

This title shall take effect July 1, 1990.

[1989 c 165 § 205.]

RCW 23B.900.050 Section headings--1989 c 165.

Section headings as used in this title do not constitute any part of the law.

[1989 c 165 § 206.]

**Title 24 RCW
CORPORATIONS AND ASSOCIATIONS (NONPROFIT)**

Chapters

- 24.03 Washington nonprofit corporation act.**
- 24.06 Nonprofit miscellaneous and mutual corporations act.**
- 24.12 Corporations sole.**
- 24.20 Fraternal societies.**
- 24.24 Building corporations composed of fraternal society members.**
- 24.28 Granges.**
- 24.34 Agricultural processing and marketing associations.**
- 24.36 Fish marketing act.**
- 24.40 Tax reform act of 1969, state implementation--Not for profit corporations.**
- 24.44 Uniform management of institutional funds act.**
- 24.46 Foreign trade zones.**

Notes:

Acknowledgment form, corporations: RCW 64.08.070.

Actions by and against public corporations: RCW 4.08.110, 4.08.120.

Constitutional provisions, generally: State Constitution Art. 12.

Consumer loan act: Chapter 31.04 RCW.

Contribution of corporate funds, public, charitable, etc., purposes: RCW 23B.03.020(2)(o).

Crimes relating to corporations: Chapter 9.24 RCW.

Criminal procedure: RCW 10.01.070 through 10.01.100.

Dentistry, practice or solicitation prohibited: RCW 18.32.675.

Doing business without license, gross misdemeanor: RCW 9.24.040.

Eminent domain by corporations: Chapter 8.20 RCW.

False statements, penalty for filing: RCW 43.07.210.

Foreign corporations

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nonadmitted, powers relative to secured interests: Chapter 23B.18 RCW.

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Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

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Chapter 24.03 RCW
WASHINGTON NONPROFIT CORPORATION ACT

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Notes:

Organization of condominium unit owners' association: RCW 64.34.300.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

RCW 24.03.005 Definitions.

As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(3) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(4) "Articles of incorporation" and "articles" mean the original articles of incorporation and all amendments thereto, and includes articles of merger and restated articles.

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(6) "Member" means an individual or entity having membership rights in a corporation in accordance with the provisions of its articles or incorporation or bylaws.

(7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated in the articles or bylaws.

(8) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(9) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(10) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined that the document complies as to form with the applicable requirements of this chapter.

(11) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.

(12) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the document submission with the secretary of state.

(13) "An officer of the corporation" means, in connection with the execution of

documents submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation.

(14) "Public benefit not for profit corporation" or "public benefit nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers and that holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or is specifically exempted from the requirement to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).

[1989 c 291 § 3; 1986 c 240 § 1; 1982 c 35 § 72; 1967 c 235 § 2.]

Notes:

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.010 Applicability.

The provisions of this chapter relating to domestic corporations shall apply to:

- (1) All corporations organized hereunder; and
- (2) All not for profit corporations heretofore organized under any act hereby repealed, for a purpose or purposes for which a corporation might be organized under this chapter; and
- (3) Any corporation to which this chapter does not otherwise apply, which is authorized to elect, and does elect, in accordance with the provisions of this chapter, as now or hereafter amended, to have the provisions of this chapter apply to it.

The provisions of this chapter relating to foreign corporations shall apply to all foreign not for profit corporations conducting affairs in this state for a purpose or purposes for which a corporation might be organized under this chapter.

[1971 ex.s. c 53 § 1; 1967 c 235 § 3.]

Notes:

Repealer--Savings--1967 c 235: See RCW 24.03.920, 24.03.905.

RCW 24.03.015 Purposes.

Corporations may be organized under this chapter for any lawful purpose or purposes, including, without being limited to, any one or more of the following purposes: Charitable; benevolent; eleemosynary; educational; civic; patriotic; political; religious; social; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; and professional, commercial, industrial or trade association; but labor unions, cooperative organizations, and organizations subject to any of the provisions of the banking or insurance laws of this state may not be organized under this chapter: PROVIDED, That any not for profit corporation heretofore organized under any act hereby repealed and existing for the purpose of providing health care services as defined in RCW 48.44.010(1) or 48.46.020(1), as now or hereafter amended, shall continue to be organized under this chapter.

[1986 c 240 § 2; 1983 c 106 § 22; 1967 c 235 § 4.]

Notes:

Repealer--Savings--1967 c 235: See RCW 24.03.920, 24.03.905.

Fish marketing act: Chapter 24.36 RCW.

Granges: Chapter 24.28 RCW.

Insurance: Title 48 RCW.

Labor unions: Chapter 49.36 RCW.

RCW 24.03.017 Corporation may elect to have chapter apply to it--Procedure.

Any corporation organized under any act of the state of Washington for any one or more of the purposes for which a corporation may be organized under this chapter and for no purpose other than those permitted by this chapter, and to which this chapter does not otherwise apply, may elect to have this chapter and the provisions thereof apply to such corporation. Such corporation may so elect by having a resolution to do so adopted by the governing body of such corporation and by delivering to the secretary of state a statement of election in accordance with this section. Such statement of election shall be executed in duplicate by the corporation by an officer of the corporation, and shall set forth:

(1) The name of the corporation;

(2) The act which created the corporation or pursuant to which it was organized;

(3) That the governing body of the corporation has elected to have this chapter and the provisions thereof apply to said corporation.

Duplicate originals of such statement of election shall be delivered to the secretary of state. If the secretary of state finds that the statement of election conforms to law, the secretary of state shall, when fees in the same amount as required by this chapter for filing articles of incorporation have been paid, endorse on each of such duplicates the word "filed" and the effective date of the filing thereof, shall file one of such duplicate originals, and shall issue a certificate of elective coverage to which the other duplicate original shall be affixed.

The certificate of elective coverage together with the duplicate original affixed thereto by the secretary of state shall be returned to the corporation or its representative. Upon the filing of the statement of elective coverage, the provisions of this chapter shall apply to said corporation which thereafter shall be subject to and shall have the benefits of this chapter and the provisions thereof as they exist on the date of filing such statement of election and as they may be amended from time to time thereafter, including, without limiting the generality of the foregoing, the power to amend its charter or articles of incorporation, whether or not created by special act of the legislature, delete provisions therefrom and add provisions thereto in any manner and to any extent it may choose to do from time to time so long as its amended articles shall not be inconsistent with the provisions of this chapter.

[1982 c 35 § 73; 1971 ex.s. c 53 § 2.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.020 Incorporators.

One or more persons of the age of eighteen years or more, or a domestic or foreign, profit or nonprofit, corporation, may act as incorporator or incorporators of a corporation by signing and delivering to the secretary of state articles of incorporation for such corporation.

[1986 c 240 § 3; 1982 c 35 § 74; 1967 c 235 § 5.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.025 Articles of incorporation.

The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated number of years.
- (3) The purpose or purposes for which the corporation is organized.
- (4) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation, including provisions regarding:
 - (a) Distribution of assets on dissolution or final liquidation;
 - (b) The definition, limitation, and regulation of the powers of the corporation, the directors, and the members, if any;
 - (c) Eliminating or limiting the personal liability of a director to the corporation or its members, if any, for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and
 - (d) Any provision which under this title is required or permitted to be set forth in the bylaws.
- (5) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.
- (6) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.
- (7) The name and address of each incorporator.
- (8) The name of any person or corporations to whom net assets are to be distributed in the event the corporation is dissolved.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall

be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

[1987 c 212 § 703; 1982 c 35 § 75; 1967 c 235 § 6.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.
Amending articles of incorporation: RCW 24.03.160 through 24.03.180.
Bylaws: RCW 24.03.070.

RCW 24.03.027 Filing false statements--Penalty.

See RCW 43.07.210.

RCW 24.03.030 Limitations.

A corporation subject to this chapter:

- (1) Shall not have or issue shares of stock;
- (2) Shall not make any disbursement of income to its members, directors or officers;
- (3) Shall not loan money or credit to its officers or directors;
- (4) May pay compensation in a reasonable amount to its members, directors or officers for services rendered;
- (5) May confer benefits upon its members in conformity with its purposes; and
- (6) Upon dissolution or final liquidation may make distributions to its members as permitted by this chapter, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income.

[1986 c 240 § 4; 1967 c 235 § 7.]

RCW 24.03.035 General powers.

Each corporation shall have power:

- (1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.
- (2) To sue and be sued, complain and defend, in its corporate name.
- (3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.
- (4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.
- (5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money or credit to its employees other than its officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) To indemnify any director or officer or former director or officer or other person in the manner and to the extent provided in RCW 23B.08.500 through 23B.08.600, as now existing or hereafter amended.

(15) To make guarantees respecting the contracts, securities, or obligations of any person (including, but not limited to, any member, any affiliated or unaffiliated individual, domestic or foreign, profit or not for profit, corporation, partnership, association, joint venture or trust) if such guarantee may reasonably be expected to benefit, directly or indirectly, the guarantor corporation. As to the enforceability of the guarantee, the decision of the board of directors that the guarantee may be reasonably expected to benefit, directly or indirectly, the guarantor corporation shall be binding in respect to the issue of benefit to the guarantor corporation.

(16) To pay pensions and establish pension plans, pension trusts, and other benefit plans for any or all of its directors, officers, and employees.

(17) To be a promoter, partner, member, associate or manager of any partnership, joint venture, trust or other enterprise.

(18) To be a trustee of a charitable trust, to administer a charitable trust and to act as executor in relation to any charitable bequest or devise to the corporation. This subsection shall not be construed as conferring authority to engage in the general business of trusts nor in the business of trust banking.

(19) To cease its corporate activities and surrender its corporate franchise.

(20) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

[1991 c 72 § 42; 1986 c 240 § 5; 1967 c 235 § 8.]

Notes:

Unauthorized assumption of corporate power: RCW 24.03.470.

RCW 24.03.040 Defense of ultra vires.

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(1) In a proceeding by a member or a director against the corporation to enjoin the doing or continuation of unauthorized acts, or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(3) In a proceeding by the attorney general, as provided in this chapter, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general.

[1967 c 235 § 9.]

Notes:

Dissolution: RCW 24.03.220 through 24.03.270.

RCW 24.03.043 Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

RCW 24.03.045 Corporate name.

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2)(a) Except as provided in (b) and (c) of this subsection, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name or reserved name of a corporation or domestic corporation organized or authorized to transact business under this chapter;

(ii) A corporate name reserved or registered under chapter 23B.04 RCW;

(iii) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(iv) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(v) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(vi) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and

(vii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(b) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in (a) of this subsection. The secretary of state shall authorize use of the name applied for if:

(i) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(ii) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is formed or authorized to transact business in this state, and the proposed user corporation:

(i) Has merged with the other corporation, limited liability company, or limited partnership; or

(ii) Has been formed by reorganization of the other corporation.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not include or end with "incorporated," "company," "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof, but may use "club," "league," "association," "services," "committee," "fund," "society," "foundation," ".", a nonprofit corporation," or any name of like import.

(5) May only include the term "public benefit" or names of like import if the corporation has been designated as a public benefit nonprofit corporation by the secretary in accordance with this chapter.

(6) A name shall not be considered distinguishable upon the records of the secretary of

state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(7) This title does not control the use of assumed business names or "trade names."

[1998 c 102 § 3; 1994 c 211 § 1305; 1989 c 291 § 10; 1987 c 55 § 39; 1986 c 240 § 6; 1982 c 35 § 76; 1967 c 235 § 10.]

Notes:

Effective date--Severability--1994 c 211: See RCW 25.15.900 and 25.15.902.

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Corporate name of foreign corporation: RCW 24.03.315.

RCW 24.03.046 Reservation of exclusive right to use a corporate name.

The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

[1993 c 356 § 1; 1982 c 35 § 77.]

Notes:

Effective date--1993 c 356: "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 shall take effect July 1, 1993." [1993 c 356 § 25.]

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.047 Registration of corporate name.

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, the name of any foreign corporation authorized to transact business in this state, the name of any domestic limited liability company organized under the laws of this state, the name of any foreign limited liability company authorized to transact business in this state, the name of any limited partnership on file with the secretary, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or country under the laws of which it is incorporated, [and] the date of its incorporation, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or country or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state the applicable registration fee.

The registration shall be effective until the close of the calendar year in which the application for registration is filed.

[1994 c 211 § 1306; 1993 c 356 § 2; 1987 c 55 § 40; 1986 c 240 § 7; 1982 c 35 § 78.]

Notes:

Effective date--Severability--1994 c 211: See RCW 25.15.900 and 25.15.902.

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.048 Renewal of registration of corporate name.

A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying the applicable fee. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year.

[1986 c 240 § 8; 1982 c 35 § 79.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.050 Registered office and registered agent.

Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to conduct affairs in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section.

[1986 c 240 § 9; 1982 c 35 § 80; 1969 ex.s. c 163 § 1; 1967 c 235 § 11.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.055 Change of registered office or registered agent.

A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in the form prescribed by the secretary of state a statement setting forth:

- (1) The name of the corporation.
- (2) If the current registered office is to be changed, the street address to which the registered office is to be changed.
- (3) If the current registered agent is to be changed, the name of the new registered agent.
- (4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and

delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes the agent's business address to another place within the state, the agent may change such address and the address of the registered office of any corporation of which the agent is a registered agent, by filing a statement as required by this section except that it need be signed only by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been mailed to the secretary of the corporation.

[1993 c 356 § 3; 1986 c 240 § 10; 1982 c 35 § 81; 1967 c 235 § 12.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.060 Service of process on corporation.

The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service

and the secretary of state's action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

[1986 c 240 § 11; 1982 c 35 § 82; 1967 c 235 § 13.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.065 Members.

A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws. Unless otherwise specified in the articles of incorporation or the bylaws, an individual, domestic or foreign profit or nonprofit corporation, a general or limited partnership, an association or other entity may be a member of a corporation. If the corporation has no members, that fact shall be set forth in the articles of incorporation or the bylaws. A corporation may issue certificates evidencing membership therein.

[1986 c 240 § 12; 1967 c 235 § 14.]

RCW 24.03.070 Bylaws.

The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation. The board may adopt emergency bylaws in the manner provided by RCW 23B.02.070.

[1991 c 72 § 43; 1986 c 240 § 13; 1967 c 235 § 15.]

RCW 24.03.075 Meetings of members.

Meetings of members may be held at such place, either within or without this state, as may be stated in or fixed in accordance with the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

An annual meeting of the members shall be held at such time as may be stated in or fixed in accordance with the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or the

bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at such meeting.

Except as may be otherwise restricted by the articles of incorporation or the bylaws, members of the corporation may participate in a meeting of members by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

[1986 c 240 § 14; 1967 c 235 § 16.]

RCW 24.03.080 Notice of members' meetings.

Written or printed notice stating the place, day and hour of the annual meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. Notice of regular meetings other than annual shall be made by providing each member with the adopted schedule of regular meetings for the ensuing year at any time after the annual meeting and ten days prior to the next succeeding regular meeting and at any time when requested by a member or by such other notice as may be prescribed by the bylaws. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid.

[1969 ex.s. c 115 § 1; 1967 c 235 § 17.]

Notes:

Waiver of notice: RCW 24.03.460.

RCW 24.03.085 Voting.

The right of the members, or any class or classes of members, to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation or the bylaws. Unless so limited, enlarged or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

A member may vote in person or, if so authorized by the articles of incorporation or the bylaws, may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

The articles of incorporation or the bylaws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by

distributing such votes on the same principle among any number of such candidates.

[1969 ex.s. c 115 § 2; 1967 c 235 § 18.]

Notes:

Greater voting requirements: RCW 24.03.455.

RCW 24.03.090 Quorum.

The bylaws may provide the number or percentage of members entitled to vote represented in person or by proxy, or the number or percentage of votes represented in person or by proxy, which shall constitute a quorum at a meeting of members. In the absence of any such provision, members holding one-tenth of the votes entitled to be cast represented in person or by proxy shall constitute a quorum. The vote of a majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the members, unless a greater proportion is required by this chapter, the articles of incorporation or the bylaws.

[1967 c 235 § 19.]

Notes:

Greater voting requirements: RCW 24.03.455.

RCW 24.03.095 Board of directors.

The affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or members of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors.

[1967 c 235 § 20.]

RCW 24.03.100 Number and election or appointment of directors.

The board of directors of a corporation shall consist of one or more individuals. The number of directors shall be fixed by or in the manner provided in the articles of incorporation or the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to or in the manner provided in the articles of incorporation or the bylaws, but a decrease shall not have the effect of shortening the term of any incumbent director. In the absence of a bylaw providing for the number of directors, the number shall be the same as that provided for in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be

elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. Directors may be divided into classes and the terms of office and manner of election or appointment need not be uniform. Each director shall hold office for the term for which the director is elected or appointed and until the director's successor shall have been selected and qualified.

[1986 c 240 § 15; 1967 c 235 § 21.]

RCW 24.03.103 Removal of directors.

The bylaws or articles of incorporation may contain a procedure for removal of directors. If the articles of incorporation or bylaws provide for the election of any director or directors by members, then in the absence of any provision regarding removal of directors:

(1) Any director elected by members may be removed, with or without cause, by two-thirds of the votes cast by members having voting rights with regard to the election of any director, represented in person or by proxy at a meeting of members at which a quorum is present;

(2) In the case of a corporation having cumulative voting, if less than the entire board is to be removed, no one of the directors may be removed if the votes cast against that director's removal would be sufficient to elect that director if then cumulatively voted at an election of the entire board of directors, or, if there be classes of directors, at an election of the class of directors of which he or she is a part; and

(3) Whenever the members of any class are entitled to elect one or more directors by the provisions of the articles of incorporation, the provisions of this section shall apply, in respect to the removal of a director or directors so elected, to the vote of the members of that class and not to the vote of the members as a whole.

[1986 c 240 § 16.]

RCW 24.03.1031 Judicial removal of directors.

(1) The superior court of the county where a corporation's principal office, or, if none in this state, its registered office, is located may remove a director of the corporation from office in a proceeding commenced by the corporation if the court finds that (a) the director engaged in fraudulent or dishonest conduct with respect to the corporation, and (b) removal is in the best interest of the corporation.

(2) The court that removes a director may bar the director from reelection for a period prescribed by the court.

[1999 c 32 § 1.]

RCW 24.03.105 Vacancies.

Any vacancy occurring in the board of directors and any directorship to be filled by

reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the remaining board of directors even though less than a quorum is present unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.

[1986 c 240 § 17; 1967 c 235 § 22.]

RCW 24.03.110 Quorum of directors.

A majority of the number of directors fixed by, or in the manner provided in the bylaws, or in the absence of a bylaw fixing or providing for the number of directors, then of the number fixed by or in the manner provided in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws; but in no event shall a quorum consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this chapter, the articles of incorporation or the bylaws.

[1986 c 240 § 18; 1967 c 235 § 23.]

Notes:

Greater voting requirements: RCW 24.03.455.

RCW 24.03.113 Assent presumed--Procedures for dissent or abstention.

A director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless the director's dissent or abstention shall be entered in the minutes of the meeting or unless the director shall file his or her written dissent or abstention to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent or abstention by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

[1986 c 240 § 19.]

RCW 24.03.115 Committees.

If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of

the corporation: PROVIDED, That no such committee shall have the authority of the board of directors in reference to amending, altering or repealing the bylaws; electing, appointing or removing any member of any such committee or any director or officer of the corporation; amending the articles of incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, or exchange of all or substantially all of the property and assets of the corporation not in the ordinary course of business; authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the corporation; or amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

[1986 c 240 § 20; 1967 c 235 § 24.]

RCW 24.03.120 Place and notice of directors' meetings.

Meetings of the board of directors, regular or special, may be held either within or without this state.

Regular meetings of the board of directors or of any committee designated by the board of directors may be held with or without notice as prescribed in the bylaws. Special meeting of the board of directors or any committee designated by the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director or a committee member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated by the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws.

Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the board of directors may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

[1986 c 240 § 21; 1967 c 235 § 25.]

Notes:

Waiver of notice: RCW 24.03.460.

RCW 24.03.125 Officers.

The officers of a corporation shall consist of a president, one or more vice presidents, a

secretary, and a treasurer, each of whom shall be elected or appointed at such time and in such manner and for such terms as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the articles or bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary. Such other officers and assistant officers or agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the articles or bylaws.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.

[1986 c 240 § 22; 1967 c 235 § 26.]

RCW 24.03.127 Duties of a director.

A director shall perform the duties of a director, including the duties as a member of any committee of the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interests of the corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

In performing the duties of a director, a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:

- (1) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matter presented;
- (2) Counsel, public accountants, or other persons as to matters which the director believes to be within such person's professional or expert competence; or
- (3) A committee of the board upon which the director does not serve, duly designated in accordance with a provision in the articles of incorporation or bylaws, as to matters within its designated authority, which committee the director believes to merit confidence; so long as, in any such case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

[1986 c 240 § 23.]

RCW 24.03.130 Removal of officers.

Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interests of the corporation will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create

contract rights.

[1967 c 235 § 27.]

RCW 24.03.135 Records.

Each corporation shall keep at its registered office, its principal office in this state, or at its secretary's office if in this state, the following:

- (1) Current articles and bylaws;
- (2) A record of members, including names, addresses, and classes of membership, if any;
- (3) Correct and adequate records of accounts and finances;
- (4) A record of officers' and directors' names and addresses;
- (5) Minutes of the proceedings of the members, if any, the board, and any minutes which may be maintained by committees of the board. Records may be written, or electronic if capable of being converted to writing.

The records shall be open at any reasonable time to inspection by any member of more than three months standing or a representative of more than five percent of the membership.

Cost of inspecting or copying shall be borne by such member except for costs for copies of articles or bylaws. Any such member must have a purpose for inspection reasonably related to membership interests. Use or sale of members' lists by such member if obtained by inspection is prohibited.

The superior court of the corporation's or such member's residence may order inspection and may appoint independent inspectors. Such member shall pay inspection costs unless the court orders otherwise.

[1986 c 240 § 24; 1967 c 235 § 28.]

RCW 24.03.140 Loans to directors and officers prohibited.

No loans shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

[1967 c 235 § 29.]

RCW 24.03.145 Filing of articles of incorporation.

Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the effective date of the filing thereof.
- (2) File one of such duplicate originals.

(3) Issue a certificate of incorporation to which the other duplicate original shall be affixed.

The certificate of incorporation together with the duplicate original of the articles of incorporation affixed thereto by the secretary of state, shall be returned to the incorporators or their representative.

[1982 c 35 § 83; 1967 c 235 § 30.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.150 Effect of filing the articles of incorporation.

Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter, except as against the state in a proceeding to cancel or revoke the certificate of incorporation or for involuntary or administrative dissolution.

[1986 c 240 § 25; 1982 c 35 § 84; 1967 c 235 § 31.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.155 Organization meetings.

After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the directors named in the articles of incorporation, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The directors calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting. Any action permitted to be taken at the organization meeting of the directors may be taken without a meeting if each director signs an instrument stating the action so taken.

[1986 c 240 § 26; 1967 c 235 § 32.]

RCW 24.03.160 Right to amend articles of incorporation.

A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this chapter.

[1967 c 235 § 33.]

RCW 24.03.165 Procedure to amend articles of incorporation.

Amendments to the articles of incorporation shall be made in the following manner:

(1) Where there are members having voting rights, with regard to the question, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, with regard to the question, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Any number of amendments may be submitted and voted upon at any one meeting.

[1986 c 240 § 27; 1967 c 235 § 34.]

RCW 24.03.170 Articles of amendment.

The articles of amendment shall be executed in duplicate by the corporation by an officer of the corporation, and shall set forth:

(1) The name of the corporation.

(2) The amendment so adopted.

(3) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(4) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office.

[1982 c 35 § 85; 1967 c 235 § 35.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.175 Filing of articles of amendment.

Duplicate originals of the articles of amendment shall be delivered to the secretary of

state. If the secretary of state finds that the articles of amendment conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of amendment to which the other duplicate original shall be affixed.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

[1982 c 35 § 86; 1967 c 235 § 36.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.
Fees: RCW 24.03.405, 24.03.410.

RCW 24.03.180 Effect of filing of articles of amendment.

Upon the filing of the articles of amendment by the secretary of state, or on such later date, not more than thirty days subsequent to the filing thereof by the secretary of state, as may be provided in the articles of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

[1986 c 240 § 28; 1982 c 35 § 87; 1967 c 235 § 37.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.183 Restated articles of incorporation.

A domestic corporation may at any time restate its articles of incorporation by a resolution adopted by the board of directors. A corporation may amend and restate in one resolution, but may not present the amendments and restatement for filing by the secretary in a single document. Separate articles of amendment, under RCW 24.03.165 and articles of restatement, under this section, must be presented notwithstanding the corporation's adoption of a single resolution of amendment and restatement.

Upon the adoption of the resolution, restated articles of incorporation shall be executed in duplicate by the corporation by one of its officers. The restated articles shall set forth all of the operative provisions of the articles of incorporation together with a statement that the restated articles of incorporation correctly set forth without change the provisions of the articles of

incorporation as amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

- (1) Endorse on each duplicate original the word "Filed" and the date of the filing thereof;
- (2) File one duplicate original; and
- (3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

[1986 c 240 § 29; 1982 c 35 § 88.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.185 Procedure for merger.

Any two or more domestic corporations subject to this chapter may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this chapter.

Each corporation shall adopt a plan of merger setting forth:

- (1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.
- (2) The terms and conditions of the proposed merger.
- (3) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.
- (4) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

[1986 c 240 § 30; 1967 c 235 § 38.]

RCW 24.03.190 Procedure for consolidation.

Any two or more domestic corporations subject to this chapter may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this chapter.

Each corporation shall adopt a plan of consolidation setting forth:

- (1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new

corporation.

(2) The terms and conditions of the proposed consolidation.

(3) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

(4) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

[1986 c 240 § 31; 1967 c 235 § 39.]

RCW 24.03.195 Approval of merger or consolidation.

A plan of merger or consolidation shall be adopted in the following manner:

(1) Where the members of any merging or consolidating corporation have voting rights with regard to the question, the board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at each such meeting or represented by proxy are entitled to cast.

(2) Where any merging or consolidating corporation has no members, or no members having voting rights with regard to the question, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

[1986 c 240 § 32; 1967 c 235 § 40.]

RCW 24.03.200 Articles of merger or consolidation.

(1) Upon such approval, articles of merger or articles of consolidation shall be executed in duplicate by each corporation by an officer of each corporation, and shall set forth:

(a) The plan of merger or the plan of consolidation;

(b) Where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (i) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (ii) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto;

(c) Where any merging or consolidating corporation has no members, or no members

having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(2) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(a) Endorse on each of such duplicate originals the word "Filed," and the date of the filing thereof;

(b) File one of such duplicate originals; and

(c) Issue a certificate of merger or a certificate of consolidation to which the other duplicate original shall be affixed.

The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative.

[1986 c 240 § 33; 1982 c 35 § 89; 1967 c 235 § 41.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.205 Merger or consolidation--When effective.

A merger or consolidation shall become effective upon the filing of the articles of merger or articles of consolidation with the secretary of state, or on such later date, not more than thirty days after the filing thereof with the secretary of state, as shall be provided for in the plan.

[1986 c 240 § 34; 1982 c 35 § 90; 1967 c 235 § 42.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.207 Merger or consolidation of domestic and foreign corporation.

One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger or consolidation as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title with respect to foreign corporations if it is to transact business in this state, and in every case it shall

file with the secretary of state of this state:

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to the merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a member of any such domestic corporation against the surviving or new corporation; and

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding.

The effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except as the laws of the other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger or consolidation. In the event the merger or consolidation is abandoned, the parties thereto shall execute a notice of abandonment in triplicate signed by an officer for each corporation signing the notice. If the secretary of state finds the notice conforms to law, the secretary of state shall:

(a) Endorse on each of the originals the word "Filed" and the date of the filing;

(b) File one of the triplicate originals in the secretary of state's office; and

(c) Issue the other triplicate originals to the respective parties or their representatives.

[1986 c 240 § 35; 1982 c 35 § 91.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.210 Effect of merger or consolidation.

When such merger or consolidation has been affected:

(1) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a corporation organized under this chapter.

(4) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all

debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(5) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the articles of incorporation of the new corporation.

[1967 c 235 § 43.]

RCW 24.03.215 Sale, lease, exchange, or other disposition of assets not in the ordinary course of business.

A sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation, if not in the ordinary course of business, may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) Where there are members having voting rights with regard to the question, the board of directors shall adopt a resolution recommending such sale, lease, exchange, or other disposition and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this chapter for the giving of notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, or other disposition of

assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(2) Where there are no members, or no members having voting rights with regard to the question, a sale, lease, exchange, or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office.

[1986 c 240 § 36; 1967 c 235 § 44.]

RCW 24.03.217 Sale, lease, exchange, or disposition of assets in course of business--Mortgage and pledge of assets.

The sale, lease, exchange or other disposition of all, or substantially all, the property and assets of a corporation in the usual and regular course of its business and the mortgage or pledge of any or all property and assets of a corporation whether or not in the usual course of business may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares, obligations, or other securities of any other corporation, domestic or foreign, as shall be authorized by its board of directors. In any such case, no other authorization or consent of any member shall be required.

[1986 c 240 § 37.]

RCW 24.03.220 Voluntary dissolution.

A corporation may dissolve and wind up its affairs in the following manner:

(1) Where there are members having voting rights with regard to the question, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having such voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights with regard to the question, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation,

to the attorney general with respect to assets subject to RCW 24.03.225(3), and to the department of revenue, and shall proceed to collect its assets and apply and distribute them as provided in this chapter.

[1986 c 240 § 38; 1982 c 35 § 92; 1967 c 235 § 45.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.225 Distribution of assets.

The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this chapter;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(5) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, as may be specified in a plan of distribution adopted as provided in this chapter.

[1967 c 235 § 46.]

RCW 24.03.230 Plan of distribution.

A plan providing for the distribution of assets, not inconsistent with the provisions of this chapter, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this chapter requires a plan of distribution, in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan of distribution or a summary thereof

shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving a vote of a majority of the directors in office.

If the plan of distribution includes assets received and held by the corporation subject to limitations described in subsection (3) of RCW 24.03.225, notice of the adoption of the proposed plan shall be submitted to the attorney general by registered or certified mail directed to him at his office in Olympia, at least twenty days prior to the meeting at which the proposed plan is to be adopted. No plan for the distribution of such assets may be adopted without the approval of the attorney general, or the approval of a court of competent jurisdiction in a proceeding to which the attorney general is made a party. In the event that an objection is not filed within twenty days after the date of mailing, his approval shall be deemed to have been given.

[1969 ex.s. c 115 § 3; 1967 c 235 § 47.]

RCW 24.03.235 Revocation of voluntary dissolution proceedings.

A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation may thereupon again conduct its affairs.

[1967 c 235 § 48.]

Notes:

Notice of members' meetings: RCW 24.03.080.

RCW 24.03.240 Articles of dissolution.

If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate by the corporation by an officer of the corporation and shall set forth:

(1) The name of the corporation.

(2) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(3) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(5) A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW.

(6) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter.

(7) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.

[1993 c 356 § 4; 1982 c 35 § 93; 1967 c 235 § 49.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.245 Filing of articles of dissolution.

Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, the secretary of state shall, when all requirements have been met as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of dissolution to which the other duplicate original shall be affixed.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the filing of such articles of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in this chapter.

[1982 c 35 § 94; 1967 c 235 § 50.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.250 Involuntary dissolution.

A corporation may be dissolved involuntarily by a decree of the superior court in an action filed by the attorney general when it is established that:

(1) The corporation procured its articles of incorporation through fraud; or

(2) The corporation has continued to exceed or abuse the authority conferred upon it by law.

[1969 ex.s. c 163 § 2; 1967 c 235 § 51.]

Notes:

Filing annual or biennial report: RCW 24.03.400.

RCW 24.03.255 Notification to attorney general.

The secretary of state shall certify, from time to time, the names of all corporations which have given cause for dissolution as provided in RCW 24.03.250, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general shall file an action in the name of the state against such corporation for its dissolution.

[1982 c 35 § 95; 1969 ex.s. c 163 § 3; 1967 c 235 § 52.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.260 Venue and process.

Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general either in the superior court of the county in which the registered office of the corporation is situated, or in the superior court of Thurston county. Summons shall issue and be

served as in other civil actions. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than thirty days after the first publication of such notice.

[1967 c 235 § 53.]

RCW 24.03.265 Jurisdiction of court to liquidate assets and affairs of corporation.

Superior courts shall have full power to liquidate the assets and affairs of a corporation:

(1) In an action by a member, director, or the attorney general when it is made to appear:

(a) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or

(b) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(c) That the corporate assets are being misapplied or wasted; or

(d) That the corporation is unable to carry out its purposes.

(2) In an action by a creditor:

(a) When the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or

(b) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(3) Upon application by a corporation to have its dissolution continued under the supervision of the court.

(4) When an action has been filed by the attorney general to dissolve a corporation under the provisions of this chapter and it is established that liquidation of its affairs should precede the entry of a decree of dissolution.

Proceedings under subsections (1), (2), or (3) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally.

[1986 c 240 § 39; 1967 c 235 § 54.]

RCW 24.03.270 Procedure in liquidation of corporation by court.

In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the affairs of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(1) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(5) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in this chapter, or where no plan of distribution has been adopted, as the court may direct.

The court shall have power to allow, from time to time, as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of

such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

[1967 c 235 § 55.]

RCW 24.03.275 Qualification of receivers--Bond.

A receiver shall in all cases be a citizen of the United States or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

[1967 c 235 § 56.]

RCW 24.03.280 Filing of claims in liquidation proceedings.

In proceedings to liquidate the assets and affairs of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

[1967 c 235 § 57.]

RCW 24.03.285 Discontinuance of liquidation proceedings.

The liquidation of the assets and affairs of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

[1967 c 235 § 58.]

RCW 24.03.290 Decree of involuntary dissolution.

In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in

accordance with the provisions of this chapter, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease.

[1967 c 235 § 59.]

RCW 24.03.295 Filing of decree of dissolution.

In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the clerk for issuance or by the secretary of state for the filing thereof.

[1986 c 240 § 40; 1967 c 235 § 60.]

RCW 24.03.300 Survival of remedy after dissolution--Extension of duration of corporation.

The dissolution of a corporation either (1) by the filing and issuance of a certificate of dissolution, voluntary or administrative, by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years after expiration so as to extend its period of duration. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation extending its period of duration shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. The corporation shall also pay to the state all fees and penalties which would otherwise have been due if the corporate charter had not expired, plus a reinstatement fee as provided in this chapter.

[1986 c 240 § 41; 1982 c 35 § 96; 1967 c 235 § 61.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.302 Administrative dissolution--Grounds--Notice--Reinstatement--Fee set

by rule--Corporate name--Survival of actions.

A corporation shall be administratively dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

- (1) Has failed to file or complete its annual report within the time required by law; or
- (2) Has failed for thirty days to appoint or maintain a registered agent in this state; or
- (3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of the state shall dissolve the corporation by issuing a certificate of administrative dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of administrative dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of administrative dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its administrative dissolution if it completes and files a current annual report for the reinstatement year or if it appoints or maintains a registered agent, or if it files with the secretary of state a required statement of change of registered agent or registered office and in addition, if it pays a reinstatement fee as set by rule by the secretary plus the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year plus any penalties established by rule by the secretary of state. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the

manner provided in RCW 24.03.300 and the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and members.

[1994 c 287 § 8; 1993 c 356 § 5; 1987 c 117 § 3; 1986 c 240 § 42; 1982 c 35 § 97; 1971 ex.s. c 128 § 1; 1969 ex.s. c 163 § 9.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.3025 Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

RCW 23B.14.203 applies to this chapter.

[1997 c 12 § 2.]

RCW 24.03.303 Reinstatement under certain circumstances--Request for relief.

The secretary of state may, where exigent or mitigating circumstances are presented, reinstate to full active status any corporation previously in good standing which would otherwise be penalized or lose its active status. Any corporation desiring to seek relief under this section shall, within fifteen days of discovery by corporate officials of the missed filing or lapse, notify the secretary of state in writing. The notification shall include the name and mailing address of the corporation, the corporate officer to whom correspondence should be sent, and a statement under oath by a responsible corporate officer, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. Upon receipt of the notice, the secretary of state shall investigate the circumstances of the missed filing or lapse. If the secretary of state is satisfied that sufficient exigent or mitigating circumstances exist, that the corporation has demonstrated good faith and a reasonable attempt to comply with the applicable corporate license statutes of this state, that disproportionate harm would occur to the corporation if relief were not granted, and that relief would not be contrary to the public interest expressed in this title, the secretary may issue an order reinstating the corporation and specifying any terms and conditions of the relief. Reinstatement may relate back to the date of lapse or dissolution. If the secretary of state determines the request does not comply with the requirements for relief, the secretary shall issue an order denying the requested relief and stating the reasons for the denial. Any denial of relief by the secretary of state is final and is not appealable. The secretary of state shall keep records of all requests for relief and the disposition of the requests. The secretary of state shall annually report to the legislature the number of relief requests received in the preceding year and a summary of the secretary's disposition of the requests.

[1987 c 117 § 6.]

RCW 24.03.305 Admission of foreign corporation.

No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a corporation organized under this chapter is not permitted to conduct. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Without excluding other activities which may not constitute conducting affairs in this state, a foreign corporation shall not be considered to be conducting affairs in this state, for the purposes of this chapter, by reason of carrying on in this state any one or more of the following activities:

- (1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.
- (2) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs.
- (3) Maintaining bank accounts.
- (4) Creating evidences of debt, mortgages or liens on real or personal property.
- (5) Securing or collecting debts due to it or enforcing any rights in property securing the same.
- (6) Effecting sales through independent contractors.
- (7) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.
- (8) Creating as borrower or lender, or acquiring, indebtedness or mortgages or other security interests in real or personal property.
- (9) Securing or collecting debts or enforcing any rights in property securing the same.
- (10) Transacting any business in interstate commerce.
- (11) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.
- (12) Operating an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW and in accordance with RCW 24.03.307.

[1993 c 181 § 12; 1986 c 240 § 43; 1967 c 235 § 62.]

RCW 24.03.307 Foreign degree-granting institution branch campus--Acts not deemed transacting business in state.

In addition to those acts that are specified in RCW 24.03.305 (1) through (11), a foreign

degree-granting institution that establishes an approved branch campus in the state under chapter 28B.90 RCW shall not be deemed to transact business in the state solely because it:

- (1) Owns and controls an incorporated branch campus in this state;
- (2) Pays the expenses of tuition, or room and board charged by the incorporated branch campus for its students enrolled at the branch campus or contributes to the capital thereof; or
- (3) Provides personnel who furnish assistance and counsel to its students while in the state but who have no authority to enter into any transactions for or on behalf of the foreign degree-granting institution.

[1993 c 181 § 6.]

RCW 24.03.310 Powers of foreign corporation.

A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authorization is issued; and, except as in this chapter otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

[1967 c 235 § 63.]

RCW 24.03.315 Corporate name of foreign corporation--Fictitious name.

No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.03.045. However, a foreign corporation applying for a certificate of authority may file with the secretary of state a resolution of its board of directors adopting a fictitious name for use in transacting business in this state, if the fictitious name complies with RCW 24.03.045.

[1982 c 35 § 98; 1967 c 235 § 64.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Registration of corporate name: RCW 24.03.047.

Reservation of exclusive right to use a corporate name: RCW 24.03.046.

RCW 24.03.320 Change of name by foreign corporation.

Whenever a foreign corporation which is authorized to conduct affairs in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state or has otherwise complied with the provisions of this

chapter.

[1986 c 240 § 44; 1967 c 235 § 65.]

RCW 24.03.325 Application for certificate of authority.

A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) If the name of the corporation contains the word "corporation," "company," "incorporated," or "limited," or contains an abbreviation of one of such words, then the name of the corporation which it elects for use in this state.

(3) The date of incorporation and the period of duration of the corporation.

(4) The address of the principal office of the corporation.

(5) A statement that a registered agent has been appointed and the name and address of such agent, and that a registered office exists and the address of such registered office is identical to that of the registered agent.

(6) The purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

(7) The names and respective addresses of the directors and officers of the corporation.

(8) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state.

The application shall be made in the form prescribed by the secretary of state and shall be executed in duplicate by the corporation by one of its officers.

The application shall be accompanied by a certificate of good standing which has been issued no more than sixty days before the date of filing of the application for a certificate of authority to do business in this state and has been certified to by the proper officer of the state or country under the laws of which the corporation is incorporated.

[1986 c 240 § 45; 1967 c 235 § 66.]

RCW 24.03.330 Filing of application for certificate of authority.

Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state.

If the secretary of state finds that such application conforms to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such documents the word "Filed," and the date of the filing thereof.

(2) File one of such duplicate originals of the application and the copy of the articles of

incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which the other duplicate original application shall be affixed.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

[1986 c 240 § 46; 1982 c 35 § 99; 1969 ex.s. c 163 § 4; 1967 c 235 § 67.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.332 Certificate of authority as insurance company--Filing of documents.

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate documents are required to be filed with the secretary of state, the documents shall be filed with the insurance commissioner rather than the secretary of state.

[1998 c 23 § 12.]

RCW 24.03.334 Certificate of authority as insurance company--Registration or reservation of name.

For those corporations that intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter a corporation may register or reserve a corporate name, the registration or reservation shall be filed with the insurance commissioner rather than the secretary of state. The secretary of state and insurance commissioner shall cooperate with each other in registering or reserving a corporate name so that there is no duplication of the name.

[1998 c 23 § 13.]

RCW 24.03.335 Effect of certificate of authority.

Upon the filing of the application for certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this chapter.

[1982 c 35 § 100; 1967 c 235 § 68.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.340 Registered office and registered agent of foreign corporation.

Each foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section.

[1982 c 35 § 101; 1967 c 235 § 69.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.345 Change of registered office or registered agent of foreign corporation.

A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

- (1) The name of the corporation.
- (2) If the current registered office is to be changed, the street address to which the registered office is to be changed.
- (3) If the current registered agent is to be changed, the name of the new registered agent.
- (4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and

delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the secretary of the foreign corporation at its principal office as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

If a registered agent changes his business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is a registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been mailed to the corporation.

[1993 c 356 § 6; 1986 c 240 § 47; 1982 c 35 § 102; 1967 c 235 § 70.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.350 Service on foreign corporation.

The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served

upon the secretary of state under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

[1986 c 240 § 48; 1982 c 35 § 103; 1967 c 235 § 71.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.360 Merger of foreign corporation authorized to conduct affairs in this state.

Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to pursue in this state.

[1986 c 240 § 49; 1967 c 235 § 73.]

Notes:

Purposes: RCW 24.03.015.

RCW 24.03.365 Amended certificate of authority.

A foreign corporation authorized to conduct affairs in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority.

[1967 c 235 § 74.]

RCW 24.03.370 Withdrawal of foreign corporation.

A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an

application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) That the corporation is not conducting affairs in this state.

(3) That the corporation surrenders its authority to conduct affairs in this state.

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(5) A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW.

(6) A post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on the secretary of state.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee.

[1993 c 356 § 7; 1982 c 35 § 104; 1967 c 235 § 75.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.375 Filing of application for withdrawal.

Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this chapter, the secretary of state shall, when all requirements have been met as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of withdrawal to which the other duplicate original shall be affixed.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the filing of such application of withdrawal, the authority of the corporation to conduct affairs in this state shall cease.

[1982 c 35 § 105; 1967 c 235 § 76.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Fees: RCW 24.03.405.

RCW 24.03.380 Revocation of certificate of authority--Notice.

(1) The certificate of authority of a foreign corporation to conduct affairs in this state shall be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or

(b) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or

(c) The corporation has failed, for thirty days after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change as required by this chapter; or

(d) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this chapter.

(2) Prior to revoking a certificate of authority under subsection (1) of this section, the secretary of state shall give the corporation written notice of the corporation's delinquency or omission by first class mail, postage prepaid, addressed to the corporation's registered agent. If, according to the records of the secretary of state, the corporation does not have a registered agent, the notice may be given by mail addressed to the corporation at its last known address or at the address of any officer or director of the corporation, as shown by the records of the secretary of state. Notice is deemed to have been given five days after the date deposited in the United States mail, correctly addressed, and with correct postage affixed. The notice shall inform the corporation that its certificate of authority shall be revoked at the expiration of sixty days following the date the notice had been deemed to have been given, unless it corrects the delinquency or omission within the sixty-day period.

(3) Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

(4) The attorney general may take such action regarding revocation of a certificate of authority as is provided by RCW 24.03.250 for the dissolution of a domestic corporation. The procedures of RCW 24.03.250 shall apply to any action under this section. The clerk of any superior court entering a decree of revocation of a certificate of authority shall file a certified copy, without cost or filing fee, with the office of the secretary of state.

[1986 c 240 § 50; 1982 c 35 § 106; 1967 c 235 § 77.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.385 Issuance of certificate of revocation.

Upon revoking any certificate of authority under RCW 24.03.380, the secretary of state shall:

- (1) Issue a certificate of revocation in duplicate.
- (2) File one of such certificates in the secretary of state's office.
- (3) Mail the other duplicate certificate to such corporation at its registered office in this state or, if there is no registered office in this state, to the corporation at the last known address of any officer or director of the corporation, as shown by the records of the secretary of state.

Upon the filing of such certificate of revocation, the authority of the corporation to conduct affairs in this state shall cease.

[1986 c 240 § 51; 1982 c 35 § 107; 1967 c 235 § 78.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.386 Foreign corporations--Application for reinstatement.

(1) A corporation revoked under RCW 24.03.380 may apply to the secretary of state for reinstatement within three years after the effective date of revocation. An application filed within such three-year period may be amended or supplemented and any such amendment or supplement shall be effective as of the date of original filing. The application filed under this section shall be filed under and by authority of an officer of the corporation.

(2) The application shall:

(a) State the name of the corporation and, if applicable, the name the corporation had elected to use in this state at the time of revocation, and the effective date of its revocation;

(b) Provide an explanation to show that the grounds for revocation either did not exist or have been eliminated;

(c) State the name of the corporation at the time of reinstatement and, if applicable, the name the corporation elects to use in this state at the time of reinstatement which may be reserved under RCW 24.03.046;

(d) Appoint a registered agent and state the registered office address under RCW 24.03.340; and

(e) Be accompanied by payment of applicable fees and penalties.

(3) If the secretary of state determines that the application conforms to law, and that all applicable fees have been paid, the secretary of state shall cancel the certificate of revocation, prepare and file a certificate of reinstatement, and mail a copy of the certificate of reinstatement to the corporation.

(4) Reinstatement under this section relates back to and takes effect as of the date of revocation. The corporate authority shall be deemed to have continued without interruption from that date.

(5) In the event the application for reinstatement states a corporate name which the

secretary of state finds to be contrary to the requirements of RCW 24.03.046, the application, amended application, or supplemental application shall be amended to adopt another corporate name which is in compliance with RCW 24.03.046. In the event the reinstatement application so adopts a new corporate name for use in Washington, the application for authority shall be deemed to have been amended to change the corporation's name to the name so adopted for use in Washington, effective as of the effective date of the certificate of reinstatement.

[1993 c 356 § 8; 1987 c 117 § 1; 1986 c 240 § 57.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

RCW 24.03.388 Foreign corporations--Fees for application for reinstatement--Filing current annual report--Penalties established by rule.

(1) An application processing fee as provided in RCW 24.03.405 shall be charged for an application for reinstatement under RCW 24.03.386.

(2) An application processing fee as provided in RCW 24.03.405 shall be charged for each amendment or supplement to an application for reinstatement.

(3) The corporation seeking reinstatement shall file a current annual report and pay the full amount of all annual corporation fees which would have been assessed for the years of the period of administrative revocation, had the corporation been in active status, including the reinstatement year, plus any penalties as established by rule by the secretary.

[1994 c 287 § 9; 1993 c 356 § 9; 1991 c 223 § 3; 1987 c 117 § 2; 1986 c 240 § 58.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Effective date--1991 c 223: See note following RCW 24.03.405.

RCW 24.03.390 Conducting affairs without certificate of authority.

No foreign corporation which is conducting affairs in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the conduct of affairs by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.

A foreign corporation which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this chapter upon such corporation had it duly applied for and

received a certificate of authority to transact business in this state as required by this chapter and thereafter filed all reports required by this chapter, plus all penalties imposed by this chapter for failure to pay such fees. The attorney general shall bring proceedings to recover all amounts due this state under the provisions of this section.

[1986 c 240 § 52; 1967 c 235 § 79.]

RCW 24.03.395 Annual report of domestic and foreign corporations--Biennial filing may be authorized.

Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report in the form prescribed by the secretary of state. The secretary may by rule provide that a biennial filing meets this requirement. The report shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated;

(2) The address of the registered office of the corporation in this state including street and number and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office;

(3) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state;

(4) The names and respective addresses of the directors and officers of the corporation; and

(5) The corporation's unified business identifier number.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may provide that correction or updating of information appearing on previous annual or biennial filings is sufficient to constitute the current filing.

[1993 c 356 § 10; 1989 c 291 § 2; 1987 c 117 § 4; 1986 c 240 § 53; 1982 c 35 § 108; 1967 c 235 § 80.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.400 Filing of annual or biennial report of domestic and foreign corporations--Notice--Reporting dates.

Not less than thirty days prior to a corporation's renewal date, or by December 1 of each year for a nonstaggered renewal, the secretary of state shall mail to each domestic and foreign

corporation, by first class mail addressed to its registered office, a notice that its annual or biennial report must be filed as required by this chapter, and stating that if it fails to file its annual or biennial report it shall be dissolved or its certificate of authority revoked, as the case may be. Failure of the secretary of state to mail any such notice shall not relieve a corporation from its obligation to file the annual or biennial reports required by this chapter.

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

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

[1993 c 356 § 11; 1986 c 240 § 54; 1982 c 35 § 109; 1973 c 90 § 1; 1967 c 235 § 81.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.405 Fees for filing documents and issuing certificates.

(1) The secretary of state shall charge and collect for:

(a) Filing articles of incorporation, thirty dollars.

(b) Filing an annual report of a domestic or foreign corporation, ten dollars.

(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.

(2) The secretary of state shall establish by rule, fees for the following:

(a) An application for reinstatement under RCW 24.03.386.

(b) Filing articles of amendment or restatement or an amendment or supplement to an application for reinstatement.

(c) Filing articles of merger or consolidation.

(d) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to articles of incorporation or in conjunction with the filing of the annual report.

(e) Filing articles of dissolution, no fee.

(f) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.

(g) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

(h) Filing a certificate by a foreign corporation of the appointment of a registered agent. A separate fee for filing such certificate shall not be charged if the statement appears in conjunction with the filing of the annual report.

(i) Filing a certificate of election adopting the provisions of chapter 24.03 RCW.

- (j) Filing an application to reserve a corporate name.
- (k) Filing a notice of transfer of a reserved corporate name.
- (l) Filing a name registration.
- (m) Filing any other statement or report authorized for filing under this chapter.

(3) Fees shall be adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This shall be determined in a biannual [biennial] cost study performed by the secretary.

[1993 c 269 § 5; 1991 c 223 § 1; 1987 c 117 § 5; 1986 c 240 § 55; 1982 c 35 § 110; 1981 c 230 § 5; 1969 ex.s. c 163 § 5; 1967 c 235 § 82.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Effective date--1991 c 223: "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 shall take effect on July 1, 1991." [1991 c 223 § 4.]

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.410 Miscellaneous fees.

The secretary of state shall establish fees by rule and collect:

(1) For furnishing a certified copy of any charter document or any other document, instrument, or paper relating to a corporation.

(2) For furnishing a certificate, under seal, attesting to the status of a corporation or any other certificate.

(3) For furnishing copies of any document, instrument or paper relating to a corporation.

(4) At the time of any service of process on him or her as registered agent of a corporation an amount that may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

[1993 c 269 § 6; 1982 c 35 § 111; 1979 ex.s. c 133 § 2; 1969 ex.s. c 163 § 6; 1967 c 235 § 83.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

RCW 24.03.415 Disposition of fees.

Any money received by the secretary of state under the provisions of this chapter shall be by him paid into the state treasury as provided by law.

[1967 c 235 § 84.]

Notes:

State officers--Daily remittance of moneys to treasury: RCW 43.01.050.

RCW 24.03.417 Fees for services by secretary of state.

See RCW 43.07.120.

RCW 24.03.420 Penalties imposed upon corporation.

Each corporation, domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this chapter interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding five hundred dollars.

[1969 ex.s. c 163 § 7; 1967 c 235 § 85.]

Notes:

Filing of annual or biennial report cf domestic and foreign corporations: RCW 24.03.400.

RCW 24.03.425 Penalties imposed upon directors and officers.

Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter to answer truthfully and fully interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars.

[1967 c 235 § 86.]

RCW 24.03.430 Interrogatories by secretary of state.

The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether such corporation has complied with all the provisions of this chapter applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by him, and if directed to a corporation they shall be answered by the president, vice president, secretary or assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with the provisions of this chapter. The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.

[1982 c 35 § 112; 1967 c 235 § 87.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.435 Confidential nature of information disclosed by interrogatories.

Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection nor shall the secretary of state disclose any facts or information obtained therefrom except in so far as the secretary of state's official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceedings or in any other action by this state.

[1982 c 35 § 113; 1967 c 235 § 88.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.440 Power and authority of secretary of state.

The secretary of state shall have the power and authority reasonably necessary for the efficient and effective administration of this chapter, including the adoption of rules under chapter 34.05 RCW.

[1982 c 35 § 114; 1967 c 235 § 89.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Power and authority of secretary of state: RCW 23B.01.210 and 23B.01.300.

RCW 24.03.445 Appeal from disapproval of secretary of state.

If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall give written notice of disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. Within thirty days from such disapproval such person or corporation may appeal to the superior court pursuant to the provisions of the administrative procedure act, chapter 34.05 RCW.

