment(s): 5273-S AMH ENGR H1281.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the state of Washington will continue to be negatively impacted by the effects of climate change, including reduced winter snowpack, drought, increased frequencies of forest fires, and acidifying oceans that disrupt marine ecosystem viability. In the nearshore environment, climate change contributes to the rise in average sea-surface temperatures and rising sea levels. Hardened shoreline structures are not always well-suited for their intended purpose and may have unintended consequences in the nearshore environment. Soft shorelines or natural shorelines may protect and restore shoreline ecosystems through the use of natural plants and materials, and the legislature finds that landowners must consider alternatives to hardening shorelines to restore ecosystem function and recover threatened and endangered species to help address the impacts of climate change in the nearshore environment.

**Sec. 2.** RCW 77.55.231 and 2012 1st sp.s. c 1 s 106 are each amended to read as follows:

(1)(a) Conditions imposed upon a permit must be reasonably related to the project. The permit conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) In the event that any person desires to replace residential marine shoreline stabilization or armoring, a person must use the least impacting technically feasible bank protection alternative for the protection of fish life. Unless the department provides an exemption depending on the scale and nature of the project, a person that desires to replace residential marine shoreline stabilization or armoring must conduct a site assessment to consider the least impactful alternatives. A person should propose a hard armor technique only after considering site characteristics such as the threat to major improvements, wave energy, and other factors in an analysis of alternatives. The common alternatives identified in (b)(i) through (vii) of this subsection are in order from most preferred to least preferred:

(i) Remove the structure and restore the beach;

(ii) Remove the structure and install native vegetation;

(iii) Remove the structure and control upland drainage;

(iv) Remove the structure and replace it with a soft structure constructed of natural materials, including bioengineering;

(v) Remove the hard structure and construct upland retaining walls;

(vi) Remove the hard structure and replace it with a hard structure located landward of the existing structure, preferably at or above the ordinary high water line; or

(vii) Remove the hard structure and replace it with hard shoreline structure in the same footprint as the existing structure.

(c) For the purposes of this subsection, "feasible" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(2) The permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(3) The permit must contain provisions that allow for minor modifications to the required work timing without requiring the reissuance of the permit. "Minor modifications to the required work timing" means a minor deviation from the timing window set forth in the permit when there are no spawning or incubating fish present within the vicinity of the project."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

#### MOTION

Senator Salomon moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5273.

Senators Salomon and Warnick spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Salomon that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5273.

The motion by Senator Salomon carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5273 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5273, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5273, 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, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

SUBSTITUTE SENATE BILL NO. 5273, 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 9, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5304 with the following amendment(s): 5304-S2.E AMH ENGR H1393.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that when considering releasing persons from state and local institutions, realizing the safety of the public is the primary concern. The legislature also finds that the success of persons with behavioral

health needs being released from confinement in a prison, jail, juvenile rehabilitation facility, state hospital, and other state and local institutions can be increased with access to continuity of medical assistance, supportive services, and other targeted assistance. The legislature finds that this act provides strategies to prevent interruption of medical assistance benefits and to allow for a seamless transfer between systems of care. The legislature further finds that this act removes stigmatizing language from the program created under RCW 72.09.370 and 71.24.470 and creates a work group to study how to expand the cost-effective strategies of this program to other populations and settings to enhance recovery, reduce recidivism, and improve safety.

**Sec. 2.** RCW 74.09.670 and 2016 c 154 s 2 are each amended to read as follows:

~~(The)~~ When the authority receives information that a person enrolled in medical assistance is confined in a setting in which federal financial participation is disallowed by the state's agreements with the federal government, the authority ~~((is directed to))~~ shall suspend, rather than terminate, medical assistance benefits ~~((by July 1, 2017,))~~ for these persons, including those who are incarcerated in a correctional institution as defined in RCW 9.94.049, or committed to a state hospital or other treatment facility. ~~((This must include the ability for a))~~ A person who is not currently enrolled in medical assistance must be allowed to apply for medical assistance in suspense status during ~~((incarceration))~~ confinement, and the ability to apply may not depend upon knowledge of the release or discharge date of the person. ~~((The authority must provide a progress report describing program design and a detailed fiscal estimate to the governor and relevant committees of the legislature by December 1, 2016.))~~

**Sec. 3.** RCW 74.09.555 and 2019 c 325 s 4005 are each amended to read as follows:

(1) The authority shall adopt rules and policies providing that when persons ~~((with a mental disorder,))~~ who were enrolled in medical assistance immediately prior to confinement, or who become enrolled in medical assistance in suspense status during the period of confinement, are released from confinement, their medical assistance coverage ~~((will))~~ shall be fully reinstated ~~((on the day))~~ no later than at the moment of their release, subject to any expedited review of their continued eligibility for medical assistance coverage that is required under federal or state law. The authority may reinstate medical assistance prior to the day of release provided that no federal funds are expended for any purpose that is not authorized by the state's agreements with the federal government.