[1986 c 240 § 56; 1982 c 35 § 115; 1967 c 235 § 90.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.450 Certificates and certified copies to be received in evidence.

All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of documents filed in the office of the secretary of state in accordance with the provisions of this chapter when certified by the secretary of state under the seal of the state, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

[1982 c 35 § 116; 1967 c 235 § 91.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.03.455 Greater voting requirements.

Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members or directors, as the case may be, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control.

[1967 c 235 § 92.]

RCW 24.03.460 Waiver of notice.

Whenever any notice is required to be given to any member or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

[1967 c 235 § 93.]

RCW 24.03.465 Action by members or directors without a meeting.

Any action required by this chapter to be taken at a meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the secretary of state under this chapter.

[1967 c 235 § 94.]

RCW 24.03.470 Unauthorized assumption of corporate powers.

All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

[1967 c 235 § 95.]

RCW 24.03.480 Postsecondary education loans--Interest rates.

A nonprofit corporation may charge interest upon any loan made under a program to finance postsecondary education at any rate or rates of interest which are permitted by state or federal law to be charged by any state or federally chartered bank, savings and loan association, or credit union.

[1989 c 166 § 1.]

RCW 24.03.490 Public benefit nonprofit corporation designation established.

There is hereby established the special designation "public benefit not for profit corporation" or "public benefit nonprofit corporation." A corporation may be designated as a public benefit nonprofit corporation if it meets the following requirements:

- (1) The corporation complies with the provisions of this chapter; and
- (2) The corporation holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or is not required to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).

[1989 c 291 § 4.]

Notes:

Finding--1989 c 291: "The legislature finds that it is in the public interest to increase the level of accountability to the public of nonprofit corporations through improved reporting, increased consistency between state and federal statutes, and a clear definition of those nonprofit corporations that may hold themselves out as operating to benefit the public." [1989 c 291 § 1.]

Severability--1989 c 291: "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." [1989 c 291 § 12.]

RCW 24.03.500 Public benefit nonprofit corporations--Temporary designation.

A temporary designation as a public benefit nonprofit corporation may be provided to a corporation that has applied for tax exempt status under 26 U.S.C. Sec. 501(c)(3). The temporary designation is valid for up to one year and may be renewed at the discretion of the secretary.

[1989 c 291 § 5.]

Notes:

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

RCW 24.03.510 Public benefit nonprofit corporations--Application.

The secretary shall develop an application process for new and existing corporations to apply for public benefit nonprofit corporation status.

[1989 c 291 § 6.]

Notes:

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

RCW 24.03.520 Public benefit nonprofit corporations--Renewal.

The designation "public benefit nonprofit corporation" shall be renewed annually. The secretary may schedule renewals in conjunction with existing corporate renewals.

[1989 c 291 § 7.]

Notes:

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

RCW 24.03.530 Public benefit nonprofit corporations--Fees.

The secretary may establish fees to cover the cost of renewals.

[1989 c 291 § 8.]

Notes:

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

RCW 24.03.540 Public benefit nonprofit corporations--Removal of status.

The secretary may remove a corporation's public benefit nonprofit corporation designation if it does not comply with the provisions of this chapter or does not maintain its exempt status under 26 U.S.C. Sec. 501(c)(3). The secretary in removing a corporation's public benefit nonprofit corporation status shall comply with administrative procedures provided by this chapter.

[1989 c 291 § 9.]

Notes:

Finding--Severability--1989 c 291: See notes following RCW 24.03.490.

RCW 24.03.900 Short title.

This chapter shall be known and may be cited as the "Washington nonprofit corporation act."

[1967 c 235 § 1.]

RCW 24.03.905 Savings--1967 c 235.

Any corporation existing on the date when this chapter takes effect shall continue to exist as a corporation despite any provision of this chapter changing the requirements for forming a corporation or repealing or amending the law under which it was formed. The provisions of this chapter shall, however, apply prospectively to the fullest extent permitted by the Constitutions of the United States and the state of Washington to all existing corporations organized under any general act of the territory or the state of Washington providing for the organization of corporations for a purpose or purposes for which a corporation might be organized under this chapter. The repeal of any prior act or part thereof by this chapter shall not affect any right accrued or any liability or penalty incurred, under the provisions of such act, prior to the repeal thereof. The repeal of a prior act or acts by this chapter shall not affect any existing corporation organized for a purpose or purposes other than those for which a corporation might be organized under this chapter.

[1967 c 235 § 96.]

RCW 24.03.910 Severability--1967 c 235.

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this chapter, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this chapter, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this chapter so adjudged to be invalid or unconstitutional.

[1967 c 235 § 97.]

RCW 24.03.915 Notice to existing corporations.

(1) The secretary of state shall notify all existing nonprofit corporations thirty days prior to the effective date of this chapter, that in the event they fail to appoint a registered agent as provided in chapter 163, Laws of 1969 ex. sess. within ninety days following the effective date of chapter 163, Laws of 1969 ex. sess., they shall thereupon cease to exist.

(2) If the notification provided under subsection (1) of this section, from the secretary of state to any corporation was or has been returned unclaimed or undeliverable, the secretary of state shall proceed to dissolve the corporation by striking the name of such corporation from the records of active corporations.

(3) Corporations dissolved under subsection (2) of this section may be reinstated at any time within three years of the dissolution action by the secretary of state. The corporation shall be reinstated by filing a request for reinstatement, by appointment of a registered agent and designation of a registered office as required by this chapter, and by filing an annual report for the reinstatement year. No fees may be charged for reinstatements under this section. If, during

the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly.

[1982 c 35 § 117; 1969 ex.s. c 163 § 8; 1967 c 235 § 98.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Effective date--1969 ex.s. c 163: August 11, 1969, see preface to 1969 session laws.

Effective date--1967 c 235: See RCW 24.03.925.

RCW 24.03.920 Repealer--Exception.

The following acts or parts of acts, except insofar as may be applicable to the rights, powers and duties of persons and corporations not subject to the provisions of this chapter, are hereby repealed:

- (1) Chapter 110, Laws of 1961;
- (2) Section 6, chapter 12, Laws of 1959;
- (3) Section 3, chapter 263, Laws of 1959;
- (4) Chapter 32, Laws of 1955;
- (5) Chapter 121, Laws of 1953;
- (6) Chapter 249, Laws of 1947;
- (7) Chapter 122, Laws of 1943;
- (8) Chapter 89, Laws of 1933;
- (9) Section 2, chapter 63, Laws of 1925 extraordinary session;
- (10) Chapter 8, Laws of 1923;
- (11) Chapter 75, Laws of 1907;
- (12) Chapter 134, Laws of 1907;
- (13) Chapter 125, Laws of 1905;
- (14) Page 24, chapter XIX (19), Laws of 1895;
- (15) Page 348, chapter CXXXV (135), Laws of 1895;
- (16) Chapter CLVIII (158), Laws of 1895;
- (17) Section 1, page 86, Laws of 1886;
- (18) Sections 2450 through 2454, Code of 1881;
- (19) Pages 409 through 411, Laws of 1873;
- (20) Pages 341 and 342, Laws of 1869;
- (21) Pages 67 and 68, Laws of 1866; and
- (22) RCW sections 24.01.010, 24.04.010 through 24.04.170, 24.08.010 through 24.08.900, and 24.16.010 through 24.16.140.

[1967 c 235 § 100.]

RCW 24.03.925 Effective date--1967 c 235.

This chapter shall become effective July 1, 1969.

[1967 c 235 § 99.]

Chapter 24.06 RCW
NONPROFIT MISCELLANEOUS AND MUTUAL CORPORATIONS ACT

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Notes:

Organization of condominium unit owners' association: RCW 64.34.300.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

RCW 24.06.005 Definitions.

As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a mutual corporation or miscellaneous corporation subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a mutual or miscellaneous corporation or other corporation organized under laws other than the laws of this state which would be subject to the

provisions of this chapter if organized under the laws of this state.

(3) "Mutual corporation" means a corporation organized to accomplish one or more of its purposes on a mutual basis for members and other persons.

(4) "Miscellaneous corporation" means any corporation which is organized for a purpose or in a manner not provided for by the Washington business corporation act or by the Washington nonprofit corporation act, and which is not required to be organized under other laws of this state.

(5) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.

(6) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(7) "Member" means one having membership rights in a corporation in accordance with provisions of its articles of incorporation or bylaws.

(8) "Stock" or "share" means the units into which the proprietary interests of a corporation are divided in a corporation organized with stock.

(9) "Stockholder" or "shareholder" means one who is a holder of record of one or more shares in a corporation organized with stock.

(10) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(11) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(12) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(13) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined the document complies as to form with the applicable requirements of this chapter.

(14) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.

(15) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the document submission with the secretary of state.

(16) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the

secretary, or the treasurer of the corporation.

(17) "Electronic transmission" or "electronically transmitted" means any process of electronic communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of the transmitted information by the recipient. However, such an electronic transmission must either set forth or be submitted with information, including any security or validation controls used, from which it can reasonably be determined that the electronic transmission was authorized by, as applicable, the corporation or shareholder or member by or on behalf of which the electronic transmission was sent.

[2000 c 167 § 1; 1982 c 35 § 118; 1969 ex.s. c 120 § 1.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.010 Application of chapter.

The provisions of this chapter relating to domestic corporations shall apply to:

(1) All corporations organized hereunder; and

(2) All corporations which were heretofore organized under any act repealed by the Washington nonprofit corporation act and which are not organized for a purpose or in a manner provided for by said act.

The provisions of this chapter relating to foreign corporations shall apply to all foreign corporations conducting affairs in this state for a purpose or purposes for which a corporation might be organized under this chapter.

[1969 ex.s. c 120 § 2.]

RCW 24.06.015 Purposes.

Corporations may be organized under this chapter for any lawful purpose including but not limited to mutual, social, cooperative, fraternal, beneficial, service, labor organization, and other purposes; but excluding purposes which by law are restricted to corporations organized under other statutes.

[1969 ex.s. c 120 § 3.]

Notes:

Labor unions: Chapter 49.36 RCW.

RCW 24.06.020 Incorporators.

One or more individuals, partnerships, corporations or governmental bodies or agencies may incorporate a corporation by signing and delivering articles of incorporation in duplicate to the secretary of state.

[1982 c 35 § 119; 1969 ex.s. c 120 § 4.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.025 Articles of incorporation.

The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration, which may be perpetual or for a stated number of years.
- (3) The purpose or purposes for which the corporation is organized.
- (4) The qualifications and the rights and responsibilities of the members and the manner of their election, appointment or admission to membership and termination of membership; and, if there is more than one class of members or if the members of any one class are not equal, the relative rights and responsibilities of each class or each member.
- (5) If the corporation is to have capital stock:
 - (a) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value;
 - (b) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class;
 - (c) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;
 - (d) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.
- (6) If the corporation is to distribute surplus funds to its members, stockholders or other persons, provisions for determining the amount and time of the distribution.
- (7) Provisions for distribution of assets on dissolution or final liquidation.
- (8) Whether a dissenting shareholder or member shall be limited to a return of less than the fair value of his shares or membership.
- (9) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.
- (10) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.
- (11) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.
- (12) The name and address of each incorporator.
- (13) Any provision, not inconsistent with law, which the incorporators elect to set forth in

the articles of incorporation for the regulation of the internal affairs of the association, including provisions regarding:

(a) Eliminating or limiting the personal liability of a director to the association or its members for monetary damages for conduct as a director: PROVIDED, That such provision shall not eliminate or limit the liability of a director for acts or omissions that involve intentional misconduct by a director or a knowing violation of law by a director, or for any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. No such provision may eliminate or limit the liability of a director for any act or omission occurring before the date when such provision becomes effective; and

(b) Any provision which under this title is required or permitted to be set forth in the bylaws.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

[1987 c 212 § 708; 1982 c 35 § 120; 1969 ex.s. c 120 § 5.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.030 General powers.

Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, be trustee of, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to its employees.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental

district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter, in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) To establish and maintain reserve, equity, surplus or other funds, and to provide for the time, form and manner of distribution of such funds among members, shareholders or other persons with interests therein in accordance with the articles of incorporation.

(14) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes, and in time of war to make donations in aid of the United States and its war activities.

(15) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty: PROVIDED, That such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise.

(16) To cease its corporate activities and surrender its corporate franchise.

(17) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized and not inconsistent with the articles of incorporation or the provisions of this chapter.

[1969 ex.s. c 120 § 6.]

Notes:

Indemnification of agents, insurance: RCW 23B.08.320, 23B.08.500 through 23B.08.580, 23B.08.600, and 23B.17.030.

RCW 24.06.035 Nonprofit status--Members', officers' immunity from liability.

A corporation subject to the provisions of this chapter shall not engage in any business, trade, a vocation or profession for profit: PROVIDED, That nothing contained herein shall be

construed to forbid such a corporation from accumulating reserve, equity, surplus or other funds through subscriptions, fees, dues or assessments, or from charges made its members or other persons for services rendered or supplies or benefits furnished, or from distributing its surplus funds to its members, stockholders or other persons in accordance with the provisions of the articles of incorporation. A member of the board of directors or an officer of such a corporation shall have the same immunity from liability as is granted in RCW 4.24.264.

[1987 c 212 § 709; 1969 ex.s. c 120 § 7.]

RCW 24.06.040 Defense of ultra vires.

No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(1) In a proceeding by a member, shareholder or a director against the corporation to enjoin the doing or continuation of unauthorized acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract: PROVIDED, That anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members or shareholder in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(3) In a proceeding by the attorney general, as provided in this chapter, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general.

[1969 ex.s. c 120 § 8.]

RCW 24.06.043 Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

RCW 24.06.045 Corporate name.

The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for

any purpose other than one or more of the purposes contained in its articles of incorporation.

(2)(a) Except as provided in (b) and (c) of this subsection, must be distinguishable upon the records of the secretary of state from:

(i) The corporate name of a corporation organized or authorized to transact business in this state;

(ii) A corporate name reserved or registered under chapter 23B.04 RCW;

(iii) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under this chapter;

(iv) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(v) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;

(vi) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;

(vii) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and

(viii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(b) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in (a) of this subsection. The secretary of state shall authorize use of the name applied for if:

(i) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(ii) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(c) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is incorporated, organized, formed, or authorized to transact business in this state, and the proposed user corporation:

(i) Has merged with the other corporation, limited liability company, or limited partnership; or

(ii) Has been formed by reorganization of the other corporation.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

(4) The name of any corporation formed under this section shall not include nor end with "incorporated", "company", or "corporation" or any abbreviation thereof, but may use "club", "league", "association", "services", "committee", "fund", "society", "foundation", ".", a nonprofit mutual corporation", or any name of like import.

(5) A name shall not be considered distinguishable upon the records of the secretary of

state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(6) This title does not control the use of assumed business names or "trade names."

[1998 c 102 § 4; 1995 c 337 § 22; 1994 c 211 § 1307; 1987 c 55 § 41; 1982 c 35 § 121; 1973 c 113 § 1; 1969 ex.s. c 120 § 9.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

Effective date--Severability--1994 c 211: See RCW 25.15.900 and 25.15.902.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Corporate name of foreign corporation: RCW 24.06.350.

RCW 24.06.046 Reservation of exclusive right to use corporate name.

The exclusive right to the use of a corporate name may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.

[1993 c 356 § 13; 1982 c 35 § 122.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.047 Registration of corporate name.

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, the name of any domestic limited liability company organized under the laws of this state, or the name of any foreign limited liability company authorized to transact business in this state, the name of any domestic or foreign limited partnership on file with the secretary, or any corporate name reserved or registered under this title.

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or country under the laws of which it is incorporated, and the date of its incorporation, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or country wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state the applicable annual registration fee.

The registration shall be effective until the close of the calendar year in which the application for registration is filed.

[1994 c 211 § 1308; 1993 c 356 § 14; 1987 c 55 § 42; 1982 c 35 § 123.]

Notes:

Effective date--Severability--1994 c 211: See RCW 25.15.900 and 25.15.902.

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.048 Renewal of registration of corporate name.

A corporation which has in effect a registration of its corporate name, may renew such registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of ten dollars. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year.

[1982 c 35 § 124.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.050 Registered office and registered agent.

Each domestic corporation and foreign corporation authorized to do business in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation existing under any act of this state or a foreign corporation authorized to transact business or conduct affairs in this state under any act of this state having an office identical with such registered office. The resident agent and registered office shall be designated by duly adopted resolution of the board of directors; and a statement of such designation, executed by an officer of the corporation, shall be filed with the secretary of state. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

No Washington corporation or foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section.

[1993 c 356 § 15; 1982 c 35 § 125; 1969 ex.s. c 120 § 10.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.055 Change of registered office or registered agent.

A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement in the form prescribed by the secretary of state setting forth:

(1) The name of the corporation.

(2) If the address of its registered office is to be changed, the address to which the registered office is to be changed, including street and number.

(3) If the current registered agent is to be changed, the name of its successor registered agent.

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered office to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall file such statement, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

[1993 c 356 § 16; 1982 c 35 § 126; 1969 ex.s. c 120 § 11.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.060 Service of process on corporation.

The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of his or her office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or

hereafter permitted by law.

[1982 c 35 § 127; 1969 ex.s. c 120 § 12.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.065 Members.

A corporation may have one or more classes of members. The designation of such class or classes, the manner of election, appointment or admission to membership, and the qualifications, responsibilities and rights of the members of each class shall be set forth in the articles of incorporation. A corporation may issue certificates evidencing membership therein. Certificates may be assigned by a member and reacquired by the corporation under such provisions, rules and regulations as may be prescribed in the articles of incorporation. Membership may be terminated under such provisions, rules and regulations as may be prescribed in the articles of incorporation or bylaws.

[1969 ex.s. c 120 § 13.]

RCW 24.06.070 Shares--Issuance--Payment--Subscription agreements.

(1) Each corporation which is organized with capital stock shall have the power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this chapter.

(2) Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(a) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(b) Entitling the holders thereof to cumulative, noncumulative or partially cumulative dividends.

(c) Having preference over any other members or class or classes of shares as to the payment of dividends.

(d) Having preference in the assets of the corporation over any other members or class or classes of shares upon the voluntary or involuntary liquidation of the corporation.

(3) The consideration for the issuance of shares may be paid in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and nonassessable.

Neither promissory notes nor future services shall constitute payment or part payment, for

shares of a corporation.

In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

(4) A subscription for shares of a corporation to be organized shall be in writing and be irrevocable for a period of six months, unless otherwise provided by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of such subscription.

Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such installments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The bylaws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of a subscription, or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of twenty days after written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope addressed to the subscriber at his last post office address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his legal representative.

[1969 ex.s. c 120 § 14.]

RCW 24.06.075 Shares--Consideration, fixing.

(1) Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board of directors.

(2) Shares without par value shall be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors.

[1969 ex.s. c 120 § 15.]

RCW 24.06.080 Shares--Certificates.

The shares of a corporation shall be represented by certificates signed by the president or vice president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice president and the secretary or assistant secretary upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose

facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

- (1) That the corporation is organized under the laws of this state.
- (2) The name of the person to whom issued.
- (3) The number and class of shares, and the designation of the series, if any, which such certificate represents.
- (4) The par value of each share represented by such certificate, or a statement that the shares are without par value.

No certificate shall be issued for any share until such share is fully paid.

[1969 ex.s. c 120 § 16.]

RCW 24.06.085 Liability of shareholders, subscribers, assignees, executors, trustees, etc.

A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued.

Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration.

An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver shall not be personally liable to the corporation as a holder of or subscriber to shares of a corporation but the estate and funds in his hands shall be so liable.

No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder.

[1969 ex.s. c 120 § 17.]

RCW 24.06.090 Preemptive share acquisition rights.

The preemptive right of a shareholder to acquire unissued shares of a corporation may be

limited or denied to the extent provided in the articles of incorporation.

[1969 ex.s. c 120 § 18.]

RCW 24.06.095 Bylaws.

The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation: PROVIDED, That where the bylaws of an existing corporation prohibit voting by mail, by electronic transmission, or by proxy or attorney-in-fact, and the quorum required by its bylaws for election of directors or transaction of other business has not been obtained at a shareholders' or members' meeting, for a period which includes at least two consecutive annual meeting dates, the board of directors shall have power to amend such bylaws to thereafter authorize voting by mail, by electronic transmission, or by proxy or attorney-in-fact.

[2000 c 167 § 2; 1970 ex.s. c 78 § 1; 1969 ex.s. c 120 § 19.]

RCW 24.06.100 Meetings of members and shareholders.

Meetings of members and/or shareholders may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

An annual meeting of the members and shareholders shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members or shareholders may be called by the president or by the board of directors. Special meetings of the members or shareholders may also be called by such other officers or persons or number or proportion of members or shareholders as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members or shareholders entitled to call a meeting, a special meeting of members or shareholders may be called by persons having one-twentieth of the votes entitled to be cast at such meeting.

[1969 ex.s. c 120 § 20.]

RCW 24.06.105 Notice of meetings.

Written or printed notice or, if specifically permitted by the articles of incorporation or bylaws of the corporation, notice given by electronic transmission, stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting,

either personally or by mail or electronic transmission, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member or shareholder entitled to vote at such meeting. If provided in the articles of incorporation, notice of regular meetings other than annual may be made by providing each member with the adopted schedule of regular meetings for the ensuing year at any time after the annual meeting and ten days prior to a regular meeting and at any time when requested by a member or by such other notice as may be prescribed by the bylaws. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member or shareholder at his or her address as it appears on the records of the corporation, with postage thereon prepaid. If sent by electronic transmission, the notice is deemed to be delivered when sent, addressed to the member or shareholder at his or her electronic transmission address as it appears on the records of the corporation.

[2000 c 167 § 3; 1969 ex.s. c 120 § 21.]

RCW 24.06.110 Voting.

The right of a class or classes of members or shareholders to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation. Unless so limited, enlarged or denied, each member and each outstanding share of each class shall be entitled to one vote on each matter submitted to a vote of members or shareholders. No member of a class may acquire any interest which will entitle him or her to a greater vote than any other member of the same class.

A member or shareholder may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by mail, by electronic transmission, or by proxy executed in writing by the member or shareholder or by his or her duly authorized attorney-in-fact: PROVIDED, That no proxy shall be valid for more than eleven months from the date of its execution unless otherwise specified in the proxy.

If a member or shareholder may vote by proxy, the proxy may be given by:

(1) Executing a writing authorizing another person or persons to act for the member or shareholder as proxy. Execution may be accomplished by the member or shareholder or the member's or shareholder's authorized officer, director, employee, or agent signing the writing or causing his or her signature to be affixed to the writing by any reasonable means including, but not limited to, facsimile signature; or

(2) Authorizing another person or persons to act for the member or shareholder as proxy by transmitting or authorizing the transmission of an electronic transmission to the person who will be the holder of the proxy, or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person who will be the holder of the proxy to receive the transmission. If it is determined that the electronic transmissions are valid, the inspector of election or, if there are no inspectors, any other officer or agent of the corporation making that determination on behalf of the corporation shall specify the information upon which they relied. The corporation shall require the holders of proxies received by electronic

transmission to provide to the corporation copies of the electronic transmission and the corporation shall retain copies of the electronic transmission for a reasonable period of time.

The articles of incorporation may provide that whenever proposals or directors or officers are to be voted upon, such vote may be taken by mail or by electronic transmission if the name of each candidate and the text of each proposal to be so voted upon are set forth in a writing accompanying or contained in the notice of meeting. Persons voting by mail or by electronic transmission shall be deemed present for all purposes of quorum, count of votes and percentages of total voting power voting.

The articles of incorporation or the bylaws may provide that in all elections for directors every person entitled to vote shall have the right to cumulate his or her vote and to give one candidate a number of votes equal to his or her vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates.

[2000 c 167 § 4; 1969 ex.s. c 120 § 22.]

RCW 24.06.115 Quorum.

The articles of incorporation or the bylaws may provide the number or percentage of votes which members or shareholders are entitled to cast in person, by mail, by electronic transmission, or by proxy, which shall constitute a quorum at meetings of shareholders or members. However, in no event shall a quorum be less than one-fourth of the votes which members or shareholders are entitled to cast in person, by mail, by electronic transmission, or by proxy, at a meeting considering the adoption of a proposal which is required by the provisions of this chapter to be adopted by at least two-thirds of the votes which members or shareholders present at the meeting in person or by mail, by electronic transmission, or represented by proxy are entitled to cast. In all other matters and in the absence of any provision in the articles of incorporation or bylaws, a quorum shall consist of one-fourth of the votes which members or shareholders are entitled to cast in person, by mail, by electronic transmission, or by proxy at the meeting. On any proposal on which a class of shareholders or members is entitled to vote as a class, a quorum of the class entitled to vote as such class must also be present in person, by mail, by electronic transmission, or represented by proxy.

[2000 c 167 § 5; 1969 ex.s. c 120 § 23.]

RCW 24.06.120 Class voting.

A class of members or shareholders shall be entitled to vote as a class upon any proposition, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the proposition would increase or decrease the rights, qualifications, limitations, responsibilities or preferences of the class as related to any other class.

[1969 ex.s. c 120 § 24.]

RCW 24.06.125 Board of directors.

The affairs of the corporation shall be managed by a board of directors. Directors need not be residents of this state or members or shareholders of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors.

[1969 ex.s. c 120 § 25.]

RCW 24.06.130 Number and election of directors.

The number of directors of a corporation shall be not less than three and shall be fixed by the bylaws: PROVIDED, That the number of the first board of directors shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

The directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.

A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation.

[1969 ex.s. c 120 § 26.]

RCW 24.06.135 Vacancies.

Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner. A director elected or appointed, as the case may be, to fill a vacancy, shall be elected or appointed for the unexpired term of his predecessor in office.

[1969 ex.s. c 120 § 27.]

RCW 24.06.140 Quorum of directors.

A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws: PROVIDED, That a quorum shall never consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this chapter, the articles of incorporation, or the bylaws.

[1969 ex.s. c 120 § 28.]

RCW 24.06.145 Committees.

If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation, or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation: PROVIDED, That no such committee shall have the authority of the board of directors in reference to:

- (1) Amending, altering or repealing the bylaws;
- (2) Electing, appointing, or removing any member of any such committee or any director or officer of the corporation;
- (3) Amending the articles of incorporation;
- (4) Adopting a plan of merger or a plan of consolidation with another corporation;
- (5) Authorizing the sale, lease, exchange, or mortgage, of all or substantially all of the property and assets of the corporation;
- (6) Authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; or
- (7) Amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee.

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law.

[1969 ex.s. c 120 § 29.]

RCW 24.06.150 Directors' meetings.

Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a

meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

[1969 ex.s. c 120 § 30.]

RCW 24.06.155 Officers.

The officers of a corporation shall consist of a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws.

[1969 ex.s. c 120 § 31.]

RCW 24.06.160 Books and records.

Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, shareholders, board of directors, and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members and shareholders entitled to vote. All books and records of a corporation may be inspected by any member or shareholder, or his agent or attorney, for any proper purpose at any reasonable time.

[1969 ex.s. c 120 § 32.]

RCW 24.06.165 Loans to directors or officers.

No loans exceeding or more favorable than those which are customarily made to members or shareholders shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan in violation of this section to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

[1969 ex.s. c 120 § 33.]

RCW 24.06.170 Filing of articles of incorporation.

Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he or she shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such originals the word "filed" and the effective date of the filing thereof.

(2) File one of such originals in his or her office.

(3) Issue a certificate of incorporation to which he or she shall affix one of such originals.

The certificate of incorporation together with the original of the articles of incorporation affixed thereto by the secretary of state shall be returned to the incorporators or their representatives and shall be retained by the corporation.

[1982 c 35 § 128; 1981 c 302 § 5; 1969 ex.s. c 120 § 34.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.06.175 Effect of filing of articles of incorporation.

Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall, except as against the state in a proceeding to cancel or revoke the certificate of incorporation, be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter.

[1982 c 35 § 129; 1969 ex.s. c 120 § 35.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.180 Organization meeting.

After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

A first meeting of the members and shareholders may be held at the call of the directors, or a majority of them, upon at least three days' notice, for such purposes as shall be stated in the notice of the meeting.

[1969 ex.s. c 120 § 36.]

RCW 24.06.185 Right to amend articles of incorporation.

A corporation may amend its articles of incorporation from time to time in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this chapter.

[1969 ex.s. c 120 § 37.]

RCW 24.06.190 Procedure to amend articles of incorporation.

Amendments to the articles of incorporation shall be made in the following manner:

The board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members and shareholders, which may be either an annual or a special meeting. Written or printed notice or, if specifically permitted by the articles of incorporation or bylaws of the corporation, notice by electronic transmission, setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member and shareholder entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members or shareholders present in person or by mail or by electronic transmission at such meeting or represented by proxy are entitled to cast: PROVIDED, That when any class of shares or members is entitled to vote thereon by class, the proposed amendment must receive at least two-thirds of the votes of the members or shareholders of each class entitled to vote thereon as a class, who are present in person, by mail, by electronic transmission, or represented by proxy at such meeting.

Any number of amendments may be submitted and voted upon at any one meeting.

[2000 c 167 § 6; 1969 ex.s. c 120 § 38.]

RCW 24.06.195 Articles of amendment.

The articles of amendment shall be executed in duplicate originals by the corporation by an officer of the corporation, and shall set forth:

- (1) The name of the corporation.
- (2) Any amendment so adopted.

(3) A statement setting forth the date of the meeting of members and shareholders at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members or shareholders of the corporation, and of each class entitled to vote thereon as a class, present at such meeting in person, by mail, by electronic transmission, or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members and shareholders entitled to vote with respect thereto.

[2000 c 167 § 7; 1982 c 35 § 130; 1981 c 302 § 6; 1969 ex.s. c 120 § 39.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.06.200 Filing of articles of amendment--Procedure.

Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he or she shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such originals the word "filed", and the effective date of the filing thereof.

(2) File one of such originals in his or her office.

(3) Issue a certificate of amendment to which he or she shall affix one of such originals.

The certificate of amendment, together with the other duplicate original of the articles of amendment affixed thereto by the secretary of state shall be returned to the corporation or its representative and shall be retained by the corporation.

[1982 c 35 § 131; 1981 c 302 § 7; 1969 ex.s. c 120 § 40.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.06.205 When amendment becomes effective--Existing actions and rights not affected.

Upon the filing of the articles of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, nor any pending action to which such corporation shall be a party, nor the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

[1982 c 35 § 132; 1969 ex.s. c 120 § 41.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.207 Restated articles of incorporation.

A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of the resolution, restated articles of incorporation shall be executed in

duplicate by the corporation by one of its officers and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

Duplicate originals of the restated articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:

(1) Endorse on each duplicate original the word "Filed" and the effective date of the filing thereof;

(2) File one duplicate original; and

(3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.

The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

[1982 c 35 § 133.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.210 Procedure for merger.

Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this chapter.

Each corporation shall adopt a plan of merger setting forth:

(1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(2) The terms and conditions of the proposed merger.

(3) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(4) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

[1969 ex.s. c 120 § 42.]

RCW 24.06.215 Procedure for consolidation.

Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this chapter.

Each corporation shall adopt a plan of consolidation setting forth:

- (1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.
- (2) The terms and conditions of the proposed consolidation.
- (3) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.
- (4) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

[1969 ex.s. c 120 § 43.]

RCW 24.06.220 Approval of merger or consolidation.

A plan of merger or consolidation shall be adopted in the following manner:

The board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting. Written or printed notice or, if specifically permitted by the articles of incorporation or bylaws of the corporation, notice by electronic transmission, setting forth the proposed plan or a summary thereof shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail or by electronic transmission at each such meeting or represented by proxy are entitled to cast: PROVIDED, That when any class of shares or members is entitled to vote thereon as a class, the proposed amendment must receive at least two-thirds of the votes of the members or shareholders of each class entitled to vote thereon as a class, who are present in person, by mail, by electronic transmission, or represented by proxy at such meeting.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

[2000 c 167 § 8; 1969 ex.s. c 120 § 44.]

RCW 24.06.225 Articles of merger or consolidation.

(1) Upon approval, articles of merger or articles of consolidation shall be executed in duplicate originals by each corporation, by an officer of each corporation, and shall set forth:

- (a) The plan of merger or the plan of consolidation;
- (b) A statement setting forth the date of the meeting of members or shareholders at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members and shareholders of the corporation and of each class entitled to vote thereon as a class, present at such meeting in person or by mail or by

electronic transmission or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members;

(2) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he or she shall, when all fees have been paid as prescribed in this chapter:

(a) Endorse on each of such originals the word "filed", and the effective date of the filing thereof;

(b) File one of such originals in his or her office;

(c) Issue a certificate of merger or a certificate of consolidation to which he or she shall affix one of such originals.

The certificate of merger or certificate of consolidation, together with the original of the articles of merger or articles of consolidation affixed thereto by the secretary of state shall be returned to the surviving or new corporation, as the case may be, or its representative, and shall be retained by the corporation.

[2000 c 167 § 9; 1982 c 35 § 134; 1981 c 302 § 8; 1969 ex.s. c 120 § 45.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.06.230 Merger or consolidation--When effected.

Upon the filing of articles of merger, or the articles of consolidation by the secretary of state, the merger or consolidation shall be effected.

[1982 c 35 § 135; 1969 ex.s. c 120 § 46.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.233 Merger or consolidation of domestic and foreign corporation--Participation in an exchange.

One or more foreign corporations and one or more domestic corporations may be merged or consolidated or participate in an exchange in the following manner, if such merger, consolidation, or exchange is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger, consolidation, or exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title with respect to foreign corporations if it is to transact business in this state, and in every case it shall

file with the secretary of state of this state:

(a) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a dissenting shareholder of any such domestic corporation against the surviving or new corporation;

(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and

(c) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this title with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger, consolidation, or exchange, the merger, consolidation, or exchange, may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger, consolidation or exchange. In the event the merger, consolidation, or exchange is abandoned, the parties thereto shall execute a notice of abandonment in triplicate signed by an officer for each corporation signing the notice. If the secretary of state finds the notice conforms to law, the secretary of state shall:

(a) Endorse on each of the originals the word "Filed" and the effective date of the filing thereof;

(b) File one of the triplicate originals in the secretary of state's office; and

(c) Issue the other triplicate originals to the respective parties or their representatives.

[1982 c 35 § 136.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.235 Effect of merger or consolidation.

When such merger or consolidation has been effected:

(1) The several corporations party to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations party to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) The surviving or new corporation shall have all the rights, privileges, immunities and powers, and shall be subject to all the duties and liabilities of a corporation organized under this

chapter.

(4) The surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, whether of a public or a private nature, of each of the merging or consolidating corporations; all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and no title to any real estate, or any interest therein, vested in any of such corporations shall not revert nor be in any way impaired by reason of such merger or consolidation.

(5) The surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. No rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the articles of incorporation of the new corporation.

[1969 ex.s. c 120 § 47.]

RCW 24.06.240 Sale, lease, exchange, etc., of property and assets.

A sale, lease, exchange, or other disposition of all or substantially all of the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending a sale, lease, exchange, or other disposition and directing that it be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting.

(2) Written or printed notice or, if specifically permitted by the articles of incorporation or bylaws of the corporation, notice by electronic transmission, stating that the purpose or one of the purposes of such meeting is to consider the sale, lease, exchange, or other disposition of all or substantially all of the property and assets of the corporation shall be given to each member and shareholder within the time and in the manner provided by this chapter for the giving of notice of meetings of members and shareholders.

(3) At such meeting the members may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor.

(4) Such authorization shall require at least two-thirds of the votes which members and shareholders present at such meetings in person, by mail, by electronic transmission, or represented by proxy are entitled to cast: PROVIDED, That even after such authorization by a vote of members or shareholders, the board of directors may, in its discretion, without further action or approval by members, abandon such sale, lease, exchange, or other disposition of assets, subject only to the rights of third parties under any contracts relating thereto.

[2000 c 167 § 10; 1969 ex.s. c 120 § 48.]

RCW 24.06.245 Right of member or shareholder to dissent.

Any member or shareholder of a corporation shall have the right to dissent from any of the following corporate actions:

- (1) Any plan of merger or consolidation to which the corporation is a party; or
- (2) Any sale or exchange of all or substantially all of the property and assets of the corporation not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of sale be distributed to the shareholders in accordance with their respective interests within one year after the date of sale; or
- (3) Any amendment to the articles of incorporation which changes voting or property rights of members or shareholders other than by changing the number of memberships or shares or classes of either thereof; or
- (4) Any amendment to the articles of incorporation which reorganizes a corporation under the provisions of this chapter.

The provisions of this section shall not apply to the members or shareholders of the surviving corporation in a merger if such corporation is on the date of the filing of the articles of merger the owner of all the outstanding shares of the other corporations, domestic or foreign, which are parties to the merger, or if a vote of the members and shareholders of such corporation is not necessary to authorize such merger.

[1969 ex.s. c 120 § 49.]

RCW 24.06.250 Exercise of right of dissent--Rights and liabilities.

Any member or shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of members and shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such member or shareholder shall not have voted in favor thereof, such member or shareholder may, within ten days after the date on which the vote was taken, or if a corporation is to be merged without a vote of its members and shareholders into another corporation, any other members or shareholders may, within fifteen days after the plan of such merger shall have been mailed or sent by

electronic transmission to such members and shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such member's membership or of such shareholder's shares, and, if such proposed corporate action is effected, such corporation shall pay to such member, upon surrender of his or her membership certificate, if any, or to such shareholder, upon surrender of the certificate or certificates representing such shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action. Any member or shareholder failing to make demand within the ten day period shall be bound by the terms of the proposed corporate action. Any member or shareholder making such demand shall thereafter be entitled only to payment as in this section provided and shall not be entitled to vote or to exercise any other rights of a member or shareholder.

No such demand shall be withdrawn unless the corporation shall consent thereto. The right of such member or shareholder to be paid the fair value of his or her shares shall cease and his or her status as a member or shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim, if:

- (1) Such demand shall be withdrawn upon consent; or
- (2) The proposed corporate action shall be abandoned or rescinded or the members or shareholders shall revoke the authority to effect such action; or
- (3) In the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or
- (4) No demand or petition for the determination of fair value by a court shall have been made or filed within the time provided by this section; or
- (5) A court of competent jurisdiction shall determine that such member or shareholder is not entitled to the relief provided by this section.

Within ten days after such corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting member or shareholder who has made demand as herein provided, and shall make a written offer to each such member or shareholder to pay for such shares or membership at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation in which the member has his or her membership or the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve months prior to the making of such offer, and a profit and loss statement of such corporation for the twelve months' period ended on the date of such balance sheet.

If within thirty days after the date on which such corporate action was effected the fair value of such shares or membership is agreed upon between any such dissenting member or shareholder and the corporation, payment therefor shall be made within ninety days after the date on which such corporate action was effected, upon surrender of the membership certificate, if any, or upon surrender of the certificate or certificates representing such shares. Upon payment of

the agreed value the dissenting member or shareholder shall cease to have any interest in such membership or shares.

If within such period of thirty days a dissenting member or shareholder and the corporation do not so agree, then the corporation, within thirty days after receipt of written demand from any dissenting member or shareholder given within sixty days after the date on which such corporate action was effected, shall, or at its election at any time within such period of sixty days may, file a petition in any court of competent jurisdiction in the county in this state where the registered office of the corporation is located praying that the fair value of such membership or shares be found and determined. If, in the case of a merger or consolidation, the surviving or new corporation is a foreign corporation without a registered office in this state, such petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall fail to institute the proceeding as herein provided, any dissenting member or shareholder may do so in the name of the corporation. All dissenting members and shareholders, wherever residing, shall be made parties to the proceeding as an action against their memberships or shares quasi in rem. A copy of the petition shall be served on each dissenting member and shareholder who is a resident of this state and shall be served by registered or certified mail on each dissenting member or shareholder who is a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. All members and shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for the amount of the fair value of their shares. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof. The judgment shall be payable only upon and concurrently with the surrender to the corporation of the membership certificate, if any, or of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder or member shall cease to have any interest in such shares or membership.

The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such costs and expenses may be apportioned and assessed as the court may deem equitable against any or all of the dissenting members and shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for membership or shares if the court shall find that the action of such members or shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude the fees and expenses of counsel for and experts employed by any party; but if the fair value of the memberships or shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any member or shareholder who is a party to the proceeding such sum as

the court may determine to be reasonable compensation to any expert or experts employed by the member or shareholder in the proceeding.

Within twenty days after demanding payment for his or her shares or membership, each member and shareholder demanding payment shall submit the certificate or certificates representing his or her membership or shares to the corporation for notation thereon that such demand has been made. His or her failure to do so shall, at the option of the corporation, terminate his or her rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct. If membership or shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear a similar notation, together with the name of the original dissenting holder of such membership or shares, and a transferee of such membership or shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting member or shareholder had after making demand for payment of the fair value thereof.

[2000 c 167 § 11; 1969 ex.s. c 120 § 50.]

RCW 24.06.255 Limitation upon payment of fair value to dissenting member or shareholder.

Notwithstanding any provision in this chapter for the payment of fair value to a dissenting member or shareholder, the articles of incorporation may provide that a dissenting member or shareholder shall be limited to a return of a lesser amount, but in no event shall a dissenting shareholder be limited to a return of less than the consideration paid to the corporation for the membership or shares which he holds unless the fair value of the membership or shares is less than the consideration paid to the corporation.

[1969 ex.s. c 120 § 51.]

RCW 24.06.260 Voluntary dissolution.

A corporation may dissolve and wind up its affairs in the following manner:

(1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members and shareholders which may be either an annual or a special meeting.

(2) Written or printed notice or, if specifically permitted by the articles of incorporation or bylaws of the corporation, notice by electronic transmission, stating that the purpose or one of the purposes of such meeting is to consider the advisability of dissolving the corporation shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders.

(3) A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail or by electronic transmission at such meeting or represented by proxy are entitled to cast.

Upon the adoption of such resolution by the members and shareholders, the corporation

shall cease to conduct its affairs and, except insofar as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation and to the department of revenue, and shall proceed to collect its assets and to apply and distribute them as provided in RCW 24.06.265.

[2000 c 167 § 12; 1982 c 35 § 137; 1969 ex.s. c 120 § 52.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.265 Distribution of assets.

The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

- (1) All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision made therefor;
- (2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements;
- (3) Remaining assets, if any shall be distributed to the members, shareholders or others in accordance with the provisions of the articles of incorporation.

[1969 ex.s. c 120 § 53.]

RCW 24.06.270 Revocation of voluntary dissolution proceedings.

A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

- (1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting.
- (2) Written or printed notice or, if specifically permitted by the articles of incorporation or bylaws of the corporation, notice by electronic transmission, stating that the purpose or one of the purposes of the meeting is to consider the advisability of revoking the voluntary dissolution proceedings shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members or shareholders.
- (3) A resolution to revoke voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail or by electronic transmission at such meeting or represented by proxy are entitled to cast.

[2000 c 167 § 13; 1969 ex.s. c 120 § 54.]

RCW 24.06.275 Articles of dissolution.

If voluntary dissolution proceedings have not been revoked, then after all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate by the corporation, by an officer of the corporation; and such statement shall set forth:

- (1) The name of the corporation.
- (2) The date of the meeting of members or shareholders at which the resolution to dissolve was adopted, certifying that:
 - (a) A quorum was present at such meeting;
 - (b) Such resolution received at least two-thirds of the votes which members and shareholders present in person or by mail or by electronic transmission at such meeting or represented by proxy were entitled to cast or was adopted by a consent in writing signed by all members and shareholders;
 - (c) All debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;
 - (d) All the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter;
 - (e) There are no suits pending against the corporation in any court or, if any suits are pending against it, that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered; and
 - (f) A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW.

[2000 c 167 § 14; 1993 c 356 § 17; 1982 c 35 § 138; 1969 ex.s. c 120 § 55.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.280 Filing of articles of dissolution.

Duplicate originals of articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he or she shall, when all requirements have been met as prescribed in this chapter:

- (1) Endorse on each of such originals the word "filed", and the effective date of the filing thereof.
- (2) File one of the originals in his or her office.
- (3) Issue a certificate of dissolution which he or she shall affix to one of such originals.

The certificate of dissolution, together with the original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation and shall be retained with the corporation minutes.

Upon the filing of the articles of dissolution, the corporate existence shall cease, except for the purpose of determining such suits, other proceedings and appropriate corporate action by members, directors and officers as are authorized in this chapter.

[1982 c 35 § 139; 1981 c 302 § 9; 1969 ex.s. c 120 § 56.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.
Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.06.285 Involuntary dissolution.

A corporation may be dissolved by decree of the superior court in an action filed on petition of the attorney general upon a showing that:

- (1) The corporation procured its articles of incorporation through fraud; or
- (2) The corporation has continued to exceed or abuse the authority conferred upon it by law.

[1982 c 35 § 140; 1969 ex.s. c 120 § 57.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.290 Proceedings for involuntary dissolution--Rights, duties, and remedies--Penalties--Fee set by rule.

Failure of the corporation to file its annual report within the time required shall not derogate from the rights of its creditors, or prevent the corporation from being sued and from defending lawsuits, nor shall it release the corporation from any of the duties or liabilities of a corporation under law.

A corporation shall be dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

- (1) Has failed to file or complete its annual report within the time required by law;
- (2) Has failed for thirty days to appoint or maintain a registered agent in this state; or
- (3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of state shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement

that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of involuntary dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its dissolution if it completes and files a current annual report for the current reinstatement year or it appoints or maintains a registered agent, or files a required statement of change of registered agent or registered office and in addition pays the reinstatement fee as set by rule by the secretary of state, plus the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year plus any penalties as established by rule by the secretary of state. If during the period of dissolution another person or corporation has reserved or adopted a corporate name which is identical or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided by RCW 24.06.335 and thereafter the directors of the corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders.

[1994 c 287 § 10; 1993 c 356 § 18; 1982 c 35 § 141; 1973 c 70 § 1; 1969 ex.s. c 120 § 58.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.293 Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

RCW 23B.14.203 applies to this chapter.

[1997 c 12 § 3.]

RCW 24.06.295 Venue and process.

Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general either in the superior court of the county in which the registered office of the corporation is situated, or in the superior court of Thurston county. Summons shall issue and be served as in other civil actions. If process is returned not found, the attorney general shall cause

publication to be made as in other civil cases in a newspaper published in the county where the registered office of the corporation is situated, notifying the corporation of the pendency of such action, the title of the court, the title of the action, the date on or after which default may be entered, giving the corporation thirty days within which to appear, answer, and defend. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed by certified mail to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned not found. Unless a corporation shall have been personally served with summons, no default shall be taken against it less than thirty days from the first publication of such notice.

[1969 ex.s. c 120 § 59.]

RCW 24.06.300 Jurisdiction of court to liquidate assets and dissolve corporation.

The superior court shall have full power to liquidate the assets and to provide for the dissolution of a corporation when:

(1) In any action by a member, shareholder or director it is made to appear that:

(a) The directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and that the members or shareholders are unable to break the deadlock; or

(b) The acts of the directors or those in control of the corporation are illegal, oppressive, or fraudulent; or

(c) The corporate assets are being misapplied or wasted; or

(d) The corporation is unable to carry out its purposes; or

(e) The shareholders have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors.

(2) In an action by a creditor:

(a) The claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied, and it is established that the corporation is insolvent; or

(b) The corporation has admitted in writing that the claim of the creditor is due and owing, and it is established that the corporation is insolvent.

(3) A corporation applies to have its dissolution continued under the supervision of the court.

(4) An action has been filed by the attorney general to dissolve the corporation and it is established that liquidation of its affairs should precede the entry of a decree of dissolution.

Proceedings under subsections (1), (2) or (3) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make directors, members or shareholders party to any such action or proceedings unless relief is sought against them personally.

[1969 ex.s. c 120 § 60.]

RCW 24.06.305 Procedure in liquidation of corporation in court.

(1) In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to:

- (a) Issue injunctions;
- (b) Appoint a receiver or receivers pendente lite, with such powers and duties as the court may, from time to time, direct;
- (c) Take such other proceedings as may be requisite to preserve the corporate assets wherever situated; and
- (d) Carry on the affairs of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings, and to any other parties in interest designated by the court, the court may appoint a receiver with authority to collect the assets of the corporation. Such receiver shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such receiver shall state his powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(2) The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

- (a) All costs and expenses of the court proceedings, and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision made therefor;
- (b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirements;
- (c) Remaining assets, if any, shall be distributed to the members, shareholders or others in accordance with the provisions of the articles of incorporation.

(3) The court shall have power to make periodic allowances, as expenses of the liquidation and compensation to the receivers and attorneys in the proceeding accrue, and to direct the payment thereof from the assets of the corporation or from the proceeds of any sale or disposition of such assets.

A receiver appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name, as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated.

[1969 ex.s. c 120 § 61.]

RCW 24.06.310 Qualifications of receivers--Bond.

A receiver shall in all cases be a citizen of the United States or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require.

[1969 ex.s. c 120 § 62.]

RCW 24.06.315 Filing of claims in liquidation proceedings.

In proceedings to liquidate the assets and affairs of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation.

[1969 ex.s. c 120 § 63.]

RCW 24.06.320 Discontinuance of liquidation proceedings.

The liquidation of the assets and affairs of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets.

[1969 ex.s. c 120 § 64.]

RCW 24.06.325 Decree of involuntary dissolution.

In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this chapter, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the corporate existence shall cease.

[1969 ex.s. c 120 § 65.]

RCW 24.06.330 Filing of decree of dissolution.

In case the court shall enter a decree dissolving a corporation, it shall be the duty of the

court clerk to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the secretary of state for the filing thereof.

[1969 ex.s. c 120 § 66.]

RCW 24.06.335 Survival of remedies after dissolution.

The dissolution of a corporation whether (1) by the filing and issuance of a certificate of dissolution, voluntary or involuntary, by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, members, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years from the date of dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name and capacity. The members, shareholders, directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect any remedy, right, or claim. If the corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during the two years following dissolution, in order to extend its period of duration. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation extending its period of duration shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. The corporation shall also pay to the state all fees and penalties which would otherwise have been due if the corporate charter had not expired, plus a reinstatement fee of twenty-five dollars.

[1982 c 35 § 142; 1969 ex.s. c 120 § 67.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.340 Admission of foreign corporation.

(1) No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority from the secretary of state to do so. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a corporation organized under this chapter is not permitted to conduct: PROVIDED, That no foreign corporation shall be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state: PROVIDED FURTHER, That nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

(2) Without excluding other activities not constituting the conduct of affairs in this state,

a foreign corporation shall, for purposes of this chapter, not be considered to be conducting affairs in this state by reason of carrying on in this state any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof, or the settlement of claims or disputes.

(b) Holding meetings of its directors, members, or shareholders, or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Creating evidences of debt, mortgages or liens on real or personal property.

(e) Securing or collecting debts due to it or enforcing any rights in property securing the same.

[1969 ex.s. c 120 § 68.]

RCW 24.06.345 Powers and duties, etc., of foreign corporation.

A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same but no greater rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authorization is issued, and shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character.

[1969 ex.s. c 120 § 69.]

RCW 24.06.350 Corporate name of foreign corporation.

No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.06.045. However, a foreign corporation applying for a certificate of authority may file with the secretary of state a resolution of its board of directors adopting a fictitious name for use in transacting business in this state, if the fictitious name complies with RCW 24.06.045.

[1982 c 35 § 143; 1969 ex.s. c 120 § 70.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Registration of corporate name: RCW 24.06.047.

Reservation of exclusive right to use corporate name: RCW 24.06.046.

RCW 24.06.355 Change of name by foreign corporation.

Whenever a foreign corporation which is authorized to conduct affairs in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it

shall not thereafter conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state.

[1969 ex.s. c 120 § 71.]

RCW 24.06.360 Certificate of authority--Application for, contents.

A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) The date of incorporation and the period of duration of the corporation.

(3) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(4) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

(5) For the purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state.

[1989 c 307 § 38; 1982 c 45 § 2; 1969 ex.s. c 120 § 72.]

Notes:

Legislative finding--1989 c 307: See note following RCW 23.86.007.

Application--1989 c 307: See RCW 23.86.900.

RCW 24.06.365 Filing of application for certificate of authority--Issuance.

Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state together with a certificate of good standing which has been issued within the previous sixty days and certified to by the proper officer of the state or county under the laws of which it is incorporated.

If the secretary of state finds that such application conforms to law, he or she shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such documents the word "filed", and the effective date thereof.

(2) File in his or her office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which the other duplicate original application shall be affixed.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative.

[1982 c 35 § 144; 1969 ex.s. c 120 § 73.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.367 Certificate of authority as insurance company--Filing of documents.

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate documents are required to be filed with the secretary of state, the documents shall be filed with the insurance commissioner rather than the secretary of state.

[1998 c 23 § 14.]

RCW 24.06.369 Certificate of authority as insurance company--Registration or reservation of name.

For those corporations that intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter a corporation may register or reserve a corporate name, the registration or reservation shall be filed with the insurance commissioner rather than the secretary of state. The secretary of state and insurance commissioner shall cooperate with each other in registering or reserving a corporate name so that there is no duplication of the name.

[1998 c 23 § 15.]

RCW 24.06.370 Effect of filing application for certificate of authority.

Upon the filing of the application for certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application: PROVIDED, That the state may suspend or revoke such authority as provided in this chapter for revocation and suspension of domestic corporation franchises.

[1982 c 35 § 145; 1969 ex.s. c 120 § 74.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.375 Registered office and registered agent of foreign corporation.

Every foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

- (1) A registered office which may but need not be the same as its principal office.
- (2) A registered agent, who may be:

- (a) An individual resident of this state whose business office is identical with the registered office; or
- (b) A domestic corporation organized under any law of this state; or
- (c) A foreign corporation authorized under any law of this state to transact business or conduct affairs in this state, having an office identical with the registered office.

[1969 ex.s. c 120 § 75.]

RCW 24.06.380 Change of registered office or registered agent of foreign corporation.

A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state in a form approved by the secretary of state a statement setting forth:

- (1) The name of the corporation.
- (2) If the address of the current registered office is to be changed, such new address.
- (3) If the current registered agent is to be changed, the name of the new registered agent.
- (4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

Such statement shall be executed by the corporation, by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, he or she shall file such statement in his or her office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

If a registered agent changes his or her business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsection (3) of this section, and it shall recite that a copy of the statement has been mailed to the corporation.

[1993 c 356 § 19; 1982 c 35 § 146; 1969 ex.s. c 120 § 76.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.385 Resignation of registered agent.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such

notice by the secretary of state.

[1969 ex.s. c 120 § 77.]

RCW 24.06.390 Service of process upon registered agent.

The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

[1969 ex.s. c 120 § 78.]

RCW 24.06.395 Service of process upon secretary of state.

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this action, and shall record therein the time of such service and his or her action with reference thereto: PROVIDED, That nothing contained in this section shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

[1982 c 35 § 147; 1969 ex.s. c 120 § 79.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.400 Amendment to articles of incorporation of foreign corporation.

Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in this state are amended, such foreign corporation shall, within thirty days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly authenticated by the proper officer designated under the laws of the state or country in which it is incorporated: PROVIDED, That the filing thereof shall not of itself

enlarge or alter the purpose or purposes for which such corporation is authorized to pursue in conducting its affairs in this state, nor authorize such corporation to conduct affairs in this state under any other name than the name set forth in its certificate of authority.

[1969 ex.s. c 120 § 80.]

RCW 24.06.405 Merger of foreign corporation authorized to conduct affairs in this state.

Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under which it is incorporated, and such corporation shall be the surviving corporation, it shall, within thirty days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer designated under the laws of the state or country in which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to pursue in this state.

[1969 ex.s. c 120 § 81.]

RCW 24.06.410 Amended certificate of authority.

A foreign corporation authorized to conduct affairs in this state shall apply for an amended certificate of authority in the event that it wishes to change its corporate name, or desires to pursue in this state purposes other or additional to those set forth in its initial application for a certificate of authority.

The requirements with respect to the form and content of such application, the manner of its execution, the filing, the issuance of an amended certificate of authority, and the effect thereof shall be the same as in the case of an original application for a certificate of authority.

[1969 ex.s. c 120 § 82.]

RCW 24.06.415 Withdrawal of foreign corporation.

A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, the foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

- (1) The name of the corporation and the state or country under whose laws it is incorporated.
- (2) A declaration that the corporation is not conducting affairs in this state.
- (3) A surrender of its authority to conduct affairs in this state.
- (4) A notice that the corporation revokes the authority of its registered agent in this state

to accept service of process and consents that service of process in any action, suit or proceeding, based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state, may thereafter be made upon such corporation by service thereof on the secretary of state.

(5) A copy of the revenue clearance certificate issued pursuant to chapter 82.32 RCW.

(6) A post office address to which the secretary of state may mail a copy of any process that may be served on the secretary of state as agent for the corporation.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation, by one of the officers of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee.

[1993 c 356 § 20; 1982 c 35 § 148; 1969 ex.s. c 120 § 83.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.420 Filing of application for withdrawal--Issuance of certificate of withdrawal.

Duplicate originals of an application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this chapter, the secretary of state shall, when all requirements have been met as prescribed in this chapter:

(1) Endorse on each of such duplicate originals the word "filed", and the effective date of the filing thereof.

(2) File one of such duplicate originals.

(3) Issue a certificate of withdrawal to which the other duplicate original shall be fixed.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the filing of such application of withdrawal, the authority of the corporation to conduct affairs in this state shall cease.

[1982 c 35 § 149; 1969 ex.s. c 120 § 84.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.425 Revocation of certificate of authority.

(1) The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to file its annual report within the time required by this chapter or has failed to pay any fees or penalties prescribed by this chapter as they become due

and payable; or

(b) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or

(c) The corporation has failed, for thirty days after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change as required by this chapter; or

(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or

(e) The certificate of authority of the corporation was procured through fraud practiced upon the state; or

(f) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(g) A misrepresentation has been made as to any material matter in any application, report, affidavit, or other document, submitted by such corporation pursuant to this chapter.

(2) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless the secretary of state shall have given the corporation not less than sixty days' notice thereof by first class mail addressed to its registered office in this state, or, if there is no registered office, to the last known address of any officer or director of the corporation as shown by the records of the secretary of state, and the corporation shall have failed prior to revocation to (a) file such annual report, (b) pay such fees or penalties, (c) file the required statement of change of registered agent or registered office, (d) file such articles of amendment or articles of merger, or (e) correct any delinquency, omission, or material misrepresentation in its application, report, affidavit, or other document.

[1982 c 35 § 150; 1969 ex.s. c 120 § 85.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.430 Issuance and filing of certificate of revocation--Effect.

Upon revoking any certificate of authority under RCW 24.06.425, the secretary of state shall:

(1) Issue a certificate of revocation in duplicate.

(2) File one of such certificates.

(3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of the two certificates of revocation.

Upon filing of the certificate of revocation, the corporate authority to conduct affairs in this state shall cease.

[1982 c 35 § 151; 1969 ex.s. c 120 § 86.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.433 Foreign corporations--Application for reinstatement.

(1) A corporation revoked under RCW 24.06.425 may apply to the secretary of state for reinstatement within three years after the effective date of revocation. An application filed within such three-year period may be amended or supplemented and any such amendment or supplement shall be effective as of the date of original filing. The application filed under this section shall be filed under and by authority of an officer of the corporation.

(2) The application shall:

(a) State the name of the corporation and, if applicable, the name the corporation had elected to use in this state at the time of revocation, and the effective date of its revocation;

(b) Provide an explanation to show that the grounds for revocation either did not exist or have been eliminated;

(c) State the name of the corporation at the time of reinstatement and, if applicable, the name the corporation elects to use in this state at the time of reinstatement which may be reserved under RCW 24.06.046;

(d) Appoint a registered agent and state the registered office address under RCW 24.06.375; and

(e) Be accompanied by payment of applicable fees and penalties.

(3) If the secretary of state determines that the application conforms to law, and that all applicable fees have been paid, the secretary of state shall cancel the certificate of revocation, prepare and file a certificate of reinstatement, and mail a copy of the certificate of reinstatement to the corporation.

(4) Reinstatement under this section relates back to and takes effect as of the date of revocation. The corporate authority shall be deemed to have continued without interruption from that date.

(5) In the event the application for reinstatement states a corporate name that the secretary of state finds to be contrary to the requirements of RCW 24.06.046, the application, amended application, or supplemental application shall be amended to adopt another corporate name that is in compliance with RCW 24.06.046. In the event the reinstatement application so adopts a new corporate name for use in Washington, the application for authority shall be deemed to have been amended to change the corporation's name to the name so adopted for use in Washington, effective as of the effective date of the certificate of reinstatement.

[1993 c 356 § 21.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

RCW 24.06.435 Conducting affairs without certificate of authority.

No foreign corporation conducting affairs in this state without a certificate of authority shall be permitted to maintain any action, suit, or proceeding in any court of this state until such

corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim, or demand arising out of the conduct of affairs by such corporation in this state until a certificate of authority shall have been obtained by the corporation or by a valid corporation which has (1) acquired all or substantially all of its assets and (2) assumed all of its liabilities: PROVIDED, That the failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the substantive validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state under such terms and conditions as a court may find just.

[1969 ex.s. c 120 § 87.]

RCW 24.06.440 Annual or biennial report of domestic and foreign corporations.

Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual or biennial report, established by the secretary of state by rule, in the form prescribed by the secretary of state setting forth:

(1) The name of the corporation and the state or country under whose laws it is incorporated.

(2) The address of the registered office of the corporation in this state, including street and number, the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under whose laws it is incorporated.

(3) A brief statement of the character of the affairs in which the corporation is engaged, or, in the case of a foreign corporation, engaged in this state.

(4) The names and respective addresses of the directors and officers of the corporation.

(5) The corporation's unified business identifier number.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may by rule adopted under chapter 34.05 RCW provide that correction or updating of information appearing on previous annual or biennial filings is sufficient to constitute the current filing.

[1993 c 356 § 22; 1982 c 35 § 152; 1969 ex.s. c 120 § 88.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.445 Filing of annual or biennial report of domestic and foreign

corporations.

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

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

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

[1993 c 356 § 23; 1982 c 35 § 153; 1973 c 146 § 1; 1969 ex.s. c 120 § 89.]

Notes:

Effective date--1993 c 356: See note following RCW 24.03.046.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.450 Fees for filing documents and issuing certificates.

(1) The secretary of state shall charge and collect for:

(a) Filing articles of incorporation, thirty dollars.

(b) Filing an annual report, ten dollars.

(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state, thirty dollars.

(2) The secretary of state shall establish by rule, fees for the following:

(a) Filing articles of amendment or restatement.

(b) Filing articles of merger or consolidation.

(c) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these. A separate fee for filing such statement shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(d) Filing articles of dissolution, no fee.

(e) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.

(f) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state.

(g) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state.

(h) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, no fee.

(i) Filing a certificate by a foreign corporation of the appointment of a registered agent. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(j) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent. A separate fee for filing such certificate shall not be charged if the statement appears in an amendment to the articles of incorporation or in conjunction with the annual report.

(k) Filing an application to reserve a corporate name.

(l) Filing a notice of transfer of a reserved corporate name.

(m) Filing any other statement or report of a domestic or foreign corporation.

(3) Fees shall be adjusted by rule in an amount that does not exceed the average biennial increase in the cost of providing service. This shall be determined in a biennial cost study performed by the secretary.

[1993 c 269 § 7; 1991 c 223 § 2; 1982 c 35 § 154; 1981 c 230 § 6; 1973 c 70 § 2; 1969 ex.s. c 120 § 90.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Effective date--1991 c 223: See note following RCW 24.03.405.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.455 Miscellaneous fees.

The secretary of state shall establish by rule, fees for the following:

(1) For furnishing a certified copy of any charter document or any other document, instrument, or paper relating to a corporation;

(2) For furnishing a certificate, under seal, attesting to the status of a corporation; or any other certificate;

(3) For furnishing copies of any document, instrument, or paper relating to a corporation; and

(4) At the time of any service of process on the secretary of state as resident agent of any corporation. This amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

[1993 c 269 § 8; 1982 c 35 § 155; 1979 ex.s. c 133 § 3; 1973 c 70 § 3; 1969 ex.s. c 120 § 91.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Deposit of certain fees recovered under this section in secretary of state's revolving fund: RCW 43.07.130.

RCW 24.06.460 Disposition of fees.

Any money received by the secretary of state under the provisions of this chapter shall be deposited forthwith into the state treasury as provided by law.

[1982 c 35 § 156; 1969 ex.s. c 120 § 92.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.462 Fees for services by secretary of state.

See RCW 43.07.120.

RCW 24.06.465 Penalties imposed upon corporation--Penalty established by secretary of state.

Each corporation, domestic or foreign, which fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a penalty as established and assessed by the secretary of state.

Each corporation, domestic or foreign, which fails or refuses to answer truthfully and fully within the time prescribed by this chapter any interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed five hundred dollars on each count.

[1994 c 287 § 11; 1969 ex.s. c 120 § 93.]

RCW 24.06.470 Penalties imposed upon directors and officers.

Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter, to answer truthfully and fully any interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application, or other document filed with the secretary of state, which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not to exceed five hundred dollars on each count.

[1969 ex.s. c 120 § 94.]

RCW 24.06.475 Interrogatories by secretary of state.

The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof such interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether such corporation has complied with all of the provisions of this chapter applicable to such corporation. All such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete, made in writing, and under oath. If such interrogatories are directed to an individual, they shall be answered personally by him, and if directed to the corporation they shall be answered by the president, a vice president, a secretary or any assistant secretary thereof. The

secretary of state need not file any document to which such interrogatories relate until such interrogatories are answered as required by this section, and even not then if the answers thereto disclose that the document is not in conformity with the provisions of this chapter.

The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.

[1982 c 35 § 157; 1969 ex.s. c 120 § 95.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.480 Confidential nature of information disclosed by interrogatories.

Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection, nor shall the secretary of state disclose any facts or information obtained therefrom unless (1) his or her official duty may require that the same be made public, or (2) such interrogatories or the answers thereto are required for use in evidence in any criminal proceedings or other action by the state.

[1982 c 35 § 158; 1969 ex.s. c 120 § 96.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.485 Power and authority of secretary of state.

The secretary of state shall have all power and authority reasonably necessary for the efficient and effective administration of this chapter, including the adoption of rules under chapter 34.05 RCW.

[1982 c 35 § 159; 1969 ex.s. c 120 § 97.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.
Power and authority of secretary of state: RCW 23B.01.210 and 23B.01.300.

RCW 24.06.490 Appeal from secretary of state's actions.

(1) If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation, or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall, within ten days after the delivery of such document to him or her, give written notice of disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. The person or corporation may apply to the superior court of the county in which the registered office of such corporation is situated, or is proposed, in the

document, by filing a petition with the clerk of such court setting forth a copy of the articles or other document tendered to the secretary of state, together with a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(2) If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, such foreign corporation may likewise apply to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(3) Appeals from all final orders and judgments entered by the superior court under this section, in the review of any ruling or decision of the secretary of state may be taken as in other civil actions.

[1982 c 35 § 160; 1969 ex.s. c 120 § 98.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.495 Certificates and certified copies to be received in evidence.

All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of documents filed in the office of the secretary of state in accordance with the provisions of this chapter when certified by the secretary of state under the seal of the state, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

[1982 c 35 § 161; 1969 ex.s. c 120 § 99.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.500 Greater voting requirements.

Whenever, with respect to any action to be taken by the members, shareholders or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members, shareholders or directors, as the case may be, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control.

[1969 ex.s. c 120 § 100.]

RCW 24.06.505 Waiver of notice.

Whenever any notice is required to be given to any member, shareholder or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether made before or given after the time stated therein, shall be equivalent to the giving of such notice.

[1969 ex.s. c 120 § 101.]

RCW 24.06.510 Action by members or directors without a meeting.

Any action required by this chapter to be taken at a meeting of the members, shareholders or directors of a corporation, or any action which may be taken at a meeting of the members, shareholders or directors, may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed by all of the members and shareholders entitled to vote thereon, or by all of the directors, as the case may be, unless the articles or bylaws provide to the contrary.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the secretary of state.

[1969 ex.s. c 120 § 102.]

RCW 24.06.515 Unauthorized assumption of corporate powers.

All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof.

[1969 ex.s. c 120 § 103.]

RCW 24.06.520 Reinstatement and renewal of corporate existence--Fee.

If the term of existence of a corporation which was organized under this chapter, or which has availed itself of the privileges thereby provided expires, such corporation shall have the right to renew within two years of the expiration of its term of existence. The corporation may renew the term of its existence for a definite period or perpetually and be reinstated under any name not then in use by or reserved for a domestic corporation organized under any act of this state or a foreign corporation authorized under any act of this state to transact business or conduct affairs in this state. To do so the directors, members and officers shall adopt amended articles of incorporation containing a certification that the purpose thereof is a reinstatement and renewal of the corporate existence. They shall proceed in accordance with the provisions of this chapter for the adoption and filing of amendments to articles of incorporation. Thereupon such corporation shall be reinstated and its corporate existence renewed as of the date on which its previous term

of existence expired and all things done or omitted by it or by its officers, directors, agents and members before such reinstatement shall be as valid and have the same legal effect as if its previous term of existence had not expired.

A corporation reinstating under this section shall pay to the state all fees and penalties which would have been due if the corporate charter had not expired, plus a reinstatement fee established by the secretary of state by rule.

[1993 c 269 § 9; 1982 c 35 § 162; 1969 ex.s. c 120 § 106.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.525 Reorganization of corporations or associations in accordance with this chapter.

Any corporation or association organized under any other statute may be reorganized under the provisions of this chapter by adopting and filing amendments to its articles of incorporation in accordance with the provisions of this chapter for amending articles of incorporation. The articles of incorporation as amended must conform to the requirements of this chapter, and shall state that the corporation accepts the benefits and will be bound by the provisions of this chapter.

[1969 ex.s. c 120 § 107.]

RCW 24.06.600 Locally regulated utilities--Attachments to poles.

(1) As used in this section:

(a) "Attachment" means the affixation or installation of any wire, cable or other physical material capable of carrying electronic impulses or light waves for the carrying of intelligence for telecommunications or television, including, but not limited to cable, and any related device, apparatus, or auxiliary equipment upon any pole owned or controlled in whole or in part by one or more locally regulated utilities where the installation has been made with the necessary consent.

(b) "Locally regulated utility" means an [a] mutual corporation organized under this chapter for the purpose of providing utility service and not subject to rate or service regulation by the utilities and transportation commission.

(c) "Nondiscriminatory" means that pole owners may not arbitrarily differentiate among or between similar classes of persons approved for attachments.

(2) All rates, terms, and conditions made, demanded or received by a locally regulated utility for attachments to its poles must be just, reasonable, nondiscriminatory and sufficient. A locally regulated utility shall levy attachment space rental rates that are uniform for the same class of service within the locally regulated utility service area.

(3) Nothing in this section shall be construed or is intended to confer upon the utilities

and transportation commission any authority to exercise jurisdiction over locally regulated utilities.

[1996 c 32 § 2.]

RCW 24.06.900 Short title.

This chapter shall be known and may be cited as the "Nonprofit Miscellaneous and Mutual Corporation Act".

[1982 c 35 § 163; 1969 ex.s. c 120 § 104.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.06.905 Existing liabilities not terminated--Continuation of corporate existence--Application of chapter.

The enactment of this chapter shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this chapter becomes effective; and any corporation existing under any prior law which expires on or before the date when this chapter takes effect shall continue its corporate existence: PROVIDED, That this chapter shall apply prospectively to all existing corporations which do not otherwise qualify under the provisions of Titles 23B and 24 RCW, to the extent permitted by the Constitution of this state and of the United States.

[1991 c 72 § 44; 1969 ex.s. c 120 § 105.]

RCW 24.06.910 Severability--1969 ex.s. c 120.

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected, and the effect of such invalidity shall be confined to the clause, sentence, paragraph, section or part of this chapter so held to be invalid.

[1969 ex.s. c 120 § 108.]

RCW 24.06.915 Notice to existing corporations.

(1) The secretary of state shall notify all existing miscellaneous and mutual corporations thirty days prior to the date this chapter becomes effective as to their requirements for filing an annual report.

(2) If the notification provided under subsection (1) of this section, from the secretary of state to any corporation was or has been returned unclaimed or undeliverable, the secretary of state shall proceed to dissolve the corporation by striking the name of such corporation from the records of active corporations.

(3) Corporations dissolved under subsection (2) of this section may be reinstated at any time within three years of the dissolution action by the secretary of state. The corporation shall be reinstated by filing a request for reinstatement, by appointment of a registered agent and designation of a registered office as required by this chapter, and by filing an annual report for the reinstatement year. No fees may be charged for reinstatements under this section. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly.

[1982 c 35 § 164; 1969 ex.s. c 120 § 109.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

Effective date--1969 ex.s. c 120: See RCW 24.06.920.

RCW 24.06.920 Effective date--1969 ex.s. c 120.

This chapter is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and shall take effect July 1, 1969: PROVIDED, That no corporation existing on the effective date of this chapter shall be required to conform to the provisions of this chapter until July 1, 1971.

[1969 ex.s. c 120 § 110.]

**Chapter 24.12 RCW
CORPORATIONS SOLE**

Sections

24.12.010	Corporations sole--Church and religious societies.
24.12.020	Corporate powers.
24.12.025	Indemnification of agents of any corporation authorized.
24.12.030	Filing articles--Property held in trust.
24.12.040	Existing corporations sole.
24.12.050	Fees for services by secretary of state.
24.12.060	Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

Notes:

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

RCW 24.12.010 Corporations sole--Church and religious societies.

Any person, being the bishop, overseer or presiding elder of any church or religious

denomination in this state, may, in conformity with the constitution, canons, rules, regulations or discipline of such church or denomination, become a corporation sole, in the manner prescribed in this chapter, as nearly as may be; and, thereupon, said bishop, overseer or presiding elder, as the case may be, together with his successors in office or position, by his official designation, shall be held and deemed to be a body corporate, with all the rights and powers prescribed in the case of corporations aggregate; and with all the privileges provided by law for religious corporations.

[1915 c 79 § 1; RRS § 3884.]

RCW 24.12.020 Corporate powers.

Every corporation sole shall, for the purpose of the trust, have power to contract in the same manner and to the same extent as a natural person, and may sue and be sued, and may defend in all courts and places, in all matters and proceedings whatever, and shall have authority to borrow money and give promissory notes therefor, and to secure the payment of the same by mortgage or other lien upon property, real and personal; to buy, sell, lease, mortgage and in every way deal in real and personal property in the same manner as a natural person may, and without the order of any court; to receive bequests and devises for its own use or upon trusts, to the same extent as natural persons may; and to appoint attorneys in fact.

[1915 c 79 § 2; RRS § 3885.]

RCW 24.12.025 Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

RCW 24.12.030 Filing articles--Property held in trust.

Articles of incorporation shall be filed in like manner as provided by law for corporations aggregate, and therein shall be set forth the facts authorizing such incorporation, and declare the manner in which any vacancy occurring in the incumbency of such bishop, overseer or presiding elder, as the case may be, is required by the constitution, canons, rules, regulations or discipline of such church or denomination to be filled, which statement shall be verified by affidavit, and for proof of the appointment or election of such bishop, overseer or presiding elder, as the case may be, or any succeeding incumbent of such corporation, it shall be sufficient to file with the secretary of state the original or a copy of his commission, or certificate, or letters of election or appointment, duly attested: PROVIDED, All property held in such official capacity by such bishop, overseer or presiding elder, as the case may be, shall be in trust for the use, purpose, benefit and behoof of his religious denomination, society or church.

[1981 c 302 § 10; 1915 c 79 § 3; RRS § 3886.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.12.040 Existing corporations sole.

Any corporation sole heretofore organized and existing under the laws of this state may elect to continue its existence under *this title [chapter] by filing a certificate to that effect, under its corporate seal and the hand of its incumbent, or by filing amended articles of incorporation, in the form, as near as may be, as provided for corporations aggregate, and from and after the filing of such certificate of amended articles, such corporation shall be entitled to the privileges and subject to the duties, liabilities and provisions in *this title [chapter] expressed.

[1915 c 79 § 4; RRS § 3887.]

Notes:

***Reviser's note:** The language "this title" appeared in chapter 79, Laws of 1915, an independent act, codified herein as chapter 24.12 RCW.

RCW 24.12.050 Fees for services by secretary of state.

See RCW 43.07.120.

RCW 24.12.060 Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

RCW 23B.14.203 applies to this chapter.

[1997 c 12 § 4.]

**Chapter 24.20 RCW
FRATERNAL SOCIETIES**

Sections

24.20.010	Incorporation--Articles.
24.20.020	Filing fee.
24.20.025	Fees for services by secretary of state.
24.20.030	Powers--Not subject to license fees.
24.20.035	Indemnification of agents of any corporation authorized.
24.20.040	Reincorporation.
24.20.050	Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

Notes:

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

RCW 24.20.010 Incorporation--Articles.

Any grand lodge, encampment, chapter or any subordinate lodge or body of Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias, or other fraternal society, desiring to incorporate, shall make articles of incorporation in duplicate, and file one of such articles in the office of the secretary of state; such articles shall be signed by the presiding officer and the secretary of such lodge, chapter or encampment, and attested by the seal thereof, and shall specify:

- (1) The name of such lodge or other society, and the place of holding its meetings;
- (2) the name of the grand body from which it derives its rights and powers as such lodge or society; or if it be a grand lodge, the manner in which its powers as such grand lodge are derived;
- (3) the names of the presiding officer and the secretary having the custody of the seal of such lodge or society;
- (4) what officers shall join in the execution of any contract by such lodge or society to give it force and effect in accordance with the usages of such lodges or society.

[1981 c 302 § 11; 1925 ex.s. c 63 § 1; 1903 c 80 § 1; RRS § 3865. Cf. Code 1881 § 2452; 1873 p 410 § 3.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.20.020 Filing fee.

The secretary of state shall file such articles of incorporation in the secretary of state's office and issue a certificate of incorporation to any such lodge or other society upon the payment of the sum of twenty dollars.

[1993 c 269 § 10; 1982 c 35 § 165; 1903 c 80 § 2; RRS § 3866.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.20.025 Fees for services by secretary of state.

See RCW 43.07.120.

RCW 24.20.030 Powers--Not subject to license fees.

Such lodge or other society shall be a body politic and corporate with all the powers and incidents of a corporation upon its compliance with RCW 24.20.010 and 24.20.020: PROVIDED, HOWEVER, That such fraternal corporation shall not be subject to any license fee or other corporate tax of commercial corporations.

[1903 c 80 § 3; RRS § 3867.]

RCW 24.20.035 Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

RCW 24.20.040 Reincorporation.

Any lodge or society, or the members thereof, having heretofore attempted to incorporate as a body under the provisions of an act entitled "An act to provide for the incorporation of associations for social, charitable and educational purposes," approved March 21st, 1895 [*chapter 24.16 RCW], such lodge or society may incorporate under its original corporate name by complying with the provisions of RCW 24.20.010 and 24.20.020: PROVIDED, That such lodge or society shall attach to and file with the articles of incorporation provided for in this chapter a certificate duly signed, executed and attested by the officers of the said corporation consenting to such reincorporation and waiving all rights of the original corporation to such corporate name.

[1903 c 80 § 4; RRS § 3868.]

Notes:

*Reviser's note: "chapter 24.16 RCW" was repealed by the Washington Nonprofit Corporation Act, 1967 c 235, (chapter 24.03 RCW).

RCW 24.20.050 Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

RCW 23B.14.203 applies to this chapter.

[1997 c 12 § 5.]

Chapter 24.24 RCW

BUILDING CORPORATIONS COMPOSED OF FRATERNAL SOCIETY MEMBERS

Sections

24.24.010	Who may incorporate--Filing fee.
24.24.015	Fees for services by secretary of state.
24.24.020	Articles--Contents.
24.24.030	Powers.
24.24.040	Membership certificates.
24.24.050	Bylaws.
24.24.060	Membership--Trustees--Elections.
24.24.070	Control of business--Officers.
24.24.080	Right of corporations under the statutes.
24.24.090	Certificates of capital stock.
24.24.100	Fees.
24.24.110	Exemption from ordinary corporate taxes.

- 24.24.120 Indemnification of agents of any corporation authorized.
24.24.130 Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

Notes:

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

RCW 24.24.010 Who may incorporate--Filing fee.

Any ten or more residents of this state who are members of any chartered body or of different chartered bodies of any fraternal order or society who shall desire to incorporate for the purpose of owning real or personal property or both real and personal property for the purpose and for the benefit of such bodies, may make and execute articles of incorporation, which shall be executed in duplicate, and shall be subscribed by each of the persons so associating themselves together: PROVIDED, That no lodge shall be incorporated contrary to the provisions of the laws and regulations of the order or society of which it is a constituent part. Such articles, at the election of the incorporators, may either provide for the issuing of capital stock or for incorporation as a society of corporation without shares of stock. One of such articles shall be filed in the office of the secretary of state, accompanied by a filing fee of twenty dollars, and the other of such articles shall be preserved in the records of the corporation.

[1982 c 35 § 166; 1981 c 302 § 12; 1927 c 190 § 1; RRS § 3887-1.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.
Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.24.015 Fees for services by secretary of state.

See RCW 43.07.120.

RCW 24.24.020 Articles--Contents.

The articles of incorporation shall set forth;

- (1) The names of the persons so associating themselves together, their places of residence and the name and location of the lodge, chapter, or society to which they severally belong;
- (2) The corporate name assumed by the corporation and the duration of the same if limited;
- (3) The purpose of the association, which shall be to provide, maintain and operate a building or buildings to be used for fraternal and social purposes, and for the benefit of the several bodies represented in such association;
- (4) The place where the corporation proposes to have its principal place of business;
- (5) The amount of capital stock and the par value thereof per share, if it shall be

organized as a joint stock company.

[1927 c 190 § 2; RRS § 3887-2.]

RCW 24.24.030 Powers.

Upon making and filing such articles of incorporation the persons subscribing the same and their successors in office and associates, by the name assumed in such articles, shall thereafter be deemed a body corporate, and may acquire and possess real and personal property and may erect and own suitable building or buildings to be used, in whole or in part, for meetings of fraternal bodies, and for all social and fraternal purposes of the several bodies represented in the membership of the corporation, and may exercise all other powers that may lawfully be exercised by other corporations organized under the general incorporation laws of Washington, including the power to borrow money, and for that purpose may issue its bonds and mortgage its property to secure the payment of such bonds.

[1927 c 190 § 3; RRS § 3887-3.]

RCW 24.24.040 Membership certificates.

If the corporation shall not be a joint stock company, then it may provide by its bylaws for issuing to the several bodies represented in its membership certificates of participation, which shall evidence the respective equitable interests of such bodies in the properties held by such corporation.

[1927 c 190 § 4; RRS § 3887-4.]

RCW 24.24.050 Bylaws.

Every such corporation shall have full power and authority to provide by its bylaws for the manner in which such certificates of participation of its certificates or shares of stock shall be held and represented, and may also in like manner provide, that its shares of stock shall not be transferred to, or be held or owned by any person, or by any corporation other than a chartered body of the order or society represented in its membership.

[1927 c 190 § 5; RRS § 3887-5.]

RCW 24.24.060 Membership--Trustees--Elections.

Every such corporation shall have power to provide by its bylaws for succession to its original membership and for new membership, and also for the election from its members of a board of trustees, or a board of directors, and to fix the number and term of office of such trustees or directors; PROVIDED, That there shall always be upon such board of trustees or board of directors at least one representative from each of the several bodies represented in the membership of the association, and the term of office of a trustee shall not exceed three years.

[1927 c 190 § 6; RRS § 3887-6.]

RCW 24.24.070 Control of business--Officers.

The management and control of the business and property of such corporation shall be fixed in said board of trustees or board of directors, as the case may be. Said trustees or directors shall elect from their own number at each annual meeting of the corporation a president, vice president, secretary and treasurer, who shall perform the duties of their respective office in accordance with the bylaws of the corporation and the rules and regulations prescribed by the board of trustees or board of directors.

[1927 c 190 § 7; RRS § 3887-7.]

RCW 24.24.080 Right of corporations under the statutes.

Any corporation composed of fraternal organizations and/or members of fraternal organizations, heretofore incorporated under the laws of the state of Washington, may elect to subject [the] corporation and its capital stock and the rights of its stockholders therein to the provisions of this chapter by a majority vote of its trustees or directors and the unanimous assent or vote of the capital stock of such corporation.

If the unanimous written assent of the capital stock has not been obtained then the unanimous vote of all of the stockholders may be taken at any regular meeting of the stockholders or at any special meeting of the stockholders called for that purpose in the manner provided by the bylaws of such corporation for special meetings of the stockholders.

The president and secretary of such corporation shall certify said amendment in triplicate under the seal of such corporation as having been adopted by a majority vote of its trustees or directors and by the unanimous written assent or vote as the case may be of all of its stockholders, and file and keep the same as in the case of original articles; and from the time of filing said certificate such corporation and its capital stock and the rights of its stockholders therein shall be subject to all of the provisions of this chapter; PROVIDED, That nothing in this chapter shall affect the rights of the third person, pledgees of any shares of such capital stock, in such pledged stock, under pledges subsisting at the date of the filing of said amendment.

[1927 c 190 § 8; RRS § 3887-8.]

RCW 24.24.090 Certificates of capital stock.

All certificates of capital stock of corporations incorporated under or becoming subject to the provisions of this chapter shall have expressly stated on the face thereof that such corporation and its capital stock and the rights of stockholders therein are subject to the provisions of this chapter and that its capital stock is not assignable or transferable except as in this chapter provided.

[1927 c 190 § 9; RRS § 3887-9.]

RCW 24.24.100 Fees.

The secretary of state shall file such articles of incorporation or amendment thereto in the secretary of state's office and issue a certificate of incorporation or amendment, as the case may be, to such fraternal association upon the payment of a fee in the sum of twenty dollars.

[1993 c 269 § 11; 1982 c 35 § 167; 1927 c 190 § 10; RRS § 3887-10.]

Notes:

Effective date--1993 c 269: See note following RCW 23.86.070.

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 24.24.110 Exemption from ordinary corporate taxes.

Such fraternal association shall be a body politic and corporate with all powers and incidents of a corporation upon its compliance with the provisions of this chapter; PROVIDED, HOWEVER, That such fraternal corporation shall not be subject to any license fee or other corporate tax of commercial corporations.

[1927 c 190 § 11; RRS § 3887-11.]

RCW 24.24.120 Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

RCW 24.24.130 Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

RCW 23B.14.203 applies to this chapter.

[1997 c 12 § 6.]

**Chapter 24.28 RCW
GRANGES**

Sections

24.28.010	Manner of incorporating a grange.
24.28.020	In what pursuits such corporation may engage.
24.28.030	General rights and liabilities.
24.28.035	Indemnification of agents of any corporation authorized.
24.28.040	Use of term "grange"--"Person" defined.
24.28.045	Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.
24.28.050	Fees for services by secretary of state.

Notes:

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

RCW 24.28.010 Manner of incorporating a grange.

Any grange of the patrons of husbandry, desiring hereafter to incorporate, may incorporate and become bodies politic in this state, by filing in the office of the secretary of state of Washington, a certificate or article subscribed and acknowledged by not less than five members of such grange and by the master of the Washington state grange embodying:

(1) The name of such grange and the place of holding its meetings.

(2) What elective officers the said grange will have, when such officers shall be elected; how, and by whom, the business of the grange shall be conducted or managed, and what officers shall join in the execution of any contract by such grange to give force and effect in accordance with the usages of the order of the patrons of husbandry; such articles shall be subscribed by the master of such grange attested by the secretary, with the seal of the grange.

(3) A copy of the bylaws of such grange shall also be filed in the said office of the secretary of state.

(4) The names of all such officers at the time of filing the application, and the time for which they may be respectively elected. When such articles shall be filed, such grange shall be a body politic and corporate, with all the incidents of a corporation, subject nevertheless to the laws and parts of laws now in force or hereafter to be passed regulating corporations.

[1981 c 302 § 13; 1959 c 207 § 1; 1875 p 97 § 1; RRS § 3901. FORMER PART OF SECTION: 1875 c 97 § 2, part, now codified in RCW 24.28.020.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.28.020 In what pursuits such corporation may engage.

Said grange may engage in any industrial pursuit, manufacturing, mining, milling, wharfing, docking, commercial, mechanical, mercantile, building, farming, building, equipping or running railroads, or generally engage in any species of trade or industry; loan money on security, purchase and sell on real estate, but when desiring to engage in either or any of the above pursuits or industries, said grange shall be subject to all the conditions and liabilities imposed by the provisions of the general corporation laws, and in addition to the conditions to be performed as recited in RCW 24.28.010, shall file additional articles with said secretary of state stating the object, business or industry proposed to be pursued or engaged in; the amount of capital stock, the time of its existence, not to exceed fifty years; the number of shares of which the capital stock shall consist, and price per share, and the names of officers necessary to manage said business, and the places where said officers shall pursue the same.

[1981 c 302 § 14; 1875 p 97 § 2; RRS § 3902. Formerly RCW 24.28.010, part and 24.28.020.]

Notes:

Severability--1981 c 302: See note following RCW 19.76.100.

RCW 24.28.030 General rights and liabilities.

As a business corporation said grange, after having complied with RCW 24.28.020, shall be to all intents and purposes a domestic corporation, with all the rights, privileges and immunities allowed, and all the liabilities imposed by chapter one of the act entitled "an act to provide for the formation of corporations," approved November 13, 1873.

[1875 p 98 § 3; RRS § 3903.]

Notes:

Reviser's note: The reference to chapter one of the 1873 act relates to the general corporation act in effect at the time the above section was enacted. Such general corporation laws were also compiled as Code 1881 §§ 2421-2449. See also table of prior laws following the Title 23 RCW digest.

RCW 24.28.035 Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

RCW 24.28.040 Use of term "grange"--"Person" defined.

No person, doing business in this state shall be entitled to use or to register the term "grange" as part or all of his business name or other name or in connection with his products or services, or otherwise, unless either (1) he has complied with the provisions of this chapter or (2) he has obtained written consent of the Washington state grange certified thereto by its master. Any person violating the provisions of this section may be enjoined from using or displaying such name and doing business under such name at the instance of the Washington state grange or any grange organized under this chapter, or any member thereof: PROVIDED, That nothing herein shall prevent the continued use of the term "grange" by any person using said name prior to the adoption of *this act.

For the purposes of this section "person" shall include any person, partnership, corporation, or association of individuals.

[1959 c 207 § 2.]

Notes:

***Reviser's note:** "this act" first appeared in chapter 207, Laws of 1959, section 1 of which amended RCW 24.28.010.

RCW 24.28.045 Administrative dissolution or revocation of a certificate of authority--Corporation name not distinguishable from name of governmental entity--Application by governmental entity.

RCW 23B.14.203 applies to this chapter.

[1997 c 12 § 7.]

RCW 24.28.050 Fees for services by secretary of state.

See RCW 43.07.120.

**Chapter 24.34 RCW
AGRICULTURAL PROCESSING AND MARKETING ASSOCIATIONS**

Sections

24.34.010 Who may organize--Purposes--Limitations.
24.34.020 Monopoly or restraint of trade--Complaint--Procedure.

Notes:

Agricultural marketing: Chapters 15.65, 15.66 RCW.

RCW 24.34.010 Who may organize--Purposes--Limitations.

Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut growers or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in intrastate commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: PROVIDED, That such associations are operated for the mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of eight percent per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members.

[1967 c 187 § 1.]

RCW 24.34.020 Monopoly or restraint of trade--Complaint--Procedure.

If the attorney general has reason to believe that any such association as provided for in RCW 24.34.010 monopolizes or restrains trade to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a

notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade.

Such hearing, and any appeal which may be made from such hearing, shall be conducted and held subject to and in conformance with the provisions for adjudicative proceedings and judicial review in chapter 34.05 RCW, the Administrative Procedure Act.

[1989 c 175 § 75; 1967 c 187 § 2.]

Notes:

Effective date--1989 c 175: See note following RCW 34.05.010.

**Chapter 24.36 RCW
FISH MARKETING ACT**

Sections

24.36.010	Short title.
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24.36.040	Associations deemed nonprofit.
24.36.050	General laws relating to corporations for profit applicable.
24.36.055	Fees for services by secretary of state.
24.36.060	Securities act inapplicable.
24.36.070	Associations deemed not a conspiracy, in restraint of trade, etc.--Contracts not illegal.
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24.36.110	Stock associations--Classified shares--Statement in articles.
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24.36.330	Reserves--Investments.
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24.36.430	Association may sell products without taking title--Powers and duties.
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24.36.460	Presumption that landlord or lessor can control delivery--Remedies for nondelivery or breach.
24.36.470	Enforcement by association to secure delivery by member.

Notes:

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

RCW 24.36.010 Short title.

This chapter may be cited as "The Fish Marketing Act".

[1959 c 312 § 1.]

RCW 24.36.020 Declaration of purpose.

The purpose of this chapter is to promote, foster, and encourage the intelligent and orderly marketing of fish and fishery products through cooperation; to eliminate speculation and waste; to make the distribution of fish and fishery products between producer and consumer as direct as can be efficiently done; and to stabilize the marketing of fish and fishery products.

[1959 c 312 § 2.]

RCW 24.36.030 Definitions.

As used in this chapter:

(1) "Fishery products" includes fish, crustaceans, mollusks, and marine products for human consumption.

(2) "Member" includes members of associations without capital stock and holders of common stock in associations organized with shares of stock.

(3) "Association" means any corporation organized under this chapter.

[1959 c 312 § 3.]

RCW 24.36.040 Associations deemed nonprofit.

Associations shall be deemed "nonprofit", inasmuch as they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers of fishery products.

[1959 c 312 § 4.]

RCW 24.36.050 General laws relating to corporations for profit applicable.

The provisions of Title 23B RCW and all powers and rights thereunder, apply to associations, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter.

[1991 c 72 § 45; 1959 c 312 § 5.]

RCW 24.36.055 Fees for services by secretary of state.

See RCW 43.07.120.

RCW 24.36.060 Securities act inapplicable.

No association is subject in any manner to the terms of chapter 21.20 RCW and all associations may issue their membership certificates or stock or other securities as provided in this division without the necessity of any permit from the director of licenses.

[1983 c 3 § 27; 1959 c 312 § 6.]

RCW 24.36.070 Associations deemed not a conspiracy, in restraint of trade, etc.--Contracts not illegal.

An association shall be deemed not to be a conspiracy, nor a combination in restraint of trade nor an illegal monopoly; nor an attempt to lessen competition or to fix prices arbitrarily or to create a combination or pool in violation of any law of the state; and the marketing contracts and agreements between the association and its members and any agreements authorized in this chapter shall be considered not to be illegal nor in restraint of trade nor contrary to the provisions of any statute enacted against pooling or combinations.

[1959 c 312 § 7.]

RCW 24.36.080 Conflicting laws not applicable--Exemptions apply.

Any provisions of law which are in conflict with this chapter shall not be construed as

applying to associations. Any exemptions under any laws applying to fishery products in the possession or under the control of the individual producer shall apply similarly and completely to such fishery products delivered by its members, in the possession or under the control of the association.

[1959 c 312 § 8.]

RCW 24.36.090 Merger, consolidation of associations authorized--Procedure.

Any two or more associations may be merged into one such constituent association or consolidated into a new association. Such merger or consolidation shall be made in the manner prescribed by RCW 23B.07.050 and chapter 23B.11 RCW for domestic corporations.

[1991 c 72 § 46; 1983 c 3 § 28; 1959 c 312 § 9.]

RCW 24.36.100 Stock associations--Statement in articles.

If the association is organized with shares of stock, the articles shall state the number of shares which may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares; and if the shares are to be without par value it shall be so stated.

[1959 c 312 § 10.]

RCW 24.36.110 Stock associations--Classified shares--Statement in articles.

If the shares are to be classified, the articles shall contain a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of the preferences, rights, privileges and restrictions granted to or imposed upon the holders of the respective classes of stock.

[1959 c 312 § 11.]

RCW 24.36.120 Nonstock associations--Statement in articles.

If the association is organized without shares of stock, the articles shall state whether the voting power and the property rights and interest of each member are equal or unequal; and if unequal the general rule or rules applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed; and shall also provide for the admission of new members who shall be entitled to vote and to share in the property of the association with the old members, in accordance with such general rule or rules.

[1959 c 312 § 12.]

RCW 24.36.130 Bylaws of association.

Each association shall within thirty days after its incorporation, adopt for its government and management, a code of bylaws, not inconsistent with this chapter. A majority vote of the members or shares of stock issued and outstanding and entitled to vote, or the written assent of a majority of the members or of stockholders representing a majority of all the shares of stock issued and outstanding and entitled to vote, is necessary to adopt such bylaws and is effectual to repeal or amend any bylaws or to adopt additional bylaws. The power to repeal and amend the bylaws, and adopt new bylaws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked.

[1959 c 312 § 13.]

RCW 24.36.140 Bylaws of association--Transfer of stock, membership certificates limited.

The bylaws shall prohibit the transfer of the common stock or membership certificates of the associations to persons not engaged in the production of the products handled by the association.

[1959 c 312 § 14.]

RCW 24.36.150 Bylaws of association--Quorum, voting, directors, penalties.

The bylaws may provide:

- (1) The number of members constituting a quorum.
- (2) The right of members to vote by proxy or by mail or both, and the conditions, manner, form and effects of such votes; the right of members to cumulate their votes and the prohibition, if desired, of cumulative voting.
- (3) The number of directors constituting a quorum.
- (4) The qualifications, compensation and duties and term of office of directors and officers and the time of their election.
- (5) Penalties for violations of the bylaws.

[1959 c 312 § 15.]

RCW 24.36.160 Bylaws of association--Fees, charges, marketing contract, dividends.

The bylaws may provide:

- (1) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same; and the purposes for which they may be used.
- (2) The amount which each member shall be required to pay annually, or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each

member for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members which every member may be required to sign.

(3) The amount of any dividends which may be declared on the stock or membership capital, which dividends shall not exceed eight percent per annum and which dividends shall be in the nature of interest and shall not affect the nonprofit character of any association organized hereunder.

[1959 c 312 § 16.]

RCW 24.36.170 Bylaws of association--Membership.

The bylaws may provide:

(1) The number and qualification of members of the association and the conditions precedent to membership or ownership of common stock.

(2) The method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock.

(3) The manner of assignment and transfer of the interest of members and of the shares of common stock.

(4) The conditions upon which and time when membership of any member shall cease.

(5) For the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; and the mode, manner and effect of the expulsion of a member.

(6) The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors; and the conditions and terms for the repurchase by the corporation from its stockholders of their stock upon their disqualification as stockholders.

[1959 c 312 § 17.]

RCW 24.36.180 Bylaws of association--Meetings.

The bylaws may provide for the time, place, and manner of calling and conducting meetings of the association.

[1959 c 312 § 18.]

RCW 24.36.190 Bylaws of association--Direct election of directors from districts of territory.

The bylaws may provide that the territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. In such case, the bylaws shall specify the number of directors to be elected by each district, the manner and

method of reapportioning the directors and of redistricting the territory covered by the association.

[1959 c 312 § 19.]

RCW 24.36.200 Bylaws of association--Election of directors by representatives or advisers from districts of territory.

The bylaws may provide that the territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been elected by the members from the several territorial districts. In such case, the bylaws shall specify the number of representatives or advisers to be elected by each district, the manner and method of reapportioning the representatives or advisers and of redistricting the territory covered by the association.

[1959 c 312 § 20.]

RCW 24.36.210 Bylaws of association--Primary elections to nominate directors.

The bylaws may provide that primary elections shall be held to nominate directors. Where the bylaws provide that the territory in which the association has members shall be divided into districts, the bylaws may also provide that the results of the primary elections in the various districts shall be final and shall be ratified at the annual meeting of the association.

[1959 c 312 § 21.]

RCW 24.36.220 Bylaws of association--Nomination of directors by public officials or other directors--Limitation.

The bylaws may provide that one or more directors may be nominated by any public official or commission or by the other directors selected by the members. Such directors shall represent primarily the interest of the general public in such associations. The directors so nominated need not be members of the association, but shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth of the entire number of directors.

[1959 c 312 § 22.]

RCW 24.36.230 Bylaws of association--Terms of directors--Staggering.

The bylaws may provide that directors shall be elected for terms of from one to five years: PROVIDED, That at each annual election the same fraction of the total number of directors shall be elected as one year bears to the number of years of the term of office.

[1959 c 312 § 23.]

RCW 24.36.240 Bylaws of association--Executive committee.

The bylaws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

[1959 c 312 § 24.]

RCW 24.36.250 Qualifications of members, stockholders.

(1) Under the terms and conditions prescribed in the bylaws, an association may admit as members, or issue common stock to, only such persons as are engaged in the production of fishery products to be handled by or through the association, including the lessees and tenants of boats and equipment used for the production of such fishery products and any lessors and landlords who receive as rent all or part of the fish produced by such leased equipment.

(2) If a member of a nonstock association is other than a natural person, such member may be represented by any individual duly authorized in writing.

(3) One association may become a member or stockholder of any other association.

[1959 c 312 § 25.]

RCW 24.36.260 Certificate of membership in nonstock associations.

When a member of an association established without shares of stock has paid his membership fee in full, he shall receive a certificate of membership.

[1959 c 312 § 26.]

RCW 24.36.270 Liability of member for association's debts.

No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note given in payment thereof.

[1959 c 312 § 27.]

RCW 24.36.280 Place of membership meetings.

Meetings of members shall be held at the place as provided in the bylaws; and if no provision is made, in the city where the principal place of business is located at a place designated by the board of directors.

[1959 c 312 § 28.]

RCW 24.36.290 Appraisal of expelled member's property--Payment.

In case of the expulsion of a member, and where the bylaws do not provide any procedure or penalty, the board of directors shall equitably and conclusively appraise his property interest in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion.

[1959 c 312 § 29.]

RCW 24.36.300 Powers of association--General scope of activities.

An association may:

Engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any fishery products produced or delivered to it by its members; or the manufacturing or marketing of the byproducts thereof; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities.

[1959 c 312 § 30.]

RCW 24.36.310 Powers of association--Incurring indebtedness--Advances to members.

An association may borrow without limitation as to amount of corporate indebtedness or liability and may make advances to members.

[1959 c 312 § 31.]

RCW 24.36.320 Association as agent for member.

An association may act as the agent or representative of any member or members in any of the two next preceding sections.

[1959 c 312 § 32.]

RCW 24.36.330 Reserves--Investments.

An association may establish reserves and invest the funds thereof in bonds or in such other property as may be provided in the bylaws.

[1959 c 312 § 33.]

RCW 24.36.340 Powers relating to capital stock or bonds of other corporations or associations.

An association may purchase or otherwise acquire, hold, own, and exercise all rights of ownership in, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of any corporation or association

engaged in any related activity or in the warehousing or handling or marketing or packing or manufacturing or processing or preparing for market of any of the fishery products handled by the association.

[1959 c 312 § 34.]

RCW 24.36.350 Powers relating to real or personal property.

An association may buy, hold and exercise all privileges or ownership, over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association, or incidental thereto.

[1959 c 312 § 35.]

RCW 24.36.360 Levy of assessments.

An association may levy assessments in the manner and in the amount provided in its bylaws.

[1959 c 312 § 36.]

RCW 24.36.370 General powers, rights, privileges of association.

An association may do each and every thing necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects enumerated in this chapter; or conducive to or expedient for the interest or benefit of the association; and contract accordingly; and in addition exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and, in addition, any other rights, powers and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter; and do any such thing anywhere.

[1959 c 312 § 37.]

RCW 24.36.380 Use of association's facilities--Disposition of proceeds.

An association may use or employ any of its facilities for any purpose: PROVIDED, That the proceeds arising from such use and employment go to reduce the cost of operation for its members; but the fishery products of nonmembers shall not be dealt in to an amount greater in value than such as are handled by it for its members.

[1959 c 312 § 38.]

RCW 24.36.390 Power of association to form, control, own stock in or be member of another corporation or association--Warehouse receipts.

An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock and engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling of the fishery products handled by the association, or the byproducts thereof.

If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association against the commodities delivered by it, or to any other person and such legal warehouse receipts shall be considered as adequate collateral to the extent of the usual and current value of the commodity represented thereby. In case such warehouse is licensed or licensed and bonded under the laws of this state or the United States, its warehouse receipt delivered to the association on commodities of the association or its members, or delivered by the association or its members, shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association.

[1959 c 312 § 39.]

RCW 24.36.400 Contracts and agreements with other corporations or associations--Joint operations.

Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements and contracts and arrangements with any other cooperative or other corporation, association, or associations, formed in this or in any other state, for the cooperative and more economical carrying on of its business or any part or parts thereof. Any two or more associations may, by agreement between them, unite in employing and using or may separately employ and use the same personnel, methods, means, and agencies for carrying on and conducting their respective business.

[1959 c 312 § 40.]

RCW 24.36.410 Marketing contracts with members.

An association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over fifteen years, all or any specified part of their fishery products or specified commodities exclusively to or through the association or any facilities to be created by the association.

[1959 c 312 § 41.]

RCW 24.36.420 When title passes on sale by member to association.

If the members contract a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly, except for recorded liens, to the association upon delivery or at any other time expressly and definitely specified in the contract.

[1959 c 312 § 42.]

RCW 24.36.430 Association may sell products without taking title--Powers and duties.

The contract may provide that the association may sell or resell the fishery products delivered by its members, with or without taking title thereto; and pay over to its members the resale price, after deducting all necessary selling, overhead, and other costs and expenses, including interest on preferred stock, not exceeding eight percent per annum, and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight percent per annum upon common stock.

[1959 c 312 § 43.]

RCW 24.36.440 Liability of member for breach of marketing contract.

The marketing contract may fix, as liquidated damages, specific sums to be paid by the member to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of fishery products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees, in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the courts of this state; and such clauses providing for liquidated damages shall be enforceable as such and shall not be regarded as penalties.

[1959 c 312 § 44.]

RCW 24.36.450 Injunctions, specific performance if breach or threatened breach by member.

In the event of any such breach or threatened breach of such marketing contract by a member the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member.

[1959 c 312 § 45.]

RCW 24.36.460 Presumption that landlord or lessor can control delivery--Remedies for nondelivery or breach.

In any action upon such marketing agreements, it shall be conclusively presumed that a landlord or lessor is able to control the delivery of fishery products produced by his equipment by tenants, or others, whose tenancy or possession or work on such equipment or the terms of whose tenancy or possession or labor thereon were created or changed after execution by the landlord or

lessor, of such a marketing agreement; and in such actions, the foregoing remedies for nondelivery or breach shall lie and be enforceable against such landlord or lessor.

[1959 c 312 § 46.]

RCW 24.36.470 Enforcement by association to secure delivery by member.

A contract entered into by a member of an association, providing for the delivery to such association of products produced or acquired by the member, may be specifically enforced by the association to secure the delivery to it of such fishery products, any provisions of law to the contrary notwithstanding.

[1959 c 312 § 47.]

Chapter 24.40 RCW
TAX REFORM ACT OF 1969, STATE IMPLEMENTATION--NOT FOR PROFIT
CORPORATIONS

Sections

24.40.010	Application.
24.40.020	Articles of incorporation deemed to contain prohibiting provisions.
24.40.030	Articles of incorporation deemed to contain provisions for distribution.
24.40.040	Rights, powers, of courts, attorney general, not impaired.
24.40.050	Construction of references to federal code.
24.40.060	Present articles of incorporation may be amended--Application to new corporation.
24.40.070	Severability--1971 c 59.
24.40.080	Tax reform act of 1969, state implementation--Charitable trusts.