(2) The authority, in collaboration with the Washington association of sheriffs and police chiefs, the department of corrections, the department of children, youth, and families, managed care organizations, and behavioral health administrative services organizations, shall establish procedures for coordination between the authority and department field offices, institutions for mental disease, and correctional institutions, as defined in RCW 9.94.049, that result in prompt reinstatement of eligibility and speedy eligibility determinations for ~~((persons who are likely to be eligible for))~~ medical assistance services upon release from confinement. Procedures developed under this subsection must address:

(a) Mechanisms for receiving medical assistance services applications on behalf of confined persons in anticipation of their release from confinement;

(b) Expedient review of applications filed by or on behalf of confined persons and, to the extent practicable, completion of the review before the person is released;

(c) Mechanisms for providing medical assistance services identity cards to persons eligible for medical assistance services ~~((immediately upon))~~ before their release from confinement;

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~~((and))~~

(d) Coordination with the federal social security administration, through interagency agreements or otherwise, to expedite processing of applications for federal supplemental security income or social security disability benefits, including federal acceptance of applications on behalf of confined persons; and

(e) Assuring that notification of the person's release date, current location, and other appropriate information is provided to the person's managed care organization before the person's scheduled release from confinement, or as soon as practicable thereafter.

(3) Where medical or psychiatric examinations during a person's confinement indicate that the person is disabled, the correctional institution or institution for mental diseases shall provide the authority with that information for purposes of making medical assistance eligibility and enrollment determinations prior to the person's release from confinement. The authority shall, to the maximum extent permitted by federal law, use the examination in making its determination whether the person is disabled and eligible for medical assistance.

(4) For purposes of this section, "confined" or "confinement" means incarcerated in a correctional institution, as defined in RCW 9.94.049, or admitted to an institute for mental disease, as defined in 42 C.F.R. part 435, Sec. 1009 on July 24, 2005.

~~(5) ((For purposes of this section, "likely to be eligible" means that a person:~~

~~(a) Was enrolled in medicaid or supplemental security income or the medical care services program immediately before he or she was confined and his or her enrollment was terminated during his or her confinement; or~~

~~(b) Was enrolled in medicaid or supplemental security income or the medical care services program at any time during the five years before his or her confinement, and medical or psychiatric examinations during the person's confinement indicate that the person continues to be disabled and the disability is likely to last at least twelve months following release.~~

~~(6))~~ The economic services administration within the department shall adopt standardized statewide screening and application practices and forms designed to facilitate the application of a confined person ~~((who is likely to be eligible))~~ for medicaid.

**NEW SECTION. Sec. 4.** (1) The health care authority shall apply for a waiver allowing the state to provide medicaid services to persons who are confined in a correctional institution as defined in RCW 9.94.049 or confined in a state hospital or other treatment facility up to 30 days prior to the person's release or discharge to the community. The purpose is to create continuity of care and provide reentry services.

(2) The health care authority shall consult with the work group established under section 9 of this act about how to optimize the waiver application and its chance of success, including by limiting its scope if deemed appropriate.

(3) The health care authority shall inform the governor and relevant committees of the legislature in writing when the waiver application is submitted and update them as to progress of the waiver at appropriate points.

(4) No provision of this section may be interpreted to require the health care authority to provide medicaid services to persons who are confined in a correctional institution, state hospital, or other treatment facility up to 30 days prior to the person's release or discharge unless the health care authority obtains final approval for its waiver application from the centers for medicare and medicaid services.

**Sec. 5.** RCW 9.94.049 and 1995 c 314 s 6 are each amended

to read as follows:

(1) For the purposes of this chapter, the term "correctional institution" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including state prisons, county and local jails, juvenile detention centers, and other facilities operated by the department of corrections, department of children, youth, and families, or local governmental units primarily for the purposes of punishment, correction, or rehabilitation following conviction or adjudication of a criminal offense.

(2) For the purposes of RCW 9.94.043 and 9.94.045, "state correctional institution" means all state correctional facilities under the supervision of the secretary of the department of corrections used solely for the purpose of confinement of convicted felons.

**Sec. 6.** RCW 72.09.370 and 2019 c 325 s 5025 are each amended to read as follows:

(1) The ~~((offender))~~ reentry community ~~((safety))~~ services program is established to provide intensive services to ~~((offenders))~~ persons identified under this subsection and to thereby promote successful reentry, public safety, and recovery. The secretary shall identify ~~((offenders))~~ persons in confinement or partial confinement who: (a) Are reasonably believed to ~~((be dangerous))~~ present a danger to themselves or others if released to the community without supportive services; and (b) have a mental disorder. In ~~((determining an offender's dangerousness))~~ evaluating these criteria, the secretary shall consider behavior known to the department and factors, based on research, that are linked to ~~((an increased))~~ risk ~~((of))~~ of dangerousness ~~((of offenders))~~ for persons with mental illnesses within the criminal justice system and shall include consideration of ~~((an offender's))~~ the person's history of substance use disorder or abuse.