RCW 24.40.010 Application.

This chapter shall apply to every not for profit corporation to which Title 24 RCW applies, and which is a "private foundation" as defined in section 509 of the Internal Revenue Code of 1954, and which has been or shall be incorporated under the laws of the state of Washington after December 31, 1969. As to any such corporation so incorporated before January 1, 1970, this chapter shall apply only for its federal taxable years beginning after December 31, 1971.

[1971 c 59 § 2.]

RCW 24.40.020 Articles of incorporation deemed to contain prohibiting provisions.

The articles of incorporation of every corporation to which this chapter applies shall be deemed to contain provisions prohibiting the corporation from:

(1) Engaging in any act of "self-dealing" (as defined in section 4941(d) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1954;

(2) Retaining any "excess business holdings" (as defined in section 4943(c) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1954;

(3) Making any investment which would jeopardize the carrying out of any of its exempt purposes, within the meaning of section 4944 of the Internal Revenue Code of 1954, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1954; and

(4) Making any "taxable expenditures" (as defined in section 4945(d) of the Internal Revenue Code of 1954) which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1954.

[1971 c 59 § 3.]

RCW 24.40.030 Articles of incorporation deemed to contain provisions for distribution.

The articles of incorporation of every corporation to which this chapter applies shall be deemed to contain a provision requiring such corporation to distribute, for the purposes specified in its articles of incorporation, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1954.

[1971 c 59 § 4.]

RCW 24.40.040 Rights, powers, of courts, attorney general, not impaired.

Nothing in this chapter shall impair the rights and powers of the courts or the attorney general of this state with respect to any corporation.

[1971 c 59 § 5.]

RCW 24.40.050 Construction of references to federal code.

All references to sections of the Internal Revenue Code of 1954 shall include future amendments to such sections and corresponding provisions of future internal revenue laws.

[1971 c 59 § 6.]

RCW 24.40.060 Present articles of incorporation may be amended--Application to new corporation.

Nothing in this chapter shall limit the power of any corporation not for profit now or hereafter incorporated under the laws of the state of Washington

(1) to at any time amend its articles of incorporation or other instrument governing such corporation by any amendment process open to such corporation under the laws of the state of Washington to provide that some or all provisions of RCW 24.40.010 and 24.40.020 shall have no application to such corporation; or

(2) in the case of any such corporation formed after June 10, 1971, to provide in its articles of incorporation that some or all provisions of RCW 24.40.010 and 24.40.020 shall have no application to such corporation.

[1971 c 59 § 7.]

RCW 24.40.070 Severability--1971 c 59.

If any provision of RCW 24.40.010 through 24.40.070 or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of RCW 24.40.010 through 24.40.070 which can be given effect without the invalid provision or application, and to this end the provisions of RCW 24.40.010 through 24.40.070 are declared to be severable.

[1971 c 59 § 8.]

RCW 24.40.080 Tax reform act of 1969, state implementation--Charitable trusts.

See RCW 11.110.200 through 11.110.260.

**Chapter 24.44 RCW
UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT**

Sections	
24.44.010	Definitions.
24.44.020	Appropriation of appreciation.
24.44.030	Investment authority.
24.44.040	Delegation of investment management.
24.44.050	Standard of conduct.
24.44.060	Release of restrictions on use or investments.
24.44.070	Uniformity of application and construction.
24.44.080	Short title.
24.44.090	Section headings.
24.44.900	Severability--1973 c 17.

RCW 24.44.010 Definitions.

As used in this chapter:

(1) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes or a

governmental organization to the extent that it holds funds exclusively for any of these purposes;

(2) "Institutional fund" means a fund held by an institution for its exclusive use, benefit or purposes, but does not include (a) a fund held for an institution by a trustee which is not an institution, or (b) a fund in which a beneficiary which is not an institution has an interest other than possible rights which could arise upon violation or failure of the purposes of the fund;

(3) "Endowment fund" means an institutional fund, or any part thereof, which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;

(4) "Governing board" means the body responsible for the management of an institution or of an institutional fund;

(5) "Historic dollar value" means the fair value in dollars of an endowment fund at the time it first became an endowment fund, plus the fair value in dollars of each subsequent donation to the fund at the time it is made, plus the fair value in dollars of each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive;

(6) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund.

[1973 c 17 § 1.]

RCW 24.44.020 Appropriation of appreciation.

The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by RCW 24.44.050. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the character [charter] of an institution.

[1973 c 17 § 2.]

RCW 24.44.030 Investment authority.

In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary is authorized to make, the governing board (subject to any specific limitations set forth in the applicable gift instrument or in applicable law other than law relating to investments a fiduciary is authorized to make) may:

(1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks and bonds, debentures, and other securities of profit or nonprofit corporations,

shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board.

[1973 c 17 § 3.]

RCW 24.44.040 Delegation of investment management.

Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

(1) Delegate to its committees, to officers or employees of the institution or the fund, or to agents (including investment counsel) the authority to act in place of the board in investment and reinvestment of institutional funds;

(2) Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and

(3) Authorize the payment of compensation for investment advisory or management services.

[1973 c 17 § 4.]

RCW 24.44.050 Standard of conduct.

In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision, and in so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions.

[1973 c 17 § 5.]

RCW 24.44.060 Release of restrictions on use or investments.

(1) A restriction on the use or investment of an institutional fund imposed by the applicable gift instrument may be released, entirely or in part, by the governing board with the

written consent of the donor.

(2) If consent of the donor cannot be obtained by reason of the death, disability or unavailability, or impossibility of identification of the donor, upon application of the governing board, a restriction on the use or investment of an institutional fund imposed by the applicable gift instrument may be released, entirely or in part, by order of the superior court after reasonable notice to the attorney general and an opportunity for him to be heard, and upon a finding that the restriction on the use or investment of the fund is obsolete, inappropriate or impracticable. A release under this subsection may not change an endowment fund to a fund which is not an endowment fund.

(3) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(4) The provisions of this section do not limit the application of the doctrine of cy pres.

[1973 c 17 § 6.]

RCW 24.44.070 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it.

[1973 c 17 § 8.]

RCW 24.44.080 Short title.

This chapter may be cited as the "Uniform Management of Institutional Funds Act".

[1973 c 17 § 9.]

RCW 24.44.090 Section headings.

Section headings as used in this chapter do not constitute any part of the law.

[1973 c 17 § 10.]

RCW 24.44.900 Severability--1973 c 17.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

[1973 c 17 § 7.]

Chapter 24.46 RCW

FOREIGN TRADE ZONES

Sections

- 24.46.010 Legislative finding--Intent.
24.46.020 Application for permission to establish, operate and maintain foreign trade zones authorized.

Notes:

Operation of foreign trade zones by port districts: RCW 53.08.030.

RCW 24.46.010 Legislative finding--Intent.

It is the finding of the legislature that foreign trade zones serve an important public purpose by the creation of employment opportunities within the state and that the establishment of zones designed to accomplish this purpose is to be encouraged. It is the further intent of the legislature that the department of community, trade, and economic development provide assistance to entities planning to apply to the United States for permission to establish such zones.

[1995 c 399 § 12; 1985 c 466 § 39; 1977 ex.s. c 196 § 1.]

Notes:

Effective date--Severability--1985 c 466: See notes following RCW 43.31.125.

Effective date--1977 ex.s. c 196: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977." [1977 ex.s. c 196 § 8.]

RCW 24.46.020 Application for permission to establish, operate and maintain foreign trade zones authorized.

A nonprofit corporation or organization, as zone sponsor, may apply to the United States for permission to establish, operate, and maintain foreign trade zones: PROVIDED, That nothing herein shall be construed to prevent these zones from being operated and financed by a private corporation(s) on behalf of said nonprofit corporation acting as zone sponsor.

[1977 ex.s. c 196 § 2.]

Notes:

Effective date--1977 ex.s. c 196: See note following RCW 24.46.010.

Title 25 RCW PARTNERSHIPS

Chapters

- 25.04 General and limited liability partnerships.**
25.05 Revised uniform partnership act.
25.10 Limited partnerships.
25.12 Limited partnerships existing prior to June 6, 1945.

25.15 Limited liability companies.

Notes:

Powers of appointment: Chapter 11.95 RCW.

Probate provisions relating to partnership property: Chapter 11.64 RCW.

**Chapter 25.04 RCW
GENERAL AND LIMITED LIABILITY PARTNERSHIPS**

(Formerly: General partnerships)

Sections

LIMITED LIABILITY PARTNERSHIPS

- 25.04.710 Registration--Application--Fee--Forms.
- 25.04.715 Name.
- 25.04.716 Name--Reservation of exclusive right--Filing.

LIMITED LIABILITY PARTNERSHIPS

RCW 25.04.710 Registration--Application--Fee--Forms.

Notes:

Reviser's note: RCW 25.04.710 was amended by 1998 c 102 § 5 without reference to its repeal by 1998 c 103 § 1308. It has been decodified for publication purposes under RCW 1.12.025.

RCW 25.04.715 Name.

Notes:

Reviser's note: RCW 25.04.715 was amended by 1998 c 102 § 6 without reference to its repeal by 1998 c 103 § 1308. It has been decodified for publication purposes under RCW 1.12.025.

RCW 25.04.716 Name--Reservation of exclusive right--Filing.

(1) The exclusive right to the use of a name may be reserved by:

(a) A person intending to organize a limited liability partnership under this chapter and to

adopt that name;

(b) A domestic or foreign limited liability partnership registered in this state which intends to adopt that name;

(c) A foreign limited liability partnership intending to register in this state and to adopt that name; and

(d) A person intending to organize a foreign limited liability partnership and intending to have it registered in this state and adopt that name.

(2) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name, accompanied by a fee established by the secretary of state by rule. If the secretary of state finds that the name is available for use by a domestic or foreign limited liability partnership, the secretary of state shall reserve the name for the exclusive use of the applicant for a period of one hundred eighty days. The reservation is limited to one filing and is nonrenewable.

A person or partnership may transfer the right to the exclusive use of a reserved name to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

[1998 c 102 § 7.]

Chapter 25.05 RCW REVISED UNIFORM PARTNERSHIP ACT

Sections

ARTICLE 1 GENERAL PROVISIONS

25.05.005	Definitions.
25.05.010	Knowledge and notice.
25.05.015	Effect of partnership agreement--Nonwaivable provisions.
25.05.020	Supplemental principles of law.
25.05.025	Execution and filing of statements.
25.05.030	Governing law.
25.05.035	Partnership subject to amendment or repeal of chapter.

ARTICLE 2 NATURE OF PARTNERSHIP

25.05.050	Partnership as entity.
25.05.055	Formation of partnership.
25.05.060	Partnership property.
25.05.065	When property is partnership property.

ARTICLE 3

RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

- 25.05.100 Partner agent of partnership.
- 25.05.105 Transfer of partnership property.
- 25.05.110 Statement of partnership authority.
- 25.05.115 Statement of denial.
- 25.05.120 Partnership liable for partner's actionable conduct.
- 25.05.125 Partner's liability.
- 25.05.130 Actions by and against partnership and partners.
- 25.05.135 Liability of purported partner.

ARTICLE 4

RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

- 25.05.150 Partner's rights and duties.
- 25.05.155 Distributions in kind.
- 25.05.160 Partner's rights and duties with respect to information.
- 25.05.165 General standards of partner's conduct.
- 25.05.170 Actions by partnership and partners.
- 25.05.175 Continuation of partnership beyond definite term or particular undertaking.

ARTICLE 5

TRANSFEREES AND CREDITORS OF PARTNER

- 25.05.200 Partner not co-owner of partnership property.
- 25.05.205 Partner's transferable interest in partnership.
- 25.05.210 Transfer of partner's transferable interest.
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ARTICLE 6

PARTNER'S DISSOCIATION

- 25.05.225 Events causing partner's dissociation.
- 25.05.230 Partner's power to dissociate--Wrongful dissociation.
- 25.05.235 Effect of partner's dissociation.

ARTICLE 7

PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

- 25.05.250 Purchase of dissociated partner's interest.
- 25.05.255 Dissociated partner's power to bind and liability to partnership.
- 25.05.260 Dissociated partner's liability to other persons.
- 25.05.265 Statement of dissociation.
- 25.05.270 Continued use of partnership name.

ARTICLE 8

WINDING UP PARTNERSHIP BUSINESS

- 25.05.300 Events causing dissolution and winding up of partnership business.
- 25.05.305 Partnership continues after dissolution.
- 25.05.310 Right to wind up partnership business.
- 25.05.315 Partner's power to bind partnership after dissolution.

- 25.05.320 Statement of dissolution.
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- 25.05.330 Settlement of accounts and contributions among partners.

ARTICLE 9
CONVERSIONS AND MERGERS

- 25.05.350 Definitions.
- 25.05.355 Conversion of partnership to limited partnership.
- 25.05.360 Conversion of limited partnership to partnership.
- 25.05.365 Effect of conversion--Entity unchanged.
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- 25.05.375 Merger--Plan--Approval.
- 25.05.380 Articles of merger--Filing.
- 25.05.385 Effect of merger.
- 25.05.390 Merger--Foreign and domestic.
- 25.05.395 Nonexclusive.

ARTICLE 10
DISSENTERS' RIGHTS

- 25.05.420 Definitions.
- 25.05.425 Partner--Dissent--Payment of fair value.
- 25.05.430 Dissenters' rights--Notice--Timing.
- 25.05.435 Partner--Dissent--Voting restriction.
- 25.05.440 Partners--Dissenters' notice--Requirements.
- 25.05.445 Partner--Payment demand--Entitlement.
- 25.05.450 Partners' interests--Transfer restriction.
- 25.05.455 Payment of fair value--Requirements for compliance.
- 25.05.460 Merger--Not effective within sixty days--Transfer restrictions.
- 25.05.465 Dissenter's estimate of fair value--Notice.
- 25.05.470 Unsettled demand for payment--Proceeding--Parties--Appraisers.
- 25.05.475 Unsettled demand for payment--Costs--Fees and expenses of counsel.

ARTICLE 11
LIMITED LIABILITY PARTNERSHIP

- 25.05.500 Formation--Registration--Application--Fee--Forms.
- 25.05.505 Name.
- 25.05.510 Rendering professional services.

ARTICLE 12
FOREIGN LIMITED LIABILITY PARTNERSHIP

- 25.05.550 Law governing foreign limited liability partnership.
- 25.05.555 Statement of foreign qualification.
- 25.05.560 Effect of failure to qualify.
- 25.05.565 Activities not constituting transacting business.
- 25.05.570 Action by attorney general.

ARTICLE 13

MISCELLANEOUS PROVISIONS

25.05.901	Dates of applicability.
25.05.902	Establishment of filing fees and miscellaneous charges--Secretary of state.
25.05.903	Authority to adopt rules--Secretary of state.
25.05.904	Uniformity of application and construction--1998 c 103.
25.05.905	Short title--1998 c 103.
25.05.906	Severability clause--1998 c 103.
25.05.907	Savings clause--1998 c 103.

ARTICLE 1
GENERAL PROVISIONS

RCW 25.05.005 Definitions.

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

- (1) "Business" includes every trade, occupation, and profession.
- (2) "Debtor in bankruptcy" means a person who is the subject of:
 - (a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (b) A comparable order under federal, state, or foreign law governing insolvency.
- (3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.
- (4) "Foreign limited liability partnership" means a partnership that:
 - (a) Is formed under laws other than the laws of this state; and
 - (b) Has the status of a limited liability partnership under those laws.
- (5) "Limited liability partnership" means a partnership that has filed *a statement of qualification under RCW 25.05.500 and does not have a similar statement in effect in any other jurisdiction.
- (6) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under RCW 25.05.055, predecessor law, or comparable law of another jurisdiction.
- (7) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.
- (8) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.
- (9) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(10) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(11) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "Statement" means a statement of partnership authority under RCW 25.05.110, a statement of denial under RCW 25.05.115, a statement of dissociation under RCW 25.05.265, a statement of dissolution under RCW 25.05.320, or an amendment or cancellation of any statement under these sections.

(14) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

[1998 c 103 § 101.]

Notes:

***Reviser's note:** The phrase "a statement of qualification" appears erroneous. The phrase "an application" was apparently intended.

RCW 25.05.010 Knowledge and notice.

(1) A person knows a fact if the person has actual knowledge of it.

(2) A person has notice of a fact if the person:

(a) Knows of it;

(b) Has received a notification of it; or

(c) Has reason to know it exists from all of the facts known to the person at the time in question.

(3) A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

(4) A person receives a notification when the notification:

(a) Comes to the person's attention; or

(b) Is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

(5) Except as otherwise provided in subsection (6) of this section, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if the person maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual

has reason to know of the transaction and that the transaction would be materially affected by the information.

(6) A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

[1998 c 103 § 102.]

RCW 25.05.015 Effect of partnership agreement--Nonwaivable provisions.

(1) Except as otherwise provided in subsection (2) of this section, relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter governs relations among the partners and between the partners and the partnership.

(2) The partnership agreement may not:

(a) Vary the rights and duties under RCW 25.05.025 except to eliminate the duty to provide copies of statements to all of the partners;

(b) Unreasonably restrict the right of access to books and records under RCW 25.05.160(2);

(c) Eliminate the duty of loyalty under RCW 25.05.165(2) or 25.05.235(2)(c), but, if not manifestly unreasonable:

(i) The partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty; or

(ii) All of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(d) Unreasonably reduce the duty of care under RCW 25.05.165(3) or 25.05.235(2)(c);

(e) Eliminate the obligation of good faith and fair dealing under RCW 25.05.165(4), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(f) Vary the power to dissociate as a partner under RCW 25.05.230(1), except to require the notice under RCW 25.05.225(1) to be in writing;

(g) Vary the right of a court to expel a partner in the events specified in RCW 25.05.225(5);

(h) Vary the requirement to wind up the partnership business in cases specified in RCW 25.05.300 (4), (5), or (6);

(i) Vary the law applicable to a limited liability partnership under RCW 25.05.030(2); or

(j) Restrict rights of third parties under this chapter.

[1998 c 103 § 103.]

RCW 25.05.020 Supplemental principles of law.

(1) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(2) If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in RCW 19.52.010(1).

[1998 c 103 § 104.]

RCW 25.05.025 Execution and filing of statements.

(1) A statement may be filed in the office of the secretary of state. A certified copy of a statement that is filed in an office in another state may be filed in the office of the secretary of state. Either filing has the effect provided in this chapter with respect to partnership property located in or transactions that occur in this state.

(2) A statement filed by a partnership must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by this chapter. An individual who executes a statement as, or on behalf of, a partner or other person shall personally declare under penalty of perjury that the contents of the statement are accurate.

(3) A person authorized by this chapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(4) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

[1998 c 103 § 105.]

RCW 25.05.030 Governing law.

(1) Except as otherwise provided in subsection (2) of this section, the law of the jurisdiction in which a partnership has its chief executive office governs relations among the partners and the partnership.

(2) The law of this state governs relations among the partners and the partnership and the liability of partners for an obligation of a limited liability partnership.

[1998 c 103 § 106.]

RCW 25.05.035 Partnership subject to amendment or repeal of chapter.

A partnership governed by this chapter is subject to any amendment to or repeal of this chapter.

[1998 c 103 § 107.]

ARTICLE 2
NATURE OF PARTNERSHIP

RCW 25.05.050 Partnership as entity.

- (1) A partnership is an entity distinct from its partners.
- (2) A limited liability partnership continues to be the same entity that existed before the filing of an application under RCW 25.05.500(2).

[2000 c 169 § 10; 1998 c 103 § 201.]

RCW 25.05.055 Formation of partnership.

(1) Except as otherwise provided in subsection (2) of this section, the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

(2) An association formed under a statute other than this chapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this chapter.

(3) In determining whether a partnership is formed, the following rules apply:

(a) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property;

(b) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived; and

(c) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

(i) Of a debt by installments or otherwise;

(ii) For services as an independent contractor or of wages or other compensation to an employee;

(iii) Of rent;

(iv) Of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner;

(v) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or

(vi) For the sale of the goodwill of a business or other property by installments or otherwise.

[1998 c 103 § 202.]

RCW 25.05.060 Partnership property.

Property acquired by a partnership is property of the partnership and not of the partners individually.

[1998 c 103 § 203.]

RCW 25.05.065 When property is partnership property.

(1) Property is partnership property if acquired in the name of:

(a) The partnership; or

(b) One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership, whether or not there is an indication of the name of the partnership.

(2) Property is acquired in the name of the partnership by a transfer to:

(a) The partnership in its name; or

(b) One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(3) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(4) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

[1998 c 103 § 204.]

ARTICLE 3

RELATIONS OF PARTNERS TO PERSONS DEALING WITH PARTNERSHIP

RCW 25.05.100 Partner agent of partnership.

Subject to the effect of a statement of partnership authority under RCW 25.05.110:

(1) Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

(2) An act of a partner which is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership

only if the act was authorized by the other partners.

[1998 c 103 § 301.]

RCW 25.05.105 Transfer of partnership property.

(1) Partnership property may be transferred as follows:

(a) Subject to the effect of a statement of partnership authority under RCW 25.05.110, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name;

(b) Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held; or

(c) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(2) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under RCW 25.05.100, and:

(a) As to a subsequent transferee who gave value for property transferred under subsection (1)(a) and (b) of this section, proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or

(b) As to a transferee who gave value for property transferred under subsection (1)(c) of this section, proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(3) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection (2) of this section, from any earlier transferee of the property.

(4) If a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

[1998 c 103 § 302.]

RCW 25.05.110 Statement of partnership authority.

(1) A partnership may file a statement of partnership authority, which:

(a) Must include:

(i) The name of the partnership; and

(ii) The street address of its chief executive office and of one office in this state, if there is one; and

(b) May state the names of all of the partners, the names of the partners authorized to execute an instrument transferring real property held in the name of the partnership, the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

(2) A grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person not a partner who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in a subsequently filed statement. A filed cancellation of a limitation on authority revives the previous grant of authority.

(3) A person not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if the limitation is contained in a filed statement of partnership authority.

(4) Except as otherwise provided in subsection (3) of this section and RCW 25.05.265 and 25.05.320, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

(5) Unless earlier canceled, a filed statement of partnership authority is canceled by operation of law five years after the date on which the statement, or the most recent amendment, was filed with the secretary of state.

[1998 c 103 § 303.]

RCW 25.05.115 Statement of denial.

A partner, or other person named as a partner in a filed statement of partnership authority, may file a statement of denial stating the name of the partnership and the fact that is being denied, which may include denial of a person's authority or status as a partner. A statement of denial is a limitation on authority as provided in RCW 25.05.110 (2) and (3).

[1998 c 103 § 304.]

RCW 25.05.120 Partnership liable for partner's actionable conduct.

(1) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(2) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

[1998 c 103 § 305.]

RCW 25.05.125 Partner's liability.

(1) Except as otherwise provided in subsections (2), (3), and (4) of this section, all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

(2) A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.

(3) Except as otherwise provided in subsection (4) of this section, an obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort, or otherwise, is solely the obligation of the partnership. A partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or so acting as a partner. This subsection applies notwithstanding anything inconsistent in the partnership agreement that existed, in the case of a limited liability partnership in existence on June 11, 1998, and, in the case of a partnership becoming a limited liability partnership after June 11, 1998, immediately before the vote required to become a limited liability partnership under RCW 25.05.500(1).

(4) If the partners of a limited liability partnership or a foreign limited liability partnership are required to be licensed to provide professional services as defined in RCW 18.100.030, and the partnership fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, deposit in trust, bank escrow of cash, bank certificates of deposit, United States treasury obligations, bank letter of credit, insurance company bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or such greater amount, not to exceed three million dollars, as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the businesses within the profession or specialty, then the partners shall be personally liable to the extent that, had such insurance, bond, deposit in trust, bank escrow of cash, bank certificates of deposit, United States treasury obligations, bank letter of credit, insurance company bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

[1998 c 103 § 306.]

RCW 25.05.130 Actions by and against partnership and partners.

(1) A partnership may sue and be sued in the name of the partnership.

(2) An action may be brought against the partnership and, to the extent not inconsistent with RCW 25.05.125, any or all of the partners in the same action or in separate actions.

(3) A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.

(4) A judgment creditor of a partner may not levy execution against the assets of the

partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under RCW 25.05.125, and:

(a) A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(b) The partnership is a debtor in bankruptcy;

(c) The partner has agreed that the creditor need not exhaust partnership assets;

(d) A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(e) Liability is imposed on the partner by law or contract independent of the existence of the partnership.

(5) This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under RCW 25.05.135.

[1998 c 103 § 307.]

RCW 25.05.135 Liability of purported partner.

(1) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

(2) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

(3) A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

(4) A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the

partner's dissociation from the partnership.

(5) Except as otherwise provided in subsections (1) and (2) of this section, persons who are not partners as to each other are not liable as partners to other persons.

[1998 c 103 § 308.]

ARTICLE 4

RELATIONS OF PARTNERS TO EACH OTHER AND TO PARTNERSHIP

RCW 25.05.150 Partner's rights and duties.

(1) Each partner is deemed to have an account that is:

(a) Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and

(b) Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(2) Each partner is entitled to an equal share of the partnership profits and is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

(3) A partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.

(4) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

(5) A payment or advance made by a partner which gives rise to a partnership obligation under subsection (3) or (4) of this section constitutes a loan to the partnership which accrues interest from the date of the payment or advance.

(6) Each partner has equal rights in the management and conduct of the partnership business.

(7) A partner may use or possess partnership property only on behalf of the partnership.

(8) A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

(9) A person may become a partner only with the consent of all of the partners.

(10) A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.

(11) This section does not affect the obligations of a partnership to other persons under RCW 25.05.100.

[1998 c 103 § 401.]

RCW 25.05.155 Distributions in kind.

A partner has no right to receive, and may not be required to accept, a distribution in kind.

[1998 c 103 § 402.]

RCW 25.05.160 Partner's rights and duties with respect to information.

(1) A partnership shall keep its books and records, if any, at its chief executive office.

(2) A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

(3) Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability:

(a) Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this chapter; and

(b) On demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

[1998 c 103 § 403.]

RCW 25.05.165 General standards of partner's conduct.

(1) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections (2) and (3) of this section.

(2) A partner's duty of loyalty to the partnership and the other partners is limited to the following:

(a) To account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;

(b) To refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership; and

(c) To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

(3) A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(4) A partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(5) A partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

(6) A partner may lend money to and transact other business with the partnership, and as to each loan or transaction the rights and obligations of the partner are the same as those of a person who is not a partner, subject to other applicable law.

(7) This section applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

[1998 c 103 § 404.]

RCW 25.05.170 Actions by partnership and partners.

(1) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

(2) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to:

(a) Enforce the partner's rights under the partnership agreement;

(b) Enforce the partner's rights under this chapter, including:

(i) The partner's rights under RCW 25.05.150, 25.05.160, or 25.05.165;

(ii) The partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to RCW 25.05.250 or enforce any other right under article 6 or 7 of this chapter; or

(iii) The partner's right to compel a dissolution and winding up of the partnership business under RCW 25.05.300 or enforce any other right under article 8 of this chapter; or

(c) Enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

(3) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

[1998 c 103 § 405.]

RCW 25.05.175 Continuation of partnership beyond definite term or particular undertaking.

(1) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights

and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(2) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

[1998 c 103 § 406.]

ARTICLE 5
TRANSFEREES AND CREDITORS OF PARTNER

RCW 25.05.200 Partner not co-owner of partnership property.

A partner is not a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

[1998 c 103 § 501.]

RCW 25.05.205 Partner's transferable interest in partnership.

The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest is personal property.

[1998 c 103 § 502.]

RCW 25.05.210 Transfer of partner's transferable interest.

- (1) A transfer, in whole or in part, of a partner's transferable interest in the partnership:
- (a) Is permissible;
 - (b) Does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business; and
 - (c) Does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.
- (2) A transferee of a partner's transferable interest in the partnership has a right:
- (a) To receive, in accordance with the transfer, allocations of profits and losses of the partnership and distributions to which the transferor would otherwise be entitled;
 - (b) To receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and
 - (c) To seek under RCW 25.05.300(6) a judicial determination that it is equitable to wind up the partnership business.
- (3) In a dissolution and winding up, a transferee is entitled to an account of partnership

transactions only from the date of the latest account agreed to by all of the partners.

(4) Upon transfer, the transferor retains the rights and duties of a partner other than the interest in profits and losses of the partnership and distributions transferred.

(5) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.

(6) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

[1998 c 103 § 503.]

RCW 25.05.215 Partner's transferable interest subject to charging order.

(1) On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require.

(2) A charging order constitutes a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(3) At any time before foreclosure, an interest charged may be redeemed:

- (a) By the judgment debtor;
- (b) With property other than partnership property, by one or more of the other partners; or
- (c) With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.

(4) This chapter does not deprive a partner of a right under exemption laws with respect to the interest in the partnership.

(5) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

[1998 c 103 § 504.]

ARTICLE 6
PARTNER'S DISSOCIATION

RCW 25.05.225 Events causing partner's dissociation.

A partner is dissociated from a partnership upon the occurrence of any of the following events:

- (1) The partnership's having notice of the partner's express will to withdraw as a partner

or on a later date specified by the partner;

(2) An event agreed to in the partnership agreement as causing the partner's dissociation;

(3) The partner's expulsion pursuant to the partnership agreement;

(4) The partner's expulsion by the unanimous vote of the other partners if:

(a) It is unlawful to carry on the partnership business with that partner;

(b) There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes or a court order charging the partner's interest which, in either case, has not been foreclosed;

(c) Within ninety days after the partnership notifies a corporate partner that it will be expelled because it has filed articles of dissolution, it has been administratively or judicially dissolved, or its right to conduct business has been suspended by the jurisdiction of its incorporation, and there is no revocation of the articles of dissolution, no reinstatement following its administrative dissolution, or reinstatement of its right to conduct business by the jurisdiction of its incorporation, as applicable; or

(d) A partnership or limited liability company that is a partner has been dissolved and its business is being wound up;

(5) On application by the partnership or another partner, the partner's expulsion by judicial determination because:

(a) The partner engaged in wrongful conduct that adversely and materially affected the partnership business;

(b) The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under RCW 25.05.165; or

(c) The partner engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner;

(6) The partner's:

(a) Becoming a debtor in bankruptcy;

(b) Executing an assignment for the benefit of creditors;

(c) Seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property; or

(d) Failing, within ninety days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failing within ninety days after the expiration of a stay to have the appointment vacated;

(7) In the case of a partner who is an individual:

(a) The partner's death;

(b) The appointment of a guardian or general conservator for the partner; or

(c) A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

(8) In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee;

(9) In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative; or

(10) Termination of a partner who is not an individual, partnership, corporation, limited liability company, trust, or estate.

[2000 c 169 § 11; 1998 c 103 § 601.]

RCW 25.05.230 Partner's power to dissociate--Wrongful dissociation.

(1) A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to RCW 25.05.225(1).

(2) A partner's dissociation is wrongful only if:

(a) It is in breach of an express provision of the partnership agreement; or

(b) In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:

(i) The partner withdraws by express will, unless the withdrawal follows within ninety days after another partner's dissociation by death or otherwise under RCW 25.05.225 (6) through (10) or wrongful dissociation under this subsection;

(ii) The partner is expelled by judicial determination under RCW 25.05.225(5);

(iii) The partner is dissociated as the result of an event described in RCW 25.05.225(6);

or

(iv) In the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(3) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.

[1998 c 103 § 602.]

RCW 25.05.235 Effect of partner's dissociation.

(1) If a partner's dissociation results in a dissolution and winding up of the partnership business, article 8 of this chapter applies; otherwise, article 7 of this chapter applies.

(2) Upon a partner's dissociation:

(a) The partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in RCW 25.05.310;

(b) The partner's duty of loyalty under RCW 25.05.165(2)(c) terminates; and

(c) The partner's duty of loyalty under RCW 25.05.165(2) (a) and (b) and duty of care under RCW 25.05.165(3) continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's

business pursuant to RCW 25.05.310.

[1998 c 103 § 603.]

ARTICLE 7
PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

RCW 25.05.250 Purchase of dissociated partner's interest.

(1) If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under RCW 25.05.300, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection (2) of this section.

(2) The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under RCW 25.05.330(2) if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership were wound up as of that date. Interest must be paid from the date of dissociation to the date of payment.

(3) Damages for wrongful dissociation under RCW 25.05.230(2), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

(4) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under RCW 25.05.255.

(5) If no agreement for the purchase of a dissociated partner's interest is reached within one hundred twenty days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection (3) of this section.

(6) If a deferred payment is authorized under subsection (8) of this section, the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (3) of this section, stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

(7) The payment or tender required by subsection (5) or (6) of this section must be accompanied by the following:

- (a) A statement of partnership assets and liabilities as of the date of dissociation;
- (b) The latest available partnership balance sheet and income statement, if any;
- (c) An explanation of how the estimated amount of the payment was calculated; and
- (d) Written notice that the payment is in full satisfaction of the obligation to purchase

unless, within one hundred twenty days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (3) of this section, or other terms of the obligation to purchase.

(8) A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment must be adequately secured and bear interest.

(9) A dissociated partner may maintain an action against the partnership, pursuant to RCW 25.05.170(2)(b)(ii), to determine the buyout price of that partner's interest, any offsets under subsection (3) of this section, or other terms of the obligation to purchase. The action must be commenced within one hundred twenty days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection (3) of this section, and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (8) of this section, the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorneys' fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (7) of this section.

[1998 c 103 § 701.]

RCW 25.05.255 Dissociated partner's power to bind and liability to partnership.

(1) For two years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under article 9 of this chapter, is bound by an act of the dissociated partner which would have bound the partnership under RCW 25.05.100 before dissociation only if at the time of entering into the transaction the other party:

- (a) Reasonably believed that the dissociated partner was then a partner;
- (b) Did not have notice of the partner's dissociation; and
- (c) Is not deemed to have had knowledge under RCW 25.05.110(3) or notice under RCW 25.05.265(3).

(2) A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection (1) of this section.

[1998 c 103 § 702.]

RCW 25.05.260 Dissociated partner's liability to other persons.

(1) A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection (2) of this section.

(2) A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under article 9 of this chapter, within two years after the partner's dissociation, only if the partner is liable for the obligation under RCW 25.05.125 and at the time of entering into the transaction the other party:

- (a) Reasonably believed that the dissociated partner was then a partner;
- (b) Did not have notice of the partner's dissociation; and
- (c) Is not deemed to have had knowledge under RCW 25.05.110(3) or notice under RCW 25.05.265(3).

(3) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

(4) A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

[1998 c 103 § 703.]

RCW 25.05.265 Statement of dissociation.

(1) A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.

(2) A statement of dissociation is a limitation on the authority of a dissociated partner for the purposes of RCW 25.05.110 (2) and (3).

(3) For the purposes of RCW 25.05.255(1)(c) and 25.05.260(2)(c), a person not a partner is deemed to have notice of the dissociation ninety days after the statement of dissociation is filed.

[1998 c 103 § 704.]

RCW 25.05.270 Continued use of partnership name.

Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.

[1998 c 103 § 705.]

ARTICLE 8
WINDING UP PARTNERSHIP BUSINESS

RCW 25.05.300 Events causing dissolution and winding up of partnership business.

A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under RCW 25.05.225 (2) through (10), of that partner's express will to withdraw as a partner, or on a later date specified by the partner;

(2) In a partnership for a definite term or particular undertaking:

(a) Within ninety days after a partner's dissociation by death or otherwise under RCW 25.05.225 (6) through (10) or wrongful dissociation under RCW 25.05.230(2) if a majority of the remaining partners decide to wind up the partnership business, and for purposes of this subsection a partner's rightful dissociation pursuant to RCW 25.05.230(2)(b)(i) constitutes the expression of that partner's will to wind up the partnership business;

(b) The express will of all of the partners to wind up the partnership business; or

(c) The expiration of the term or the completion of the undertaking;

(3) An event agreed to in the partnership agreement resulting in the winding up of the partnership business;

(4) An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within ninety days after notice to the partnership of the event is effective retroactively to the date of the event for purposes of this section;

(5) On application by a partner, a judicial determination that:

(a) The economic purpose of the partnership is likely to be unreasonably frustrated;

(b) Another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with that partner; or

(c) It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement; or

(6) On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:

(a) After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(b) At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

[1998 c 103 § 801.]

RCW 25.05.305 Partnership continues after dissolution.

(1) Subject to subsection (2) of this section, a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

(2) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:

(a) The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and

(b) The rights of a third party accruing under RCW 25.05.315(1) or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver may not be adversely affected.

[1998 c 103 § 802.]

RCW 25.05.310 Right to wind up partnership business.

(1) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative, or transferee, the superior court, for good cause shown, may order judicial supervision of the winding up.

(2) The legal representative of the last surviving partner may wind up a partnership's business.

(3) A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to RCW 25.05.330, settle disputes by mediation or arbitration, and perform other necessary acts.

[1998 c 103 § 803.]

RCW 25.05.315 Partner's power to bind partnership after dissolution.

Subject to RCW 25.05.320, a partnership is bound by a partner's act after dissolution that:

(1) Is appropriate for winding up the partnership business; or

(2) Would have bound the partnership under RCW 25.05.100 before dissolution, if the other party to the transaction did not have notice of the dissolution.

[1998 c 103 § 804.]

RCW 25.05.320 Statement of dissolution.

(1) After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its business.

(2) A statement of dissolution cancels all previously filed statements of partnership authority.

(3) For the purposes of RCW 25.05.100 and 25.05.315, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution ninety days after it is filed.

(4) After filing a statement of dissolution, a dissolved partnership may file a statement of partnership authority which will operate with respect to a person not a partner as provided in RCW 25.05.110 (2) and (3) in any transaction, whether or not the transaction is appropriate for winding up the partnership business.

[1998 c 103 § 805.]

RCW 25.05.325 Partner's liability to other partners after dissolution.

(1) Except as otherwise provided in subsection (2) of this section, after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under RCW 25.05.315.

(2) A partner who, with knowledge of the dissolution, incurs a partnership liability under RCW 25.05.315(2) by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability.

[1998 c 103 § 806.]

RCW 25.05.330 Settlement of accounts and contributions among partners.

(1) In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, must be applied to discharge its obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus must be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subsection (2) of this section.

(2) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account, except, in the case of a limited liability partnership the partner shall make such contribution only to the extent of his or her share of any unpaid partnership obligations for which the partner has personal liability under RCW 25.05.125.

(3) If a partner fails to contribute the full amount required under subsection (2) of this

section, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations for which they are personally liable under RCW 25.05.125. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations for which the partner is personally liable under RCW 25.05.125.

(4) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under RCW 25.05.125.

(5) The estate of a deceased partner is liable for the partner's obligation to contribute to the partnership.

(6) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

[1998 c 103 § 807.]

ARTICLE 9 CONVERSIONS AND MERGERS

RCW 25.05.350 Definitions.

The definitions in this article [section] apply throughout this article unless the context clearly requires otherwise:

(1) "General partner" means a partner in a partnership and a general partner in a limited partnership.

(2) "Limited partner" means a limited partner in a limited partnership.

(3) "Limited partnership" means a limited partnership created under the Washington uniform limited partnership act, predecessor law, or comparable law of another jurisdiction.

(4) "Partner" includes both a general partner and a limited partner.

[1998 c 103 § 901.]

RCW 25.05.355 Conversion of partnership to limited partnership.

(1) A partnership may be converted to a limited partnership pursuant to this section.

(2) The terms and conditions of a conversion of a partnership to a limited partnership must be approved by all of the partners or by a number or percentage specified for conversion in the partnership agreement.

(3) After the conversion is approved by the partners, the partnership shall file a certificate of limited partnership in the jurisdiction in which the limited partnership is to be formed. The certificate must include:

(a) A statement that the partnership was converted to a limited partnership from a partnership;

(b) Its former name; and

(c) A statement of the number of votes cast by the partners for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement.

(4) If the partnership was converted to a domestic limited partnership, the certificate must also include:

(a) The name of the limited partnership;

(b) The address of the office for records and the name and address of the agent for service of process appointed pursuant to RCW 25.10.040;

(c) The name and the geographical and mailing address of each general partner;

(d) The latest date upon which the limited partnership is to dissolve; and

(e) Any other matters the general partners determine to include therein.

(5) The conversion takes effect when the certificate of limited partnership is filed or at any later date specified in the certificate.

(6) A general partner who becomes a limited partner as a result of the conversion remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. If the other party to a transaction with the limited partnership reasonably believes when entering the transaction that the limited partner is a general partner, the limited partner is liable for an obligation incurred by the limited partnership within ninety days after the conversion takes effect. The limited partner's liability for all other obligations of the limited partnership incurred after the conversion takes effect is that of a limited partner as provided in the Washington uniform limited partnership act.

[1998 c 103 § 902.]

RCW 25.05.360 Conversion of limited partnership to partnership.

(1) A limited partnership may be converted to a partnership pursuant to this section.

(2) Notwithstanding a provision to the contrary in a limited partnership agreement, the terms and conditions of a conversion of a limited partnership to a partnership must be approved by all of the partners.

(3) After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership.

(4) The conversion takes effect when the certificate of limited partnership is canceled.

(5) A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. Except as otherwise provided in RCW 25.05.125, the partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.

[1998 c 103 § 903.]

RCW 25.05.365 Effect of conversion--Entity unchanged.

(1) A partnership or limited partnership that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) All property owned by the converting partnership or limited partnership remains vested in the converted entity;

(b) All obligations of the converting partnership or limited partnership continue as obligations of the converted entity; and

(c) An action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred.

[1998 c 103 § 904.]

RCW 25.05.370 Merger of partnerships.

(1) One or more domestic partnerships may merge with one or more domestic partnerships, domestic limited partnerships, domestic limited liability companies, or domestic corporations pursuant to a plan of merger approved or adopted as provided in RCW 25.05.375.

(2) The plan of merger must set forth:

(a) The name of each partnership, limited liability company, limited partnership, and corporation planning to merge and the name of the surviving partnership, limited liability company, limited partnership, or corporation into which the other partnership, limited liability company, limited partnership, or corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the interests of each member of each limited liability company, the partnership interests in each partnership and each limited partnership, and the shares of each corporation party to the merger into the interests, shares, obligations, or other securities of the surviving or any other partnership, limited liability company, limited partnership, or corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the certificate of formation of the surviving limited liability company;

(b) Amendments to the certificate of limited partnership of the surviving limited partnership;

(c) Amendments to the articles of incorporation of the surviving corporation; and

(d) Other provisions relating to the merger.

(4) If the plan of merger does not specify a delayed effective date, it shall become effective upon the filing of articles of merger. If the plan of merger specifies a delayed effective time and date, the plan of merger becomes effective at the time and date specified. If the plan of merger specifies a delayed effective date but no time is specified, the plan of merger is effective at the close of business on that date. A delayed effective date for a plan of merger may not be later than the ninetieth day after the date it is filed.

[1998 c 103 § 905.]

RCW 25.05.375 Merger--Plan--Approval.

(1) Unless otherwise provided in the partnership agreement, approval of a plan of merger by a domestic partnership party to the merger shall occur when the plan is approved by all of the partners.

(2) If a domestic limited partnership is a party to the merger, the plan of merger shall be adopted and approved as provided in RCW 25.10.810.

(3) If a domestic limited liability company is a party to the merger, the plan of merger shall be adopted and approved as provided in RCW 25.15.400.

(4) If a domestic corporation is a party to the merger, the plan of merger shall be adopted and approved as provided in chapter 23B.11 RCW.

[1998 c 103 § 906.]

RCW 25.05.380 Articles of merger--Filing.

(1) Except as otherwise provided in subsection (2) of this section, after a plan of merger is approved or adopted, the surviving partnership, limited liability company, limited partnership, or corporation shall deliver to the secretary of state for filing articles of merger setting forth:

(a) The plan of merger;

(b) If the approval of any partners, members, or shareholders of one or more partnerships, limited liability companies, limited partnerships, or corporations party to the merger was not required, a statement to that effect; or

(c) If the approval of any partners, members, or shareholders of one or more of the partnerships, limited liability companies, limited partnerships, or corporations party to the merger was required, a statement that the merger was duly approved by such members, partners, and shareholders pursuant to RCW 25.15.400, 25.05.375, or chapter 23B.11 RCW.

(2) If the merger involves only two or more partnerships and one or more of such partnerships has filed a statement of partnership authority with the secretary of state, the surviving partnership shall file articles of merger as provided in subsection (1) of this section.

[1998 c 103 § 907.]

RCW 25.05.385 Effect of merger.

(1) When a merger takes effect:

(a) Every other partnership, limited liability company, limited partnership, or corporation that is party to the merger merges into the surviving partnership, limited liability company, limited partnership, or corporation and the separate existence of every partnership, limited liability company, limited partnership, or corporation except the surviving partnership, limited liability company, limited partnership, or corporation ceases;

(b) The title to all real estate and other property owned by each partnership, limited liability company, limited partnership, and corporation party to the merger is vested in the surviving partnership, limited liability company, limited partnership, or corporation without reversion or impairment;

(c) The surviving partnership, limited liability company, limited partnership, or corporation has all liabilities of each partnership, limited liability company, limited partnership, and corporation that is party to the merger;

(d) A proceeding pending against any partnership, limited liability company, limited partnership, or corporation that is party to the merger may be continued as if the merger did not occur or the surviving partnership, limited liability company, limited partnership, or corporation may be substituted in the proceeding for the partnership, limited liability company, limited partnership, or corporation whose existence ceased;

(e) The certificate of formation of the surviving limited liability company is amended to the extent provided in the plan of merger;

(f) The partnership agreement of the surviving limited partnership is amended to the extent provided in the plan of merger;

(g) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and

(h) The former members of every limited liability company party to the merger, the former holders of the partnership interests of every domestic partnership or limited partnership that is party to the merger, and the former holders of the shares of every domestic corporation that is party to the merger are entitled only to the rights provided in the plan of merger, or to their rights under this article, to their rights under RCW 25.10.900 through 25.10.955, or to their rights under chapter 23B.13 RCW.

(2) Unless otherwise agreed, a merger of a domestic partnership, including a domestic partnership which is not the surviving entity in the merger, shall not require the domestic partnership to wind up its affairs under article 8 of this chapter.

(3) Unless otherwise agreed, a merger of a domestic limited partnership, including a domestic limited partnership which is not the surviving entity in the merger, shall not require the domestic limited partnership to wind up its affairs under RCW 25.10.460 or pay its liabilities and distribute its assets under RCW 25.10.470.

(4) Unless otherwise agreed, a merger of a domestic limited liability company, including a domestic limited liability company which is not the surviving entity in the merger, shall not require the domestic limited liability company to wind up its affairs under RCW 25.15.295 or pay its liabilities and distribute its assets under RCW 25.15.300.

[1998 c 103 § 908.]

RCW 25.05.390 Merger--Foreign and domestic.

(1) One or more foreign partnerships, foreign limited liability companies, foreign limited partnerships, and foreign corporations may merge with one or more domestic partnerships,

domestic limited liability companies, domestic limited partnerships, or domestic corporations if:

(a) The merger is permitted by the law of the jurisdiction under which each foreign partnership was organized, each foreign limited liability company was formed, each foreign limited partnership was organized, and each foreign corporation was incorporated, and each foreign partnership, foreign limited liability company, foreign limited partnership, and foreign corporation complies with that law in effecting the merger;

(b) The surviving entity complies with RCW 25.05.380;

(c) Each domestic limited liability company complies with RCW 25.15.400;

(d) Each domestic limited partnership complies with RCW 25.10.810; and

(e) Each domestic corporation complies with RCW 23B.11.080.

(2) Upon the merger taking effect, a surviving foreign limited liability company, limited partnership, or corporation is deemed to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting members, partners, or shareholders of each domestic limited liability company, domestic limited partnership, or domestic corporation party to the merger.

[1998 c 103 § 909.]

RCW 25.05.395 Nonexclusive.

This article is not exclusive. Partnerships, limited partnerships, limited liability companies, or corporations may be converted or merged in any other manner provided by law.

[1998 c 103 § 910.]

ARTICLE 10
DISSENTERS' RIGHTS

RCW 25.05.420 Definitions.

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

(1) "Partnership" means the domestic partnership in which the dissenter holds or held a partnership interest, or the surviving partnership, limited liability company, limited partnership, or corporation by merger, whether foreign or domestic, of that partnership.

(2) "Dissenter" means a partner who is entitled to dissent from a plan of merger and who exercises that right when and in the manner required by this article.

(3) "Fair value," with respect to a dissenter's partnership interest, means the value of the partner's interest immediately before the effectuation of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable.

(4) "Interest" means interest from the effective date of the merger until the date of payment, at the average rate currently paid by the partnership on its principal bank loans or, if

none, at a rate that is fair and equitable under all the circumstances.

[1998 c 103 § 1001.]

RCW 25.05.425 Partner--Dissent--Payment of fair value.

(1) Except as provided in RCW 25.05.435 or 25.05.445(2), a partner in a domestic partnership is entitled to dissent from, and obtain payment of the fair value of the partner's interest in a partnership in the event of consummation of a plan of merger to which the partnership is a party as permitted by RCW 25.05.370 or 25.05.390.

(2) A partner entitled to dissent and obtain payment for the partner's interest in a partnership under this article may not challenge the merger creating the partner's entitlement unless the merger fails to comply with the procedural requirements imposed by this title, Title 23B RCW, RCW 25.10.800 through 25.10.840, or 25.15.430, as applicable, or the partnership agreement, or is fraudulent with respect to the partner or the partnership.

(3) The right of a dissenting partner in a partnership to obtain payment of the fair value of the partner's interest in the partnership shall terminate upon the occurrence of any one of the following events:

- (a) The proposed merger is abandoned or rescinded;
- (b) A court having jurisdiction permanently enjoins or sets aside the merger; or
- (c) The partner's demand for payment is withdrawn with the written consent of the partnership.

[1998 c 103 § 1002.]

RCW 25.05.430 Dissenters' rights--Notice--Timing.

(1) Not less than ten days prior to the approval of a plan of merger, the partnership must send a written notice to all partners who are entitled to vote on or approve the plan of merger that they may be entitled to assert dissenters' rights under this article. Such notice shall be accompanied by a copy of this article.

(2) The partnership shall notify in writing all partners not entitled to vote on or approve the plan of merger that the plan of merger was approved, and send them the dissenters' notice as required by RCW 25.05.440.

[1998 c 103 § 1003.]

RCW 25.05.435 Partner--Dissent--Voting restriction.

A partner of a partnership who is entitled to vote on or approve the plan of merger and who wishes to assert dissenters' rights must not vote in favor of or approve the plan of merger. A partner who does not satisfy the requirements of this section is not entitled to payment for the partner's interest in the partnership under this article.

[1998 c 103 § 1004.]

RCW 25.05.440 Partners--Dissenters' notice--Requirements.

(1) If the plan of merger is approved, the partnership shall deliver a written dissenters' notice to all partners who satisfied the requirements of RCW 25.05.435.

(2) The dissenters' notice required by RCW 25.05.430(2) or by subsection (1) of this section must be sent within ten days after the approval of the plan of merger, and must:

(a) State where the payment demand must be sent;

(b) Inform partners as to the extent transfer of the partner's interest in the partnership will be restricted as permitted by RCW 25.05.450 after the payment demand is received;

(c) Supply a form for demanding payment;

(d) Set a date by which the partnership must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice under this section is delivered; and

(e) Be accompanied by a copy of this article.

[1998 c 103 § 1005.]

RCW 25.05.445 Partner--Payment demand--Entitlement.

(1) A partner who demands payment retains all other rights of a partner in the partnership until the proposed merger becomes effective.

(2) A partner in a partnership sent a dissenters' notice who does not demand payment by the date set in the dissenters' notice is not entitled to payment for the partner's interest in the partnership under this article.

[1998 c 103 § 1006.]

RCW 25.05.450 Partners' interests--Transfer restriction.

The partnership agreement may restrict the transfer of partners' interests in the partnership from the date the demand for their payment is received until the proposed merger becomes effective or the restriction is released under this article.

[1998 c 103 § 1007.]

RCW 25.05.455 Payment of fair value--Requirements for compliance.

(1) Within thirty days of the later of the date the proposed merger becomes effective, or the payment demand is received, the partnership shall pay each dissenter who complied with RCW 25.05.445 the amount the partnership estimates to be the fair value of the dissenting partner's interest in the partnership, plus accrued interest.

(2) The payment must be accompanied by:

(a) Copies of the financial statements for the partnership for its most recent fiscal year;

- (b) An explanation of how the partnership estimated the fair value of the partner's interest in the partnership;
- (c) An explanation of how the accrued interest was calculated;
- (d) A statement of the dissenter's right to demand payment; and
- (e) A copy of this article.

[1998 c 103 § 1008.]

RCW 25.05.460 Merger--Not effective within sixty days--Transfer restrictions.

(1) If the proposed merger does not become effective within sixty days after the date set for demanding payment, the partnership shall release any transfer restrictions imposed as permitted by RCW 25.05.450.

(2) If, after releasing transfer restrictions, the proposed merger becomes effective, the partnership must send a new dissenters' notice as provided in RCW 25.05.430(2) and 25.05.440 and repeat the payment demand procedure.

[1998 c 103 § 1009.]

RCW 25.05.465 Dissenter's estimate of fair value--Notice.

(1) A dissenting partner may notify the partnership in writing of the dissenter's own estimate of the fair value of the dissenter's interest in the partnership, and amount of interest due, and demand payment of the dissenter's estimate, less any payment under RCW 25.05.460, if:

(a) The dissenter believes that the amount paid is less than the fair value of the dissenter's interest in the partnership, or that the interest due is incorrectly calculated;

(b) The partnership fails to make payment within sixty days after the date set for demanding payment; or

(c) The partnership, having failed to effectuate the proposed merger, does not release the transfer restrictions imposed on the partners' interests as permitted by RCW 25.05.450 within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the partnership of the dissenter's demand in writing under subsection (1) of this section within thirty days after the partnership made payment for the dissenter's interest in the partnership.

[1998 c 103 § 1010.]

RCW 25.05.470 Unsettled demand for payment--Proceeding--Parties--Appraisers.

(1) If a demand for payment under RCW 25.05.445 remains unsettled, the partnership shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the dissenting partner's interest in the partnership, and accrued interest. If the partnership does not commence the proceeding within the sixty-day

period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The partnership shall commence the proceeding in the superior court. If the partnership is a domestic partnership, it shall commence the proceeding in the county where its chief executive office is maintained.

(3) The partnership shall make all dissenters, whether or not residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their partnership interests in the partnership and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The partnership may join as a party to the proceeding any partner who claims to be a dissenter but who has not, in the opinion of the partnership, complied with the provisions of this article. If the court determines that such partner has not complied with the provisions of this article, the partner shall be dismissed as a party.

(5) The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decisions on the question of fair value. The appraisers have the powers described in the order appointing them or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(6) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's partnership interest in the partnership, plus interest, exceeds the amount paid by the partnership.

[1998 c 103 § 1011.]

RCW 25.05.475 Unsettled demand for payment--Costs--Fees and expenses of counsel.

(1) The court in a proceeding commenced under RCW 25.05.470 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the partnership, except that the court may assess the costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the partnership and in favor of any or all dissenters if the court finds the partnership did not substantially comply with the requirements of this article; or

(b) Against either the partnership or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the partnership, the court may award to these counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

[1998 c 103 § 1012.]

ARTICLE 11
LIMITED LIABILITY PARTNERSHIP

RCW 25.05.500 Formation--Registration--Application--Fee--Forms.

(1) A partnership which is not a limited liability partnership on June 11, 1998, may become a limited liability partnership upon the approval of the terms and conditions upon which it becomes a limited liability partnership by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions, and by filing the applications required by subsection (2) of this section. A partnership which is a limited liability partnership on June 11, 1998, continues as a limited liability partnership under this chapter.

(2) To become and to continue as a limited liability partnership, a partnership shall file with the secretary of state an application stating the name of the partnership; the address of its principal office; if the partnership's principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state which the partnership will be required to maintain; the number of partners; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

(3) The application shall be accompanied by a fee of one hundred seventy-five dollars for each partnership.

(4) The secretary of state shall register as a limited liability partnership any partnership that submits a completed application with the required fee.

(5) A partnership registered under this section shall pay an annual fee, in each year following the year in which its application is filed, on a date and in an amount specified by the secretary of state. The fee must be accompanied by a notice, on a form provided by the secretary of state, of the number of partners currently in the partnership and of any material changes in the information contained in the partnership's application for registration.

(6) Registration is effective immediately after the date an application is filed, and remains effective until:

(a) It is voluntarily withdrawn by filing with the secretary of state a written withdrawal notice executed by a majority of the partners or by one or more partners or other persons authorized to execute a withdrawal notice; or

(b) Thirty days after receipt by the partnership of a notice from the secretary of state, which notice shall be sent by first class mail, postage prepaid, that the partnership has failed to make timely payment of the annual fee specified in subsection (5) of this section, unless the fee is paid within such a thirty-day period.

(7) The status of a partnership as a limited liability partnership, and the liability of the partners thereof, shall not be affected by: (a) Errors in the information stated in an application

under subsection (2) of this section or a notice under subsection (6) of this section; or (b) changes after the filing of such an application or notice in the information stated in the application or notice.

(8) The secretary of state may provide forms for the application under subsection (2) of this section or a notice under subsection (6) of this section.

[1998 c 103 § 1101.]

RCW 25.05.505 Name.

The name of a limited liability partnership shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

[1998 c 103 § 1102.]

RCW 25.05.510 Rendering professional services.

(1) A person or group of persons licensed or otherwise legally authorized to render professional services, as defined in RCW 18.100.030, within this state may organize and become a member or members of a limited liability partnership under the provisions of this chapter for the purposes of rendering professional service. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a limited liability partnership organized for the purpose of rendering the same professional services. Nothing in this section prohibits a limited liability partnership from rendering professional services outside this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state.

(2)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.64, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may join and render their individual professional services through one limited liability partnership and are to be considered, for the purpose of forming a limited liability partnership, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) Notwithstanding any other provision of this chapter, health care professionals who are licensed pursuant to chapters 18.57 and 18.71 RCW may join and render their individual professional services through one limited liability partnership and are to be considered, for the purpose of forming a limited liability partnership, as rendering the "same specific professional services" or "same professional services" or similar terms.

(c) Formation of a limited liability partnership under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

[1998 c 103 § 1103.]

ARTICLE 12
FOREIGN LIMITED LIABILITY PARTNERSHIP

RCW 25.05.550 Law governing foreign limited liability partnership.

(1) The law under which a foreign limited liability partnership is formed governs relations among the partners and between the partners and the partnership and, except as otherwise provided in RCW 25.05.125(4), the liability of partners for obligations of the partnership.

(2) A foreign limited liability partnership may not be denied a statement of foreign qualification by reason of any difference between the law under which the partnership was formed and the law of this state.

(3) A statement of foreign qualification does not authorize a foreign limited liability partnership to engage in any business or exercise any power that a partnership may not engage in or exercise in this state as a limited liability partnership.

[1998 c 103 § 1201.]

RCW 25.05.555 Statement of foreign qualification.

Before transacting business in this state, a foreign limited liability partnership must register with the secretary of state under this chapter in the same manner as a limited liability partnership, except that if the foreign limited liability partnership's name contains the words "registered limited liability partnership" or the abbreviation "R.L.L.P." or "RLLP," it may include those words or abbreviations in its application with the secretary of state.

[1998 c 103 § 1202.]

RCW 25.05.560 Effect of failure to qualify.

(1) A foreign limited liability partnership transacting business in this state may not maintain an action or proceeding in this state unless it has in effect a registration as a foreign limited liability partnership.

(2) The failure of a foreign limited liability partnership to have in effect a registration as a foreign limited liability partnership does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this state.

(3) A limitation on personal liability of a partner is not waived solely by transacting business in this state without registration as a foreign limited liability partnership.

(4) If a foreign limited liability partnership transacts business in this state without a registration as a foreign limited liability partnership, the secretary of state is its agent for service of process with respect to a right of action arising out of the transaction of business in this state.

[1998 c 103 § 1203.]

RCW 25.05.565 Activities not constituting transacting business.

(1) Activities of a foreign limited liability partnership which do not constitute transacting business for the purpose of this article include:

- (a) Maintaining, defending, or settling an action or proceeding;
- (b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;
- (c) Maintaining bank accounts;
- (d) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositories with respect to those securities;
- (e) Selling through independent contractors;
- (f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
- (g) Creating or acquiring indebtedness, with or without a mortgage, or other security interest in property;
- (h) Collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;
- (i) Conducting an isolated transaction that is completed within thirty days and is not one in the course of similar transactions; and
- (j) Transacting business in interstate commerce.

(2) For purposes of this article, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this state.

(3) This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership to service of process, taxation, or regulation under any other law of this state.

[1998 c 103 § 1204.]

RCW 25.05.570 Action by attorney general.

The attorney general may maintain an action to restrain a foreign limited liability partnership from transacting business in this state in violation of this chapter.

[1998 c 103 § 1205.]

ARTICLE 13
MISCELLANEOUS PROVISIONS

RCW 25.05.901 Dates of applicability.

- (1) Before January 1, 1999, this chapter governs only a partnership formed:
- (a) After June 11, 1998, unless that partnership is continuing the business of a dissolved partnership under *RCW 25.04.410; and
 - (b) Before June 11, 1998, that elects, as provided by subsection (3) of this section, to be governed by this chapter.
- (2) Effective January 1, 1999, this chapter governs all partnerships.
- (3) Before January 1, 1999, a partnership voluntarily may elect, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by this chapter. The provisions of this chapter relating to the liability of the partnership's partners to third parties apply to limit those partners' liability to a third party who had done business with the partnership within one year preceding the partnership's election to be governed by this chapter, only if the third party knows or has received a notification of the partnership's election to be governed by this chapter.

[1998 c 103 § 1304.]

Notes:

***Reviser's note:** RCW 25.04.410 was repealed by 1998 c 103 § 1308, effective January 1, 1999.

RCW 25.05.902 Establishment of filing fees and miscellaneous charges--Secretary of state.

- (1) The secretary of state shall adopt rules establishing fees which shall be charged and collected for:
- (a) Filing of a statement;
 - (b) Filing of a certified copy of a statement that is filed in an office in another state;
 - (c) Filing amendments to any of the foregoing or any other certificate, statement, or report authorized or permitted to be filed; and
 - (d) Copies, certified copies, certificates, and expedited filings or other special services.
- (2) In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations covered by Title 23B RCW. Fees for copies, certified copies, and certificates of record shall be as provided for in RCW 23B.01.220.
- (3) All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law.

[1998 c 103 § 1306.]

RCW 25.05.903 Authority to adopt rules--Secretary of state.

The secretary of state shall adopt such rules as are necessary to implement the keeping of records required by this chapter.

[1998 c 103 § 1307.]

RCW 25.05.904 Uniformity of application and construction--1998 c 103.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.

[1998 c 103 § 1301.]

RCW 25.05.905 Short title--1998 c 103.

This chapter may be cited as the Washington revised uniform partnership act.

[1998 c 103 § 1302.]

RCW 25.05.906 Severability clause--1998 c 103.

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.

[1998 c 103 § 1303.]

RCW 25.05.907 Savings clause--1998 c 103.

This act does not affect an action or proceeding commenced or right accrued before June 11, 1998.

[1998 c 103 § 1305.]

**Chapter 25.10 RCW
LIMITED PARTNERSHIPS**

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Notes:

Reviser's note: Throughout this chapter the phrase "this act" has been changed to "this chapter." "This act" [1981 c 51] consists of this chapter and the repeal of chapters 25.08 and 25.98 RCW.

Materials specifically authorized to be printed and distributed by secretary of state: RCW 43.07.140.

Revolving fund of secretary of state, deposit of moneys for costs of carrying out secretary of state's functions under this chapter: RCW 43.07.130.

ARTICLE 1
GENERAL PROVISIONS

RCW 25.10.005 Periodic reports required--Contents--Due dates--Rules.

(1) A limited partnership formed or registered under this chapter shall deliver to the secretary of state for filing periodic reports that set forth:

- (a) The name of the limited partnership;

(b) The street address of its registered office and the name of its registered agent in this state;

(c) In the case of a foreign limited partnership, the address of its principle office in the state or country under the laws of which it is formed; and

(d) The address of the principle place of business of the limited partnership in this state.

(2) Periodic reports are due every five years on the anniversary date of the formation or registration of the limited partnership. The secretary of state may provide by rule for a longer period of time between reports. Periodic reports must be accompanied by a fee equal to the corporation license fee under Title 23B RCW.

(3) As to limited partnerships formed or registered before June 11, 1998, the secretary of state shall provide by administrative rule for a schedule under which the first reports under this section shall be due. The reports may not be due earlier than one year after June 11, 1998.

[1998 c 277 § 5.]

Notes:

Findings--1998 c 277: See note following RCW 25.10.079.

RCW 25.10.010 Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Certificate of limited partnership" means the certificate referred to in RCW 25.10.080, and the certificate as amended or restated.

(2) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in RCW 25.10.230.

(4) "Foreign limited partnership" means a partnership formed under laws other than the laws of this state and having as partners one or more general partners and one or more limited partners.

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(7) "Limited partnership" and "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(8) "Partner" means a limited or general partner.

(9) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(11) "Person" means a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(13) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined the document complies as to form with the applicable requirements of this chapter.

(14) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.

[1987 c 55 § 1; 1982 c 35 § 177; 1981 c 51 § 1.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 25.10.020 Name.

(1) The name of each limited partnership formed pursuant to this chapter as set forth in its certificate of limited partnership:

(a) Shall contain the words "limited partnership" or the abbreviation "LP" or "L.P.";

(b) May not contain the name of a limited partner unless (i) it is also the name of a general partner, or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(c) May not contain any of the following words or phrases: "Bank", "banking", "banker", "trust", "cooperative"; or any combination of the words "industrial" and "loan"; or any combination of any two or more of the words "building", "savings", "loan", "home", "association" and "society"; or any other words or phrases prohibited by any statute of this state;

(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:

(i) The name or reserved name of a foreign or domestic limited partnership;

(ii) The name of a limited liability company reserved, registered, or formed under the laws of this state or qualified to do business as a foreign limited liability company in this state under chapter 25.15 RCW;

(iii) The corporate name of a corporation incorporated or authorized to transact business in this state;

(iv) A corporate name reserved or registered under chapter 23B.04 RCW;

(v) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;

(vi) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;

(vii) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable; and

(viii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.

(2) A limited partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other limited partnership, company, corporation, limited liability partnership, or holder consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited partnership; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A limited partnership may use the name, including the fictitious name, of another domestic or foreign limited partnership, limited liability company, limited liability partnership, or corporation that is used in this state if the other entity is organized, incorporated, formed, or authorized to transact business in this state and the proposed user limited partnership:

(a) Has merged with the other limited partnership, limited liability company, limited liability partnership, or corporation; or

(b) Results from reorganization with the other limited partnership, limited liability company, or corporation.

(4) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(5) This chapter does not control the use of assumed business names or "trade names."

[1998 c 102 § 8; 1996 c 76 § 1; 1994 c 211 § 1309; 1991 c 269 § 1; (1991 c 72 § 47 repealed by 1991 sp.s. c 11 § 2); 1987 c 55 § 2; 1981 c 51 § 2.]

Notes:

Effective date--Severability--1994 c 211: See RCW 25.15.900 and 25.15.902.

Name of foreign limited partnership: RCW 25.10.510.

RCW 25.10.030 Reservation of name.

(1) The exclusive right to the use of a name may be reserved by:

(a) Any person intending to organize a limited partnership under this chapter and to adopt that name;

(b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;

(c) Any foreign limited partnership intending to register in this state and to adopt that name; and

(d) Any person intending to organize a foreign limited partnership and intending to have it registered in this state and adopt that name.

(2) The reservation shall be made by filing with the secretary of state an application, executed by the applicant, to reserve a specified name. If the secretary of state finds that the name is available for use by a domestic or foreign limited partnership, he or she shall reserve the name for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing and shall be nonrenewable.

The right to the exclusive use of a reserved name may be transferred to any other person by filing in the office of the secretary of state a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

[1991 c 269 § 2; 1981 c 51 § 3.]

RCW 25.10.040 Registered office and agent.

(1) Each limited partnership shall continuously maintain in this state an office which may but need not be a place of its business in this state, at which shall be kept the records required by RCW 25.10.050 to be maintained. The office shall be at a specific geographical location in this state and be identified by number, if any, and street or building address or rural route or other geographical address. The office shall not be identified only by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the office address.

(2) Each limited partnership shall continuously maintain in this state an agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state. The agent may, but need not, be located at the office identified in RCW 25.10.040(1). The agent's address shall be at a specific geographical location in this state and be identified by number, if any, and street or building address or rural route or other geographical address. The agent's address shall not be identified only by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the agent's geographic address.

(3) A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state. The registered agent so appointed by a limited partnership shall be an agent of such limited partnership upon whom any process, notice, or demand required or permitted by law to be served upon the limited partnership may be served. If a limited partnership fails to appoint or maintain a registered agent in this state, or if its registered agent cannot with reasonable diligence be found, then the secretary of state shall be an agent of such limited partnership upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the limited partnership at the office referred to in RCW 25.10.040(1). Any service so had on the secretary of state shall be returnable in no fewer than thirty days.

The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

Nothing in this section limits or affects the right to serve any process, notice, or demand required or permitted by law to be served upon a limited partnership in any other manner now or hereafter permitted by law.

Any registered agent may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail one copy thereof to the limited partnership. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

[1987 c 55 § 3; 1981 c 51 § 4.]

RCW 25.10.050 Records to be kept.

Each limited partnership shall keep at the office referred to in RCW 25.10.040(1) the following:

(1) A current list of the full name and last known address of each partner, specifying separately the general and limited partners;

(2) A copy of the certificate of limited partnership and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed;

(3) Copies of the limited partnership's federal, state, and local tax returns and reports, if

any, for the three most recent years;

(4) Copies of any then effective written partnership agreements and of any financial statements of the limited partnership for the three most recent years; and

(5) Unless contained in a written partnership agreement, a written statement of:

(a) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each partner and which each partner has agreed to contribute;

(b) The times at which or events on the happening of which any additional contributions agreed to be made by each partner are to be made;

(c) Any right of a partner to receive, or of a general partner to make, distributions to a partner which include a return of all or any part of the partner's contribution; and

(d) Any events upon the happening of which the limited partnership is to be dissolved and its affairs wound up.

The books and records are subject to inspection and copying at the reasonable request, and at the expense, of any partner during ordinary business hours.

[1987 c 55 § 4; 1981 c 51 § 5.]

RCW 25.10.060 Nature of business.

A limited partnership may carry on any business that a partnership without limited partners may carry on.

[1981 c 51 § 6.]

RCW 25.10.070 Business transactions of partner with the partnership.

Except as provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

[1981 c 51 § 7.]

RCW 25.10.075 Indemnification of agents of any corporation authorized.

See RCW 23B.17.030.

RCW 25.10.079 Notice of continued activity--Administrative activity--Limited application. (Expires January 1, 2006.)

(1) This section applies to all existing limited partnerships formed after June 6, 1945, and before January 1, 1982, under the authority of statutes effective before January 1, 1982.

(2) A limited partnership under this section shall notify the secretary of state, before January 1, 1999, that it continues to actively conduct business. The notice must be in writing, and must include its principle business address, the name of its registered agent, and the address of its

registered office. If the limited partnership has not previously appointed a registered agent or designated a registered office, it must do so.

(3) The secretary of state shall notify all limited partnerships under this section of the requirements of subsection (2) of this section within ninety days of June 11, 1998. The notice must be in writing, deposited into the mail postage prepaid, and addressed to the registered office of the limited partnership. If the secretary does not have a record of a registered office, the notice must be addressed to the principle business address or other address contained in the secretary's records.

(4) If the notice is returned as undeliverable, or if the limited partnership does not comply with subsection (2) of this section, then the secretary of state shall commence proceedings to administratively dissolve the limited partnership under RCW 25.10.455.

(5) Limited partnerships dissolved under subsection (4) of this section may be reinstated under RCW 25.10.457, except that if the notice was returned as undeliverable the limited partnership may be reinstated at any time within five years of dissolution.

[1998 c 277 § 2.]

Notes:

Expiration date--1998 c 277 §§ 1 and 2: "Sections 1 and 2 of this act expire January 1, 2006." [1998 c 277 § 6.]

Findings--1998 c 277: "The legislature finds that the maintenance of records regarding outdated limited partnerships, which no longer actively transact business, imposes an unnecessary financial burden on the state. The legislature also finds that the maintenance of outdated records regarding limited partnerships prevents the names of these partnerships from being available for use by new business entities. Based upon those findings, the purposes of chapter 277, Laws of 1998 are:

(1) To authorize the secretary of state to identify limited partnerships formed under legislation that predated the current Washington uniform limited partnership act that are no longer transacting business, and to dissolve them and make their names available for new business entities actively transacting business in this state; and

(2) To provide for a system under which the secretary of state's records of limited partnerships formed under current law are kept current and the records of limited partnerships no longer conducting business can be purged." [1998 c 277 § 1.]

ARTICLE 2 FORMATION; CERTIFICATE OF LIMITED PARTNERSHIP

RCW 25.10.080 Certificate of limited partnership.

(1) In order to form a limited partnership a certificate of limited partnership must be executed and duplicate originals filed in the office of the secretary of state. The certificate shall set forth:

- (a) The name of the limited partnership;
- (b) The address of the office for records and the name and address of the agent for service of process appointed pursuant to RCW 25.10.040;
- (c) The name and the geographical and mailing addresses of each general partner;

(d) If the limited partnership is to have a specific date of dissolution, the latest date upon which the limited partnership is to dissolve; and

(e) Any other matters the general partners determine to include therein.

(2) A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the secretary of state or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

[2000 c 169 § 5; 1987 c 55 § 5; 1981 c 51 § 8.]

RCW 25.10.090 Amendment to certificate--Restatement of certificate.

(1) A certificate of limited partnership is amended by filing duplicate originals of a certificate of amendment thereto in the office of the secretary of state. The certificate shall set forth:

- (a) The name of the limited partnership;
- (b) The date and place of filing of the original certificate of limited partnership; and
- (c) The amendment to the certificate of limited partnership.

(2) Within thirty days after the happening of any of the following events an amendment to a certificate of limited partnership reflecting the occurrence of the event or events shall be filed:

- (a) The admission of a new general partner;
- (b) The withdrawal of a general partner;
- (c) The continuation of the business under RCW 25.10.440 after an event of withdrawal of a general partner; or

(d) A change in the name of the limited partnership, a change in the office described in RCW 25.10.040(1), a change in the name or address of the agent for service of process, a change in the name or address of any general partner, or a change in the date upon which the limited partnership is to dissolve.

(3) A general partner who becomes aware that any statement in a certificate of limited partnership was false when made or that any arrangements or other facts described have changed, making the certificate inaccurate in any respect, shall promptly amend the certificate, but an amendment to show a change of address of a general partner need be filed only once every twelve months.

(4) A certificate of limited partnership may be amended at any time for any other proper purpose the general partners may determine.

(5) No person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subsection (2) of this section if the amendment is filed within the thirty-day period specified in subsection (2) of this section.

(6) A certificate of limited partnership is restated by filing duplicate originals of a certificate of restatement in the office of the secretary of state. The certificate shall set forth:

- (a) The name of the limited partnership;

- (b) The date and place of filing of the original certificate; and
- (c) A statement setting forth all operative provisions of the certificate of limited partnership as theretofore amended together with a statement that the restated articles correctly set forth without change the provisions of the certificate of limited partnership as theretofore amended and that the restated certificate supersedes the original certificate and all amendments thereto.

[1987 c 55 § 6; 1981 c 51 § 9.]

RCW 25.10.100 Cancellation of certificate.

(1) Upon the dissolution and completion of winding up of a limited partnership or at any time there are no limited partners, duplicate originals of a certificate of cancellation shall be filed with the secretary of state and set forth:

- (a) The name of the limited partnership;
- (b) The date and place of filing of its original certificate of limited partnership;
- (c) The reason for dissolution;
- (d) The effective date, which shall be a later date certain, of cancellation if it is not to be effective upon the filing of the certificate; and
- (e) Any other information the person filing the certificate determines.

(2) A certificate of limited partnership shall be canceled upon the effective date of a certificate of cancellation.

(3) A certificate of limited partnership for a domestic limited partnership which is not the surviving entity in a merger shall be canceled upon the effective date of the merger.

[1991 c 269 § 3; 1987 c 55 § 7; 1981 c 51 § 10.]

RCW 25.10.110 Execution of documents.

(1) Each document required by this article to be filed in the office of the secretary of state shall be executed in the following manner:

(a) Each original certificate of limited partnership must be signed by all general partners named therein;

(b) A certificate of amendment or restatement must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner;

(c) A certificate of cancellation must be signed by all general partners or the limited partners winding up the partnership pursuant to RCW 25.10.460;

(d) If a surviving domestic limited partnership is filing articles of merger, the articles of merger must be signed by at least one general partner of the domestic limited partnership, or if the articles of merger are being filed by a surviving foreign limited partnership or by a corporation, the articles of merger must be signed by a person authorized by such foreign limited partnership or corporation; and

(e) A foreign limited partnership's application for a certificate of authority must be signed

by one of its general partners.

(2) Any person may sign a certificate, articles of merger, or partnership agreement by an attorney-in-fact: PROVIDED, That each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by a partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

[1991 c 269 § 4; 1987 c 55 § 8; 1981 c 51 § 11.]

RCW 25.10.120 Execution of certificate by judicial act.

If a person required by RCW 25.10.110 to execute a certificate fails or refuses to do so, any other person who is adversely affected by the failure or refusal, may petition any court of competent jurisdiction to direct the execution. If the court finds that it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, the court shall order the secretary of state to record an appropriate certificate.

[1987 c 55 § 9; 1981 c 51 § 12.]

RCW 25.10.130 Filing in office of secretary of state.

(1) Two signed copies of the certificate of limited partnership and of any certificates of amendment, restatement, or cancellation (or of any judicial decree of amendment or cancellation) shall be delivered to the secretary of state. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the secretary of state finds that any certificate does not conform to law, upon receipt of all filing fees required by law the secretary of state shall:

(a) Endorse on each duplicate original the word "Filed" and the effective date of the filing;

(b) File one duplicate original; and

(c) Return the other duplicate original to the person who filed it or the person's representative.

(2) Upon the filing of a certificate of amendment or restatement, or judicial decree of amendment, in the office of the secretary of state, the certificate of limited partnership shall be amended or restated as set forth therein, and upon the effective date of a certificate of cancellation or a judicial decree thereof, the certificate of limited partnership is canceled.

[1991 c 269 § 5; 1987 c 55 § 10; 1982 c 35 § 178; 1981 c 51 § 13.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 25.10.140 Liability for false statement in certificate.

If any certificate of limited partnership or certificate of amendment, restatement, or cancellation contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from:

(1) Any person who executes the certificate, or causes another to execute it on his behalf, and knew, and any general partner who knew or should have known, the statement to be false at the time the certificate was executed; and

(2) Any general partner who thereafter knows or should have known that any arrangement or other fact described in the certificate has changed, making the statement inaccurate in any respect within a sufficient time before the statement was relied upon reasonably to have enabled that general partner to cancel or amend the certificate, or to file a petition for its cancellation or amendment under RCW 25.10.120.

[1991 c 269 § 6; 1987 c 55 § 11; 1981 c 51 § 14.]

RCW 25.10.150 Notice.

(1) The fact that a certificate of limited partnership is on file in the office of the secretary of state is notice that the partnership is a limited partnership and the persons designated therein as general partners are general partners, but is not notice of any other fact.

(2) A restated certificate of limited partnership shall be notice that the prior certificate of limited partnership and all amendments thereto are superseded.

[1987 c 55 § 12; 1981 c 51 § 15.]

RCW 25.10.160 Delivery of certificates to limited partners.

Upon the return by the secretary of state pursuant to RCW 25.10.130 of a certificate marked "Filed", the general partners shall promptly deliver or mail a copy of the certificate of limited partnership and each certificate of amendment, restatement, or cancellation to each limited partner unless the partnership agreement provides otherwise.

[1991 c 269 § 7; 1987 c 55 § 13; 1981 c 51 § 16.]

ARTICLE 3
LIMITED PARTNERS

RCW 25.10.170 Admission of limited partners.

(1) A person becomes a limited partner on the later of:

(a) The date the original certificate of limited partnership is filed; or

(b) The date stated in the records of the limited partnership as the date that person becomes a limited partner.

(2) After the filing of a limited partnership's original certificate of limited partnership, a person may be admitted as an additional limited partner:

(a) In the case of a person acquiring a partnership interest directly from the limited partnership, upon the compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all partners; and

(b) In the case of an assignee of a partnership interest of a partner who has the power, as provided in RCW 25.10.420, to grant the assignee the right to become a limited partner, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power.

[1987 c 55 § 14; 1981 c 51 § 17.]

RCW 25.10.180 Voting.

Subject to RCW 25.10.190, the partnership agreement may grant to all or a specified group of the limited partners the right to vote on a per capita or other basis upon any matter.

[1981 c 51 § 18.]

RCW 25.10.190 Liability to third parties.

(1) Except as provided in subsection (4) of this section, a limited partner is not liable for the obligations of a limited partnership unless the limited partner is also a general partner or, in addition to the exercise of rights and powers as a limited partner, the limited partner participates in the control of the business. However, if the limited partner participates in the control of the business, the limited partner is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner.

(2) A limited partner does not participate in the control of the business within the meaning of subsection (1) of this section solely by doing one or more of the following:

(a) Being a contractor for or an agent or employee of the limited partnership or of a general partner, or being an officer, director, or shareholder of a general partner that is a corporation;

(b) Consulting with and advising a general partner with respect to the business of the limited partnership;

(c) Acting as surety for the limited partnership or guaranteeing or assuming one or more specific obligations of the limited partnership or providing collateral for partnership obligations;

(d) Taking any action required or permitted by law to bring or pursue a derivative action in the right of the limited partnership;

(e) Requesting or attending a meeting of partners;

(f) Proposing, approving, or disapproving, by voting or otherwise, on one or more of the

following matters:

- (i) The dissolution and winding up of the limited partnership;
 - (ii) The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited partnership;
 - (iii) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business;
 - (iv) A change in the nature of its business;
 - (v) The admission or removal of a limited partner;
 - (vi) The admission or removal of a general partner;
 - (vii) A transaction involving an actual or potential conflict of interest between a general partner and the limited partnership or the limited partners;
 - (viii) An amendment to the partnership agreement or certificate of limited partnership; or
 - (ix) Matters related to the business of the limited partnership not otherwise enumerated in this subsection (2), that the partnership agreement states in writing may be subject to the approval or disapproval of limited partners or a committee of limited partners;
- (g) Winding up the limited partnership pursuant to RCW 25.10.460 or conducting the affairs of the limited partnership during any portion of the ninety days referred to in RCW 25.10.440; or
- (h) Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in this subsection (2).
- (3) The enumeration in subsection (2) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him in the control of the business of the limited partnership.
- (4) A limited partner who knowingly permits his name to be used in the name of the limited partnership, except under circumstances permitted by *RCW 25.10.020(2), is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

[1987 c 55 § 15; 1981 c 51 § 19.]

Notes:

***Reviser's note:** RCW 25.10.020 was amended by 1991 c 269 § 1, changing subsection (2) to subsection (1)(b).

RCW 25.10.200 Person erroneously believing that he or she is limited partner.

(1) Except as provided in subsection (2) of this section, a person who makes a contribution to a business enterprise and erroneously but in good faith believes that he or she has become a limited partner in the enterprise is not a general partner in the enterprise and is not bound by its obligations by reason of making the contribution, receiving distributions from the enterprise, or exercising any rights of a limited partner, if, within a reasonable time after ascertaining the mistake, the person:

- (a) Causes an appropriate certificate of limited partnership or a certificate of amendment to be executed and filed; or

(b) Withdraws from future equity participation in the enterprise by executing and filing in the office of the secretary of state a certificate or statement declaring withdrawal under this section.

(2) A person who makes a contribution of the kind described in subsection (1) of this section is liable as a general partner to any third party who transacts business with the enterprise (a) before the person withdraws and an appropriate certificate is filed to show withdrawal, or (b) before an appropriate certificate is filed to show that the person is not a general partner, but in either case only if the third party actually believed in good faith that the person was a general partner at the time of the transaction.

[1987 c 55 § 16; 1983 c 302 § 1; 1981 c 51 § 20.]

RCW 25.10.210 Information.

Each limited partner or limited partner's agent or attorney has the right to:

(1) Inspect and copy any of the partnership records required to be maintained by RCW 25.10.050; and

(2) Obtain from the general partners from time to time upon reasonable demand (a) true and full information regarding the state of the business and financial condition of the limited partnership, (b) promptly after becoming available, a copy of the limited partnership's federal income tax returns and state business and occupation tax return for each year, and (c) other information regarding the affairs of the limited partnership as is just and reasonable.

[1991 c 269 § 10; 1987 c 55 § 17; 1981 c 51 § 21.]

ARTICLE 4
GENERAL PARTNERS

RCW 25.10.220 Admission of additional general partners.

Unless otherwise provided in the partnership agreement, after the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted only with the specific written consent of each general partner, if any, and limited partners representing at least two-thirds of the agreed value, as stated in the records of the partnership required to be kept under RCW 25.10.050, of contributions made, or required to be made, by all limited partners.

[2000 c 169 § 6; 1981 c 51 § 22.]

RCW 25.10.230 Events of withdrawal of general partner.

Except as approved by the specific written consent of all partners at the time, a person ceases to be a general partner of a limited partnership, and the person or its successor in interest attains the status of an assignee as set forth in RCW 25.10.400(1), upon the happening of any of

the following events:

(1) The general partner withdraws from the limited partnership as provided in RCW 25.10.320;

(2) The general partner ceases to be a member of the limited partnership as provided in RCW 25.10.400;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided in writing in the partnership agreement, the general partner:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudicated a bankrupt or insolvent;

(d) Files a petition or answer seeking for himself or herself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him or her in any proceeding of this nature; or

(f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of his or her properties;

(5) Unless otherwise provided in the certificate of limited partnership, ninety days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within sixty days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner of all or any substantial part of his or her properties, the appointment is not vacated or stayed, or within sixty days after the expiration of any such stay, the appointment is not vacated;

(6) In the case of a general partner who is a natural person:

(a) His or her death; or

(b) The entry by a court of competent jurisdiction adjudicating the general partner incompetent to manage his or her person or estate;

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

(8) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

(9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

(10) In the case of an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

[2000 c 169 § 7; 1987 c 55 § 18; 1981 c 51 § 23.]

RCW 25.10.240 General powers and liabilities of general partner.

(1) Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(2) Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the limited partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the limited partnership and to the other partners.

[1987 c 55 § 19; 1983 c 302 § 2; 1981 c 51 § 24.]

RCW 25.10.250 Contributions by a general partner.

A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions to and share in profits, losses, and distributions as a limited partner. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his or her participation in the partnership as a limited partner.

[1987 c 55 § 20; 1981 c 51 § 25.]

RCW 25.10.260 Voting.

The partnership agreement may grant to all or certain identified general partners the right to vote on a per capita or any other basis, separately or with all or any class of the limited partners, on any matter.

[1981 c 51 § 26.]

ARTICLE 5
FINANCE

RCW 25.10.270 Form of contribution.

The contribution of a partner may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

[1981 c 51 § 27.]

Notes:

Prospective application: RCW 25.10.650.

RCW 25.10.280 Liability for contributions.

(1) Except as provided in the partnership agreement, a partner is obligated to the limited partnership to perform any promise to contribute cash or property or to perform services, even if the partner is unable to perform because of death, disability, or any other reason. If a partner does not make the required contribution of property or services, the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the value, as stated in the partnership agreement or, if not stated in the agreement, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the stated contribution that has not been made.

(2) Unless otherwise provided in the partnership agreement, the obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the partners. Notwithstanding the compromise, a creditor of a limited partnership who extends credit, or whose claim arises, after the entering into of a partnership agreement or an amendment thereto which, in either case, reflects the obligation, and before the amendment or cancellation thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a partner to make a contribution.

[1987 c 55 § 21; 1981 c 51 § 28.]

Notes:

Prospective application: RCW 25.10.650.

RCW 25.10.290 Sharing of profits and losses.

The profits and losses of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated on the basis of the value, as stated in the partnership agreement or, if not stated therein, in the limited partnership records required to be kept pursuant to RCW 25.10.050(5), of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

[1987 c 55 § 22; 1981 c 51 § 29.]

RCW 25.10.300 Sharing of distributions.

Distributions of cash or other assets of a limited partnership shall be allocated among the partners, and among classes of partners, in the manner provided in the partnership agreement. If the partnership agreement does not so provide, distributions shall be made on the basis of the value, as stated in the partnership agreement or, if not stated therein, in the limited partnership

records required to be kept pursuant to RCW 25.10.050(5), of the contributions made by each partner to the extent they have been received by the limited partnership and have not been returned.

[1987 c 55 § 23; 1981 c 51 § 30.]

ARTICLE 6 DISTRIBUTIONS AND WITHDRAWAL

RCW 25.10.310 Interim distributions.

Except as provided in this article, a partner is entitled to receive distributions from a limited partnership before the partner's withdrawal from the limited partnership and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the partnership agreement.

[1987 c 55 § 24; 1982 c 35 § 179; 1981 c 51 § 31.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 25.10.320 Withdrawal of general partner.

A general partner may withdraw from a limited partnership at any time by giving written notice to the other partners, but if the withdrawal violates the partnership agreement, the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and offset the damages against the amount otherwise distributable to him.

[1981 c 51 § 32.]

RCW 25.10.330 Withdrawal of limited partner.

A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in and in accordance with the partnership agreement. If the partnership agreement does not specify the time or the events upon the happening of which a limited partner may withdraw, a limited partner may not withdraw prior to the time for the dissolution and winding up of the limited partnership.

[1996 c 76 § 2; 1987 c 55 § 25; 1981 c 51 § 33.]

RCW 25.10.340 Distribution upon withdrawal.

Except as provided in this article, upon withdrawal any withdrawing partner is entitled to receive any distribution to which he or she is entitled under the partnership agreement and, if not otherwise provided in the partnership agreement, the partner is entitled to receive, within a

reasonable time after withdrawal, the fair value of his or her interest in the limited partnership as of the date of withdrawal based upon his or her right to share in distributions from the limited partnership.

[1987 c 55 § 26; 1981 c 51 § 34.]

RCW 25.10.350 Distribution in kind.

Except as provided in the partnership agreement, a partner, regardless of the nature of his or her contribution, has no right to demand and receive any distribution from a limited partnership in any form other than cash. Except as provided in the partnership agreement, a partner may not be compelled to accept a distribution of any asset in kind from a limited partnership to the extent that the percentage of the asset distributed to the partner exceeds a percentage of that asset which is equal to the percentage in which he or she shares in distributions from the limited partnership.

[1987 c 55 § 27; 1981 c 51 § 35.]

RCW 25.10.360 Right to distribution.

At the time a partner becomes entitled to receive a distribution, he has the status of and is entitled to all remedies available to a creditor of the limited partnership with respect to the distribution.

[1981 c 51 § 36.]

RCW 25.10.370 Limitations on distributions.

(1) A limited partnership shall not make a distribution to a partner to the extent that at the time of the distribution, after giving effect to the distribution, (a) the limited partnership would not be able to pay its debts as they become due in the usual course of business, or (b) all liabilities of the limited partnership, other than liabilities to partners on account of their partnership interests and liabilities for which the recourse of creditors is limited to specified property of the limited partnership, exceed the fair value of the assets of the limited partnership, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited partnership only to the extent that the fair value of that property exceeds that liability.

(2)(a) A limited partner who receives a distribution in violation of subsection (1) of this section, and who knew at the time of the distribution that the distribution violated subsection (1) of this section, shall be liable to the limited partnership for the amount of the distribution.

(b) A limited partner who receives a distribution in violation of subsection (1) of this section, and who did not know at the time of the distribution that the distribution violated subsection (1) of this section, shall not be liable for the amount of the distribution. This subsection (2)(b) shall not affect any obligation or liability of a limited partner under a

partnership agreement or other applicable law for the amount of a distribution.

(3) A limited partner who receives a distribution from a limited partnership shall have no liability under this chapter for the amount of the distribution after the expiration of three years from the date of the distribution, except to the extent such limited partner shall have agreed in writing to extend liability beyond the expiration of the three-year period.

[1991 c 269 § 29; 1987 c 55 § 28; 1981 c 51 § 37.]

ARTICLE 7 ASSIGNMENT OF PARTNERSHIP INTERESTS

RCW 25.10.390 Nature of partnership interest.

A partnership interest is personal property.

[1981 c 51 § 39.]

RCW 25.10.400 Assignment of partnership interest--Certificate of partnership interest.

(1) Unless otherwise provided in the partnership agreement:

(a) A partnership interest is assignable in whole or in part;

(b) An assignment of a partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights or powers of a partner;

(c) An assignment entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(d) A partner ceases to be a partner and to have the power to exercise any rights or powers of a partner upon assignment of all of his or her partnership interest.

(2) The partnership agreement may provide that a partner's interest in a limited partnership may be evidenced by a certificate of partnership interest issued by the limited partnership and may also provide for the assignment or transfer of any partnership interest represented by such a certificate and make other provisions with respect to such certificates.

[1987 c 55 § 30; 1981 c 51 § 40.]

RCW 25.10.410 Rights of creditor.

On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

[1981 c 51 § 41.]

RCW 25.10.420 Right of assignee to become limited partner.

(1) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (a) the assignor gives the assignee that right in accordance with authority described in the partnership agreement, or (b) all other partners consent.

(2) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of his or her assignor to make and return contributions as provided in Articles 5 and 6 of this chapter. However, the assignee is not obligated for liabilities unknown to the assignee at the time he or she became a limited partner.

(3) If an assignee of a partnership interest becomes a limited partner, the assignor is not released from his or her liability to the limited partnership under RCW 25.10.140 and 25.10.280.

[1987 c 55 § 31; 1981 c 51 § 42.]

Notes:

Prospective application: RCW 25.10.650.

RCW 25.10.430 Power of estate of deceased or incompetent partner.

If a partner who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all of the partner's rights for the purpose of settling the partner's estate or administering the partner's property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

[1981 c 51 § 43.]

ARTICLE 8
DISSOLUTION

RCW 25.10.440 Nonjudicial dissolution.

A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(1) The dissolution date, if any, specified in the certificate of limited partnership. If a dissolution date is not specified in the certificate of limited partnership, the limited partnership's

existence shall continue until the first to occur of the events described in subsections (2) through (6) of this section. If a dissolution date is specified in the certificate of limited partnership and unless the limited partnership agreement provides otherwise, the certificate of limited partnership may be amended and the existence of the limited partnership may be extended by the vote of all the partners;

(2) Upon the happening of events specified in the partnership agreement;

(3) Written consent of all partners;

(4) Unless the limited partnership agreement provides otherwise, ninety days following:

(a) The withdrawal of, or the assignment of the interest of, the last remaining limited partner if by the ninetieth day a majority of the number of general partners have failed to vote to admit one or more limited partners; or

(b) An event of withdrawal with respect to the last remaining general partner if by the ninetieth day the limited partners have failed to vote to admit one or more general partners. For the purposes of this subsection (4)(b) and unless the limited partnership agreement provides otherwise, the vote of the limited partners shall be the vote of limited partners representing two-thirds of the total agreed value, as stated in the records of the partnership required to be kept under RCW 25.10.050, of contributions made, or required to be made, by all limited partners;

(5) Entry of a decree of judicial dissolution under RCW 25.10.450; or

(6) Administrative dissolution under RCW 25.10.455.

[2000 c 169 § 8; 1996 c 76 § 3; 1991 c 269 § 30; 1987 c 55 § 32; 1981 c 51 § 44.]

RCW 25.10.450 Judicial dissolution.

On application by or for a partner, the superior courts may decree dissolution of a limited partnership whenever: (1) It is not reasonably practicable to carry on the business in conformity with the partnership agreement; or (2) when other circumstances render dissolution equitable.

[1981 c 51 § 45.]

RCW 25.10.453 Administrative dissolution--Commencement of proceeding.

The secretary of state may commence a proceeding under RCW 25.10.455 to administratively dissolve a limited partnership if:

(1) An amendment to the certificate of limited partnership required by RCW 25.10.090(2)(c) is not filed when specified by that provision;

(2) The limited partnership is without a registered agent or registered office in this state for sixty days or more;

(3) The limited partnership does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued; or

(4) The limited partnership does not deliver its completed periodic report to the secretary of state when it is due.

[1998 c 277 § 3; 1991 c 269 § 31.]

Notes:

Findings--1998 c 277: See note following RCW 25.10.079.

RCW 25.10.455 Administrative dissolution--Notice--Opportunity to correct deficiencies.

(1) If the secretary of state determines that one or more grounds exist under RCW 25.10.453 for dissolving a limited partnership, the secretary of state shall give the limited partnership written notice of the determination by first class mail, postage prepaid reciting the grounds therefor. Notice shall be sent to the address of the office for records and address of the agent for service of process contained in the certificate having this information which is most recently filed with the secretary of state.

(2) If the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is sent, the limited partnership is thereupon dissolved, the secretary of state shall give the limited partnership written notice of the dissolution that recites the ground or grounds therefor and its effective date.

(3) A limited partnership administratively dissolved continues its limited partnership existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs.

(4) The administrative dissolution of a limited partnership does not terminate the authority of its registered agent.

[1991 c 269 § 32.]

RCW 25.10.457 Administrative dissolution--Reinstatement--Application--When effective.

(1) A limited partnership administratively dissolved under RCW 25.10.455 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must:

(a) Recite the name of the limited partnership and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) State that the limited partnership's name satisfies the requirements of RCW 25.10.020.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited partnership and give the limited partnership written notice, as provided in RCW 25.10.455(1) of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited partnership must file with its application for reinstatement an amendment to its certificate of limited partnership reflecting a change of name.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership may resume carrying on its business as if the administrative dissolution had never occurred.

(4) If an application for reinstatement is not made within the two-year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the secretary of state shall cancel the limited partnership's certificate of limited partnership.

[1991 c 269 § 33.]

RCW 25.10.460 Winding up.

Except as provided in the partnership agreement, the general partners who have not wrongfully dissolved a limited partnership or, if none, the limited partners, may wind up the limited partnership's affairs. The superior courts may wind up the limited partnership's affairs upon application of any partner, that partner's legal representative, or assignee.

[1981 c 51 § 46.]

RCW 25.10.470 Distribution of assets.

Upon the winding up of a limited partnership, the assets shall be distributed as follows:

(1) To creditors, including partners who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited partnership other than liabilities for distribution to partners under RCW 25.10.310 or 25.10.340;

(2) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under RCW 25.10.310 or 25.10.340; and

(3) Except as provided in the partnership agreement, to partners first for the return of their contributions and secondly respecting their partnership interests, in the proportions in which the partners share in distributions.

[1981 c 51 § 47.]

ARTICLE 9
FOREIGN LIMITED PARTNERSHIPS

RCW 25.10.480 Law governing.

Subject to the Constitution of the state of Washington, (1) the laws of the state, province, or other jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (2) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

[1981 c 51 § 48.]

RCW 25.10.490 Registration.

Before transacting business in this state, a foreign limited partnership shall register with the secretary of state. In order to register, a foreign limited partnership shall submit to the secretary of state, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

(1) The name of the foreign limited partnership as set forth in its certificate of limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state, province, or other jurisdiction under which the foreign limited partnership was organized and the date of its formation;

(3) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership appoints pursuant to RCW 25.10.040(2) and (3). The agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in this state;

(4) A statement that the secretary of state is appointed the agent of the foreign limited partnership for service of process if the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(5) The address of the office required to be maintained in the state or other jurisdiction of its organization by the laws of that state or other jurisdiction or, if not so required, of the principal office of the foreign limited partnership;

(6) The name and business address of each general partner;

(7) The addresses of the office at which a list is kept of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled; and

(8) If the foreign limited partnership was organized under laws of a jurisdiction other than another state, a copy of a written partnership agreement, in English language.

[1987 c 55 § 33; 1981 c 51 § 49.]

RCW 25.10.500 Issuance of registration.

(1) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary shall:

(a) Endorse on the application the word "Filed", and the month, day, and year of the filing thereof;

(b) File in his or her office a duplicate original of the application; and

(c) Issue a certificate of registration to transact business in this state.

(2) The certificate of registration, together with a duplicate original of the application, shall be returned to the person who filed the application or his representative.

[1981 c 51 § 50.]

RCW 25.10.510 Name--Foreign limited partnership.

A foreign limited partnership may register with the secretary of state under any name, whether or not it is the name under which it is registered in its place of organization, that includes the words "limited partnership" or the abbreviation "L.P." and that could be registered by a domestic limited partnership.

[1987 c 55 § 34; 1981 c 51 § 51.]

Notes:

Name of limited partnership: RCW 25.10.020, 25.10.030.

RCW 25.10.520 Changes and amendments.

If any statement in the application for registration of a foreign limited partnership was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the general partner of the foreign limited partnership shall promptly file in the office of the secretary of state a certificate, signed and sworn to by a general partner, correcting such statement.

[1981 c 51 § 52.]

RCW 25.10.530 Cancellation of registration.

A foreign limited partnership may cancel its registration by filing with the secretary of state a certificate of cancellation signed and sworn to by a general partner. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this state.

[1981 c 51 § 53.]

RCW 25.10.540 Transaction of business without registration.

(1) A foreign limited partnership transacting business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

(2) The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(3) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.

(4) Without excluding other activities which may not constitute transacting business in

this state, a foreign limited partnership shall not be considered to be transacting business in this state, for the purposes of this title, by reason of carrying on in this state any one or more of the following activities:

(a) Defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(b) Holding meetings of its partners or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Maintaining offices or agencies for the transfer, exchange, and registration of its interests, or appointing and maintaining trustees or depositaries with relation to its interests.

(e) Effecting sales through independent contractors.

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.

(g) Creating evidences of debt, mortgages, or liens on real or personal property.

(h) Securing or collecting debts or enforcing any rights in property securing the same.

(i) Transacting any business in interstate commerce.

(j) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

(5) A foreign limited partnership, by transacting business in this state without registration, appoints the secretary of state as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

[1981 c 51 § 54.]

RCW 25.10.550 Action by secretary of state.

The secretary of state may bring an action to restrain a foreign limited partnership from transacting business in this state in violation of this article.

[1981 c 51 § 55.]

RCW 25.10.553 Revocation of registration--Commencement of proceeding.

The secretary of state may commence a proceeding under RCW 25.10.555 to revoke registration of a foreign limited partnership authorized to transact business in this state if:

(1) The foreign limited partnership is without a registered agent or registered office in this state for sixty days or more;

(2) The foreign limited partnership does not inform the secretary of state under RCW 25.10.520 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty days of the change, resignation, or discontinuance;

(3) A general partner or other agent of the foreign limited partnership signed a document

knowing it was false in any material respect with intent that the document be delivered to the secretary of state for filing;

(4) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of partnership records in the jurisdiction under which the foreign limited partnership was organized stating that the foreign limited partnership has been dissolved or its limited partnership certificate canceled; or

(5) The foreign limited partnership does not deliver its completed periodic report to the secretary of state when it is due.

[1998 c 277 § 4; 1991 c 269 § 43.]

Notes:

Findings--1998 c 277: See note following RCW 25.10.079.

RCW 25.10.555 Revocation of registration--Notice--Opportunity to correct deficiencies.

(1) If the secretary of state determines that one or more grounds exist under RCW 25.10.553 for revocation of a foreign limited partnership's registration, the secretary of state shall give the foreign limited partnership written notice of the determination by first class mail, postage prepaid, stating in the notice the ground or grounds for and effective date of the secretary of state's determination, which date shall not be earlier than the date on which the notice is mailed.

(2) If the foreign limited partnership does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is effective, the secretary of state shall revoke the foreign limited partnership's registration by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and mail a copy to the foreign limited partnership.

(3) Documents to be mailed by the secretary of state to a foreign limited partnership for which provision is made in this section shall be sent to the foreign limited partnership at the address of the agent for service of process contained in the application or certificate of this partnership which is most recently filed with the secretary of state.

(4) The authority of a foreign limited partnership to transact business in this state ceases on the date shown on the certificate revoking its registration.

(5) The secretary of state's revocation of a foreign limited partnership's registration appoints the secretary of state the foreign limited partnership's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited partnership was authorized to transact business in this state.

(6) Revocation of a foreign limited partnership's registration does not terminate the authority of the registered agent of the foreign limited partnership.

[1991 c 269 § 44.]

ARTICLE 10
DERIVATIVE ACTIONS

RCW 25.10.560 Right of action.

A limited partner may bring an action in the right of a limited partnership to recover a judgment in its favor if general partners with authority to do so have refused to bring the action or if an effort to cause those general partners to bring the action is not likely to succeed.

[1981 c 51 § 56.]

RCW 25.10.570 Proper plaintiff.

In a derivative action, the plaintiff must be a partner at the time of bringing the action and (1) at the time of the transaction of which he complains or (2) his status as a partner had devolved upon him by operation of law or pursuant to the terms of the partnership agreement from a person who was a partner at the time of the transaction.

[1981 c 51 § 57.]

RCW 25.10.580 Pleading.

In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by a general partner or the reasons for not making the effort.

[1981 c 51 § 58.]

RCW 25.10.590 Expenses.

If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited partnership the remainder of those proceeds received by him.

[1981 c 51 § 59.]

ARTICLE 11
FEES AND CHARGES

RCW 25.10.600 Establishment of filing fees and miscellaneous charges.

The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

- (1) Filing of a certificate of limited partnership for a domestic or foreign limited

partnership;

(2) Filing of a certificate of cancellation for a domestic or foreign limited partnership;

(3) Filing of a certificate of amendment or restatement for a domestic or foreign limited partnership;

(4) Filing an application to reserve or transfer a limited partnership name;

(5) Filing any other statement or report authorized or permitted to be filed;

(6) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations registering pursuant to Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law.

[1991 c 269 § 12; 1991 c 72 § 48; 1987 c 55 § 35; 1981 c 51 § 60.]

Notes:

Reviser's note: This section was amended by 1991 c 72 § 48 and by 1991 c 269 § 12, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

RCW 25.10.605 Fees for services by secretary of state.

See RCW 43.07.120.

ARTICLE 12
MISCELLANEOUS

RCW 25.10.610 Authority to adopt rules.

The secretary of state shall adopt such rules as are necessary to implement the transfer of duties and records required by this chapter including rules providing for the transfer of existing certificates from the counties to the secretary.

[1981 c 51 § 61.]

RCW 25.10.620 Construction and application.

This chapter shall be so applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

[1981 c 51 § 62.]

RCW 25.10.630 Short title.

This chapter may be cited as the Washington uniform limited partnership act.

[1981 c 51 § 63.]

RCW 25.10.640 Severability--1981 c 51.

If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of the act are severable.

[1981 c 51 § 64.]

RCW 25.10.650 Effective date and extended effective date--1981 c 51.

Except as set forth below, the effective date of this act is January 1, 1982:

(1) The existing provisions for execution and filing of certificates of limited partnerships and amendments thereunder and cancellations thereof continue in effect until October 1, 1982, the extended effective date, and sections 2, 3, 4, 5, 8, 9, 10, 11, and 13 of this act are not effective until the extended effective dates.

(2) Section 23 of this act, specifying the conditions under which a general partner ceases to be a member of a limited partnership, is not effective until the extended effective date, and the applicable provisions of existing law continue to govern until the extended effective date.

(3) Sections 27, 28, and 38 of this act apply only to contributions and distributions made after the effective date of this act.