(2) Prior to release of ~~((an offender))~~ a person identified under this section, a team consisting of representatives of the department of corrections, the health care authority, and, as necessary, the indeterminate sentence review board, divisions or administrations within the department of social and health services, specifically including the division of developmental disabilities, the appropriate managed care organization ~~((contracted with the health care authority, the appropriate))~~ or behavioral health administrative services organization, and ~~((the))~~ reentry community services providers, as appropriate, shall develop a plan, as determined necessary by the team, for delivery of treatment and support services to the ~~((offender))~~ person upon release. In developing the plan, the ~~((offender))~~ person shall be offered assistance in executing a mental health advance directive under chapter 71.32 RCW, after being fully informed of the benefits, scope, and purposes of such directive. The team may include a school district representative for ~~((offenders))~~ persons under the age of ~~((twenty-one))~~ 21. The team shall consult with the ~~((offender's))~~ person's counsel, if any, and, as appropriate, the ~~((offender's))~~ person's family and community. The team shall notify the crime victim/witness program, which shall provide notice to all people registered to receive notice under RCW 72.09.712 of the proposed release plan developed by the team. Victims, witnesses, and other interested people notified by the department may provide information and comments to the department on potential safety risk to specific individuals or classes of individuals posed by the specific ~~((offender))~~ person. The team may recommend: (a) That the ~~((offender))~~ person be evaluated by ~~((the))~~ a designated crisis responder, as defined in chapter 71.05 RCW; (b) department-supervised community treatment; or (c) voluntary community mental health or substance use disorder or abuse treatment.

(3) Prior to release of ~~((an offender))~~ a person identified under

this section, the team shall determine whether or not an evaluation by a designated crisis responder is needed. If an evaluation is recommended, the supporting documentation shall be immediately forwarded to the appropriate designated crisis responder. The supporting documentation shall include the ~~((offender's))~~ person's criminal history, history of judicially required or administratively ordered involuntary antipsychotic medication while in confinement, and any known history of involuntary civil commitment.

(4) If an evaluation by a designated crisis responder is recommended by the team, such evaluation shall occur not more than ten days, nor less than five days, prior to release.

(5) A second evaluation by a designated crisis responder shall occur on the day of release if requested by the team, based upon new information or a change in the ~~((offender's))~~ person's mental condition, and the initial evaluation did not result in an emergency detention or a summons under chapter 71.05 RCW.

(6) If the designated crisis responder determines an emergency detention under chapter 71.05 RCW is necessary, the department shall release the ~~((offender))~~ person only to a state hospital or to a consenting evaluation and treatment facility or secure withdrawal management and stabilization facility. The department shall arrange transportation of the ~~((offender))~~ person to the hospital or facility.

(7) If the designated crisis responder believes that a less restrictive alternative treatment is appropriate, he or she shall seek a summons, pursuant to the provisions of chapter 71.05 RCW, to require the ~~((offender))~~ person to appear at an evaluation and treatment facility or secure withdrawal management and stabilization facility. If a summons is issued, the ~~((offender))~~ person shall remain within the corrections facility until completion of his or her term of confinement and be transported, by corrections personnel on the day of completion, directly to the identified ~~((evaluation and treatment))~~ facility.

(8) The secretary shall adopt rules to implement this section.

**Sec. 7.** RCW 71.24.470 and 2019 c 325 s 1030 are each amended to read as follows:

(1) The director shall contract, to the extent that funds are appropriated for this purpose, for case management services and such other services as the director deems necessary to assist ~~((offenders))~~ persons identified under RCW 72.09.370 for participation in the ~~((offender))~~ reentry community ~~((safety))~~ services program. The contracts may be with any qualified and appropriate entities. The director shall ensure the authority has coverage in all counties of the state for the purposes of providing reentry community services program services.

(2) The case manager has the authority to assist these ~~((offenders))~~ persons in obtaining the services, as set forth in the plan created under RCW 72.09.370(2), for up to five years. The services may include coordination of mental health services, assistance with unfunded medical expenses, assistance obtaining substance use disorder treatment, housing, employment services, educational or vocational training, independent living skills, parenting education, anger management services, peer services, and such other services as the case manager deems necessary.

(3) The legislature intends that funds appropriated for the purposes of RCW 72.09.370, 71.05.145, and 71.05.212, and this section are to supplement and not to supplant general funding. Funds appropriated to implement RCW 72.09.370, 71.05.145, and 71.05.212, and this section are not to be considered available resources as defined in RCW 71.24.025 and are not subject to the priorities, terms, or conditions in the appropriations act established pursuant to RCW 71.24.035.

(4) The ~~((offender))~~ reentry community ~~((safety))~~ services program was formerly known as the community integration assistance program.

**Sec. 8.** RCW 71.24.480 and 2019 c 325 s 1031 are each amended to read as follows:

(1) A licensed or certified behavioral health agency acting in the course of the ~~((provider's))~~ agency's duties under this chapter ~~((is))~~ and its individual employees are not liable for civil damages resulting from the injury or death of another caused by a participant in the ~~((offender))~~ reentry community ~~((safety))~~ services program who is a client of the ~~((provider or organization))~~ agency, unless the act or omission of the ~~((provider or organization))~~ agency or employee constitutes:

(a) Gross negligence;

(b) Willful or wanton misconduct; or

(c) A breach of the duty to warn of and protect from a client's threatened violent behavior if the client has communicated a serious threat of physical violence against a reasonably ascertainable victim or victims.

(2) In addition to any other requirements to report violations, the licensed or certified behavioral health agency shall report ~~((an offender's))~~ a reentry community services program participant's expressions of intent to harm or other predatory behavior, regardless of whether there is an ascertainable victim, in progress reports and other established processes that enable courts and supervising entities to assess and address the progress and appropriateness of treatment.

(3) A licensed or certified behavioral health agency's mere act of treating a participant in the ~~((offender))~~ reentry community ~~((safety))~~ services program is not negligence. Nothing in this subsection alters the licensed or certified behavioral health agency's normal duty of care with regard to the client.