(4) Section 42 of this act applies only to assignment made after the effective date of this act.

(5) Article 9 of this act, dealing with registration of foreign limited partnerships, is not effective until the extended effective date.

[1981 c 51 § 65.]

RCW 25.10.660 Rules for class not provided for in this chapter.

In any case not provided for in this chapter, the provisions of the Washington revised uniform partnership act, or its successor statute, govern.

[2000 c 169 § 9; 1981 c 51 § 66.]

Notes:

Uniform partnership act: Chapter 25.04 RCW.

RCW 25.10.670 Application to existing partnerships.

(1) Except as provided in subsections (1) and (2) of this section, the provisions of this title shall apply to all existing limited partnerships formed after June 6, 1945, under any prior

statute of this state providing for the formation of limited partnerships, except to the extent provisions of this title are inconsistent with provisions of the certificate or partnership agreement of such existing limited partnerships, which partnership provisions were applicable to such limited partnerships as of January 1, 1982, and which partnership provisions would have been valid under any such applicable prior statutes. Insofar as the provisions of this title are substantially the same as statutory provisions repealed by this title and relate to the same subject matter, such provisions shall be construed as restatements and continuations, and not as new enactments. Neither the enactment of this title nor the amendment of this title nor the repeal of the prior title shall take away or impair any liability or cause of action existing or accrued by or against any limited partnership or its partners.

(2) On or before September 30, 1982, each county clerk shall transmit all files, records, indexes, and other documents maintained in the county clerk's office, pursuant to prior statutes requiring limited partnership filings at the office of county clerk, to the office of the secretary of state.

(3) Upon receipt of the limited partnership records from the county clerks, the secretary of state shall thereafter treat such county filings as a filing with the secretary of state. The secretary of state shall establish by September 30, 1982, a filing and record system for integration of the records received from the county clerks and to accomplish the purposes of this chapter relating to centralized filing.

[1981 c 51 § 67.]

RCW 25.10.680 Effect of invalidity of part of this title.

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this title, such judgment or decree shall not affect, impair, invalidate, or nullify the remainder of this title, but the effect thereof shall be confined to the clause, sentence, paragraph, section, or part of this title so adjudged to be invalid or unconstitutional.

[1981 c 51 § 68.]

RCW 25.10.690 Section captions.

Section captions as used in this chapter do not constitute any part of the law.

[1981 c 51 § 71.]

ARTICLE 13
MERGERS

RCW 25.10.800 Merger--Plan--Effective date.

(1) One or more domestic limited partnerships may merge with one or more domestic

limited partnerships, domestic corporations, domestic partnerships, or domestic limited liability companies pursuant to a plan of merger approved or adopted as provided in RCW 25.10.810.

(2) The plan of merger must set forth:

(a) The name of each limited partnership, corporation, partnership, or limited liability company planning to merge and the name of the surviving limited partnership, corporation, partnership, or limited liability company into which the other limited partnership, corporation, partnership, or limited liability company plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the partnership interests of each limited partnership and each partnership, and the member interests of each limited liability company, and the shares of each corporation party to the merger into the partnership interests, shares, member interests, obligations, or other securities of the surviving or any other limited partnership, partnership, corporation, or limited liability company or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the certificate of limited partnership of the surviving limited partnership;

(b) Amendments to the articles of incorporation of the surviving corporation;

(c) Amendments to the certificate of formation of the surviving limited liability company; and

(d) Other provisions relating to the merger.

(4) If the plan of merger does not specify a delayed effective date, it shall become effective upon the filing of articles of merger. If the plan of merger specifies a delayed effective time and date, the plan of merger becomes effective at the time and date specified. If the plan of merger specifies a delayed effective date but no time is specified, the plan of merger is effective at the close of business on that date. A delayed effective date for a plan of merger may not be later than the ninetieth day after the date it is filed.

[1998 c 103 § 1314; 1991 c 269 § 11.]

RCW 25.10.810 Merger--Plan--Approval.

(1) Unless otherwise provided in its partnership agreement, approval of a plan of merger by a domestic limited partnership party to a merger shall occur when the plan is approved (a) by all general partners of such limited partnership, and (b) by the limited partners or, if there is more than one class of limited partners, then by each class or group of limited partners of such limited partnership, in either case, by limited partners who own more than fifty percent of the then current percentage or other interest in the profits of such limited partnership owned by all limited partners or by the limited partners in each class or group, as appropriate.

(2) If a domestic corporation is a party to the merger, the plan of merger shall be adopted and approved as provided in chapter 23B.11 RCW.

(3) If a domestic partnership is a party to the merger, the plan of merger shall be approved

as provided in RCW 25.05.375.

(4) If a domestic limited liability company is a party to the merger, the plan of merger shall be approved as provided in RCW 25.15.400.

[1998 c 103 § 1315; 1991 c 269 § 13.]

RCW 25.10.820 Articles of merger--Filing.

After a plan of merger is approved or adopted, the surviving limited partnership, corporation, partnership, or limited liability company shall deliver to the secretary of state for filing articles of merger setting forth:

(1) The plan of merger;

(2) If the approval of any partners, shareholders, or members of one or more limited partnerships, corporations, partnerships, or limited liability companies party to the merger was not required, a statement to that effect; or

(3) If the approval of any partners, shareholders, or members of one or more of the limited partnerships, corporations, partnerships, or limited liability companies party to the merger was required, a statement that the merger was duly approved by such partners, shareholders, and members pursuant to RCW 25.10.810, chapter 23B.11 RCW, chapter 25.15 RCW, or RCW 25.05.375.

[1998 c 103 § 1316; 1991 c 269 § 14.]

RCW 25.10.830 Effect of merger.

(1) When a merger takes effect:

(a) Every other partnership, limited partnership, corporation, or limited liability company that is party to the merger merges into the surviving partnership, limited partnership, corporation, or limited liability company and the separate existence of every partnership, limited partnership, corporation, and limited liability company except the surviving partnership, limited partnership, corporation, or limited liability company ceases;

(b) The title to all real estate and other property owned by each partnership, limited partnership, corporation, and limited liability company party to the merger is vested in the surviving partnership, limited partnership, corporation, or limited liability company without reversion or impairment;

(c) The surviving partnership, limited partnership, corporation, or limited liability company has all liabilities of each partnership, limited partnership, corporation, and limited liability company that is party to the merger;

(d) A proceeding pending against any partnership, limited partnership, corporation, or limited liability company that is party to the merger may be continued as if the merger did not occur or the surviving partnership, limited partnership, corporation, or limited liability company may be substituted in the proceeding for the partnership, limited partnership, corporation, or limited liability company whose existence ceased;

(e) The partnership agreement of the surviving limited partnership is amended to the extent provided in the plan of merger;

(f) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger;

(g) The certificate of formation of the surviving limited liability company is amended to the extent provided in the plan of merger; and

(h) The former holders of the partnership interests of every domestic partnership or limited partnership that is party to the merger and the former holders of the shares of every domestic corporation that is party to the merger and the former holders of member interests of every domestic limited liability company are entitled only to the rights provided in the articles of merger or to their rights under RCW 25.10.900 through 25.10.955, to the rights under chapter 23B.13 RCW, to the rights under chapter 25.05 RCW, or to the rights under RCW 25.15.425 through 25.15.480.

(2) Unless otherwise agreed, a merger of a domestic limited partnership, including a domestic limited partnership which is not the surviving entity in the merger, shall not require the domestic limited partnership to wind up its affairs under RCW 25.10.460 or pay its liabilities and distribute its assets under RCW 25.10.470.

(3) Unless otherwise agreed, a merger of a domestic partnership, including a domestic partnership which is not the surviving entity in the merger, shall not require the domestic partnership to wind up its affairs under article 8 of chapter 25.05 RCW.

(4) Unless otherwise agreed, a merger of a domestic limited liability company, including a domestic limited liability company which is not the surviving entity in the merger, shall not require the domestic limited liability company to wind up its affairs under article 8 of chapter 25.15 RCW.

[1998 c 103 § 1317; 1991 c 269 § 15.]

RCW 25.10.840 Merger--Foreign and domestic.

(1) One or more foreign limited partnerships, foreign partnerships, foreign limited liability companies, and one or more foreign corporations may merge with one or more domestic partnerships, domestic limited partnerships, domestic limited liability companies, or domestic corporations if:

(a) The merger is permitted by the law of the jurisdiction under which each foreign limited partnership was organized, and each foreign corporation was incorporated, and each foreign partnership, foreign limited partnership, foreign limited liability company, and foreign corporation complies with that law in effecting the merger;

(b) The surviving entity complies with RCW 25.10.820 and 25.05.380;

(c) Each domestic limited partnership complies with RCW 25.10.810;

(d) Each domestic corporation complies with RCW 23B.11.080; and

(e) Each domestic limited liability company complies with RCW 25.15.400.

(2) Upon the merger taking effect, a surviving foreign partnership, foreign limited

partnership, foreign limited liability company, or foreign corporation is deemed to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting partners or shareholders of each domestic partnership, domestic limited partnership, domestic limited liability company, or domestic corporation party to the merger.

[1998 c 103 § 1318; 1991 c 269 § 16.]

ARTICLE 14 DISSENTERS' RIGHTS

RCW 25.10.900 Definitions.

As used in this article:

(1) "Limited partnership" means the domestic limited partnership in which the dissenter holds or held a partnership interest, or the surviving limited partnership or corporation by merger, whether foreign or domestic, of that limited partnership.

(2) "Dissenter" means a partner who is entitled to dissent from a plan of merger and who exercises that right when and in the manner required by this article.

(3) "Fair value," with respect to a dissenter's partnership interest, means the value of the partnership interest immediately before the effectuation of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable.

(4) "Interest" means interest from the effective date of the merger until the date of payment, at the average rate currently paid by the limited partnership on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

[1991 c 269 § 17.]

RCW 25.10.905 Partner--Dissent--Payment of fair value.

(1) Except as provided in RCW 25.10.915 or 25.10.925(2), a partner of a domestic limited partnership is entitled to dissent from, and obtain payment of, the fair value of the partner's partnership interest in the event of consummation of a plan of merger to which the limited partnership is a party as permitted by RCW 25.10.800 or 25.10.840.

(2) A partner entitled to dissent and obtain payment for the partner's partnership interest under this article may not challenge the merger creating the partner's entitlement unless the merger fails to comply with the procedural requirements imposed by this title, Title 23B RCW, the partnership agreement, or is fraudulent with respect to the partner or the limited partnership.

(3) The right of a dissenting partner to obtain payment of the fair value of the partner's partnership interest shall terminate upon the occurrence of any one of the following events:

(a) The proposed merger is abandoned or rescinded;

(b) A court having jurisdiction permanently enjoins or sets aside the merger; or

(c) The partner's demand for payment is withdrawn with the written consent of the limited

partnership.

[1991 c 269 § 18.]

RCW 25.10.910 Dissenters' rights--Notice--Timing.

(1) Not less than ten days prior to the approval of a plan of merger, the limited partnership must send a written notice to all partners who are entitled to vote on or approve the plan of merger that they may be entitled to assert dissenters' rights under this article. Such notice shall be accompanied by a copy of this article.

(2) The limited partnership shall notify in writing all partners not entitled to vote on or approve the plan of merger that the plan of merger was approved, and send them the dissenters' notice as required by RCW 25.10.920.

[1991 c 269 § 19.]

RCW 25.10.915 Partner--Dissent--Voting restriction.

A partner who is entitled to vote on or approve the plan of merger and who wishes to assert dissenters' rights must not vote in favor of or approve the plan of merger. A partner who does not satisfy the requirements of this section is not entitled to payment for the partner's interest under this article.

[1991 c 269 § 20.]

RCW 25.10.920 Partners--Dissenters' notice--Requirements.

(1) If the plan of merger is approved, the limited partnership shall deliver a written dissenters' notice to all partners who satisfied the requirements of RCW 25.10.915.

(2) The dissenters' notice required by RCW 25.10.910(2) or by subsection (1) of this section must be sent within ten days after the approval of the plan of merger, and must:

- (a) State where the payment demand must be sent;
- (b) Inform holders of the partnership interest as to the extent transfer of the partnership interest will be restricted as permitted by RCW 25.10.930 after the payment demand is received;
- (c) Supply a form for demanding payment;
- (d) Set a date by which the limited partnership must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice under this section is delivered; and
- (e) Be accompanied by a copy of this article.

[1991 c 269 § 21.]

RCW 25.10.925 Partner--Payment demand--Entitlement.

(1) A partner who demands payment retains all other rights of a partner until the proposed

merger becomes effective.

(2) A partner sent a dissenters' notice who does not demand payment by the date set in the dissenters' notice is not entitled to payment for the partner's partnership interest under this article.

[1991 c 269 § 22.]

RCW 25.10.930 Partnership interests--Transfer restrictions.

The limited partnership may restrict the transfer of partnership interests from the date the demand for their payment is received until the proposed merger becomes effective or the restriction is released under this article.

[1991 c 269 § 23.]

RCW 25.10.935 Payment of fair value--Requirements for compliance.

(1) Within thirty days of the later of the date the proposed merger becomes effective, or the payment demand is received, the limited partnership shall pay each dissenter who complied with RCW 25.10.925 the amount the limited partnership estimates to be the fair value of the partnership interest, plus accrued interest.

(2) The payment must be accompanied by:

(a) Copies of the financial statements for the most recent fiscal year maintained as required by RCW 25.10.050;

(b) An explanation of how the limited partnership estimated the fair value of the partnership interest;

(c) An explanation of how the accrued interest was calculated;

(d) A statement of the dissenter's right to demand payment; and

(e) A copy of this article.

[1991 c 269 § 24.]

RCW 25.10.940 Merger--Not effective within sixty days--Transfer restrictions.

(1) If the proposed merger does not become effective within sixty days after the date set for demanding payment, the limited partnership shall release any transfer restrictions imposed as permitted by RCW 25.10.930.

(2) If, after releasing transfer restrictions, the proposed merger becomes effective, the limited partnership must send a new dissenters' notice as provided in RCW 25.10.910(2) and 25.10.920 and repeat the payment demand procedure.

[1991 c 269 § 25.]

RCW 25.10.945 Dissenter's estimate of fair value--Notice.

(1) A dissenter may notify the limited partnership in writing of the dissenter's own

estimate of the fair value of the dissenter's partnership interest and amount of interest due, and demand payment of the dissenter's estimate, less any payment under RCW 25.10.935, if:

(a) The dissenter believes that the amount paid is less than the fair value of the dissenter's partnership interest or that the interest due is incorrectly calculated;

(b) The limited partnership fails to make payment within sixty days after the date set for demanding payment; or

(c) The limited partnership, having failed to effectuate the proposed merger, does not release the transfer restrictions imposed on partnership interests as permitted by RCW 25.10.930 within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the limited partnership of the dissenter's demand in writing under subsection (1) of this section within thirty days after the limited partnership made payment for the dissenter's partnership interest.

[1991 c 269 § 26.]

RCW 25.10.950 Unsettled demand for payment--Proceeding--Parties--Appraisers.

(1) If a demand for payment under RCW 25.10.945 remains unsettled, the limited partnership shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the partnership interest and accrued interest. If the limited partnership does not commence the proceeding within the sixty-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The limited partnership shall commence the proceeding in the superior court. If the limited partnership is a domestic limited partnership, it shall commence the proceeding in the county where its office is maintained as required by RCW 25.10.040(1). If the limited partnership is a domestic corporation, it shall commence the proceeding in the county where its principal office, as defined in *RCW 23B.01.400(17), is located, or if none is in this state, its registered office under RCW 23B.05.010. If the limited partnership is a foreign limited partnership or corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the office of the domestic limited partnership maintained pursuant to RCW 25.10.040(1) merged with the foreign limited partnership or foreign corporation was located.

(3) The limited partnership shall make all dissenters (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their partnership interests and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The limited partnership may join as a party to the proceeding any partner who claims to be a dissenter but who has not, in the opinion of the limited partnership, complied with the provisions of this chapter. If the court determines that such partner has not complied with the provisions of this article, the partner shall be dismissed as a party.

(5) The jurisdiction of the court in which the proceeding is commenced is plenary and

exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decisions on the question of fair value. The appraisers have the powers described in the order appointing them or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(6) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's partnership interest, plus interest, exceeds the amount paid by the limited partnership.

[1991 c 269 § 27.]

Notes:

***Reviser's note:** RCW 23B.01.400 was amended by 1991 c 269 § 35, changing subsection (17) to subsection (19); and was subsequently amended by 2000 c 168 § 1, changing subsection (19) to subsection (20).

RCW 25.10.955 Unsettled demand for payment--Costs--Fees and expenses of counsel.

(1) The court in a proceeding commenced under RCW 25.10.950 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the limited partnership, except that the court may assess the costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the limited partnership and in favor of any or all dissenters if the court finds the limited partnership did not substantially comply with the requirements of this article; or

(b) Against either the limited partnership or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the limited partnership, the court may award to these counsel reasonable fees to be paid out of the amounts awarded the dissenters who were benefited.

[1991 c 269 § 28.]

**Chapter 25.12 RCW
LIMITED PARTNERSHIPS EXISTING PRIOR TO JUNE 6, 1945**

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25.12.010	Limited partnership may be formed.
25.12.020	Of whom composed--Liability of members.
25.12.030	Certificate to be made, acknowledged and filed.
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25.12.090	Dissolution, how accomplished.
25.12.100	Liabilities and rights of members of firm.

RCW 25.12.005 Application of chapter.

The provisions of this chapter shall apply only to those limited partnerships which were in existence on or prior to June 6, 1945 and which have not become a limited partnership under *chapter 25.08 RCW.

[1955 c 15 § 25.12.005.]

Notes:

***Reviser's note:** Chapter 25.08 RCW was repealed in its entirety by 1981 c 51 § 72; later enactment, see chapter 25.10 RCW.

RCW 25.12.010 Limited partnership may be formed.

Limited partnerships for the transaction of mercantile, mechanical, or manufacturing business may be formed within this state, by two or more persons, upon the terms and subject to the conditions contained in this chapter.

[1955 c 15 § 25.12.010. Prior: 1869 p 380 § 1; RRS § 9966.]

RCW 25.12.020 Of whom composed--Liability of members.

A limited partnership may consist of two or more persons, who are known and called general partners, and are jointly liable as general partners now are by law, and of two or more persons who shall contribute to the common stock a specific sum in actual money as capital, and are known and called special partners, and are not personally liable for any of the debts of the partnership, except as in this chapter specially provided.

[1955 c 15 § 25.12.020. Prior: 1927 c 106 § 1; 1869 p 380 § 2; RRS § 9967.]

RCW 25.12.030 Certificate to be made, acknowledged and filed.

The persons forming such partnership shall make and severally subscribe a certificate, in duplicate, and file one of such certificates with the county auditor of the county in which the principal place of business of the partnership is to be. Before being filed, the execution of such certificate shall be acknowledged by each partner subscribing it before some officer authorized to take acknowledgments of deeds; and such certificate shall contain the name assumed by the partnership and under which its business is to be conducted, the names and respective places of residence of all the general and special partners, the amount of capital which each special partner

has contributed to the common stock, the general nature of the business to be transacted, and the time when the partnership is to commence, and when it is to terminate.

[1955 c 15 § 25.12.030. Prior: 1869 p 380 § 3; RRS § 9968.]

RCW 25.12.040 Certificate of partnership--Publication.

The partnership cannot commence before the filing of the certificate of partnership, and if a false statement is made in the certificate, all the persons subscribing thereto are liable as general partners for all the debts of the partnership. The partners shall, for four consecutive weeks immediately after the filing of the certificate of partnership, publish a copy of it in some newspaper of general circulation in the county where the principal place of business of the partnership is, and until the publication is made and completed, the partnership is to be deemed general.

[1985 c 469 § 12; 1955 c 15 § 25.12.040. Prior: 1869 p 380 § 4; RRS § 9969.]

RCW 25.12.050 Renewal of limited partnership.

A limited partnership may be continued or renewed by making, acknowledging, filing, and publishing a certificate thereof, in the manner provided in this chapter for the formation of such partnership originally, and every such partnership, not renewed or continued as herein provided, from and after the expiration thereof according to the original certificate, shall be a general partnership.

[1955 c 15 § 25.12.050. Prior: 1869 p 381 § 5; RRS § 9970.]

RCW 25.12.060 Name of firm--When special partner liable as general partner.

The business of the partnership may be conducted under a name in which the names of the general partners only shall be inserted, without the addition of the word "company" or any other general term. If the name of any special partner is used in such firm with his consent or privity, he shall be deemed and treated as a general partner, or if he personally makes any contract respecting the concerns of the partnership with any person except the general partners, he shall be deemed and treated as a general partner in relation to such contract, unless he makes it appear that in making such contract he acted and was recognized as a special partner only.

[1955 c 15 § 25.12.060. Prior: 1869 p 381 § 6; RRS § 9971.]

RCW 25.12.070 Withdrawal of stock and profits--Effect.

During the continuance of any partnership formed under this chapter no part of the capital stock thereof shall be withdrawn, nor any division of interests or profits be made, so as to reduce such capital stock below the sum stated in the certificate of partnership before mentioned; and if at any time during the continuance or at the termination of such partnership, the property or

assets thereof are not sufficient to satisfy the partnership debts then the special partners shall be severally liable for all sums or amounts by them in any way received or withdrawn from such capital stock, with interest thereon from the time they were so received or withdrawn respectively.

[1955 c 15 § 25.12.070. Prior: 1869 p 381 § 7; RRS § 9972.]

RCW 25.12.080 Suits by and against limited partnership--Parties.

All actions, suits or proceedings respecting the business of such partnership shall be prosecuted by and against the general partners only, except in those cases where special partners or partnerships are to be deemed general partners or partnerships, in which case all the partners deemed general partners may join therein; and excepting also those cases where special partners are severally liable on account of sums or amounts received or withdrawn from the capital stock as provided in RCW 25.12.070.

[1955 c 15 § 25.12.080. Prior: 1869 p 381 § 8; RRS § 9973.]

RCW 25.12.090 Dissolution, how accomplished.

No dissolution of a limited partnership shall take place except by operation of law, before the time specified in the certificate of partnership, unless a notice of such dissolution, subscribed by the general and special partners is filed with the original certificate of partnership or the certificate, if any, renewing or continuing such partnership nor unless a copy of such notice be published for the time and in the manner prescribed for the publication of the certificate of partnership.

[1955 c 15 § 25.12.090. Prior: 1869 p 382 § 9; RRS § 9974.]

RCW 25.12.100 Liabilities and rights of members of firm.

In all cases not otherwise provided for in this chapter, all the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners.

[1955 c 15 § 25.12.100. Prior: 1869 p 382 § 10; RRS § 9975.]

**Chapter 25.15 RCW
LIMITED LIABILITY COMPANIES**

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Notes:

Limited liability partnerships: Chapter 25.04 RCW.

ARTICLE I. GENERAL PROVISIONS

RCW 25.15.005 Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) "Certificate of formation" means the certificate referred to in RCW 25.15.070, and the certificate as amended.
- (2) "Event of dissociation" means an event that causes a person to cease to be a member as provided in RCW 25.15.130.
- (3) "Foreign limited liability company" means an entity that is formed under:
 - (a) The limited liability company laws of any state other than this state; or
 - (b) The laws of any foreign country that is: (i) An unincorporated association, (ii) formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity, and (iii) not required, in order to transact business or conduct affairs in this state, to be registered or qualified under Title

23B or 24 RCW, or any other chapter of the Revised Code of Washington authorizing the formation of a domestic entity and the registration or qualification in this state of similar entities formed under the laws of a jurisdiction other than this state.

(4) "Limited liability company" and "domestic limited liability company" means a limited liability company having one or more members that is organized and existing under this chapter.

(5) "Limited liability company agreement" means any written agreement of the members, or any written statement of the sole member, as to the affairs of a limited liability company and the conduct of its business which is binding upon the member or members.

(6) "Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

(7) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its certificate of formation that it is to be managed by managers, the person, or persons designated in accordance with RCW 25.15.150(2).

(8) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.115 and who has not been dissociated from the limited liability company.

(9) "Person" means a natural person, partnership (whether general or limited and whether domestic or foreign), limited liability company, foreign limited liability company, trust, estate, association, corporation, custodian, nominee, or any other individual or entity in its own or any representative capacity.

(10) "Professional limited liability company" means a limited liability company which is organized for the purpose of rendering professional service and whose certificate of formation sets forth that it is a professional limited liability company subject to RCW 25.15.045.

(11) "Professional service" means the same as defined under RCW 18.100.030.

(12) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the state of Washington.

[2000 c 169 § 1; 1995 c 337 § 13; 1994 c 211 § 101.]

Notes:

Effective date--1995 c 337: "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 shall take effect July 1, 1995." [1995 c 337 § 23.]

RCW 25.15.010 Name set forth in certificate of formation.

(1) The name of each limited liability company as set forth in its certificate of formation:

(a) Must contain the words "Limited Liability Company," the words "Limited Liability" and abbreviation "Co.," or the abbreviation "L.L.C." or "LLC";

(b) Except as provided in subsection (1)(d) of this section, may contain the name of a member or manager;

(c) Must not contain language stating or implying that the limited liability company is

organized for a purpose other than those permitted by RCW 25.15.030;

(d) Must not contain any of the words or phrases: "Bank," "banking," "banker," "trust," "cooperative," "partnership," "corporation," "incorporated," or the abbreviations "corp.," "ltd.," or "inc.," or "LP," "L.P.," "LLP," "L.L.P.," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and

(e) Must be distinguishable upon the records of the secretary of state from the names described in RCW 23B.04.010(1)(d) and 25.10.020(1)(d), and the names of any limited liability company reserved, registered, or formed under the laws of this state or qualified to do business as a foreign limited liability company in this state.

(2) A limited liability company may apply to the secretary of state for authorization to use any name which is not distinguishable upon the records of the secretary of state from one or more of the names described in subsection (1)(e) of this section. The secretary of state shall authorize use of the name applied for if the other corporation, limited partnership, limited liability partnership, or limited liability company consents in writing to the use and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited liability company.

(3) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(4) This chapter does not control the use of assumed business names or "trade names."

[1998 c 102 § 9; 1996 c 231 § 5; 1994 c 211 § 102.]

RCW 25.15.015 Reserved name--Registered name.

(1) Reserved Name.

(a) A person may reserve the exclusive use of a limited liability company name by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the limited liability company name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred eighty-day period.

(b) The owner of a reserved limited liability company name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

(2) Registered Name.

(a) A foreign limited liability company may register its name if the name is distinguishable upon the records of the secretary of state from the names specified in RCW 25.15.010.

(b) A foreign limited liability company registers its name by delivering to the secretary of state for filing an application that:

(i) Sets forth its name and the state or country and date of its organization; and

(ii) Is accompanied by a certificate of existence, or a document of similar import, from the state or country of organization.

(c) The name is registered for the applicant's exclusive use upon the effective date of the application and until the close of the calendar year in which the application for registration is filed.

(d) A foreign limited liability company whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of (b) of this subsection, between October 1st and December 31st of the preceding year. The renewal application when filed renews the registration for the following calendar year.

(e) A foreign limited liability company whose registration is effective may thereafter qualify as a foreign limited liability company under the registered name, or consent in writing to the use of that name by a limited liability company thereafter organized under this chapter, by a corporation thereafter formed under Title 23B RCW, by a limited partnership thereafter formed under chapter 25.10 RCW, or by another foreign limited liability company, foreign corporation, or foreign limited partnership thereafter authorized to transact business in this state. The registration terminates when the domestic limited liability company is organized, the domestic corporation is incorporated, or the domestic limited partnership is formed, or the foreign limited liability company qualifies or consents to the qualification of another foreign limited liability company, corporation, or limited partnership under the registered name.

[1998 c 102 § 11; 1994 c 211 § 103.]

RCW 25.15.020 Registered office--Registered agent.

(1) Each limited liability company shall continuously maintain in this state:

(a) A registered office, which may but need not be a place of its business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in the same city as the

registered office in conjunction with the registered office address if the limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent for service of process on the limited liability company, which agent may be either an individual resident of this state whose business office is identical with the limited liability company's registered office, or a domestic corporation, limited partnership, or limited liability company, or a foreign corporation, limited partnership, or limited liability company authorized to do business in this state having a business office identical with such registered office; and

(c) A registered agent who shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent.

(2) A limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the limited liability company;

(b) If the current registered office is to be changed, the street address of the new registered office in accord with subsection (1) of this section;

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(3) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any limited liability company for which the agent is the registered agent by notifying the limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (2) of this section and recites that the limited liability company has been notified of the change.

(4) A registered agent may resign as agent by signing and delivering to the secretary of state for filing a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail a copy of the statement to the limited liability company at its principal office. The agency appointment is terminated, and the registered office discontinued is so provided, on the thirty-first day after the date on which the statement was filed.

[1996 c 231 § 6; 1994 c 211 § 104.]

RCW 25.15.025 Service of process on domestic limited liability companies.

(1) A limited liability company's registered agent is its agent for service of process, notice, or demand required or permitted by law to be served on the limited liability company.

(2) The secretary of state shall be an agent of a limited liability company upon whom any

such process, notice, or demand may be served if:

(a) The limited liability company fails to appoint or maintain a registered agent in this state; or

(b) The registered agent cannot with reasonable diligence be found at the registered office.

(3) Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by certified mail, addressed to the limited liability company at its principal place of business as it appears on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

(4) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

(5) This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law.

[1994 c 211 § 105.]

RCW 25.15.030 Nature of business permitted--Powers.

(1) Every limited liability company formed under this chapter may carry on any lawful business or activity unless a more limited purpose is set forth in the certificate of formation. A limited liability company may not be formed under this chapter for the purposes of banking or engaging in business as an insurer.

(2) Unless this chapter, its certificate of formation, or its limited liability company agreement provides otherwise, a limited liability company has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs.

[1994 c 211 § 106.]

RCW 25.15.035 Business transactions of member or manager with the limited liability company.

Except as provided in a limited liability company agreement, a member or manager may lend money to, act as a surety, guarantor, or endorser for, guarantee or assume one or more specific obligations of, provide collateral for, and transact other business with a limited liability company and, subject to other applicable law, has the same rights and obligations with respect to any such matter as a person who is not a member or manager.

[1994 c 211 § 107.]

RCW 25.15.040 Limitation of liability and indemnification.

(1) The limited liability company agreement may contain provisions not inconsistent with law that:

(a) Eliminate or limit the personal liability of a member or manager to the limited liability company or its members for monetary damages for conduct as a member or manager, provided that such provisions shall not eliminate or limit the liability of a member or manager for acts or omissions that involve intentional misconduct or a knowing violation of law by a member or manager, for conduct of the member or manager, violating RCW 25.15.235, or for any transaction from which the member or manager will personally receive a benefit in money, property, or services to which the member or manager is not legally entitled; or

(b) Indemnify any member or manager from and against any judgments, settlements, penalties, fines, or expenses incurred in a proceeding to which an individual is a party because he or she is, or was, a member or a manager, provided that no such indemnity shall indemnify a member or a manager from or on account of acts or omissions of the member or manager finally adjudged to be intentional misconduct or a knowing violation of law by the member or manager, conduct of the member or manager adjudged to be in violation of RCW 25.15.235, or any transaction with respect to which it was finally adjudged that such member or manager received a benefit in money, property, or services to which such member or manager was not legally entitled.

(2) To the extent that, at law or in equity, a member or manager has duties (including fiduciary duties) and liabilities relating thereto to a limited liability company or to another member or manager (a) any such member or manager acting under a limited liability company agreement shall not be liable to the limited liability company or to any such other member or manager for the member's or manager's good faith reliance on the provisions of the limited liability company agreement, and (b) the member's or manager's duties and liabilities may be expanded or restricted by provisions in a limited liability company agreement.

[1994 c 211 § 108.]

RCW 25.15.045 Professional limited liability companies.

(1) A person or group of persons licensed or otherwise legally authorized to render professional services within this or any other state may organize and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service. A "professional limited liability company" is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation, and its managers, members, agents, and employees shall be subject to all the provisions of chapter 18.100 RCW that apply to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section. Nothing in this section prohibits a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a professional limited liability

company organized for the purpose of rendering the same professional services. Nothing in this section prohibits a professional limited liability company from rendering professional services outside this state through individuals who are not duly licensed or otherwise legally authorized to render such professional services within this state. Persons engaged in a profession and otherwise meeting the requirements of this chapter may operate under this chapter as a professional limited liability company so long as each member personally engaged in the practice of the profession in this state is duly licensed or otherwise legally authorized to practice the profession in this state and:

(a) At least one manager of the company is duly licensed or otherwise legally authorized to practice the profession in this state; or

(b) Each member in charge of an office of the company in this state is duly licensed or otherwise legally authorized to practice the profession in this state.

(2) If the company's members are required to be licensed to practice such profession, and the company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or a greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the company's members are personally liable to the extent that, had the insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(3) For purposes of applying the provisions of chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" means manager, "shareholder" means member, "corporation" means professional limited liability company, "articles of incorporation" means certificate of formation, "shares" or "capital stock" means a limited liability company interest, "incorporator" means the person who executes the certificate of formation, and "bylaws" means the limited liability company agreement.

(4) The name of a professional limited liability company must contain either the words "Professional Limited Liability Company," or the words "Professional Limited Liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a professional limited liability company organized to render dental services shall contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C." or "PLLC."

(5) Subject to the provisions in article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers other than the secretary and the treasurer, are licensed or otherwise legally authorized to render the same specific professional services as the professional limited liability company; and

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the

same specific professional services.

(6)(a) Notwithstanding any other provision of this chapter, health care professionals who are licensed or certified pursuant to chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own membership interests in and render their individual professional services through one limited liability company and are to be considered, for the purpose of forming a limited liability company, as rendering the "same specific professional services" or "same professional services" or similar terms.

(b) Notwithstanding any other provision of this chapter, health care professionals who are regulated under chapters 18.59 and 18.74 RCW may own membership interests in and render their individual professional services through one limited liability company formed for the sole purpose of providing professional services within their respective scope of practice.

(c) Formation of a limited liability company under this subsection does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

[1999 c 128 § 2; 1998 c 293 § 5; 1997 c 390 § 4. Prior: 1996 c 231 § 7; 1996 c 22 § 2; 1995 c 337 § 14; 1994 c 211 § 109.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

RCW 25.15.050 Member agreements.

In addition to agreeing among themselves with respect to the provisions of this chapter, the members of a limited liability company or professional limited liability company may agree among themselves to any otherwise lawful provision governing the company which is not in conflict with this chapter. Such agreements include, but are not limited to, buy-sell agreements among the members and agreements relating to expulsion of members.

[1994 c 211 § 110.]

RCW 25.15.055 Membership residency.

Nothing in this chapter requires a limited liability company or a professional limited liability company to restrict membership to persons residing in or engaging in business in this state.

[1994 c 211 § 111.]

RCW 25.15.060 Piercing the veil.

Members of a limited liability company shall be personally liable for any act, debt, obligation, or liability of the limited liability company to the extent that shareholders of a

Washington business corporation would be liable in analogous circumstances. In this regard, the court may consider the factors and policies set forth in established case law with regard to piercing the corporate veil, except that the failure to hold meetings of members or managers or the failure to observe formalities pertaining to the calling or conduct of meetings shall not be considered a factor tending to establish that the members have personal liability for any act, debt, obligation, or liability of the limited liability company if the certificate of formation and limited liability company agreement do not expressly require the holding of meetings of members or managers.

[1995 c 337 § 15; 1994 c 211 § 112.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

ARTICLE II. FORMATION: CERTIFICATE OF FORMATION, AMENDMENT, FILING
AND EXECUTION

RCW 25.15.070 Certificate of formation.

(1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation shall be filed in the office of the secretary of state and set forth:

- (a) The name of the limited liability company;
- (b) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by RCW 25.15.020;
- (c) The address of the principal place of business of the limited liability company;
- (d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;
- (e) If management of the limited liability company is vested in a manager or managers, a statement to that effect;
- (f) Any other matters the members decide to include therein; and
- (g) The name and address of each person executing the certificate of formation.

(2) Effect of filing:

(a) Unless a delayed effective date is specified, a limited liability company is formed when its certificate of formation is filed by the secretary of state. A delayed effective date for a certificate of formation may be no later than the ninetieth day after the date it is filed.

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied all conditions precedent to the formation except in a proceeding by the state to cancel the certificate.

(c) A limited liability company formed under this chapter shall be a separate legal entity, the existence of which as a separate legal entity shall continue until cancellation of the limited liability company's certificate of formation.

[1994 c 211 § 201.]

RCW 25.15.075 Amendment to certificate of formation.

(1) A certificate of formation is amended by filing a certificate of amendment thereto with the secretary of state. The certificate of amendment shall set forth:

- (a) The name of the limited liability company; and
- (b) The amendment to the certificate of formation.

(2) A manager or, if there is no manager, then any member who becomes aware that any statement in a certificate of formation was false when made, or that any matter described has changed making the certificate of formation false in any material respect, shall promptly amend the certificate of formation.

(3) A certificate of formation may be amended at any time for any other proper purpose.

(4) Unless otherwise provided in this chapter or unless a later effective date (which shall be a date not later than the ninetieth day after the date it is filed) is provided for in the certificate of amendment, a certificate of amendment shall be effective when filed by the secretary of state.

[1994 c 211 § 202.]

RCW 25.15.080 Cancellation of certificate.

A certificate of formation shall be canceled upon the effective date of the certificate of cancellation, or as provided in RCW 25.15.290, or upon the filing of articles of merger if the limited liability company is not the surviving or resulting entity in a merger. A certificate of cancellation shall be filed in the office of the secretary of state to accomplish the cancellation of a certificate of formation upon the dissolution and the completion of winding up of a limited liability company and shall set forth:

- (1) The name of the limited liability company;
- (2) The date of filing of its certificate of formation;
- (3) The reason for filing the certificate of cancellation;
- (4) The future effective date (which shall be a date not later than the ninetieth day after the date it is filed) of cancellation if it is not to be effective upon the filing of the certificate; and
- (5) Any other information the person filing the certificate of cancellation determines.

[1994 c 211 § 203.]

RCW 25.15.085 Execution.

(1) Each document required by this chapter to be filed in the office of the secretary of state shall be executed in the following manner:

- (a) Each original certificate of formation must be signed by the person or persons forming the limited liability company;
- (b) A reservation of name may be signed by any person;
- (c) A transfer of reservation of name must be signed by, or on behalf of, the applicant for

the reserved name;

(d) A registration of name must be signed by any member or manager of the foreign limited liability company;

(e) A certificate of amendment or restatement must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members;

(f) A certificate of cancellation must be signed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.295(1);

(g) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be signed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, or corporation, the articles of merger must be signed by a person authorized by such foreign limited liability company, limited partnership, or corporation; and

(h) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be signed by any member or manager of the foreign limited liability company.

(2) Any person may sign a certificate, articles of merger, limited liability company agreement, or other document by an attorney-in-fact or other person acting in a valid representative capacity, so long as each document signed in such manner identifies the capacity in which the signator signed.

(3) The person executing the document shall sign it and state beneath or opposite the signature the name of the person and capacity in which the person signs. The document must be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate or articles of merger by any person constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

[1995 c 337 § 16; 1994 c 211 § 204.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

RCW 25.15.090 Execution, amendment, or cancellation by judicial order.

(1) If a person required to execute a certificate required by this chapter fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the certificate. If the court finds that the execution of the certificate is proper and that any person so designated has failed or refused to execute the certificate, it shall order the secretary of state to record an appropriate certificate.

(2) If a person required to execute a limited liability company agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the limited liability company agreement or amendment thereof. If the court finds that the limited liability company agreement or amendment thereof should be executed and that any person required to execute the limited

liability company agreement or amendment thereof has failed or refused to do so, it shall enter an order granting appropriate relief.

[1994 c 211 § 205.]

RCW 25.15.095 Filing.

(1) The original signed copy, together with a duplicate copy that may be either a signed, photocopied, or conformed copy, of the certificate of formation or any other document required to be filed pursuant to this chapter shall be delivered to the secretary of state. If the secretary of state determines that the documents conform to the filing provisions of this chapter, he or she shall, when all required filing fees have been paid:

(a) Endorse on each signed original and duplicate copy the word "filed" and the date of its acceptance for filing;

(b) Retain the signed original in the secretary of state's files; and

(c) Return the duplicate copy to the person who filed it or the person's representative.

(2) If the secretary of state is unable to make the determination required for filing by subsection (1) of this section at the time any documents are delivered for filing, the documents are deemed to have been filed at the time of delivery if the secretary of state subsequently determines that:

(a) The documents as delivered conform to the filing provisions of this chapter; or

(b) Within twenty days after notification of nonconformance is given by the secretary of state to the person who delivered the documents for filing or the person's representative, the documents are brought into conformance.

(3) If the filing and determination requirements of this chapter are not satisfied completely within the time prescribed in subsection (2)(b) of this section, the documents shall not be filed.

(4) Upon the filing of a certificate of amendment (or judicial decree of amendment) or restated certificate in the office of the secretary of state, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation shall be amended or restated as set forth therein. Upon the filing of a certificate of cancellation (or a judicial decree thereof), or articles of merger which act as a certificate of cancellation, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof) or of articles of merger which act as a certificate of cancellation, as provided for therein, or as specified in RCW 25.15.290, the certificate of formation is canceled.

[1994 c 211 § 206.]

RCW 25.15.100 Restated certificate.

(1) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of formation which are then in effect and operative as a

result of there having theretofore been filed with the secretary of state one or more certificates or other instruments pursuant to any of the sections referred to in this chapter and it may at the same time also further amend its certificate of formation by adopting a restated certificate of formation.

(2) If a restated certificate of formation merely restates and integrates but does not amend the initial certificate of formation, as theretofore amended or supplemented by any instrument that was executed and filed pursuant to any of the sections in this chapter, it shall be specifically designated in its heading as a "Restated Certificate of Formation" together with such other words as the limited liability company may deem appropriate and shall be executed by at least one manager, or by a member if management of the limited liability company is reserved to its members, and filed as provided in RCW 25.15.095 in the office of the secretary of state. If a restated certificate restates and integrates and also amends in any respect the certificate of formation, as theretofore amended or supplemented, it shall be specifically designated in its heading as an "Amended and Restated Certificate of Formation" together with such other words as the limited liability company may deem appropriate and shall be executed by at least one manager, or by a member if management of the limited liability company is reserved to its members, and filed as provided in RCW 25.15.095 in the office of the secretary of state.

(3) A restated certificate of formation shall state, either in its heading or in an introductory paragraph, the limited liability company's present name, and, if it has been changed, the name under which it was originally filed, and the date of filing of its original certificate of formation with the secretary of state, and the future effective date (which shall be a date not later than the ninetieth day after the date it is filed) of the restated certificate if it is not to be effective upon the filing of the restated certificate. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If a restated certificate only restates and integrates and does not further amend a limited liability company's certificate of formation as theretofore amended or supplemented and there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(4) Upon the filing of a restated certificate of formation with the secretary of state, or upon the future effective date or time of a restated certificate of formation as provided for therein, the initial certificate of formation, as theretofore amended or supplemented, shall be superseded; thenceforth, the restated certificate of formation, including any further amendment or changes made thereby, shall be the certificate of formation of the limited liability company, but the original effective date of formation shall remain unchanged.

(5) Any amendment or change effected in connection with the restatement and integration of the certificate of formation shall be subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

[1994 c 211 § 207.]

RCW 25.15.105 Initial and annual reports.

(1) Each domestic limited liability company, and each foreign limited liability company

authorized to transact business in this state, shall deliver to the secretary of state for filing, both initial and annual reports that set forth:

- (a) The name of the company and the state or country under whose law it is organized;
 - (b) The street address of its registered office and the name of its registered agent at that office in this state;
 - (c) In the case of a foreign company, the address of its principal office in the state or country under the laws of which it is organized;
 - (d) The address of the principal place of business of the company in this state;
 - (e) The names and addresses of the company's members, or if the management of the company is vested in a manager or managers, then the name and address of its manager or managers; and
 - (f) A brief description of the nature of its business.
- (2) Information in an initial report or an annual report must be current as of the date the report is executed on behalf of the company.
- (3) A company's initial report must be delivered to the secretary of state within one hundred twenty days of the date on which a domestic company's certificate of formation was filed, or on which a foreign company's application for registration was submitted. Subsequent annual reports must be delivered to the secretary of state on a date determined by the secretary of state, and at such additional times as the company elects.

[1994 c 211 § 208.]

ARTICLE III. MEMBERS

RCW 25.15.115 Admission of members.

(1) In connection with the formation of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company upon the later to occur of:

- (a) The formation of the limited liability company; or
- (b) The time provided in and upon compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, when the person's admission is reflected in the records of the limited liability company.

(2) After the formation of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company:

- (a) In the case of a person acquiring a limited liability company interest directly from the limited liability company, at the time provided in and upon compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company; or
- (b) In the case of an assignee of a limited liability company interest who meets the conditions for membership set forth in RCW 25.15.260(1), at the time provided in and upon

compliance with the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, when any such assignee's admission as a member is reflected in the records of the limited liability company.

[1994 c 211 § 301.]

RCW 25.15.120 Voting and classes of membership.

(1) Except as provided in this chapter, or in the limited liability company agreement, and subject to subsection (2) of this section, the affirmative vote, approval, or consent of members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members shall be necessary for actions requiring member approval.

(2) Except as provided in the limited liability company agreement, the affirmative vote, approval, or consent of all members shall be required to:

(a) Amend the limited liability company agreement; or

(b) Authorize a manager, member, or other person to do any act on behalf of the limited liability company that contravenes the limited liability company agreement, including any provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof.

(3) A limited liability company agreement may provide for classes or groups of members having such relative rights, powers, and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of members having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding.

(4) A limited liability company agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. If the limited liability company agreement so provides, voting by members may be on a per capita, number, profit share, class, group, or any other basis.

(5) A limited liability company agreement which contains provisions related to voting rights of members may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

[1994 c 211 § 302.]

RCW 25.15.125 Liability of members and managers to third parties.

(1) Except as otherwise provided by this chapter, the debts, obligations, and liabilities of a limited liability company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations, and liabilities of the limited liability company; and no member or manager of a limited liability company shall be obligated personally for any such debt, obligation, or liability of the limited liability company solely by reason of being a member or acting as a manager of the limited liability company.

(2) A member or manager of a limited liability company is personally liable for his or her own torts.

[1994 c 211 § 303.]

RCW 25.15.130 Events of dissociation.

(1) A person ceases to be a member of a limited liability company, and the person or its successor in interest attains the status of an assignee as set forth in RCW 25.15.250(2), upon the occurrence of one or more of the following events:

(a) The member dies or withdraws by voluntary act from the limited liability company as provided in subsection (3) of this section;

(b) The member ceases to be a member as provided in RCW 25.15.250(2)(b) following an assignment of all the member's limited liability company interest;

(c) The member is removed as a member in accordance with the limited liability company agreement;

(d) Unless otherwise provided in the limited liability company agreement, or with the written consent of all other members at the time, the member (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes the subject of an order for relief in bankruptcy proceedings; (iv) files a petition or answer seeking for himself or herself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him or her in any proceeding of the nature described in (d) (i) through (iv) of this subsection; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties;

(e) Unless otherwise provided in the limited liability company agreement, or with the consent of all other members at the time, one hundred twenty days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within

ninety days after the expiration of any stay, the appointment is not vacated;

(f) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member who is an individual, the entry of an order by a court of competent jurisdiction adjudicating the member incapacitated, as used and defined under chapter 11.88 RCW, as to his or her estate;

(g) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member that is another limited liability company, the dissolution and commencement of winding up of such limited liability company;

(h) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the administrative dissolution of the corporation and the lapse of any period authorized for application for reinstatement; or

(i) Unless otherwise provided in the limited liability company agreement, or with written consent of all other members at the time, in the case of a member that is a limited partnership, the dissolution and commencement of winding up of such limited partnership.

(2) The limited liability company agreement may provide for other events the occurrence of which result in a person ceasing to be a member of the limited liability company.

(3) A member may withdraw from a limited liability company at the time or upon the happening of events specified in and in accordance with the limited liability company agreement. If the limited liability company agreement does not specify the time or the events upon the happening of which a member may withdraw, a member may not withdraw prior to the time for the dissolution and commencement of winding up of the limited liability company, without the written consent of all other members at the time.

[2000 c 169 § 2; 1995 c 337 § 17; 1994 c 211 § 304.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

RCW 25.15.135 Records and information.

(1) A limited liability company shall keep at its principal place of business the following:

(a) A current and a past list, setting forth the full name and last known mailing address of each member and manager, if any;

(b) A copy of its certificate of formation and all amendments thereto;

(c) A copy of its current limited liability company agreement and all amendments thereto, and a copy of any prior agreements no longer in effect;

(d) Unless contained in its certificate of formation or limited liability company agreement, a written statement of:

(i) The amount of cash and a description of the agreed value of the other property or services contributed by each member (including that member's predecessors in interest), and which each member has agreed to contribute;

(ii) The times at which or events on the happening of which any additional contributions agreed to be made by each member are to be made; and

(iii) Any right of any member to receive distributions which include a return of all or any part of the member's contribution.

(e) A copy of the limited liability company's federal, state, and local tax returns and reports, if any, for the three most recent years; and

(f) A copy of any financial statements of the limited liability company for the three most recent years.

(2) The records required by subsection (1) of this section to be kept by a limited liability company are subject to inspection and copying at the reasonable request, and at the expense, of any member during ordinary business hours. A member's agent or attorney has the same inspection and copying rights as the member.

(3) Each manager shall have the right to examine all of the information described in subsection (1) of this section for a purpose reasonably related to his or her position as a manager.

(4) A limited liability company may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(5) Any action to enforce any right arising under this section shall be brought in the superior courts.

[1994 c 211 § 305.]

RCW 25.15.140 Remedies for breach of limited liability company agreement by member.

A limited liability company agreement may provide that (1) a member who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement shall be subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the limited liability company agreement, a member shall be subject to specified penalties or specified consequences.

[1994 c 211 § 306.]

ARTICLE IV. MANAGEMENT AND MANAGERS

RCW 25.15.150 Management.

(1) Unless the certificate of formation vests management of the limited liability company in a manager or managers: (a) Management of the business or affairs of the limited liability company shall be vested in the members; and (b) each member is an agent of the limited liability company for the purpose of its business and the act of any member for apparently carrying on in the usual way the business of the limited liability company binds the limited liability company unless the member so acting has in fact no authority to act for the limited liability company in the particular matter and the person with whom the member is dealing has knowledge of the fact that the member has no such authority. Subject to any provisions in the limited liability company agreement or this chapter restricting or enlarging the management rights and duties of any person

or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the certificate of formation vests management of the limited liability company in one or more managers, then such persons shall have such power to manage the business or affairs of the limited liability company as is provided in the limited liability company agreement. Unless otherwise provided in the limited liability company agreement, such persons:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members at the time of such action;

(b) Need not be members of the limited liability company or natural persons; and

(c) Unless they have been earlier removed or have earlier resigned, shall hold office until their successors shall have been elected and qualified.

(3) If the certificate of formation vests management of the limited liability company in a manager or managers, no member, acting solely in the capacity as a member, is an agent of the limited liability company.

[1996 c 231 § 8; 1994 c 211 § 401.]

Notes:

Application--1996 c 231 § 8: "Section 8, chapter 231, Laws of 1996 does not apply to a limited liability company formed prior to June 6, 1996, unless the certificate of formation of the limited liability company is amended after June 6, 1996, to provide that the limited liability company has perpetual duration." [1996 c 231 § 13.]

RCW 25.15.155 Liability of managers and members.

Unless otherwise provided in the limited liability company agreement:

(1) A member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability company or to the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless such act or omission constitutes gross negligence, intentional misconduct, or a knowing violation of law.

(2) Every member and manager must account to the limited liability company and hold as trustee for it any profit or benefit derived by him or her without the consent of a majority of the disinterested managers or members, or other persons participating in the management of the business or affairs of the limited liability company from (a) any transaction connected with the conduct or winding up of the limited liability company or (b) any use by him or her of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to him or her as a result of his or her status as manager or member.

[1994 c 211 § 402.]

RCW 25.15.160 Manager--Members' rights and duties.

A person who is both a manager and a member has the rights and powers, and is subject to the restrictions and liabilities, of a manager and, except as provided in a limited liability company agreement, also has the rights and powers, and is subject to the restrictions and liabilities, of a member to the extent of his or her participation in the limited liability company as a member.

[1994 c 211 § 403.]

RCW 25.15.165 Voting and classes of managers.

(1) Unless the limited liability company agreement provides otherwise, the affirmative vote, approval, or consent of more than one-half by number of the managers shall be required to decide any matter connected with the business and affairs of the limited liability company.

(2) A limited liability company agreement may provide for classes or groups of managers having such relative rights, powers, and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of managers having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of managers. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any manager or class or group of managers, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding.

(3) A limited liability company agreement may grant to all or certain identified managers or a specified class or group of the managers the right to vote, separately or with all or any class or group of managers or members, on any matter. If the limited liability company agreement so provides, voting by managers may be on a financial interest, class, group, or any other basis.

(4) A limited liability company agreement which contains provisions related to voting rights of managers may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

[1994 c 211 § 404.]

RCW 25.15.170 Remedies for breach of limited liability company agreement by manager.

A limited liability company agreement may provide that (1) a manager who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement shall be subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the limited liability company agreement, a

manager shall be subject to specified penalties or specified consequences.

[1994 c 211 § 405.]

RCW 25.15.175 Reliance on reports and information by member or manager.

In discharging the duties of a manager or a member, a member or manager of a limited liability company is entitled to rely in good faith upon the records of the limited liability company and upon such information, opinions, reports, or statements presented to the limited liability company by any of its other managers, members, officers, employees, or committees of the limited liability company, or by any other person, as to matters the member or manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the limited liability company, including information, opinions, reports, or statements as to the value and amount of the assets, liabilities, profits, or losses of the limited liability company or any other facts pertinent to the existence and amount of assets from which distributions to members might properly be paid.