(4) The limited liability provided by this section applies only to the conduct of licensed or certified behavioral health agencies and their employees and does not apply to conduct of the state.

(5) For purposes of this section, "participant in the ~~((offender))~~ reentry community ~~((safety))~~ services program" means a person who has been identified under RCW 72.09.370 as ~~((an offender))~~ a person who: (a) Is reasonably believed to ~~((be dangerous))~~ present a danger to himself or herself or others if released to the community without supportive services; and (b) has a mental disorder.

**NEW SECTION. Sec. 9.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The authority shall convene a reentry services work group to consider ways to improve reentry services for persons with an identified behavioral health services need. The work group shall:

(a) Advise the authority on its waiver application under section 4 of this act;

(b) Develop a plan to assure notifications of the person's release date, current location, and other appropriate information are provided to the person's managed care organization before the person's scheduled release from confinement, or as soon as practicable thereafter, in accordance with RCW 74.09.555;

(c) Consider the value of expanding, replicating, or adapting the essential elements of the reentry community services program under RCW 72.09.370 and 71.24.470 to benefit new populations, such as:

(i) A larger group of incarcerated persons in the department of corrections than those who currently have the opportunity to participate;

(ii) State hospital patients committed under criminal insanity laws under chapter 10.77 RCW;

(iii) Involuntary treatment patients committed under chapter 71.05 RCW;

(iv) Persons committed to juvenile rehabilitation;

(v) Persons confined in jail; and

(vi) Other populations recommended by the work group;

(d) Consider whether modifications should be made to the



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reentry community services program;

(e) Identify potential costs and savings for the state and local governments which could be realized through the use of telehealth technology to provide behavioral health services, expansion or replication of the reentry community services program, or other reentry programs which are supported by evidence;

(f) Consider the sustainability of reentry or diversion services provided by pilot programs funded by contempt fines in *Trueblood, et al., v. Washington State DSHS*, No. 15-35462;

(g) Recommend a means of funding expanded reentry services; and

(h) Consider incorporation of peer services into the reentry community services programs.

(2)(a) In addition, the authority shall convene a subcommittee of the work group consisting of a representative of the authority, one representative of each managed care organization contracted with the authority under chapter 74.09 RCW, representatives of the Washington association of sheriffs and police chiefs, representatives of jails, and other members that the work group determines are appropriate to inform the tasks of the work group.

(b) The subcommittee must:

(i) Determine and make progress toward implementing a process for transmitting real-time location information related to incarcerated individuals to the managed care organization in which the individual is enrolled;

(ii) Develop a process to transmit patient health information between jails and managed care organizations to ensure high quality health care for incarcerated individuals enrolled in a managed care organization; and

(iii) Improve collaboration between the authority, the managed care organizations, and the jails as it pertains to care coordination both when an individual enters custody and upon release.

(c) The subcommittee must submit an initial report to the relevant committees of the legislature by December 1, 2021, and a final report by December 1, 2022. The reports shall evaluate the progress of managed care organizations with respect to meeting their contractual obligations regarding clinical coordination when an individual enters custody as well as care coordination and connection to reentry services upon release, including any corrective action taken by the authority against a managed care organization related to noncompliance. The reports shall also identify any barriers to effective care coordination for individuals in jail and recommendations to overcome those barriers.

(3) The authority shall invite participation in the work group by stakeholders including but not limited to representatives from: Disability rights Washington; behavioral health advocacy organizations; behavioral health peers; reentry community services providers; community behavioral health agencies; advocates for persons with developmental disabilities; the department of corrections; the department of children, youth, and families; the Washington association of sheriffs and police chiefs; prosecutors; defense attorneys; the Washington state association of counties; King county behavioral health and recovery division; the department of social and health services; state hospital employees who serve patients committed under chapters 10.77 and 71.05 RCW; the public safety review panel under RCW 10.77.270; managed care organizations; behavioral health administrative services organizations; jail administrators; the Washington statewide reentry council; the Washington state senate; the Washington state house of representatives; and the Washington state institute for public policy.

(4) The work group must provide a progress report to the governor and appropriate committees of the legislature by July 1, 2022, and a final report by December 1, 2023.

**NEW SECTION. Sec. 10.** The Washington state institute for public policy shall update its previous evaluations of the reentry community services program under RCW 72.09.370 and 71.24.470, and broaden its cost-benefit analysis to include impacts on the use of public services, and other factors. The institute shall collaborate with the work group established under section 9 of this act to determine research parameters and help the work group answer additional research questions including, but not limited to, the potential cost, benefit, and risks involved in expanding or replicating the reentry community services program; and what modifications to the program are most likely to prove advantageous based on the current state of knowledge about evidence-based, research-based, and promising programs. The department of corrections, health care authority, administrative office of the courts, King county, and department of social and health services must cooperate with the institute to facilitate access to data or other resources necessary to complete this work. The institute must provide a preliminary report by July 1, 2022, and a final report by November 1, 2023, to the governor and relevant committees of the legislature.

**Sec. 11.** RCW 72.09.270 and 2008 c 231 s 48 are each amended to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every ~~((offender))~~ person who is committed to the jurisdiction of the department except:

(a) ~~((Offenders))~~ Persons who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) ~~((Offenders))~~ Persons who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all ~~((offenders))~~ persons using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each ~~((offender))~~ person. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the ~~((offender))~~ person, including any learning disabilities, substance abuse or mental health issues, and social or behavior deficits.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than ~~((forty-five))~~ 45 days of being sentenced to the jurisdiction of the department of corrections.

(b) The ~~((offender's))~~ person's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than ~~((sixty))~~ 60 days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the inmate's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the ~~((offender's))~~ person's children and family;

(b) An individualized portfolio for each ~~((offender))~~ person that includes the ~~((offender's))~~ person's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the ~~((offender))~~ person during the period of incarceration through reentry into the community that addresses the needs of the ~~((offender))~~ person including education,

employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any ~~((offender))~~ person, the department shall:

(i) Evaluate the ~~((offender's))~~ person's needs and, to the extent possible, connect the ~~((offender))~~ person with existing services and resources that meet those needs; and

(ii) Connect the ~~((offender))~~ person with a community justice center and/or community transition coordination network in the area in which the ~~((offender))~~ person will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in ~~((an offender's))~~ a person's individual reentry plan, the department shall maximize the period of partial confinement for the ~~((offender))~~ person as allowed pursuant to RCW 9.94A.728 to facilitate the ~~((offender's))~~ person's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the ~~((offender's))~~ person's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a) In determining the county of discharge for ~~((an offender))~~ a person released to community custody, the department may ~~((not))~~ approve a residence location that is not in the ~~((offender's))~~ person's county of origin ~~((unless it is determined by the))~~ if the department determines that the ~~((offender's return to his or her county of origin would be inappropriate considering))~~ residence location would be appropriate based on any court-ordered condition of the ~~((offender's))~~ person's sentence, victim safety concerns, ~~((negative influences on the offender in the community, or the))~~ and factors that increase opportunities for successful reentry and long-term support including, but not limited to, location of family or other sponsoring persons or organizations that will support the ~~((offender))~~ person, availability of appropriate programming or treatment, and access to housing, employment, and prosocial influences on the person in the community.

(b) In implementing the provisions of this subsection, the department shall approve residence locations in a manner that will not cause any one county to be disproportionately impacted.

(c) If the ~~((offender))~~ person is not returned to his or her county of origin, the department shall provide the law and justice council of the county in which the ~~((offender))~~ person is placed with a written explanation.

~~((e))~~ (d)(i) For purposes of this section, except as provided in (d)(ii) of this subsection, the ~~((offender's))~~ person's county of origin means the county of the ~~((offender's))~~ person's residence at the time of the person's first felony conviction in Washington state.

(ii) If the person is a homeless person as defined in RCW 43.185C.010, or the person's residence is unknown, then the person's county of origin means the county of the person's first felony conviction in Washington state.

(9) Nothing in this section creates a vested right in programming, education, or other services.

**Sec. 12.** RCW 43.380.020 and 2019 c 415 s 976 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the Washington statewide reentry council is created and located within the department for the purpose of promoting successful reentry of offenders after incarceration.

(2) Through the executive director that may be appointed by the council, the department shall administer the council by:

(a) Providing the council and its executive director use of the department's facilities; and

(b) Managing grants and other funds received, used, and disbursed by the council.

~~((3) Except during the 2019-2021 fiscal biennium, the department may not designate additional full-time staff to the administration of the council beyond the executive director.))"~~

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Wilson, C. moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5304.

Senators Wilson, C. and Gildon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Wilson, C. that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5304.

The motion by Senator Wilson, C. carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5304 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5304, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5304, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5304, 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 11, 2021

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5362 with the following amendment(s): 5362-S2 AMH APP H1350.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature found in 1961 that it is in the public interest to hold agricultural fairs to train youth, to educate the public about the production of food and fiber, and to promote the welfare of farm people and rural living. The legislature finds that the fair fund was created for the purpose of encouraging agricultural fairs and training rural youth. The

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legislature finds that despite the original expectations, the fair fund has not increased, and this lack of increased support has made it difficult to maintain youth programs. Research has shown that youth who participate in fairs are more likely to get better grades, attend college, and positively contribute to their families and communities.

(2) The legislature finds that fairs also contribute to economic vitality and cultural heritage by: (a) Providing an opportunity for small businesses to reach a larger customer base; (b) providing agricultural suppliers a platform to showcase new technology; (c) creating numerous seasonal jobs; (d) playing a vital role in fund-raising for nonprofit organizations; and (e) providing a venue for community and cultural events.

(3) The legislature further finds that events held on fairgrounds support both the cultural and economic development of rural communities. The legislature finds that connecting the fair fund to revenue generated on fairgrounds encourages fairs to work with local businesses to increase economic opportunity. Thirty-seven counties have a fair. Benton and Franklin counties share a fair. Mason county currently does not have a fair.

**Sec. 2.** RCW 15.76.115 and 2018 c 280 s 3 are each amended to read as follows:

- (1) The fair fund is created in the custody of the state treasury.
- (2) All moneys received by the department of agriculture for the purposes of this fund and from RCW 67.16.105 shall be deposited into the fund. Each fiscal year, the state treasurer shall transfer into the fair fund from the general fund ~~((the sum of two million dollars))~~ an amount appropriated in the omnibus operating appropriations act equal to:
- (a) \$2,000,000 for fiscal year 2021;
- (b) \$2,750,000 in each fiscal year 2022 and 2023;
- (c) \$3,500,000 in each fiscal year 2024 and 2025; and
- (d) \$4,000,000 in fiscal year 2026 and each fiscal year thereafter.
- (e) To support inclusiveness at fair events, a portion of the additional funds provided to fairs as a result of this act must be prioritized to be spent on educational programs and outreach that are reflective of the diversity within a fair's local population.
- (3) Expenditures from the fund may be used only for assisting fairs in the manner provided in this chapter. Only the director of agriculture or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures."