[1994 c 211 § 406.]

RCW 25.15.180 Resignation of manager.

A manager may resign as a manager of a limited liability company at the time or upon the happening of events specified in a limited liability company agreement and in accordance with the limited liability company agreement. A limited liability company agreement may provide that a manager shall not have the right to resign as a manager of a limited liability company. Notwithstanding that a limited liability company agreement provides that a manager does not have the right to resign as a manager of a limited liability company, a manager may resign as a manager of a limited liability company at any time by giving written notice to the members and other managers. If the resignation of a manager violates a limited liability company agreement, in addition to any remedies otherwise available under applicable law, a limited liability company may recover from the resigning manager damages for breach of the limited liability company agreement and offset the damages against the amount otherwise distributable to the resigning manager.

[1994 c 211 § 407.]

RCW 25.15.185 Loss of sole remaining manager.

In the event of the death, resignation, or removal of the sole remaining manager, or if one of the events described in RCW 25.15.130(1) (d) through (i) occurs with regard to the sole remaining manager, and unless the limited liability company agreement provides otherwise, the limited liability company shall become member-managed unless one or more managers are appointed by majority vote of the members within ninety days after the occurrence of such an event.

[2000 c 169 § 3.]

ARTICLE V. FINANCE

RCW 25.15.190 Form of contribution.

The contribution of a member to a limited liability company may be made in cash, property or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

[1994 c 211 § 501.]

RCW 25.15.195 Liability for contribution.

(1) Except as provided in a limited liability company agreement, a member is obligated to a limited liability company to perform any promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or any other reason. If a member does not make the required contribution of property or services, the member is obligated at the option of the limited liability company to contribute cash equal to that portion of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contribution that has not been made. This option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the limited liability company agreement or applicable law.

(2) Unless otherwise provided in a limited liability company agreement, the obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit, after either the certificate of formation, limited liability company agreement or an amendment thereto, or records required to be kept under RCW 25.15.135 reflect the obligation, and before the amendment of any thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a member to make a contribution or return. A conditional obligation of a member to make a contribution or return money or other property to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company prior to the time the call occurs.

(3) A limited liability company agreement may provide that the interest of any member who fails to make any contribution that the member is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's limited liability company interest to that of

nondefaulting members, a forced sale of the member's limited liability company interest, forfeiture of the member's limited liability company interest, the lending by other members of the amount necessary to meet the member's commitment, a fixing of the value of the member's limited liability company interest by appraisal or by formula and redemption or sale of the member's limited liability company interest at such value, or other penalty or consequence.

[1994 c 211 § 502.]

RCW 25.15.200 Allocation of profits and losses.

The profits and losses of a limited liability company shall be allocated among the members, and among classes or groups of members, in the manner provided in a limited liability company agreement. If the limited liability company agreement does not so provide, profits and losses shall be allocated in proportion to the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by each member.

[1994 c 211 § 503.]

RCW 25.15.205 Allocation of distributions.

Distributions of cash or other assets of a limited liability company shall be allocated among the members, and among classes or groups of members, in the manner provided in a limited liability company agreement. If the limited liability company agreement does not so provide, distributions shall be made in proportion to the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by each member.

[1994 c 211 § 504.]

ARTICLE VI. DISTRIBUTIONS AND RESIGNATION

RCW 25.15.215 Interim distributions.

Except as provided in this article, to the extent and at the times or upon the happening of the events specified in a limited liability company agreement, a member is entitled to receive from a limited liability company distributions before the member's dissociation from the limited liability company and before the dissolution and winding up thereof.

[1994 c 211 § 601.]

RCW 25.15.220 Distribution on event of dissociation.

Unless otherwise provided in the limited liability company agreement, upon the occurrence of an event of dissociation under RCW 25.15.130 which does not cause dissolution

(other than an event of dissociation specified in RCW 25.15.130(1)(b) where the dissociating member's assignee is admitted as a member), a dissociating member (or the member's assignee) is entitled to receive any distribution to which an assignee would be entitled.

[1995 c 337 § 18; 1994 c 211 § 602.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

RCW 25.15.225 Distribution in-kind.

Except as provided in a limited liability company agreement, a member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in any form other than cash. Except as provided in a limited liability company agreement, a member may not be compelled to accept a distribution of any asset in-kind from a limited liability company to the extent that the percentage of the asset distributed to the member exceeds a percentage of that asset which is equal to the percentage in which he or she shares in distributions from the limited liability company.

[1994 c 211 § 603.]

RCW 25.15.230 Right to distribution.

Subject to RCW 25.15.235 and 25.15.300, and unless otherwise provided in a limited liability company agreement, at the time a member becomes entitled to receive a distribution, he or she has the status of, and is entitled to all remedies available to, a creditor of a limited liability company with respect to the distribution. A limited liability company agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited liability company.

[1994 c 211 § 604.]

RCW 25.15.235 Limitations on distribution.

(1) A limited liability company shall not make a distribution to a member to the extent that at the time of the distribution, after giving effect to the distribution (a) the limited liability company would not be able to pay its debts as they became due in the usual course of business, or (b) all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specified property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited liability company only to the extent that the fair value of that property exceeds that liability.

(2) A member who receives a distribution in violation of subsection (1) of this section, and who knew at the time of the distribution that the distribution violated subsection (1) of this section, shall be liable to a limited liability company for the amount of the distribution. A

member who receives a distribution in violation of subsection (1) of this section, and who did not know at the time of the distribution that the distribution violated subsection (1) of this section, shall not be liable for the amount of the distribution. Subject to subsection (3) of this section, this subsection (2) shall not affect any obligation or liability of a member under a limited liability company agreement or other applicable law for the amount of a distribution.

(3) Unless otherwise agreed, a member who receives a distribution from a limited liability company shall have no liability under this chapter or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution unless an action to recover the distribution from such member is commenced prior to the expiration of the said three-year period and an adjudication of liability against such member is made in the said action.

[1994 c 211 § 605.]

ARTICLE VII. ASSIGNMENT OF LIMITED LIABILITY COMPANY INTERESTS

RCW 25.15.245 Nature of limited liability company interest--Certificate of interest.

(1) A limited liability company interest is personal property. A member has no interest in specific limited liability company property.

(2) A limited liability company agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of limited liability company interest issued by the limited liability company.

[1994 c 211 § 701.]

RCW 25.15.250 Assignment of limited liability company interest.

(1) A limited liability company interest is assignable in whole or in part except as provided in a limited liability company agreement. The assignee of a member's limited liability company interest shall have no right to participate in the management of the business and affairs of a limited liability company except:

(a) Upon the approval of all of the members of the limited liability company other than the member assigning his or her limited liability company interest; or

(b) As provided in a limited liability company agreement.

(2) Unless otherwise provided in a limited liability company agreement:

(a) An assignment entitles the assignee to share in such profits and losses, to receive such distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and

(b) A member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of his or her limited liability company interest.

(3) For the purposes of this chapter, unless otherwise provided in a limited liability company agreement:

(a) The pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of the limited liability company interest of a member shall not be deemed to be an assignment of the member's limited liability company interest, but a foreclosure or execution sale or exercise of similar rights with respect to all of a member's limited liability company interest shall be deemed to be an assignment of the member's limited liability company interest to the transferee pursuant to such foreclosure or execution sale or exercise of similar rights;

(b) Where a limited liability company interest is held in a trust or estate, or is held by a trustee, personal representative, or other fiduciary, the transfer of the limited liability company interest, whether to a beneficiary of the trust or estate or otherwise, shall be deemed to be an assignment of such limited liability company interest, but the mere substitution or replacement of the trustee, personal representative, or other fiduciary shall not constitute an assignment of any portion of such limited liability company interest.

(4) Unless otherwise provided in a limited liability company agreement and except to the extent assumed by agreement, until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

[1995 c 337 § 19; 1994 c 211 § 702.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

RCW 25.15.255 Rights of judgment creditor.

On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the limited liability company interest of the member with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the limited liability company interest. This chapter does not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest.

[1994 c 211 § 703.]

RCW 25.15.260 Right of assignee to become member.

(1) An assignee of a limited liability company interest may become a member upon:

(a) The approval of all of the members of the limited liability company other than the member assigning his or her limited liability company interest; or

(b) Compliance with any procedure provided for in the limited liability company agreement.

(2) An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under a limited liability company agreement and this chapter. An assignee who becomes a member is liable for the obligations of his or her assignor to make contributions as provided in RCW 25.15.195, and for the obligations of his or her assignor under article VI of this chapter.

(3) Whether or not an assignee of a limited liability company interest becomes a member,

the assignor is not released from his or her liability to a limited liability company under articles V and VI of this chapter.

[1994 c 211 § 704.]

ARTICLE VIII. DISSOLUTION

RCW 25.15.270 Dissolution.

A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is not specified in the certificate of formation, the limited liability company's existence will continue until the first to occur of the events described in subsections (2) through (6) of this section. If a dissolution date is specified in the certificate of formation, the certificate of formation may be amended and the existence of the limited liability company may be extended by vote of all the members;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Unless the limited liability company agreement provides otherwise, ninety days following an event of dissociation of the last remaining member, unless those having the rights of assignees in the limited liability company under RCW 25.15.130(1) have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in RCW 25.15.120(1);

(5) The entry of a decree of judicial dissolution under RCW 25.15.275; or

(6) The expiration of two years after the effective date of dissolution under RCW 25.15.285 without the reinstatement of the limited liability company.

[2000 c 169 § 4; 1997 c 21 § 1; 1996 c 231 § 9; 1994 c 211 § 801.]

RCW 25.15.275 Judicial dissolution.

On application by or for a member or manager the superior courts may decree dissolution of a limited liability company whenever: (1) It is not reasonably practicable to carry on the business in conformity with a limited liability company agreement; or (2) other circumstances render dissolution equitable.

[1994 c 211 § 802.]

RCW 25.15.280 Administrative dissolution--Commencement of proceeding.

The secretary of state may commence a proceeding under RCW 25.15.285 to administratively dissolve a limited liability company if:

(1) The limited liability company does not pay any license fees or penalties, imposed by

this chapter, when they become due;

(2) The limited liability company does not deliver its completed initial report or annual report to the secretary of state when it is due;

(3) The limited liability company is without a registered agent or registered office in this state for sixty days or more; or

(4) The limited liability company does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

[1995 c 337 § 20; 1994 c 211 § 803.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

RCW 25.15.285 Administrative dissolution--Notice--Opportunity to correct deficiencies.

(1) If the secretary of state determines that one or more grounds exist under RCW 25.15.280 for dissolving a limited liability company, the secretary of state shall give the limited liability company written notice of the determination by first class mail, postage prepaid, reciting the grounds therefor. Notice shall be sent to the address of the principal place of business of the limited liability company as it appears in the records of the secretary of state.

(2) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is sent, the limited liability company is thereupon dissolved. The secretary of state shall give the limited liability company written notice of the dissolution that recites the ground or grounds therefor and its effective date.

(3) A limited liability company administratively dissolved continues its existence but may not carry on any business except as necessary to wind up and liquidate its business and affairs.

(4) The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

[1994 c 211 § 804.]

RCW 25.15.290 Administrative dissolution--Reinstatement--Application--When effective.

(1) A limited liability company administratively dissolved under RCW 25.15.285 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must:

(a) Recite the name of the limited liability company and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) State that the limited liability company's name satisfies the requirements of RCW

25.15.010.

(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice, as provided in RCW 25.15.285(1), of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume carrying on its business as if the administrative dissolution had never occurred.

(4) If an application for reinstatement is not made within the two-year period set forth in subsection (1) of this section, or if the application made within this period is not granted, the secretary of state shall cancel the limited liability company's certificate of formation.

[1994 c 211 § 805.]

RCW 25.15.295 Winding up.

(1) Unless otherwise provided in a limited liability company agreement, a manager who has not wrongfully dissolved a limited liability company or, if none, the members or a person approved by the members or, if there is more than one class or group of members, then by each class or group of members, in either case, by members contributing, or required to contribute, more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or required to be made, by all members, or by the members in each class or group, as appropriate, may wind up the limited liability company's affairs. The superior courts, upon cause shown, may wind up the limited liability company's affairs upon application of any member or manager, his or her legal representative or assignee, and in connection therewith, may appoint a receiver.

(2) Upon dissolution of a limited liability company and until the filing of a certificate of cancellation as provided in RCW 25.15.080, the persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company.

[1994 c 211 § 806.]

RCW 25.15.300 Distribution of assets.

(1) Upon the winding up of a limited liability company, the assets shall be distributed as follows:

(a) To creditors, including members and managers who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited liability company (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to members under RCW 25.15.215 or 25.15.230;

(b) Unless otherwise provided in a limited liability company agreement, to members and former members in satisfaction of liabilities for distributions under RCW 25.15.215 or 25.15.230; and

(c) Unless otherwise provided in a limited liability company agreement, to members first for the return of their contributions and second respecting their limited liability company interests, in the proportions in which the members share in distributions.

(2) A limited liability company which has dissolved shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims and obligations, known to the limited liability company and all claims and obligations which are known to the limited liability company but for which the identity of the claimant is unknown. If there are sufficient assets, such claims and obligations shall be paid in full and any such provision for payment made shall be made in full. If there are insufficient assets, such claims and obligations shall be paid or provided for according to their priority and, among claims and obligations of equal priority, ratably to the extent of assets available therefor. Unless otherwise provided in a limited liability company agreement, any remaining assets shall be distributed as provided in this chapter. Any person winding up a limited liability company's affairs who has complied with this section is not personally liable to the claimants of the dissolved limited liability company by reason of such person's actions in winding up the limited liability company.

[1994 c 211 § 807.]

ARTICLE IX. FOREIGN LIMITED LIABILITY COMPANIES

RCW 25.15.310 Law governing.

(1) Subject to the Constitution of the state of Washington:

(a) The laws of the state, territory, possession, or other jurisdiction or country under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its members and managers; and

(b) A foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of this state.

(2) A foreign limited liability company is subject to RCW 25.15.030 and, notwithstanding subsection (1)(a) of this section, a foreign limited liability company rendering professional services in this state is also subject to RCW 25.15.045(2).

(3) A foreign limited liability company and its members and managers doing business in this state thereby submit to personal jurisdiction of the courts of this state and are subject to

RCW 25.15.125.

[1995 c 337 § 21; 1994 c 211 § 901.]

Notes:

Effective date--1995 c 337: See note following RCW 25.15.005.

RCW 25.15.315 Registration required--Application.

Before doing business in this state, a foreign limited liability company shall register with the secretary of state. In order to register, a foreign limited liability company shall submit to the secretary of state, an application for registration as a foreign limited liability company executed by any member or manager of the foreign limited liability company, setting forth:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business in this state;

(2) The state, territory, possession, or other jurisdiction or country where formed, the date of its formation and a duly authenticated statement from the secretary of state or other official having custody of limited liability company records in the jurisdiction under whose law it was formed, that as of the date of filing the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation;

(3) The nature of the business or purposes to be conducted or promoted in this state;

(4) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by RCW 25.15.325(2);

(5) The address of the principal place of business of the foreign limited liability company;

(6) A statement that the secretary of state is appointed the agent of the foreign limited liability company for service of process under the circumstances set forth in RCW 25.15.355(2); and

(7) The date on which the foreign limited liability company first did, or intends to do, business in this state.

[1994 c 211 § 902.]

RCW 25.15.320 Issuance of registration.

(1) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary shall:

(a) Certify that the application has been filed in his or her office by endorsing upon the original application the word "Filed," and the date of the filing. This endorsement is conclusive of the date of its filing in the absence of actual fraud;

(b) File the endorsed application.

(2) The duplicate of the application, similarly endorsed, shall be returned to the person who filed the application or that person's representative.

[1994 c 211 § 903.]

RCW 25.15.325 Name--Registered office--Registered agent.

(1) A foreign limited liability company may register with the secretary of state under any name (whether or not it is the name under which it is registered in the jurisdiction of its formation) that includes the words "Limited Liability Company," the words "Limited Liability" and the abbreviation "Co.," or the abbreviation "L.L.C." or "LLC" and that could be registered by a domestic limited liability company. A foreign limited liability company may apply to the secretary of state for authorization to use a name which is not distinguishable upon the records of the office of the secretary of state from the names described in RCW 23B.04.010 and 25.10.020, and the names of any domestic or foreign limited liability company reserved, registered, or formed under the laws of this state. The secretary of state shall authorize use of the name applied for if the other corporation, limited liability company, limited liability partnership, or limited partnership consents in writing to the use and files with the secretary of state documents necessary to change its name, or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying foreign limited liability company.

(2) Each foreign limited liability company shall continuously maintain in this state:

(a) A registered office, which may but need not be a place of its business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in the same city as the registered office in conjunction with the registered office address if the foreign limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent for service of process on the foreign limited liability company, which agent may be either an individual resident of this state whose business office is identical with the foreign limited liability company's registered office, or a domestic corporation, a limited partnership or limited liability company, or a foreign corporation authorized to do business in this state having a business office identical with such registered office; and

(c) A registered agent who shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual, limited liability company, limited partnership, or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.

(3) A foreign limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the foreign limited liability company;

(b) If the current registered office is to be changed, the street address of the new registered office in accord with subsection (2)(a) of this section;

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(4) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign limited liability company for which the agent is the registered agent by notifying the foreign limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (3) of this section and recites that the foreign limited liability company has been notified of the change.

(5) A registered agent of any foreign limited liability company may resign as agent by signing and delivering to the secretary of state for filing a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail a copy of the statement to the foreign limited liability company at its principal place of business shown in its application for certificate of registration if no annual report has been filed. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

[1998 c 102 § 10; 1996 c 231 § 10; 1994 c 211 § 904.]

RCW 25.15.330 Amendments to application.

If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application false in any respect, the foreign limited liability company shall promptly file in the office of the secretary of state a certificate, executed by any member or manager, correcting such statement.

[1994 c 211 § 905.]

RCW 25.15.335 Cancellation of registration.

(1) A foreign limited liability company may cancel its registration by filing with the secretary of state a certificate of cancellation, executed by any member or manager. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business in this state.

(2) The certificate of cancellation shall set forth:

(a) The name of the foreign limited liability company;

- (b) The date of filing of its certificate of registration;
- (c) The reason for filing the certificate of cancellation;
- (d) The future effective date (not later than the ninetieth day after the date it is filed) of cancellation if it is not to be effective upon filing of the certificate;
- (e) The address to which service of process may be forwarded; and
- (f) Any other information the person filing the certificate of cancellation desires.

[1994 c 211 § 906.]

RCW 25.15.340 Doing business without registration.

(1) A foreign limited liability company doing business in this state may not maintain any action, suit, or proceeding in this state until it has registered in this state, and has paid to this state all fees and penalties for the years or parts thereof, during which it did business in this state without having registered.

(2) The failure of a foreign limited liability company to register in this state does not impair:

- (a) The validity of any contract or act of the foreign limited liability company;
- (b) The right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or
- (c) Prevent the foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(3) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business in this state without registration.

[1994 c 211 § 907.]

RCW 25.15.345 Foreign limited liability companies doing business without having qualified--Injunctions.

The superior courts shall have jurisdiction to enjoin any foreign limited liability company, or any agent thereof, from doing any business in this state if such foreign limited liability company has failed to register under this article or if such foreign limited liability company has secured a certificate of registration from the secretary of state under RCW 25.15.320 on the basis of false or misleading representations. The secretary of state shall, upon the secretary's own motion or upon the relation of proper parties, proceed for this purpose by complaint in any county in which such foreign limited liability company is doing or has done business.

[1994 c 211 § 908.]

RCW 25.15.350 Transactions not constituting transacting business.

- (1) The following activities, among others, do not constitute transacting business within

the meaning of this article:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;

(b) Holding meetings of the members, or managers if any, or carrying on other activities concerning internal limited liability company affairs;

(c) Maintaining bank accounts, share accounts in savings and loan associations, custodian or agency arrangements with a bank or trust company, or stock or bond brokerage accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability company's own securities or interests or maintaining trustees or depositaries with respect to those securities or interests;

(e) Selling through independent contractors;

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance outside this state before becoming binding contracts and where the contracts do not involve any local performance other than delivery and installation;

(g) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real or personal property, or recording same;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature;

(k) Transacting business in interstate commerce;

(l) Owning a controlling interest in a corporation or a foreign corporation that transacts business within this state;

(m) Participating as a limited partner of a domestic or foreign limited partnership that transacts business within this state; or

(n) Participating as a member or a manager of a domestic or foreign limited liability company that transacts business within this state.

(2) The list of activities in subsection (1) of this section is not exhaustive.

[1994 c 211 § 909.]

RCW 25.15.355 Service of process on registered foreign limited liability companies.

(1) A foreign limited liability company's registered agent is its agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company.

(2) The secretary of state shall be an agent of a foreign limited liability company upon whom any such process, notice, or demand may be served if:

(a) The foreign limited liability company fails to appoint or maintain a registered agent in this state; or

(b) The registered agent cannot with reasonable diligence be found at the registered office.

(3) Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by certified mail, addressed to the foreign limited liability company at the address of its principal place of business as it appears on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

(4) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

(5) This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign limited liability company in any other manner now or hereafter permitted by law.

[1994 c 211 § 910.]

RCW 25.15.360 Service of process on unregistered foreign limited liability companies.

(1) Any foreign limited liability company which shall do business in this state without having registered under RCW 25.15.315 shall be deemed to have thereby appointed and constituted the secretary of state its agent for the acceptance of legal process in any civil action, suit, or proceeding against it in any state or federal court in this state arising or growing out of any business done by it within this state. The doing of business in this state by such foreign limited liability company shall be a signification of the agreement of such foreign limited liability company that any such process when so served shall be of the same legal force and validity as if served upon a registered agent personally within this state.

(2) In the event of service upon the secretary of state in accordance with subsection (1) of this section, the secretary of state shall forthwith notify the foreign limited liability company thereof by letter, certified mail, return receipt requested, directed to the foreign limited liability company at the address furnished to the secretary of state by the plaintiff in such action, suit, or proceeding. Such letter shall enclose a copy of the process and any other papers served upon the secretary of state. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the secretary of state that service is being made pursuant to this subsection.

[1994 c 211 § 911.]

RCW 25.15.365 Revocation of registration--Requirements for commencement.

The secretary of state may commence a proceeding under *section 11 of this act to revoke registration of a foreign limited liability company authorized to transact business in this state if:

(1) The foreign limited liability company is without a registered agent or registered office in this state for sixty days or more;

(2) The foreign limited liability company does not inform the secretary of state under RCW 25.15.330 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty days of the change, resignation, or discontinuance;

(3) A manager or other agent of the foreign limited liability company signed a document knowing it was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(4) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability company records in the jurisdiction under which the foreign limited liability company was organized stating that the foreign limited liability company has been dissolved or its certificate or articles of formation canceled.

[1996 c 231 § 11.]

Notes:

***Reviser's note:** The reference to "section 11 of this act" appears to be erroneous. The error arose in the renumbering of sections when the bill was engrossed. Section 12, codified as RCW 25.15.366, was apparently intended.

RCW 25.15.366 Revocation of registration--Procedure--Notice--Correction of grounds--Certificate of revocation--Authority of agent.

(1) If the secretary of state determines that one or more grounds exist under *section 10 of this act for revocation of a foreign limited liability company's registration, the secretary of state shall give the foreign limited liability company written notice of the determination by first class mail, postage prepaid, stating in the notice the ground or grounds for and effective date of the secretary of state's determination, which date shall not be earlier than the date on which the notice is mailed.

(2) If the foreign limited liability company does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is effective, the secretary of state shall revoke the foreign limited liability company's registration by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state shall file the original of the certificate and mail a copy to the foreign limited liability company.

(3) Documents to be mailed by the secretary of state to a foreign limited liability company for which provision is made in this section shall be sent to the foreign limited liability company at the address of the agent for service of process contained in the application or certificate of this limited liability company which is most recently filed with the secretary of state.

(4) The authority of a foreign limited liability company to transact business in this state ceases on the date shown on the certificate revoking its registration.

(5) The secretary of state's revocation of a foreign limited liability company's registration

appoints the secretary of state the foreign limited liability company's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability company was authorized to transact business in this state.

(6) Revocation of a foreign limited liability company's registration does not terminate the authority of the registered agent of the foreign limited liability company.

[1996 c 231 § 12.]

Notes:

***Reviser's note:** The reference to "section 10 of this act" appears to be erroneous. The error arose in the renumbering of sections when the bill was engrossed. Section 11, codified as RCW 25.15.365, was apparently intended.

ARTICLE X. DERIVATIVE ACTIONS

RCW 25.15.370 Right to bring action.

A member may bring an action in the superior courts in the right of a limited liability company to recover a judgment in its favor if managers or members with authority to do so have refused to bring the action or if an effort to cause those managers or members to bring the action is not likely to succeed.

[1994 c 211 § 1001.]

RCW 25.15.375 Proper plaintiff.

In a derivative action, the plaintiff must be a member at the time of bringing the action and:

- (1) At the time of the transaction of which the plaintiff complains; or
- (2) The plaintiff's status as a member had devolved upon him or her by operation of law or pursuant to the terms of a limited liability company agreement from a person who was a member at the time of the transaction.

[1994 c 211 § 1002.]

RCW 25.15.380 Complaint.

In a derivative action, the complaint shall set forth with particularity the effort, if any, of the plaintiff to secure initiation of the action by a manager or member or the reasons for not making the effort.

[1994 c 211 § 1003.]

RCW 25.15.385 Expenses.

If a derivative action is successful, in whole or in part, as a result of a judgment, compromise, or settlement of any such action, the court may award the plaintiff reasonable

expenses, including reasonable attorneys' fees, from any recovery in any such action or from a limited liability company.

[1994 c 211 § 1004.]

ARTICLE XI. MERGERS

RCW 25.15.395 Merger--Plan--Effective date.

(1) One or more domestic limited liability companies may merge with one or more domestic partnerships, domestic limited partnerships, domestic limited liability companies, or domestic corporations pursuant to a plan of merger approved or adopted as provided in RCW 25.15.400.

(2) The plan of merger must set forth:

(a) The name of each partnership, limited liability company, limited partnership, and corporation planning to merge and the name of the surviving partnership, limited liability company, limited partnership, or corporation into which the other partnership, limited liability company, limited partnership, or corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the interests of each member of each limited liability company, the partnership interests in each partnership or limited partnership, and the shares of each corporation party to the merger into the interests, shares, obligations, or other securities of the surviving or any other partnership, limited liability company, limited partnership, or corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the certificate of formation of the surviving limited liability company;

(b) Amendments to the certificate of limited partnership of the surviving limited partnership;

(c) Amendments to the articles of incorporation of the surviving corporation; and

(d) Other provisions relating to the merger.

(4) If the plan of merger does not specify a delayed effective date, it shall become effective upon the filing of articles of merger. If the plan of merger specifies a delayed effective time and date, the plan of merger becomes effective at the time and date specified. If the plan of merger specifies a delayed effective date but no time is specified, the plan of merger is effective at the close of business on that date. A delayed effective date for a plan of merger may not be later than the ninetieth day after the date it is filed.

[1998 c 103 § 1319; 1994 c 211 § 1101.]

RCW 25.15.400 Merger--Plan--Approval.

(1) Unless otherwise provided in the limited liability company agreement, approval of a plan of merger by a domestic limited liability company party to the merger shall occur when the

plan is approved by the members, or if there is more than one class or group of members, then by each class or group of members, in either case, by members contributing more than fifty percent of the agreed value (as stated in the records of the limited liability company required to be kept pursuant to RCW 25.15.135) of the contributions made, or obligated to be made, by all members or by the members in each class or group, as appropriate.

(2) If a domestic limited partnership is a party to the merger, the plan of merger shall be adopted and approved as provided in RCW 25.10.810.

(3) If a domestic corporation is a party to the merger, the plan of merger shall be adopted and approved as provided in chapter 23B.11 RCW.

(4) If a domestic partnership is a party to the merger, the plan of merger must be approved as provided in RCW 25.05.375.

[1998 c 103 § 1320; 1994 c 211 § 1102.]

RCW 25.15.405 Articles of merger--Filing.

After a plan of merger is approved or adopted, the surviving partnership, limited liability company, limited partnership, or corporation shall deliver to the secretary of state for filing articles of merger setting forth:

(1) The plan of merger;

(2) If the approval of any members, partners, or shareholders of one or more partnerships, limited liability companies, limited partnerships, or corporations party to the merger was not required, a statement to that effect; or

(3) If the approval of any members, partners, or shareholders of one or more of the partnerships, limited liability companies, limited partnerships, or corporations party to the merger was required, a statement that the merger was duly approved by such members, partners, and shareholders pursuant to RCW 25.05.375, 25.15.400, 25.10.810, or chapter 23B.11 RCW.

[1998 c 103 § 1321; 1994 c 211 § 1103.]

RCW 25.15.410 Effect of merger.

(1) When a merger takes effect:

(a) Every other partnership, limited liability company, limited partnership, or corporation that is party to the merger merges into the surviving partnership, limited liability company, limited partnership, or corporation and the separate existence of every partnership, limited liability company, limited partnership, or corporation except the surviving partnership, limited liability company, limited partnership, or corporation ceases;

(b) The title to all real estate and other property owned by each partnership, limited liability company, limited partnership, and corporation party to the merger is vested in the surviving partnership, limited liability company, limited partnership, or corporation without reversion or impairment;

(c) The surviving partnership, limited liability company, limited partnership, or

corporation has all liabilities of each partnership, limited liability company, limited partnership, and corporation that is party to the merger;

(d) A proceeding pending against any partnership, limited liability company, limited partnership, or corporation that is party to the merger may be continued as if the merger did not occur or the surviving partnership, limited liability company, limited partnership, or corporation may be substituted in the proceeding for the partnership, limited liability company, limited partnership, or corporation whose existence ceased;

(e) The certificate of formation of the surviving limited liability company is amended to the extent provided in the plan of merger;

(f) The partnership agreement of the surviving limited partnership is amended to the extent provided in the plan of merger;

(g) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and

(h) The former members of every limited liability company party to the merger, holders of the partnership interests of every domestic partnership or domestic limited partnership that is party to the merger, and the former holders of the shares of every domestic corporation that is party to the merger are entitled only to the rights provided in the plan of merger, to their rights under chapter 25.05 RCW, to their rights under this article, to their rights under RCW 25.10.900 through 25.10.955, or to their rights under chapter 23B.13 RCW.

(2) Unless otherwise agreed, a merger of a domestic limited liability company, including a domestic limited liability company which is not the surviving entity in the merger, shall not require the domestic limited liability company to wind up its affairs under RCW 25.15.295 or pay its liabilities and distribute its assets under RCW 25.15.300.

(3) Unless otherwise agreed, a merger of a domestic limited partnership, including a domestic limited partnership which is not the surviving entity in the merger, shall not require the domestic limited partnership to wind up its affairs under RCW 25.10.460 or pay its liabilities and distribute its assets under RCW 25.10.470.

(4) Unless otherwise agreed, a merger of a domestic partnership, including a domestic partnership which is not the surviving entity in the merger, shall not require the domestic partnership to wind up its affairs under article 8 of chapter 25.05 RCW.

(5) Unless otherwise agreed, a merger of a domestic limited liability company, including a domestic limited liability company which is not the surviving entity in the merger, shall not require the domestic limited liability company to wind up its affairs under article 8 of chapter 25.15 RCW.

[1998 c 103 § 1322; 1994 c 211 § 1104.]

RCW 25.15.415 Merger--Foreign and domestic.

(1) One or more foreign partnerships, one or more foreign limited liability companies, one or more foreign limited partnerships, and one or more foreign corporations may merge with one or more domestic partnerships, domestic limited liability companies, domestic limited

partnerships, or domestic corporations if:

(a) The merger is permitted by the law of the jurisdiction under which each foreign limited liability company was formed, each foreign partnership or foreign limited partnership was organized, and each foreign corporation was incorporated, and each foreign limited liability company, foreign partnership, foreign limited partnership, and foreign corporation complies with that law in effecting the merger;

(b) The surviving entity complies with RCW 25.15.405 and 25.05.380;

(c) Each domestic limited liability company complies with RCW 25.15.400;

(d) Each domestic limited partnership complies with RCW 25.10.810; and

(e) Each domestic corporation complies with RCW 23B.11.080.

(2) Upon the merger taking effect, a surviving foreign limited liability company, limited partnership, or corporation is deemed to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting partners or shareholders of each domestic limited liability company, domestic limited partnership, or domestic corporation party to the merger.

[1998 c 103 § 1323; 1994 c 211 § 1105.]

ARTICLE XII. DISSENTERS' RIGHTS

RCW 25.15.425 Definitions.

As used in this article, unless the context otherwise requires:

(1) "Limited liability company" means the domestic limited liability company in which the dissenter holds or held a membership interest, or the surviving limited liability company, limited partnership, or corporation by merger, whether foreign or domestic, of that limited liability company.

(2) "Dissenter" means a member who is entitled to dissent from a plan of merger and who exercises that right when and in the manner required by this article.

(3) "Fair value," with respect to a dissenter's limited liability company interest, means the value of the member's limited liability company interest immediately before the effectuation of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable.

(4) "Interest" means interest from the effective date of the merger until the date of payment, at the average rate currently paid by the limited liability company on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

[1994 c 211 § 1201.]

RCW 25.15.430 Member--Dissent--Payment of fair value.

(1) Except as provided in RCW 25.15.440 or 25.15.450(2), a member of a domestic limited liability company is entitled to dissent from, and obtain payment of, the fair value of the

member's interest in a limited liability company in the event of consummation of a plan of merger to which the limited liability company is a party as permitted by RCW 25.15.395 or 25.15.415.

(2) A member entitled to dissent and obtain payment for the member's interest in a limited liability company under this article may not challenge the merger creating the member's entitlement unless the merger fails to comply with the procedural requirements imposed by this title, Title 23B RCW, RCW 25.10.800 through 25.10.840, or the limited liability company agreement, or is fraudulent with respect to the member or the limited liability company.

(3) The right of a dissenting member in a limited liability company to obtain payment of the fair value of the member's interest in the limited liability company shall terminate upon the occurrence of any one of the following events:

- (a) The proposed merger is abandoned or rescinded;
- (b) A court having jurisdiction permanently enjoins or sets aside the merger; or
- (c) The member's demand for payment is withdrawn with the written consent of the limited liability company.

[1994 c 211 § 1202.]

RCW 25.15.435 Dissenters' rights--Notice--Timing.

(1) Not less than ten days prior to the approval of a plan of merger, the limited liability company must send a written notice to all members who are entitled to vote on or approve the plan of merger that they may be entitled to assert dissenters' rights under this article. Such notice shall be accompanied by a copy of this article.

(2) The limited liability company shall notify in writing all members not entitled to vote on or approve the plan of merger that the plan of merger was approved, and send them the dissenters' notice as required by RCW 25.15.445.

[1994 c 211 § 1203.]

RCW 25.15.440 Member--Dissent--Voting restriction.

A member of a limited liability company who is entitled to vote on or approve the plan of merger and who wishes to assert dissenters' rights must not vote in favor of or approve the plan of merger. A member who does not satisfy the requirements of this section is not entitled to payment for the member's interest in the limited liability company under this article.

[1994 c 211 § 1204.]

RCW 25.15.445 Members--Dissenters' notice--Requirements.

(1) If the plan of merger is approved, the limited liability company shall deliver a written dissenters' notice to all members who satisfied the requirements of RCW 25.15.440.

(2) The dissenters' notice required by RCW 25.15.435(2) or by subsection (1) of this

section must be sent within ten days after the approval of the plan of merger, and must:

- (a) State where the payment demand must be sent;
- (b) Inform members as to the extent transfer of the member's interest in the limited liability company will be restricted as permitted by RCW 25.15.455 after the payment demand is received;
- (c) Supply a form for demanding payment;
- (d) Set a date by which the limited liability company must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice under this section is delivered; and
- (e) Be accompanied by a copy of this article.

[1994 c 211 § 1205.]

RCW 25.15.450 Member--Payment demand--Entitlement.

(1) A member of a limited liability company who demands payment retains all other rights of a member of such company until the proposed merger becomes effective.

(2) A member of a limited liability company sent a dissenters' notice who does not demand payment by the date set in the dissenters' notice is not entitled to payment for the member's interest in the limited liability company under this article.

[1994 c 211 § 1206.]

RCW 25.15.455 Member's interests--Transfer restriction.

The limited liability company agreement may restrict the transfer of members' interests in the limited liability company from the date the demand for their payment is received until the proposed merger becomes effective or the restriction is released under this article.

[1994 c 211 § 1207.]

RCW 25.15.460 Payment of fair value--Requirements for compliance.

(1) Within thirty days of the later of the date the proposed merger becomes effective, or the payment demand is received, the limited liability company shall pay each dissenter who complied with RCW 25.15.450 the amount the limited liability company estimates to be the fair value of the dissenting member's interest in the limited liability company, plus accrued interest.

(2) The payment must be accompanied by:

- (a) Copies of the financial statements for the limited liability company for its most recent fiscal year;
- (b) An explanation of how the limited liability company estimated the fair value of the member's interest in the limited liability company;
- (c) An explanation of how the accrued interest was calculated;
- (d) A statement of the dissenter's right to demand payment; and

(e) A copy of this article.

[1994 c 211 § 1208.]

RCW 25.15.465 Merger--Not effective within sixty days--Transfer restrictions.

(1) If the proposed merger does not become effective within sixty days after the date set for demanding payment, the limited liability company shall release any transfer restrictions imposed as permitted by RCW 25.15.455.

(2) If, after releasing transfer restrictions, the proposed merger becomes effective, the limited liability company must send a new dissenters' notice as provided in RCW 25.15.435(2) and 25.15.445 and repeat the payment demand procedure.

[1994 c 211 § 1209.]

RCW 25.15.470 Dissenter's estimate of fair value--Notice.

(1) A dissenting member may notify the limited liability company in writing of the dissenter's own estimate of the fair value of the dissenter's interest in the limited liability company, and amount of interest due, and demand payment of the dissenter's estimate, less any payment under RCW 25.15.460, if:

(a) The dissenter believes that the amount paid is less than the fair value of the dissenter's interest in the limited liability company, or that the interest due is incorrectly calculated;

(b) The limited liability company fails to make payment within sixty days after the date set for demanding payment; or

(c) The limited liability company, having failed to effectuate the proposed merger, does not release the transfer restrictions imposed on members' interests as permitted by RCW 25.15.455 within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the limited liability company of the dissenter's demand in writing under subsection (1) of this section within thirty days after the limited liability company made payment for the dissenter's interest in the limited liability company.

[1994 c 211 § 1210.]

RCW 25.15.475 Unsettled demand for payment--Proceeding--Parties--Appraisers.

(1) If a demand for payment under RCW 25.15.450 remains unsettled, the limited liability company shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the dissenting member's interest in the limited liability company, and accrued interest. If the limited liability company does not commence the proceeding within the sixty-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

(2) The limited liability company shall commence the proceeding in the superior court. If

the limited liability company is a domestic limited liability company, it shall commence the proceeding in the county where its registered office is maintained.

(3) The limited liability company shall make all dissenters (whether or not residents of this state) whose demands remain unsettled parties to the proceeding as in an action against their membership interests in the limited liability company and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The limited liability company may join as a party to the proceeding any member who claims to be a dissenter but who has not, in the opinion of the limited liability company, complied with the provisions of this article. If the court determines that such member has not complied with the provisions of this article, the member shall be dismissed as a party.

(5) The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decisions on the question of fair value. The appraisers have the powers described in the order appointing them or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(6) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's membership interest in the limited liability company, plus interest, exceeds the amount paid by the limited liability company.

[1994 c 211 § 1211.]

RCW 25.15.480 Unsettled demand for payment--Costs--Fees and expenses of counsel.

(1) The court in a proceeding commenced under RCW 25.15.475 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the limited liability company, except that the court may assess the costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the limited liability company and in favor of any or all dissenters if the court finds the limited liability company did not substantially comply with the requirements of this article; or

(b) Against either the limited liability company or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the limited liability company, the court may award to these counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

[1994 c 211 § 1212.]

ARTICLE XIII. MISCELLANEOUS

RCW 25.15.800 Construction and application of chapter and limited liability company agreement.

(1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) It is the policy of this chapter to give the maximum effect to the principle of freedom of contract and to the enforceability of limited liability company agreements.

(3) Unless the context otherwise requires, as used in this chapter, the singular shall include the plural and the plural may refer to only the singular. The captions contained herein are for purposes of convenience only and shall not control or affect the construction of this chapter and do not constitute part of the law.

[1994 c 211 § 1301.]

RCW 25.15.805 Establishment of filing fees and miscellaneous charges.

(1) The secretary of state shall adopt rules establishing fees which shall be charged and collected for:

(a) Filing of a certificate of formation for a domestic limited liability company or an application for registration of a foreign limited liability company;

(b) Filing of a certificate of cancellation for a domestic or foreign limited liability company;

(c) Filing of a certificate of amendment or restatement for a domestic or foreign limited liability company;

(d) Filing an application to reserve, register, or transfer a limited liability company name;

(e) Filing any other certificate, statement, or report authorized or permitted to be filed;

(f) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.

(2) In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings shall be as provided for in RCW 23B.01.220.

(3) All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law.

[1994 c 211 § 1302.]

RCW 25.15.810 Authority to adopt rules.

The secretary of state shall adopt such rules as are necessary to implement the transfer of duties and records required by this chapter.

[1994 c 211 § 1303.]

RCW 25.15.900 Effective date--1994 c 211.

This act shall take effect October 1, 1994.

[1994 c 211 § 1312.]

RCW 25.15.901 Short title.

This chapter may be cited as the "Washington Limited Liability Company Act."

[1994 c 211 § 1313.]

RCW 25.15.902 Severability--1994 c 211.

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.

[1994 c 211 § 1314.]

**Title 26 RCW
DOMESTIC RELATIONS**

Chapters

- 26.04 Marriage.**
- 26.09 Dissolution of marriage--Legal separation.**
- 26.10 Nonparental actions for child custody.**
- 26.12 Family court.**
- 26.16 Husband and wife--Rights and liabilities--Community property.**
- 26.18 Child support enforcement.**
- 26.19 Child support schedule.**
- 26.20 Family abandonment or nonsupport.**
- 26.21 Uniform interstate family support act.**
- 26.23 State support registry.**
- 26.25 Cooperative child support services--Indian tribes.**
- 26.26 Uniform parentage act.**
- 26.27 Uniform child custody jurisdiction act.**
- 26.28 Age of majority.**
- 26.30 Uniform minor student capacity to borrow act.**

- 26.33 Adoption.**
- 26.34 Interstate compact on placement of children.**
- 26.40 Handicapped children.**
- 26.44 Abuse of children.**
- 26.50 Domestic violence prevention.**
- 26.52 Foreign protection order full faith and credit act.**

Notes:

Action against parent for willful injury to property by minor child: RCW 4.24.190.
Action by parent for sale or transfer of controlled substance to minor: RCW 69.50.414.
Child welfare services: Chapter 74.13 RCW.
Children, expectant mothers and adult developmentally disabled, care and placement agencies: Chapter 74.15 RCW.
Children's center for research and training in mental retardation: RCW 28B.20.410 through 28B.20.414.
Community property, descent and distribution, devise: RCW 11.02.070, 11.04.015.
Contempts: Chapter 7.21 RCW.
Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.
Displaced homemaker act: Chapter 28B.04 RCW.
Enforcement of judgments: Title 6 RCW.
Evidence--Who are disqualified--Privileged communications: RCW 5.60.060.
Homesteads: Chapter 6.13 RCW.
Joint tenancies: Chapter 64.28 RCW.
Jurisdiction over Indians as to domestic relations and adoption: Chapter 37.12 RCW.
Personal exemptions: Chapter 6.15 RCW.
Probate and trust law: Title 11 RCW.
Sex crimes: Chapter 9A.44 RCW.
Sexually transmitted disease treatment and care for minors, consent, liability: RCW 70.24.110.
Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.
Solicitation of minor for immoral purposes: RCW 71.06.010.
Special
proceedings and actions: Title 7 RCW.
rights of action: Chapter 4.24 RCW.
Survival of actions: Chapter 4.20 RCW.
Transfers to minors act: Chapter 11.114 RCW.
Trial--Implied bias defined: RCW 4.44.180.
Wages due on death of employee--Payment to survivor under community property agreement: RCW 49.48.120.
Youth development and conservation corps: Chapter 79A.05 RCW.

Chapter 26.04 RCW
MARRIAGE

Sections

- 26.04.010 Marriage contract--Void marriages.
- 26.04.020 Prohibited marriages.
- 26.04.050 Who may solemnize.

26.04.060	Marriage before unauthorized cleric--Effect.
26.04.070	Form of solemnization.
26.04.080	Marriage certificate--Contents.
26.04.090	Certificate for files of county auditor and state registrar of vital statistics--Forms.
26.04.100	Filing and recording--County auditor.
26.04.105	Preservation of copies of applications and licenses--County auditor.
26.04.110	Penalty for failure to deliver certificates.
26.04.120	Marriage according to religious ritual.
26.04.130	Voidable marriages.
26.04.140	Marriage license.
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26.04.180	License--Time limitations as to issuance and use--Notification.
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26.04.220	Retention of license by person solemnizing--Auditor's record.
26.04.230	Penalty for violation of marriage requirements.
26.04.240	Penalty for unlawful solemnization--Code 1881.
26.04.250	Penalty for unlawful solemnization--1909 c 249.

Notes:

Certificates for out-of-state marriage license requirements: RCW 70.58.380.

Interscholar athletic and other extracurricular activities for students, discrimination because of marital status prohibited: RCW 28A.600.200.

Statute of frauds--Contracts, etc., void unless in writing: RCW 19.36.010.

Veterans and veterans' affairs--Free marriage and divorce certificates: RCW 73.04.120.

RCW 26.04.010 Marriage contract--Void marriages.

(1) Marriage is a civil contract between a male and a female who have each attained the age of eighteen years, and who are otherwise capable.

(2) Every marriage entered into in which either the husband or the wife has not attained the age of seventeen years is void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity.

[1998 c 1 § 3; 1973 1st ex.s. c 154 § 26; 1970 ex.s. c 17 § 2; 1963 c 230 § 1; Code 1881 § 2380; 1866 p 81 § 1; 1854 p 404 §§ 1, 5; RRS § 8437.]

Notes:

Finding--1998 c 1: "(1) In P.L. 104-199; 110 Stat. 219, the Defense of Marriage Act, Congress granted authority to the individual states to either grant or deny recognition of same-sex marriages recognized as valid in another state. The Defense of Marriage Act defines marriage for purposes of federal law as a legal union between one man and one woman as husband and wife and provides that a state shall not be required to give effect to any

public act or judicial proceeding of any other state respecting marriage between persons of the same sex if the state has determined that it will not recognize same-sex marriages.

(2) The legislature and the people of the state of Washington find that matters pertaining to marriage are matters reserved to the sovereign states and, therefore, such matters should be determined by the people within each individual state and not by the people or courts of a different state." [1998 c 1 § 1.]

Intent--1998 c 1: "(1) It is a compelling interest of the state of Washington to reaffirm its historical commitment to the institution of marriage as a union between a man and a woman as husband and wife and to protect that institution.

(2) The court in *Singer v. Hara*, 11 Wn. App. 247 (1974) held that the Washington state marriage statute does not allow marriage between persons of the same sex. It is the intent of the legislature by this act to codify the *Singer* opinion and to fully exercise the authority granted the individual states by Congress in P.L. 104-199; 110 Stat. 219, the Defense of Marriage Act, to establish public policy against same-sex marriage in statutory law that clearly and definitively declares same-sex marriages will not be recognized in Washington, even if they are made legal in other states." [1998 c 1 § 2.]

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 26.04.020 Prohibited marriages.

(1) Marriages in the following cases are prohibited:

(a) When either party thereto has a wife or husband living at the time of such marriage;

(b) When the husband and wife are nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law; or

(c) When the parties are persons other than a male and a female.

(2) It is unlawful for any man to marry his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter or sister's daughter; it is unlawful for any woman to marry her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son or sister's son.

(3) A marriage between two persons that is recognized as valid in another jurisdiction is valid in this state only if the marriage is not prohibited or made unlawful under subsection (1)(a), (1)(c), or (2) of this section.

[1998 c 1 § 4; 1927 c 189 § 1; Code 1881 § 949; 1866 p 81 § 2; 1854 p 96 § 115; RRS § 8438.]

Notes:

Finding--Intent--1998 c 1: See notes following RCW 26.04.010.

Bigamy: RCW 9A.64.010.

Incest--Penalties: RCW 9A.64.020.

RCW 26.04.050 Who may solemnize.

The following named officers and persons, active or retired, are hereby authorized to solemnize marriages, to wit: Justices of the supreme court, judges of the court of appeals, judges of the superior courts, superior court commissioners, any regularly licensed or ordained minister or any priest of any church or religious denomination, and judges of courts of limited jurisdiction as defined in RCW 3.02.010.

[1987 c 291 § 1; 1984 c 258 § 95; 1983 c 186 § 1; 1971 c 81 § 69; 1913 c 35 § 1; 1890 p 98 § 1; 1883 p 43 § 1; Code 1881 § 2382; 1866 p 82 § 4; 1854 p 404 § 4; RRS § 8441.]

Notes:

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

RCW 26.04.060 Marriage before unauthorized cleric--Effect.

A marriage solemnized before any person professing to be a minister or a priest of any religious denomination in this state or professing to be an authorized officer thereof, is not void, nor shall the validity thereof be in any way affected on account of any want of power or authority in such person, if such marriage be consummated with a belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage.

[1975-'76 2nd ex.s. c 42 § 25; Code 1881 § 2388; 1866 p 83 §§ 10 and 11; 1854 p 405 § 6; RRS § 8442. Formerly RCW 26.04.060 and 26.24.200.]

Notes:

Severability--Savings--Construction--1975-'76 2nd ex.s. c 42: See RCW 26.26.900 through 26.26.905.

RCW 26.04.070 Form of solemnization.

In the solemnization of marriage no particular form is required, except that the parties thereto shall assent or declare in the presence of the minister, priest, or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be husband and wife.

[Code 1881 § 2383; 1866 p 82 § 5; RRS § 8443.]

RCW 26.04.080 Marriage certificate--Contents.

The person solemnizing a marriage shall give to each of the parties thereto, if required, a certificate thereof, specifying therein the names and residence of the parties, and of at least two witnesses present, the time and place of such marriage, and the date of the license thereof, and by whom issued.

[Code 1881 § 2384; 1866 p 82 § 6; RRS § 8444.]

RCW 26.04.090 Certificate for files of county auditor and state registrar of vital statistics--Forms.

A person solemnizing a marriage shall, within thirty days thereafter, make and deliver to the county auditor of the county wherein the license was issued a certificate for the files of the county auditor, and a certificate for the files of the state registrar of vital statistics. The certificate for the files of the county auditor shall be substantially as follows:

[1985 c 44 § 1.]

RCW 26.04.110 Penalty for failure to deliver certificates.

Any person solemnizing a marriage, who shall wilfully refuse or neglect to make and deliver to the county auditor for record, the certificates mentioned in RCW 26.04.090, within the time in such section specified, shall be deemed guilty of a misdemeanor, and upon conviction shall pay for such refusal, or neglect, a fine of not less than twenty-five nor more than three hundred dollars.

[1967 c 26 § 6; 1947 c 59 § 3; 1886 p 66 § 2; Code 1881 § 2387; 1866 p 83 § 9; Rem. Supp. 1947 § 8447.]

Notes:

Effective date--1967 c 26: See note following RCW 43.70.150.

RCW 26.04.120 Marriage according to religious ritual.

All marriages to which there are no legal impediments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid, and a certificate containing the particulars specified in RCW 26.04.080 and 26.04.090, shall be made and filed for record by the person or persons presiding or officiating in or recording the proceedings of such religious organization or congregation, in the manner and with like effect as in ordinary cases.

[Code 1881 § 2389; RRS § 8448.]

RCW 26.04.130 Voidable marriages.

When either party to a marriage shall be incapable of consenting thereto, for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed.

[Code 1881 § 2381; 1866 p 81 § 3; RRS § 8449.]

RCW 26.04.140 Marriage license.

Before any persons can be joined in marriage, they shall procure a license from a county auditor, as provided in RCW 26.04.150 through 26.04.190.

[1985 c 82 § 1; 1939 c 204 § 2; RRS § 8450-1. Prior: Code 1881 § 2390; 1866 p 83 § 12.]

RCW 26.04.150 Application for license--May be secured by mail--Execution and acknowledgment.

Any person may secure by mail from the county auditor of the county in the state of Washington where he intends to be married, an application, and execute and acknowledge said

application before a notary public.

[1963 c 230 § 2; 1939 c 204 § 3; RRS § 8450-2.]

RCW 26.04.160 Application for license--Contents--Oath.

(1) Application for a marriage license must be made and filed with the appropriate county auditor upon blanks to be provided by the county auditor for that purpose, which application shall be under the oath of each of the applicants, and each application shall state the name, address at the time of execution of application, age, social security number, birthplace, whether single, widowed or divorced, and whether under control of a guardian, residence during the past six months: PROVIDED, That each county may require such other and further information on said application as it shall deem necessary.

(2) The county legislative authority may impose an additional fee up to fifteen dollars on a marriage license for the purpose of funding family services such as family support centers.

[1997 c 58 § 909; 1993 c 451 § 1; 1985 c 82 § 2; 1967 c 26 § 7; 1939 c 204 § 4; RRS § 8450-3.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective date--1967 c 26: See note following RCW 43.70.150.

RCW 26.04.165 Additional marriage certificate form.

In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of health marriage certificate form prescribed by *RCW 70.58.200 to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics. After the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married.

[1989 1st ex.s. c 9 § 203; 1979 c 141 § 34; 1969 ex.s. c 279 § 1.]

Notes:

***Reviser's note:** RCW 70.58.200 was repealed by 1991 c 96 § 6.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 26.04.170 Inspection of applications.