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator McCune moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5362.

Senator McCune spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McCune that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5362.

The motion by Senator McCune carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5362 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5362, as amended by the House.

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5362, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Hasegawa and Pedersen

SECOND SUBSTITUTE SENATE BILL NO. 5362, 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 10, 2021

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5191 with the following amendment(s): 5191-S.E AMH CPB H1382.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes the need to protect Washingtonians from excessive and unjustified price increases implemented during or shortly after a declared state of emergency for essential goods and services that are vital and necessary for the health, safety, and welfare of consumers.

The legislature also recognizes the need to support businesses providing these goods in understanding their obligations to consumers during times of potential chaos and uncertainty in the marketplace.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Building materials" means lumber, construction tools, windows, and anything else used in the building or rebuilding of property.

(2) "Consumer food item" means any article used or intended for use for food, drink, confection, or condiment by a person or animal.

(3) "Emergency supplies" includes, but is not limited to, water, flashlights, radios, batteries, candles, heating and cooking fuel, blankets, soap, diapers, temporary shelters, tape, toiletries, personal hygiene products, plywood, nails, and hammers.

(4) "Excessive price" means a price more than 15 percent greater than the price at which the person sold, rented, or offered for sale or rent the same product or service immediately prior to the state of emergency defined in subsection (13) of this section. If the seller did not sell, rent, or offer for sale or rent the product or service immediately prior to the onset of the state of emergency defined in subsection (13) of this section, or if the price charged by the person for the product or service prior to the onset of the state of emergency cannot be determined, an excessive price shall be presumed where the price is more than 15 percent greater than the price of the same product or service offered for sale or rent by other similarly situated sellers prior to the state of emergency defined in subsection (13) of this section. If a state of emergency

as defined in subsection (13) of this section continues for more than one year, the price of the product or service on the anniversary of the state of emergency as defined in subsection (13) of this section must be the new baseline price for determining whether a price is excessive.

(5) "Gasoline" means any fuel used to power any motor vehicle or power tool.

(6) "Health care services" means services necessary to provide medical care that are provided or arranged by a temporary staffing services company including, but not limited to, services provided by physicians, physician assistants, nurses, and nursing assistants.

(7) "Housing" means a short-term stay commercial enterprise including, but not limited to, a hotel or motel. Housing does not mean any residence governed by the residential landlord-tenant act, chapter 59.18 RCW, or the manufactured/mobile home landlord-tenant act, chapter 59.20 RCW.

(8) "Medical supplies" includes, but is not limited to, prescription and nonprescription medications, pain relievers, infection control and prevention products, bandages, gauze, isopropyl alcohol, and antibacterial products.

(9) "Person" means any natural person, proprietorship, company, firm, corporation, limited liability company, partnership, independent contractor, group, unincorporated association, trust, estate, community, agency, institution, joint venture, other business or government organization, or any other legal entity.

(10) "Personal protective equipment" means any protective equipment that protects against physical, electrical, heat, chemicals, biohazards, and airborne particulate matter including, but not limited to, clothing, helmets, goggles, or other garments or equipment designed to protect the wearer's body from injury or infection.

(11) "Repair or reconstruction services" means work, labor, or services performed by any person for repairs to residential or commercial property of any type that is damaged as a result of a natural or human-induced disaster or emergency resulting from an event described in subsection (13) of this section.

(12) "Seller" includes any person within the chain of distribution with authority or permission to adjust, set, or regulate a price of any product or service offered for sale or rent subject to section 3 of this act.

(13) "State of emergency" means an event for which a state of emergency has been declared by the governor of the state of Washington.

(14) "Temporary staffing services company" has the same meaning as set forth in RCW 50.04.245.

(15) "Transportation, freight, and storage services" means any service that is performed by a person that contracts to move, store, or transport personal or business property, or rents equipment for those purposes.

**NEW SECTION. Sec. 3.** (1) This section shall be automatically implemented when the governor declares a state of emergency pursuant to RCW 43.06.010 and 43.06.200 through 43.06.220. In the event of a state of emergency as defined in section 2 of this act, no person in the county or counties for which an emergency has been declared shall sell, rent, or offer to sell or rent, regardless of whether an actual sale or rental occurs, a good or service listed in this section at an excessive price. Goods and services to which this section applies are:

- (a) Building materials;
- (b) Consumer food items;
- (c) Goods or services used for emergency cleanup, regardless of whether the goods or services are listed in this subsection;
- (d) Emergency supplies;
- (e) Gasoline;
- (f) Health care services;

(g) Housing;

(h) Medical supplies;

(i) Repair or reconstruction services;

(j) Transportation, freight, and storage services; and

(k) Personal protective equipment.

(2) The governor shall have the authority to modify the list of goods and services under subsection (1) of this section in an executive order pursuant to RCW 43.06.220 where appropriate in the context of a particular emergency.

(3) A person who increases a price does not violate this section if the price increase is attributable to an additional cost imposed by a supplier of a good or service, or other costs of providing the good or service, including an additional cost for labor or materials used to provide a product or service.

(4) A person with authority or permission to adjust or regulate a price does not violate this section if that person undertakes commercially reasonable efforts to prevent or remove offers to sell or rent a good or service listed in this section at an excessive price.

(5) If, in the 60 days prior to the governor's implementation of this section, a person sold, rented, or offered for sale or rent a good or service listed in subsection (3) of this section at a reduced price which was lower than the price at which the person ordinarily sells, rents, or offers for sale or rent the good or service in the area for which the declaration was issued, then the price at which that person ordinarily sells, rents, or offers for sale or rent the good or service in the area for which the declaration was issued shall be used in determining if the person is in violation of this section.

(6) If the 60 days prior to the governor's implementation reflects quarter 4, November through January, holiday pricing, then the price at which the person ordinarily sells, rents, or offers for sale or rent the good or service in the area in which the declaration was issued shall be based on quarter 3, August through October.

(7)(a) The restrictions imposed by this chapter expire upon termination of the state of emergency or 60 days after the state of emergency is declared, whichever comes first.

(b) Once restrictions are imposed under this chapter to respond to a specific emergency, the restrictions may only be extended, renewed, or reimposed with legislative approval through concurrent resolution. If the legislature is not in session, restrictions imposed under this chapter may be extended, renewed, or reimposed in writing by the leadership of the senate and the house of representatives until the legislature can extend the restrictions through concurrent resolution. For purposes of this section, "leadership of the senate and the house of representatives" means the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

(c) If restrictions imposed under this chapter expire and are not extended, renewed, or reimposed, this section does not affect any rights or remedies provided in the consumer protection act, chapter 19.86 RCW.

**NEW SECTION. Sec. 4.** (1) The attorney general may investigate violations of this chapter. The attorney general may issue subpoenas or civil investigative demands pursuant to RCW 19.86.110 to any person that the attorney general has reason to believe has violated this chapter or has information or knowledge pertaining to a violation of this chapter.

(2) The attorney general may issue a cease and desist letter to any person to restrain and prevent violations of this chapter. If the recipient of a cease and desist letter does not comply within five calendar days of receipt of the letter, the attorney general may file an action in superior court at any time thereafter to enforce the cease and desist letter. If the court finds that the person violated

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this chapter and failed to comply with a cease and desist letter, the court shall enjoin the person from engaging in conduct that violates this chapter and shall impose a civil penalty of not more than \$10,000 per violation of the cease and desist letter. In any successful action to enforce a cease and desist letter under this chapter, the court shall award the attorney general the costs of bringing the action, including reasonable investigative costs and reasonable attorneys' fees. The remedies under this subsection are in addition to any other remedies a court may order under subsection (3) of this section.

(3) Every person who violates this chapter shall forfeit and pay a civil penalty of no more than \$25,000 per violation. No additional civil penalty shall be assessed for the same violation under the consumer protection act pursuant to RCW 19.86.140.

(4) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest. A violation of this chapter, including, but not limited to, a violation of a cease and desist letter issued pursuant to subsection (2) of this section, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act.

(5) The remedies provided by this chapter are in addition to any other remedies provided by law.

**NEW SECTION. Sec. 5.** Upon application of this act, the office of the attorney general shall produce and maintain on its website translated versions of this act in the top 10 languages spoken in Washington state and, at the discretion of the office of the attorney general, other languages as requested or needed to support small businesses that are either owned or operated, or both, by individuals who have limited English language proficiency. The notice must be made available upon request in printed form on one letter size paper, eight and one-half by 11 inches, and in an easily readable font size.

**NEW SECTION. Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 19 RCW.

**NEW SECTION. Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Pedersen moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5191 and ask the House to recede therefrom.

Senator Pedersen 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 refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5191 and ask the House to recede therefrom.

The motion by Senator Pedersen carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5191 and asked the House to recede therefrom by voice vote.

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:

- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1267,
- SUBSTITUTE HOUSE BILL NO. 1269,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1273,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1287,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1295,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1297,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1320,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1335,
- HOUSE BILL NO. 1399,
- SUBSTITUTE HOUSE BILL NO. 1416,
- SUBSTITUTE HOUSE BILL NO. 1425,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1443,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1457,
- SUBSTITUTE HOUSE BILL NO. 1484,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1504,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1512,
- and SUBSTITUTE HOUSE BILL NO. 1532.

MESSAGE FROM THE HOUSE

April 15, 2021

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 1386 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rolfes moved that the Senate recede from its position on Engrossed House Bill No. 1386 and pass the bill without the Senate amendment(s).

Senators Rolfes and Wilson, L. spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator Rolfes that the Senate recede from its position on Engrossed House Bill No. 1386 and pass the bill without Senate amendment(s).

The motion by Senator Rolfes carried and the Senate receded from its position on Engrossed House Bill No. 1386 and passed the bill without the Senate amendment(s) by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1386 without the Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1386, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hawkins, Hobbs, Holy, Honeyford, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Hasegawa and Hunt

ENGROSSED HOUSE BILL NO. 1386, without the Senate amendment(s), 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 13, 2021

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1438 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rolfes moved that the Senate recede from its position on Substitute House Bill No. 1438 and pass the bill without the Senate amendment(s).

Senators Rolfes and Wilson, L. spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator Rolfes that the Senate recede from its position on Substitute House Bill No. 1438 and pass the bill without Senate amendment(s).

The motion by Senator Rolfes carried and the Senate receded from its position on Substitute House Bill No. 1438 and passed the bill without the Senate amendment(s) by voice vote.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1438 without the Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1438, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Erickson, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1438, without the Senate amendment(s), 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 13, 2021

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1476 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rolfes moved that the Senate insist on its position in the Senate amendment(s) to Engrossed Substitute House Bill No.

1476 and ask the House to concur thereon.

Senators Rolfes and Wilson, L. spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator Rolfes that the Senate insist on its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1476 and ask the House to concur thereon.

The motion by Senator Rolfes carried and the Senate insisted on its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1476 and asked the House to concur thereon by voice vote.

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 HOUSE BILL NO. 1044,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1127,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1139,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1140,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1152,  
 SUBSTITUTE HOUSE BILL NO. 1155,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1176,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1186,  
 SUBSTITUTE HOUSE BILL NO. 1193,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1194,  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1196,  
 SECOND SUBSTITUTE HOUSE BILL NO. 1219,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1220,  
 SUBSTITUTE HOUSE BILL NO. 1223,  
 and ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1227.

MOTION

Senator Billig moved that the Senate suspend Senate Emergency Rule J, and the package of gubernatorial appointments be placed on the 2<sup>nd</sup> Reading Calendar:

SENATE GUBERNATORIAL APPOINTMENT NO. 9033,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9079,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9157,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9171,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9173,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9175,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9182,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9184,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9191,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9192,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9201,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9208,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9248,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9251,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9257,  
 SENATE GUBERNATORIAL APPOINTMENT NO. 9259,  
 and SENATE GUBERNATORIAL APPOINTMENT NO. 9272.

The President stated that question before the Senate to be the motion by Senator Billig to suspend Senate Emergency Rule J and place the package of gubernatorial appointments on the 2<sup>nd</sup> Reading Calendar.

The motion by Senator Billig carried by voice vote.

MOTION

BRAD HENDRICKSON, Secretary of the Senate

At 1:47 p.m., on motion of Senator Liias, the Senate adjourned until 1:00 o'clock p.m. Thursday, April 22, 2021.

DENNY HECK, President of the Senate

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President Signed.....	30	President Signed.....	29
1139-S2.E		1287-S2.E	
Messages .....	1	Messages .....	1
President Signed.....	30	President Signed.....	29
1140-S.E		1295-S2.E	
Messages .....	1	Messages .....	1
President Signed.....	30	President Signed.....	29
1152-S2.E		1297-S.E	
Messages .....	1	Messages .....	1
President Signed.....	30	President Signed.....	29
1155-S		1320-S2.E	
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Messages .....	1	1399	
President Signed.....	30	Messages .....	1
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1227-S2.E		Messages .....	1
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1267-S.E		Messages .....	30
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President Signed.....	29	1484-S	



Messages .....	1	Messages .....	1
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President Signed.....	29	Other Action.....	19
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President Signed.....	29	5191-S.E	
1532-S		Messages .....	27
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President Signed.....	29	5193-S.E	
5000-S2		President Signed.....	20
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5003-S		President Signed.....	20
Messages .....	1	5203-S.E	
5011-S		Final Passage as amended by House.....	21
Messages .....	1	Messages .....	20
5022-S2.E		Other Action.....	21
President Signed.....	20	5225	
5025-S		Messages .....	1
President Signed.....	20	5227-S2.E	
5027		President Signed.....	20
Messages .....	1	5230-S	
5030-S		Messages .....	1
Messages .....	1	5236-S	
5031		President Signed.....	20
Messages .....	1	5237-S2.E	
5032		Messages .....	2
Messages .....	1	5258-S	
5034-S		Messages .....	1
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5051-S2.E		Messages .....	1
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5080-S		Messages .....	1
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5367		9184 Cayanan, Arliegh P.	
Messages .....	1	Other Action.....	30
5377-S2.E		9191 Al-Ghanim, Athmar	
President Signed.....	20	Other Action.....	30
5399-S2.E		9192 Alcantar, Alejandro	
President Signed.....	20	Other Action.....	30
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Adopted.....	2	Other Action.....	30
Introduced .....	1	9259 Drennen, Andrew J.	
9033 Glasper, Marcus J.		Other Action.....	30
Other Action.....	30	9272 Krombeen, Henrik	
9079 Pedersen, Kenneth J.		Other Action.....	30
Other Action.....	30	CHAPLAIN OF THE DAY	
9157 Busto, Mark R.		Gillian, Mr. Albert, Reverend, Walla Walla	
Other Action.....	30	Presbyterian Church.....	1
9171 Greiner, Abigail E.		FLAG BEARERS	
Other Action.....	30	Washington State Patrol Honor Guard .....	1
9173 Fukai, Kelly		GUESTS	
Other Action.....	30	Phillips, Miss Lizzie, Pledge of Allegiance ..	1
9175 McMillion, Nathaniel L.		Wasser, Miss Hannah, Pledge of Allegiance	1
Other Action.....	30	Wasser, Miss Maddie, Pledge of Allegiance	1