Any such application shall be open to public inspection as a part of the records of the office of such county auditor.

[1985 c 82 § 3; 1939 c 204 § 5; RRS § 8450-4.]

RCW 26.04.175 When disclosure of marriage applications and records prohibited.

If a program participant under chapter 40.24 RCW notifies the appropriate county auditor as required under rules adopted by the secretary of state, the county auditor shall not make available for inspection or copying the name and address of a program participant contained in marriage applications and records filed under chapter 26.04 RCW, except under the following circumstances:

- (1) If requested by a law enforcement agency, to the law enforcement agency; and
- (2) If directed by a court order, to a person identified in the order.

[1991 c 23 § 12.]

RCW 26.04.180 License--Time limitations as to issuance and use--Notification.

The county auditor may issue the marriage license at the time of application, but shall issue such license no later than the third full day following the date of the application. A marriage license issued pursuant to the provisions of this chapter may not be used until three days after the date of application and shall become void if the marriage is not solemnized within sixty days of the date of the issuance of the license, and the county auditor shall notify the applicant in writing of this requirement at the time of issuance of the license.

[1985 c 82 § 4; 1979 ex.s. c 128 § 1; 1963 c 230 § 3; 1953 c 107 § 1. Prior: 1943 c 250 § 1; 1939 c 204 § 6; Rem. Supp. 1943 § 8450-5.]

RCW 26.04.190 Refusal of license--Appeal.

Any county auditor is hereby authorized to refuse to issue a license to marry if, in his discretion, the applications executed by the parties or information coming to his knowledge as a result of the execution of said applications, justifies said refusal: PROVIDED, HOWEVER, The denied parties may appeal to the superior court of said county for an order to show cause, directed to said county auditor to appear before said court to show why said court should not grant an order to issue a license to said denied parties and, after due hearing, or if the auditor fails to appear, said court may in its discretion, issue an order to said auditor directing him to issue said license; any hearings held by a superior court under RCW 26.04.140 through 26.04.200 may, in the discretion of said court, be held in chambers.

[1939 c 204 § 7; RRS § 8450-6.]

RCW 26.04.200 Penalty for violations--1939 c 204.

Any person intentionally violating any provision of RCW 26.04.140 through 26.04.190 shall be guilty of a misdemeanor.

[1939 c 204 § 8; RRS § 8450-7.]

Notes:

Punishment of misdemeanor when not fixed by statute: RCW 9.92.030.

RCW 26.04.210 Affidavits required for issuance of license.

(1) The county auditor, before a marriage license is issued, upon the payment of a license fee as fixed in RCW 36.18.010 shall require each applicant therefor to make and file in the auditor's office upon blanks to be provided by the county for that purpose, an affidavit showing that if an applicant is afflicted with any contagious sexually transmitted disease, the condition is known to both applicants, and that the applicants are the age of eighteen years or over. If the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Anyone knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this section shall be deemed guilty of perjury and punished as provided by the laws of the state of Washington.

(2) The affidavit form shall be designed to require a statement that no contagious sexually transmitted disease is present or that the condition is known to both applicants, without requiring the applicants to state whether or not either or both of them are afflicted by such disease.

[1995 c 301 § 78; 1985 c 82 § 5; 1979 ex.s. c 128 § 2; 1973 1st ex.s. c 154 § 29; 1970 ex.s. c 17 § 5; 1963 c 230 § 4; 1959 c 149 § 3; 1909 ex.s. c 16 § 3; 1909 c 174 § 3; Code 1881 §§ 2391, 2392; 1867 p 104 § 1; 1866 p 83 §§ 13, 14; RRS § 8451.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.
Penalty for violation of marriage requirements: RCW 26.04.230.

RCW 26.04.220 Retention of license by person solemnizing--Auditor's record.

The person solemnizing the marriage is authorized to retain in his possession the license, but the county auditor who issues the same, before delivering it, shall enter in his marriage record a memorandum of the names of the parties, the consent of the parents or guardian, if any, and the name of the affiant and the substance of the affidavit upon which said license issued, and the date of such license.

[Code 1881 § 2393; 1866 p 84 § 15; RRS § 8453.]

RCW 26.04.230 Penalty for violation of marriage requirements.

Any person knowingly violating any of the provisions of RCW 26.04.210 shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment in a state correctional facility for a period of not more than three years, or by both such fine and imprisonment.

[1992 c 7 § 30; 1909 ex.s. c 16 § 4; 1909 c 174 § 4; Code 1881 § 2394; 1866 p 84 § 16; RRS § 8452.]

RCW 26.04.240 Penalty for unlawful solemnization--Code 1881.

Any person who shall undertake to join others in marriage knowing that he is not lawfully authorized so to do, or any person authorized to solemnize marriage, who shall join persons in marriage contrary to the provisions of *this chapter, shall, upon conviction thereof, be punished by a fine of not more than five hundred, nor less than one hundred dollars.

[Code 1881 § 2395; 1866 p 84 § 17; RRS § 8454. FORMER PART OF SECTION: 1909 c 249 § 419; RRS § 2671 now codified as RCW 26.04.250.]

Notes:

***Reviser's note:** "This chapter" (chapter 182, Code 1881) is codified as RCW 26.04.010, 26.04.050 through 26.04.140, and 26.04.220 through 26.04.240. Code 1881 §§ 2391 and 2392, being part of chapter 182, Code 1881, appear to be superseded by 1909 ex.s. c 16 § 3 (RCW 26.04.210) which is subject to the penalties of RCW 26.04.230.

RCW 26.04.250 Penalty for unlawful solemnization--1909 c 249.

Every person who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent or a marriage to which, within his knowledge, any legal impediment exists, shall be guilty of a gross misdemeanor.

[1979 ex.s. c 128 § 3; 1909 c 249 § 419; RRS § 2671. Formerly RCW 26.04.240, part.]

Notes:

Punishment of gross misdemeanor when not fixed by statute: RCW 9.92.020.

**Chapter 26.09 RCW
DISSOLUTION OF MARRIAGE--LEGAL SEPARATION**

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Notes:

Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

*Living in marital relationship within state submits person to state jurisdiction as to proceedings under this chapter:
RCW 4.28.185.*

Missing children clearinghouse and hot line: Chapter 13.60 RCW.

Nonparental actions for child custody: Chapter 26.10 RCW.

*Process--Domestic relations actions: **Rules of court: CR 4.1.***

RCW 26.09.002 Policy.

Parents have the responsibility to make decisions and perform other parental functions necessary for the care and growth of their minor children. In any proceeding between parents under this chapter, the best interests of the child shall be the standard by which the court determines and allocates the parties' parental responsibilities. The state recognizes the fundamental importance of the parent-child relationship to the welfare of the child, and that the relationship between the child and each parent should be fostered unless inconsistent with the child's best interests. The best interests of the child are served by a parenting arrangement that best maintains a child's emotional growth, health and stability, and physical care. Further, the best interest of the child is ordinarily served when the existing pattern of interaction between a parent and child is altered only to the extent necessitated by the changed relationship of the parents or as required to protect the child from physical, mental, or emotional harm.

[1987 c 460 § 2.]

RCW 26.09.004 Definitions.

The definitions in this section apply throughout this chapter.

(1) "Temporary parenting plan" means a plan for parenting of the child pending final resolution of any action for dissolution of marriage, declaration of invalidity, or legal separation which is incorporated in a temporary order.

(2) "Permanent parenting plan" means a plan for parenting the child, including allocation of parenting functions, which plan is incorporated in any final decree or decree of modification in an action for dissolution of marriage, declaration of invalidity, or legal separation.

(3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) Maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) Attending to adequate education for the child, including remedial or other education essential to the best interests of the child;

(d) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and

(f) Providing for the financial support of the child.

[1987 c 460 § 3.]

RCW 26.09.006 Mandatory use of approved forms.

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

[1992 c 229 § 1; 1990 1st ex.s. c 2 § 26.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.09.010 Civil practice to govern--Designation of proceedings--Decrees.

(1) Except as otherwise specifically provided herein, the practice in civil action shall

govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage, legal separation or a declaration concerning the validity of a marriage shall be entitled "In re the marriage of and" Such proceeding may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of"

(4) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

[1989 c 375 § 1; 1987 c 460 § 1; 1975 c 32 § 1; 1973 1st ex.s. c 157 § 1.]

RCW 26.09.015 Mediation--Confidentiality--Report to court.

(1) In any proceeding under this chapter, the matter may be set for mediation of the contested issues before or concurrent with the setting of the matter for hearing. The purpose of the mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child's close and continuing contact with both parents after the marriage is dissolved. The mediator shall use his or her best efforts to effect a settlement of the dispute.

(2) Each superior court may make available a mediator. The mediator may be a member of the professional staff of a family court or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court is not required to institute a family court.

(3) Mediation proceedings shall be held in private and shall be confidential. The mediator shall not testify as to any aspect of the mediation proceedings. This subsection shall not apply to postdecree mediation required pursuant to a parenting plan.

(4) The mediator shall assess the needs and interests of the child or children involved in the controversy and may interview the child or children if the mediator deems such interview appropriate or necessary.

(5) Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator on the day set for mediation or any time thereafter designated by the court.

[1991 c 367 § 2; 1989 c 375 § 2; 1986 c 95 § 4.]

Notes:

Severability--1991 c 367: "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." [1991 c 367 § 54.]

Effective date--1991 c 367: "This act shall take effect September 1, 1991." [1991 c 367 § 55.]

Captions not law--1991 c 367: "Captions as used in this act do not constitute any part of the law." [1991 c 367 § 57.]

Mediation testimony competency: RCW 5.60.070 and 5.60.072.

RCW 26.09.020 Petition in proceeding for dissolution of marriage, legal separation, or for a declaration concerning validity of marriage--Contents--Parties--Certificate.

(1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage, shall allege the following:

- (a) The last known residence of each party;
 - (b) The social security number of each party;
 - (c) The date and place of the marriage;
 - (d) If the parties are separated the date on which the separation occurred;
 - (e) The names, ages, and addresses of any child dependent upon either or both spouses and whether the wife is pregnant;
 - (f) Any arrangements as to the residential schedule of, decision making for, dispute resolution for, and support of the children and the maintenance of a spouse;
 - (g) A statement specifying whether there is community or separate property owned by the parties to be disposed of;
 - (h) The relief sought.
- (2) Either or both parties to the marriage may initiate the proceeding.

(3) The petitioner shall complete and file with the petition a certificate under *RCW 70.58.200 on the form provided by the department of health.

[1997 c 58 § 945. Prior: 1989 1st ex.s. c 9 § 204; 1989 c 375 § 3; 1983 1st ex.s. c 45 § 2; 1973 2nd ex.s. c 23 § 1; 1973 1st ex.s. c 157 § 2.]

Notes:

***Reviser's note:** RCW 70.58.200 was repealed by 1991 c 96 § 6.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

RCW 26.09.030 Petition for dissolution of marriage--Court proceedings, findings--Transfer to family court--Legal separation in lieu of dissolution.

When a party who (1) is a resident of this state, or (2) is a member of the armed forces and is stationed in this state, or (3) is married to a party who is a resident of this state or who is a member of the armed forces and is stationed in this state, petitions for a dissolution of marriage, and alleges that the marriage is irretrievably broken and when ninety days have elapsed since the petition was filed and from the date when service of summons was made upon the respondent or the first publication of summons was made, the court shall proceed as follows:

(1) If the other party joins in the petition or does not deny that the marriage is irretrievably broken, the court shall enter a decree of dissolution.

(2) If the other party alleges that the petitioner was induced to file the petition by fraud, or coercion, the court shall make a finding as to that allegation and, if it so finds shall dismiss the petition.

(3) If the other party denies that the marriage is irretrievably broken the court shall consider all relevant factors, including the circumstances that gave rise to the filing of the petition and the prospects for reconciliation and shall:

(a) Make a finding that the marriage is irretrievably broken and enter a decree of dissolution of the marriage; or

(b) At the request of either party or on its own motion, transfer the cause to the family court, refer them to another counseling service of their choice, and request a report back from the counseling service within sixty days, or continue the matter for not more than sixty days for hearing. If the cause is returned from the family court or at the adjourned hearing, the court shall:

(i) Find that the parties have agreed to reconciliation and dismiss the petition; or

(ii) Find that the parties have not been reconciled, and that either party continues to allege that the marriage is irretrievably broken. When such facts are found, the court shall enter a decree of dissolution of the marriage.

(4) If the petitioner requests the court to decree legal separation in lieu of dissolution, the court shall enter the decree in that form unless the other party objects and petitions for a decree of dissolution or declaration of invalidity.

[1996 c 23 § 1; 1973 1st ex.s. c 157 § 3.]

RCW 26.09.040 Petition to have marriage declared invalid or judicial determination of validity--Procedure--Findings--Grounds--Legitimacy of children.

(1) While both parties to an alleged marriage are living, and at least one party is resident in this state or a member of the armed service and stationed in the state, a petition to have the marriage declared invalid may be sought by:

(a) Either or both parties, or the guardian of an incompetent spouse, for any cause specified in subsection (4) of this section; or

(b) Either or both parties, the legal spouse, or a child of either party when it is alleged that the marriage is bigamous.

(2) If the validity of a marriage is denied or questioned at any time, either or both parties to the marriage may petition the court for a judicial determination of the validity of such marriage.

(3) In a proceeding to declare the invalidity of a marriage, the court shall proceed in the manner and shall have the jurisdiction, including the authority to provide for maintenance, a parenting plan for minor children, and division of the property of the parties, provided by this chapter.

(4) After hearing the evidence concerning the validity of a marriage, if both parties to the

alleged marriage are still living, the court:

(a) If it finds the marriage to be valid, shall enter a decree of validity;

(b) If it finds that:

(i) The marriage should not have been contracted because of age of one or both of the parties, lack of required parental or court approval, a prior undissolved marriage of one or both of the parties, reasons of consanguinity, or because a party lacked capacity to consent to the marriage, either because of mental incapacity or because of the influence of alcohol or other incapacitating substances, or because a party was induced to enter into the marriage by force or duress, or by fraud involving the essentials of marriage, and that the parties have not ratified their marriage by voluntarily cohabiting after attaining the age of consent, or after attaining capacity to consent, or after cessation of the force or duress or discovery of the fraud, shall declare the marriage invalid as of the date it was purportedly contracted;

(ii) The marriage should not have been contracted because of any reason other than those above, shall upon motion of a party, order any action which may be appropriate to complete or to correct the record and enter a decree declaring such marriage to be valid for all purposes from the date upon which it was purportedly contracted;

(c) If it finds that a marriage contracted in a jurisdiction other than this state, was void or voidable under the law of the place where the marriage was contracted, and in the absence of proof that such marriage was subsequently validated by the laws of the place of contract or of a subsequent domicile of the parties, shall declare the marriage invalid as of the date of the marriage.

(5) Any child of the parties born or conceived during the existence of a marriage of record is legitimate and remains legitimate notwithstanding the entry of a declaration of invalidity of the marriage.

[1987 c 460 § 4; 1975 c 32 § 2; 1973 1st ex.s. c 157 § 4.]

RCW 26.09.050 Decrees--Contents--Restraining orders--Enforcement--Notice of termination or modification of restraining order.

(1) In entering a decree of dissolution of marriage, legal separation, or declaration of invalidity, the court shall determine the marital status of the parties, make provision for a parenting plan for any minor child of the marriage, make provision for the support of any child of the marriage entitled to support, consider or approve provision for the maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders including the provisions contained in RCW 9.41.800, make provision for the issuance within this action of the restraint provisions of a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW, and make provision for the change of name of any party.

(2) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home,

workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

[2000 c 119 § 6; 1995 c 93 § 2; 1994 sp.s. c 7 § 451; 1989 c 375 § 29; 1987 c 460 § 5; 1973 1st ex.s. c 157 § 5.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

RCW 26.09.060 Temporary maintenance or child support--Temporary restraining order--Preliminary injunction--Domestic violence or antiharassment protection order--Notice of termination or modification of restraining order--Support debts, notice.

(1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him or her to notify the moving party of any proposed extraordinary

expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child;

(c) Going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child upon a showing of the necessity therefor;

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

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

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

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

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

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances. The court may in its discretion waive the filing of the bond or the posting of security.

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

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

(9) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the

next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

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

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

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection (11) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

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

(11) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry.

[2000 c 119 § 7; 1995 c 246 § 26; 1994 sp.s. c 7 § 452; 1992 c 229 § 9; 1989 c 360 § 37; 1984 c 263 § 26; 1983 1st ex.s. c 41 § 1; 1983 c 232 § 10; 1975 c 32 § 3; 1973 1st ex.s. c 157 § 6.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Effective date--Severability--1984 c 263: See RCW 26.50.901 and 26.50.902.

Severability--1983 1st ex.s. c 41: "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." [1983 1st ex.s. c 41 § 46.]

Severability--1983 c 232: See note following RCW 9.41.010.

Arrest without warrant in domestic violence cases: RCW 10.31.100(2).

Child abuse, temporary restraining order: RCW 26.44.063.

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

RCW 26.09.070 Separation contracts.

(1) The parties to a marriage, in order to promote the amicable settlement of disputes attendant upon their separation or upon the filing of a petition for dissolution of their marriage, a decree of legal separation, or declaration of invalidity of their marriage, may enter into a written separation contract providing for the maintenance of either of them, the disposition of any property owned by both or either of them, the parenting plan and support for their children and

for the release of each other from all obligation except that expressed in the contract.

(2) If the parties to such contract elect to live separate and apart without any court decree, they may record such contract and cause notice thereof to be published in a legal newspaper of the county wherein the parties resided prior to their separation. Recording such contract and publishing notice of the making thereof shall constitute notice to all persons of such separation and of the facts contained in the recorded document.

(3) If either or both of the parties to a separation contract shall at the time of the execution thereof, or at a subsequent time, petition the court for dissolution of their marriage, for a decree of legal separation, or for a declaration of invalidity of their marriage, the contract, except for those terms providing for a parenting plan for their children, shall be binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties on their own motion or on request of the court, that the separation contract was unfair at the time of its execution. Child support may be included in the separation contract and shall be reviewed in the subsequent proceeding for compliance with RCW 26.19.020.

(4) If the court in an action for dissolution of marriage, legal separation, or declaration of invalidity finds that the separation contract was unfair at the time of its execution, it may make orders for the maintenance of either party, the disposition of their property and the discharge of their obligations.

(5) Unless the separation contract provides to the contrary, the agreement shall be set forth in the decree of dissolution, legal separation, or declaration of invalidity, or filed in the action or made an exhibit and incorporated by reference, except that in all cases the terms of the parenting plan shall be set out in the decree, and the parties shall be ordered to comply with its terms.

(6) Terms of the contract set forth or incorporated by reference in the decree may be enforced by all remedies available for the enforcement of a judgment, including contempt, and are enforceable as contract terms.

(7) When the separation contract so provides, the decree may expressly preclude or limit modification of any provision for maintenance set forth in the decree. Terms of a separation contract pertaining to a parenting plan for the children and, in the absence of express provision to the contrary, terms providing for maintenance set forth or incorporated by reference in the decree are automatically modified by modification of the decree.

(8) If at any time the parties to the separation contract by mutual agreement elect to terminate the separation contract they may do so without formality unless the contract was recorded as in subsection (2) of this section, in which case a statement should be filed terminating the contract.

[1989 c 375 § 4; 1987 c 460 § 6; 1973 1st ex.s. c 157 § 7.]

RCW 26.09.080 Disposition of property and liabilities--Factors.

In a proceeding for dissolution of the marriage, legal separation, declaration of invalidity,

or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall, without regard to marital misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

- (1) The nature and extent of the community property;
- (2) The nature and extent of the separate property;
- (3) The duration of the marriage; and
- (4) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse with whom the children reside the majority of the time.

[1989 c 375 § 5; 1973 1st ex.s. c 157 § 8.]

RCW 26.09.090 Maintenance orders for either spouse--Factors.

(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, after considering all relevant factors including but not limited to:

(a) The financial resources of the party seeking maintenance, including separate or community property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his skill, interests, style of life, and other attendant circumstances;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, physical and emotional condition, and financial obligations of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs and financial obligations while meeting those of the spouse seeking maintenance.

[1989 c 375 § 6; 1973 1st ex.s. c 157 § 9.]

RCW 26.09.100 Child support--Apportionment of expense--Periodic adjustments or modifications.

(1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital

misconduct, the court shall order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount determined under chapter 26.19 RCW.

(2) The court may require automatic periodic adjustments or modifications of child support. That portion of any decree that requires periodic adjustments or modifications of child support shall use the provisions in chapter 26.19 RCW as the basis for the adjustment or modification. Provisions in the decree for periodic adjustment or modification shall not conflict with RCW 26.09.170 except that the decree may require periodic adjustments or modifications of support more frequently than the time periods established pursuant to RCW 26.09.170.

(3) Upon motion of a party and without a substantial change of circumstances, the court shall modify the decree to comply with subsection (2) of this section as to installments accruing subsequent to entry of the court's order on the motion for modification.

(4) The adjustment or modification provision may be modified by the court due to economic hardship consistent with the provisions of RCW 26.09.170(4)(a).

[1991 sp.s. c 28 § 1; 1990 1st ex.s. c 2 § 1; 1989 c 375 § 7; 1988 c 275 § 9; 1987 c 430 § 3; 1973 1st ex.s. c 157 § 10.]

Notes:

Severability--1991 sp.s. c 28: "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." [1991 sp.s. c 28 § 9.]

Effective date--1991 sp.s. c 28: "Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect September 1, 1991." [1991 sp.s. c 28 § 10.]

Captions not law--1991 sp.s. c 28: "Captions as used in this act do not constitute any part of the law." [1991 sp.s. c 28 § 11.]

Effective dates--1990 1st ex.s. c 2: "(1) Sections 5 and 22 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 26, 1990].

(2) The remainder of this act shall take effect July 1, 1990." [1990 1st ex.s. c 2 § 30.]

Severability--1990 1st ex.s. c 2: "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." [1990 1st ex.s. c 2 § 31.]

Effective dates--Severability--1988 c 275: See notes following RCW 26.19.001.

Severability--1987 c 430: See note following RCW 26.09.170.

RCW 26.09.105 Child support--Health insurance coverage--Conditions.

(1) In entering or modifying a support order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage except as provided in subsection (2) of this section, for any child named in the order if:

(a) Coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related; and

(b) The cost of such coverage does not exceed twenty-five percent of the obligated

parent's basic child support obligation.

(2) The court shall consider the best interests of the child and have discretion to order health insurance coverage when entering or modifying a support order under this chapter if the cost of such coverage exceeds twenty-five percent of the obligated parent's basic support obligation.

(3) The parents shall maintain such coverage required under this section until:

(a) Further order of the court;

(b) The child is emancipated, if there is no express language to the contrary in the order;

or

(c) Health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

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

(5) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health care costs, or insurance premiums which are in addition to and not inconsistent with this section.

(6) A parent ordered to provide health insurance coverage shall provide proof of such coverage or proof that such coverage is unavailable within twenty days of the entry of the order to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(7) Every order requiring a parent to provide health care or insurance coverage shall be entered in compliance with *RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

(8) "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

[1994 c 230 § 1; 1989 c 416 § 1; 1985 c 108 § 1; 1984 c 201 § 1.]

Notes:

*Reviser's note: The reference to RCW 26.23.050 appears to refer to the amendments made by 1989 c 416 § 8, which was vetoed by the governor.

RCW 26.09.110 Minor or dependent child--Court appointed attorney to represent--Payment of costs, fees, and disbursements.

The court may appoint an attorney to represent the interests of a minor or dependent child with respect to provision for the parenting plan in an action for dissolution of marriage, legal separation, or declaration concerning the validity of a marriage. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents, except that, if both parties are indigent, the costs, fees, and disbursements shall be borne by the county.

[1987 c 460 § 11; 1973 1st ex.s. c 157 § 11.]

Notes:

Process--Domestic relations actions: Rules of court: CR 4.1.

RCW 26.09.120 Support or maintenance payments--To whom paid.

(1) The court shall order support payments, including spousal maintenance if child support is ordered, to be made to the Washington state support registry, or the person entitled to receive the payments under an order approved by the court as provided in RCW 26.23.050.

(2) Maintenance payments, when ordered in an action where there is no dependent child, may be ordered to be paid to the person entitled to receive the payments, or the clerk of the court as trustee for remittance to the persons entitled to receive the payments.

(3) If support or maintenance payments are made to the clerk of court, the clerk:

(a) Shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order;

(b) May by local court rule accept only certified funds or cash as payment; and

(c) Shall accept only certified funds or cash for five years in all cases after one check has been returned for nonsufficient funds or account closure.

(4) The parties affected by the order shall inform the registry through which the payments are ordered to be paid of any change of address or of other conditions that may affect the administration of the order.

[1994 c 230 § 2; 1989 c 360 § 11. Prior: 1987 c 435 § 15; 1987 c 363 § 5; 1983 1st ex.s. c 45 § 3; 1973 1st ex.s. c 157 § 12.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

RCW 26.09.135 Order or decree for child support--Compliance with RCW 26.23.050.

Every court order or decree establishing a child support obligation shall be entered in compliance with the provisions of RCW 26.23.050.

[1987 c 435 § 16; 1986 c 138 § 1; 1984 c 260 § 21.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

Severability--1984 c 260: See RCW 26.18.900.

RCW 26.09.138 Mandatory assignment of public retirement benefits--Remedies exclusive.

(1) Any obligee of a court order or decree establishing a spousal maintenance obligation may seek a mandatory benefits assignment order under chapter 41.50 RCW if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments

is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems.

(2) Any court order or decree establishing a spousal maintenance obligation may state that, if any spousal maintenance payment is more than fifteen days past due and the total of such past due payments is equal to or greater than one hundred dollars, or if the obligor requests a withdrawal of accumulated contributions from the department of retirement systems, the obligee may seek a mandatory benefits assignment order under chapter 41.50 RCW without prior notice to the obligor. Any such court order or decree may also, or in the alternative, contain a provision that would allow the department to make a direct payment of all or part of a withdrawal of accumulated contributions pursuant to RCW 41.50.550(3). Failure to include this provision does not affect the validity of the court order or decree establishing the spousal maintenance, nor does such failure affect the general applicability of RCW 41.50.500 through 41.50.650 to such obligations.

(3) The remedies in RCW 41.50.530 through 41.50.630 are the exclusive provisions of law enforceable against the department of retirement systems in connection with any action for enforcement of a spousal maintenance obligation ordered pursuant to a divorce, dissolution, or legal separation, and no other remedy ordered by a court under this chapter shall be enforceable against the department of retirement systems for collection of spousal maintenance.

(4)(a) Nothing in this section regarding mandatory assignment of benefits to enforce a spousal maintenance obligation shall abridge the right of an ex spouse to receive direct payment of retirement benefits payable pursuant to: (i) A court decree of dissolution or legal separation; or (ii) any court order or court-approved property settlement agreement; or (iii) incident to any court decree of dissolution or legal separation, if such dissolution orders fully comply with RCW 41.50.670 and 41.50.700, or as applicable, RCW 2.10.180, 2.12.090, *41.04.310, 41.04.320, 41.04.330, **41.26.180, 41.32.052, 41.40.052, or 43.43.310 as those statutes existed before July 1, 1987, and as those statutes exist on and after July 28, 1991.

(b) Persons whose dissolution orders as defined in RCW 41.50.500(3) were entered between July 1, 1987, and July 28, 1991, shall be entitled to receive direct payments of retirement benefits to satisfy court-ordered property divisions if the dissolution orders filed with the department comply or are amended to comply with RCW 41.50.670 through 41.50.720 and, as applicable, RCW 2.10.180, 2.12.090, **41.26.180, 41.32.052, 41.40.052, or 43.43.310.

[1991 c 365 § 24; 1987 c 326 § 26.]

Notes:

Reviser's note: *(1) RCW 41.04.310, 41.04.320, and 41.04.330 were repealed by 1987 c 326 § 21, effective July 1, 1987.

** (2) RCW 41.26.180 was recodified as RCW 41.26.053 pursuant to 1994 c 298 § 5.

Severability--1991 c 365: See note following RCW 41.50.500.

Effective date--1987 c 326: See RCW 41.50.901.

RCW 26.09.140 Payment of costs, attorney's fees, etc.

The court from time to time after considering the financial resources of both parties may

order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs.

The court may order that the attorney's fees be paid directly to the attorney who may enforce the order in his name.

[1973 1st ex.s. c 157 § 14.]

RCW 26.09.150 Decree of dissolution of marriage, legal separation, or declaration of invalidity--Finality--Appeal--Conversion of decree of legal separation to decree of dissolution--Name of party.

A decree of dissolution of marriage, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal which does not challenge the finding that the marriage is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry pending such an appeal.

No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage. The clerk of court shall complete the certificate as provided for in *RCW 70.58.200 on the form provided by the department of health. On or before the tenth day of each month, the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage, annulment, or separate maintenance granted during the preceding month.

Upon request of a party whose marriage is dissolved or declared invalid, the court shall order a former name restored or the court may, in its discretion, order a change to another name.

[1989 1st ex.s. c 9 § 205; 1989 c 375 § 30; 1973 1st ex.s. c 157 § 15.]

Notes:

Reviser's note: (1) This section was amended by 1989 c 375 § 30 and by 1989 1st ex.s. c 9 § 205, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 70.58.200 was repealed by 1991 c 96 § 6.

Effective date--Severability--1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Effect of entry of a decree of dissolution of marriage or a declaration of invalidity on nonprobate assets: RCW 11.07.010.

RCW 26.09.160 Failure to comply with decree or temporary injunction--Obligation to make support or maintenance payments or permit contact with children not suspended--Penalties.

(1) The performance of parental functions and the duty to provide child support are

distinct responsibilities in the care of a child. If a party fails to comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit contact with children is not suspended. An attempt by a parent, in either the negotiation or the performance of a parenting plan, to condition one aspect of the parenting plan upon another, to condition payment of child support upon an aspect of the parenting plan, to refuse to pay ordered child support, to refuse to perform the duties provided in the parenting plan, or to hinder the performance by the other parent of duties provided in the parenting plan, shall be deemed bad faith and shall be punished by the court by holding the party in contempt of court and by awarding to the aggrieved party reasonable attorneys' fees and costs incidental in bringing a motion for contempt of court.

(2)(a) A motion may be filed to initiate a contempt action to coerce a parent to comply with an order establishing residential provisions for a child. If the court finds there is reasonable cause to believe the parent has not complied with the order, the court may issue an order to show cause why the relief requested should not be granted.

(b) If, based on all the facts and circumstances, the court finds after hearing that the parent, in bad faith, has not complied with the order establishing residential provisions for the child, the court shall find the parent in contempt of court. Upon a finding of contempt, the court shall order:

(i) The noncomplying parent to provide the moving party additional time with the child. The additional time shall be equal to the time missed with the child, due to the parent's noncompliance;

(ii) The parent to pay, to the moving party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(iii) The parent to pay, to the moving party, a civil penalty, not less than the sum of one hundred dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order, but in no event for more than one hundred eighty days.

(3) On a second failure within three years to comply with a residential provision of a court-ordered parenting plan, a motion may be filed to initiate contempt of court proceedings according to the procedure set forth in subsection (2)(a) and (b) of this section. On a finding of contempt under this subsection, the court shall order:

(a) The noncomplying parent to provide the other parent or party additional time with the child. The additional time shall be twice the amount of the time missed with the child, due to the parent's noncompliance;

(b) The noncomplying parent to pay, to the other parent or party, all court costs and reasonable attorneys' fees incurred as a result of the noncompliance, and any reasonable expenses incurred in locating or returning a child; and

(c) The noncomplying parent to pay, to the moving party, a civil penalty of not less than

two hundred fifty dollars.

The court may also order the parent to be imprisoned in the county jail, if the parent is presently able to comply with the provisions of the court-ordered parenting plan and is presently unwilling to comply. The parent may be imprisoned until he or she agrees to comply with the order but in no event for more than one hundred eighty days.

(4) For purposes of subsections (1), (2), and (3) of this section, the parent shall be deemed to have the present ability to comply with the order establishing residential provisions unless he or she establishes otherwise by a preponderance of the evidence. The parent shall establish a reasonable excuse for failure to comply with the residential provision of a court-ordered parenting plan by a preponderance of the evidence.

(5) Any monetary award ordered under subsections (1), (2), and (3) of this section may be enforced, by the party to whom it is awarded, in the same manner as a civil judgment.

(6) Subsections (1), (2), and (3) of this section authorize the exercise of the court's power to impose remedial sanctions for contempt of court and is in addition to any other contempt power the court may possess.

(7) Upon motion for contempt of court under subsections (1) through (3) of this section, if the court finds the motion was brought without reasonable basis, the court shall order the moving party to pay to the nonmoving party, all costs, reasonable attorneys' fees, and a civil penalty of not less than one hundred dollars.

[1991 c 367 § 4; 1989 c 318 § 1; 1987 c 460 § 12; 1973 1st ex.s. c 157 § 16.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

Severability--1989 c 318: "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." [1989 c 318 § 6.]

RCW 26.09.165 Court orders--Required language.

All court orders containing parenting plan provisions or orders of contempt, entered pursuant to RCW 26.09.160, shall include the following language:

WARNING: VIOLATION OF THE RESIDENTIAL PROVISIONS OF THIS ORDER WITH ACTUAL KNOWLEDGE OF ITS TERMS IS PUNISHABLE BY CONTEMPT OF COURT, AND MAY BE A CRIMINAL OFFENSE UNDER RCW 9A.40.060(2) or 9A.40.070(2). VIOLATION OF THIS ORDER MAY SUBJECT A VIOLATOR TO ARREST.

[1994 c 162 § 2; 1989 c 318 § 4.]

Notes:

Severability--1989 c 318: See note following RCW 26.09.160.

RCW 26.09.170 Modification of decree for maintenance or support, property disposition--Termination of maintenance obligation and child support--Grounds.

(1) Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified: (a) Only as to installments accruing subsequent to the petition for modification or motion for adjustment except motions to compel court-ordered adjustments, which shall be effective as of the first date specified in the decree for implementing the adjustment; and, (b) except as otherwise provided in subsections (4), (5), (8), and (9) of this section, only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

(2) Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child.

(4) An order of child support may be modified one year or more after it has been entered without showing a substantial change of circumstances:

(a) If the order in practice works a severe economic hardship on either party or the child;

(b) If a party requests an adjustment in an order for child support which was based on guidelines which determined the amount of support according to the child's age, and the child is no longer in the age category on which the current support amount was based;

(c) If a child is still in high school, upon a finding that there is a need to extend support beyond the eighteenth birthday to complete high school; or

(d) To add an automatic adjustment of support provision consistent with RCW 26.09.100.

(5) An order or decree entered prior to June 7, 1984, may be modified without showing a substantial change of circumstances if the requested modification is to:

(a) Require health insurance coverage for a child named therein; or

(b) Modify an existing order for health insurance coverage.

(6) An obligor's voluntary unemployment or voluntary underemployment, by itself, is not a substantial change of circumstances.

(7) The department of social and health services may file an action to modify an order of child support if public assistance money is being paid to or for the benefit of the child and the child support order is twenty-five percent or more below the appropriate child support amount set forth in the standard calculation as defined in RCW 26.19.011 and reasons for the deviation are not set forth in the findings of fact or order. The determination of twenty-five percent or more shall be based on the current income of the parties and the department shall not be required to show a substantial change of circumstances if the reasons for the deviations were not set forth in the findings of fact or order.

(8)(a) All child support decrees may be adjusted once every twenty-four months based

upon changes in the income of the parents without a showing of substantially changed circumstances. Either party may initiate the adjustment by filing a motion and child support worksheets.

(b) A party may petition for modification in cases of substantially changed circumstances under subsection (1) of this section at any time. However, if relief is granted under subsection (1) of this section, twenty-four months must pass before a motion for an adjustment under (a) of this subsection may be filed.

(c) If, pursuant to (a) of this subsection or subsection (9) of this section, the court adjusts or modifies a child support obligation by more than thirty percent and the change would cause significant hardship, the court may implement the change in two equal increments, one at the time of the entry of the order and the second six months from the entry of the order. Twenty-four months must pass following the second change before a motion for an adjustment under (a) of this subsection may be filed.

(d) A parent who is receiving transfer payments who receives a wage or salary increase may not bring a modification action pursuant to subsection (1) of this section alleging that increase constitutes a substantial change of circumstances.

(e) The department of social and health services may file an action at any time to modify an order of child support in cases of substantially changed circumstances if public assistance money is being paid to or for the benefit of the child. The determination of the existence of substantially changed circumstances by the department that lead to the filing of an action to modify the order of child support is not binding upon the court.

(9) An order of child support may be adjusted twenty-four months from the date of the entry of the decree or the last adjustment or modification, whichever is later, based upon changes in the economic table or standards in chapter 26.19 RCW.

[1997 c 58 § 910; 1992 c 229 § 2; 1991 sp.s. c 28 § 2; 1990 1st ex.s. c 2 § 2; 1989 c 416 § 3; 1988 c 275 § 17; 1987 c 430 § 1; 1973 1st ex.s. c 157 § 17.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Severability--Effective date--Captions not law--1991 sp.s. c 28: See notes following RCW 26.09.100.

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Effective dates--Severability--1988 c 275: See notes following RCW 26.19.001.

Severability--1987 c 430: "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." [1987 c 430 § 4.]

RCW 26.09.173 Modification of child support order--Child support order summary report.

The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to RCW 26.18.210. The party

must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis.

[1990 1st ex.s. c 2 § 23.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.09.175 Modification of order of child support.

(1) A proceeding for the modification of an order of child support shall commence with the filing of a petition and worksheets. The petition shall be in the form prescribed by the administrator for the courts. There shall be a fee of twenty dollars for the filing of a petition for modification of dissolution.

(2) The petitioner shall serve upon the other party the summons, a copy of the petition, and the worksheets in the form prescribed by the administrator for the courts. If the modification proceeding is the first action filed in this state, service shall be made by personal service. If the decree to be modified was entered in this state, service shall be by personal service or by any form of mail requiring a return receipt. If the support obligation has been assigned to the state pursuant to RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030, the summons, petition, and worksheets shall also be served on the attorney general. Proof of service shall be filed with the court.

(3) The responding party's answer and worksheets shall be served and the answer filed within twenty days after service of the petition or sixty days if served out of state. The responding party's failure to file an answer within the time required shall result in entry of a default judgment for the petitioner.

(4) At any time after responsive pleadings are filed, either party may schedule the matter for hearing.

(5) Unless both parties stipulate to arbitration or the presiding judge authorizes oral testimony pursuant to subsection (6) of this section, a petition for modification of an order of child support shall be heard by the court on affidavits, the petition, answer, and worksheets only.

(6) A party seeking authority to present oral testimony on the petition to modify a support order shall file an appropriate motion not later than ten days after the time of notice of hearing. Affidavits and exhibits setting forth the reasons oral testimony is necessary to a just adjudication of the issues shall accompany the petition. The affidavits and exhibits must demonstrate the extraordinary features of the case. Factors which may be considered include, but are not limited to: (a) Substantial questions of credibility on a major issue; (b) insufficient or inconsistent discovery materials not correctable by further discovery; or (c) particularly complex circumstances requiring expert testimony.

[1992 c 229 § 3; 1991 c 367 § 6; 1990 1st ex.s. c 2 § 3; 1987 c 430 § 2.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Severability--1987 c 430: See note following RCW 26.09.170.

RCW 26.09.181 Procedure for determining permanent parenting plan.

(1) SUBMISSION OF PROPOSED PLANS. (a) In any proceeding under this chapter, except a modification, each party shall file and serve a proposed permanent parenting plan on or before the earliest date of:

- (i) Thirty days after filing and service by either party of a notice for trial; or
- (ii) One hundred eighty days after commencement of the action which one hundred eighty day period may be extended by stipulation of the parties.

(b) In proceedings for a modification of custody or a parenting plan, a proposed parenting plan shall be filed and served with the motion for modification and with the response to the motion for modification.

(c) No proposed permanent parenting plan shall be required after filing of an agreed permanent parenting plan, after entry of a final decree, or after dismissal of the cause of action.

(d) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default adopting that party's parenting plan if the other party has failed to file a proposed parenting plan as required in this section.

(2) AMENDING PROPOSED PARENTING PLANS. Either party may file and serve an amended proposed permanent parenting plan according to the rules for amending pleadings.

(3) GOOD FAITH PROPOSAL. The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(4) AGREED PERMANENT PARENTING PLANS. The parents may make an agreed permanent parenting plan.

(5) MANDATORY SETTLEMENT CONFERENCE. Where mandatory settlement conferences are provided under court rule, the parents shall attend a mandatory settlement conference. The mandatory settlement conference shall be presided over by a judge or a court commissioner, who shall apply the criteria in RCW 26.09.187 and 26.09.191. The parents shall in good faith review the proposed terms of the parenting plans and any other issues relevant to the cause of action with the presiding judge or court commissioner. Facts and legal issues that are not then in dispute shall be entered as stipulations for purposes of final hearing or trial in the matter.

(6) TRIAL SETTING. Trial dates for actions involving minor children brought under this chapter shall receive priority.

(7) ENTRY OF FINAL ORDER. The final order or decree shall be entered not sooner than ninety days after filing and service.

This subsection does not apply to decrees of legal separation.

[1989 2nd ex.s. c 2 § 1; 1989 c 375 § 8; 1987 c 460 § 7.]

RCW 26.09.184 Permanent parenting plan.

(1) OBJECTIVES. The objectives of the permanent parenting plan are to:

- (a) Provide for the child's physical care;
- (b) Maintain the child's emotional stability;
- (c) Provide for the child's changing needs as the child grows and matures, in a way that minimizes the need for future modifications to the permanent parenting plan;
- (d) Set forth the authority and responsibilities of each parent with respect to the child, consistent with the criteria in RCW 26.09.187 and 26.09.191;
- (e) Minimize the child's exposure to harmful parental conflict;
- (f) Encourage the parents, where appropriate under RCW 26.09.187 and 26.09.191, to meet their responsibilities to their minor children through agreements in the permanent parenting plan, rather than by relying on judicial intervention; and
- (g) To otherwise protect the best interests of the child consistent with RCW 26.09.002.

(2) CONTENTS OF THE PERMANENT PARENTING PLAN. The permanent parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child.

(3) DISPUTE RESOLUTION. A process for resolving disputes, other than court action, shall be provided unless precluded or limited by RCW 26.09.187 or 26.09.191. A dispute resolution process may include counseling, mediation, or arbitration by a specified individual or agency, or court action. In the dispute resolution process:

- (a) Preference shall be given to carrying out the parenting plan;
- (b) The parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;
- (c) A written record shall be prepared of any agreement reached in counseling or mediation and of each arbitration award and shall be provided to each party;
- (d) If the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court shall award attorneys' fees and financial sanctions to the prevailing parent;
- (e) The parties have the right of review from the dispute resolution process to the superior court; and
- (f) The provisions of (a) through (e) of this subsection shall be set forth in the decree.

(4) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) The plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas, or in other areas, into their plan, consistent with the criteria in RCW 26.09.187 and 26.09.191. Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(c) When mutual decision making is designated but cannot be achieved, the parties shall make a good-faith effort to resolve the issue through the dispute resolution process.

(5) RESIDENTIAL PROVISIONS FOR THE CHILD. The plan shall include a

residential schedule which designates in which parent's home each minor child shall reside on given days of the year, including provision for holidays, birthdays of family members, vacations, and other special occasions, consistent with the criteria in RCW 26.09.187 and 26.09.191.

(6) PARENTS' OBLIGATION UNAFFECTED. If a parent fails to comply with a provision of a parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision in a parenting plan or a child support order may result in a finding of contempt of court, under RCW 26.09.160.

(7) PROVISIONS TO BE SET FORTH IN PERMANENT PARENTING PLAN. The permanent parenting plan shall set forth the provisions of subsections (3)(a) through (c), (4)(b) and (c), and (6) of this section.

[1991 c 367 § 7; 1989 c 375 § 9; 1987 c 460 § 8.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

Custody, designation of for purposes of other statutes: RCW 26.09.285.

Failure to comply with decree or temporary injunction--Obligations not suspended: RCW 26.09.160.

RCW 26.09.187 Criteria for establishing permanent parenting plan.

(1) DISPUTE RESOLUTION PROCESS. The court shall not order a dispute resolution process, except court action, when it finds that any limiting factor under RCW 26.09.191 applies, or when it finds that either parent is unable to afford the cost of the proposed dispute resolution process. If a dispute resolution process is not precluded or limited, then in designating such a process the court shall consider all relevant factors, including:

(a) Differences between the parents that would substantially inhibit their effective participation in any designated process;

(b) The parents' wishes or agreements and, if the parents have entered into agreements, whether the agreements were made knowingly and voluntarily; and

(c) Differences in the parents' financial circumstances that may affect their ability to participate fully in a given dispute resolution process.

(2) ALLOCATION OF DECISION-MAKING AUTHORITY.

(a) AGREEMENTS BETWEEN THE PARTIES. The court shall approve agreements of the parties allocating decision-making authority, or specifying rules in the areas listed in RCW 26.09.184(4)(a), when it finds that:

(i) The agreement is consistent with any limitations on a parent's decision-making authority mandated by RCW 26.09.191; and

(ii) The agreement is knowing and voluntary.

(b) SOLE DECISION-MAKING AUTHORITY. The court shall order sole decision-making to one parent when it finds that:

(i) A limitation on the other parent's decision-making authority is mandated by RCW 26.09.191;

- (ii) Both parents are opposed to mutual decision making;
- (iii) One parent is opposed to mutual decision making, and such opposition is reasonable based on the criteria in (c) of this subsection;

(c) MUTUAL DECISION-MAKING AUTHORITY. Except as provided in (a) and (b) of this subsection, the court shall consider the following criteria in allocating decision-making authority:

- (i) The existence of a limitation under RCW 26.09.191;
- (ii) The history of participation of each parent in decision making in each of the areas in RCW 26.09.184(4)(a);
- (iii) Whether the parents have a demonstrated ability and desire to cooperate with one another in decision making in each of the areas in RCW 26.09.184(4)(a); and
- (iv) The parents' geographic proximity to one another, to the extent that it affects their ability to make timely mutual decisions.

(3) RESIDENTIAL PROVISIONS.

(a) The court shall make residential provisions for each child which encourage each parent to maintain a loving, stable, and nurturing relationship with the child, consistent with the child's developmental level and the family's social and economic circumstances. The child's residential schedule shall be consistent with RCW 26.09.191. Where the limitations of RCW 26.09.191 are not dispositive of the child's residential schedule, the court shall consider the following factors:

- (i) The relative strength, nature, and stability of the child's relationship with each parent, including whether a parent has taken greater responsibility for performing parenting functions relating to the daily needs of the child;
- (ii) The agreements of the parties, provided they were entered into knowingly and voluntarily;
- (iii) Each parent's past and potential for future performance of parenting functions;
- (iv) The emotional needs and developmental level of the child;
- (v) The child's relationship with siblings and with other significant adults, as well as the child's involvement with his or her physical surroundings, school, or other significant activities;
- (vi) The wishes of the parents and the wishes of a child who is sufficiently mature to express reasoned and independent preferences as to his or her residential schedule; and
- (vii) Each parent's employment schedule, and shall make accommodations consistent with those schedules.

Factor (i) shall be given the greatest weight.

(b) The court may order that a child frequently alternate his or her residence between the households of the parents for brief and substantially equal intervals of time only if the court finds the following:

- (i) No limitation exists under RCW 26.09.191;
- (ii)(A) The parties have agreed to such provisions and the agreement was knowingly and voluntarily entered into; or
- (B) The parties have a satisfactory history of cooperation and shared performance of

parenting functions; the parties are available to each other, especially in geographic proximity, to the extent necessary to ensure their ability to share performance of the parenting functions; and

(iii) The provisions are in the best interests of the child.

[1989 c 375 § 10; 1987 c 460 § 9.]

Notes:

Custody, designation of for purposes of other statutes: RCW 26.09.285.

RCW 26.09.191 Restrictions in temporary or permanent parenting plans.

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a

pattern of emotional abuse of a child; (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises residential time in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the parent requesting residential time, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the

child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting residential time, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have residential time with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has

been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have residential time with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such residential time. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised residential time has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of residential time between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised residential time has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of residential time between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the

court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. If the court expressly finds based on the evidence that limitations on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

- (a) A parent's neglect or substantial nonperformance of parenting functions;
- (b) A long-term emotional or physical impairment which interferes with the parent's

performance of parenting functions as defined in RCW 26.09.004;

(c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;

(d) The absence or substantial impairment of emotional ties between the parent and the child;

(e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;

(f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or

(g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(5) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

(6) For the purposes of this section, a parent's child means that parent's natural child, adopted child, or stepchild.

[1996 c 303 § 1; 1994 c 267 § 1. Prior: 1989 c 375 § 11; 1989 c 326 § 1; 1987 c 460 § 10.]

Notes:

Effective date--1996 c 303: "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 [March 30, 1996]." [1996 c 303 § 3.]

Effective date--1994 c 267: "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 shall take effect immediately [April 1, 1994]." [1994 c 267 § 6.]

RCW 26.09.194 Proposed temporary parenting plan--Temporary order--Amendment--Vacation of order.

(1) A parent seeking a temporary order relating to parenting shall file and serve a proposed temporary parenting plan by motion. The other parent, if contesting the proposed temporary parenting plan, shall file and serve a responsive proposed parenting plan. Either parent may move to have a proposed temporary parenting plan entered as part of a temporary order. The parents may enter an agreed temporary parenting plan at any time as part of a temporary order. The proposed temporary parenting plan may be supported by relevant evidence and shall be accompanied by an affidavit or declaration which shall state at a minimum the following:

(a) The name, address, and length of residence with the person or persons with whom the child has lived for the preceding twelve months;

(b) The performance by each parent during the last twelve months of the parenting functions relating to the daily needs of the child;

(c) The parents' work and child-care schedules for the preceding twelve months;

(d) The parents' current work and child-care schedules; and

(e) Any of the circumstances set forth in RCW 26.09.191 that are likely to pose a serious

risk to the child and that warrant limitation on the award to a parent of temporary residence or time with the child pending entry of a permanent parenting plan.

(2) At the hearing, the court shall enter a temporary parenting order incorporating a temporary parenting plan which includes:

(a) A schedule for the child's time with each parent when appropriate;

(b) Designation of a temporary residence for the child;

(c) Allocation of decision-making authority, if any. Absent allocation of decision-making authority consistent with RCW 26.09.187(2), neither party shall make any decision for the child other than those relating to day-to-day or emergency care of the child, which shall be made by the party who is present with the child;

(d) Provisions for temporary support for the child; and

(e) Restraining orders, if applicable, under RCW 26.09.060.

(3) A parent may make a motion for an order to show cause and the court may enter a temporary order, including a temporary parenting plan, upon a showing of necessity.

(4) A parent may move for amendment of a temporary parenting plan, and the court may order amendment to the temporary parenting plan, if the amendment conforms to the limitations of RCW 26.09.191 and is in the best interest of the child.

(5) If a proceeding for dissolution of marriage, legal separation, or declaration of invalidity is dismissed, any temporary order or temporary parenting plan is vacated.

[1987 c 460 § 13.]

RCW 26.09.197 Issuance of temporary parenting plan--Criteria.

After considering the affidavit required by RCW 26.09.194(1) and other relevant evidence presented, the court shall make a temporary parenting plan that is in the best interest of the child. In making this determination, the court shall give particular consideration to:

(1) Which parent has taken greater responsibility during the last twelve months for performing parenting functions relating to the daily needs of the child; and

(2) Which parenting arrangements will cause the least disruption to the child's emotional stability while the action is pending.

The court shall also consider the factors used to determine residential provisions in the permanent parenting plan.

[1987 c 460 § 14.]

RCW 26.09.210 Parenting plans--Interview with child by court--Advice of professional personnel.

The court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for dissolution of marriage, legal separation, or declaration of invalidity. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination any professional personnel consulted by the court.

[1987 c 460 § 15; 1973 1st ex.s. c 157 § 21.]

RCW 26.09.220 Parenting arrangements--Investigation and report--Appointment of guardian ad litem.

(1) The court may order an investigation and report concerning parenting arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(2) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and the potential parenting or custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

[1993 c 289 § 1; 1989 c 375 § 12; 1987 c 460 § 16; 1973 1st ex.s. c 157 § 22.]

Notes:

Authority to make reports to assist courts of other states: RCW 26.27.200.

RCW 26.09.225 Access to child's education and health care records.

(1) Each parent shall have full and equal access to the education and health care records of the child absent a court order to the contrary. Neither parent may veto the access requested by the other parent.

(2) Educational records are limited to academic, attendance, and disciplinary records of

public and private schools in all grades kindergarten through twelve and any form of alternative school for all periods for which child support is paid or the child is the dependent in fact of the parent requesting access to the records.

(3) Educational records of postsecondary educational institutions are limited to enrollment and academic records necessary to determine, establish, or continue support ordered pursuant to RCW 26.19.090.

[1991 sp.s. c 28 § 3; 1990 1st ex.s. c 2 § 18; 1987 c 460 § 17.]

Notes:

Severability--Effective date--Captions not law--1991 sp.s. c 28: See notes following RCW 26.09.100.

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.09.240 Visitation rights--Person other than parent--Grandparents' visitation rights.

(1) A person other than a parent may petition the court for visitation with a child at any time or may intervene in a pending dissolution, legal separation, or modification of parenting plan proceeding. A person other than a parent may not petition for visitation under this section unless the child's parent or parents have commenced an action under this chapter.

(2) A petition for visitation with a child by a person other than a parent must be filed in the county in which the child resides.

(3) A petition for visitation or a motion to intervene pursuant to this section shall be dismissed unless the petitioner or intervenor can demonstrate by clear and convincing evidence that a significant relationship exists with the child with whom visitation is sought. If the petition or motion is dismissed for failure to establish the existence of a significant relationship, the petitioner or intervenor shall be ordered to pay reasonable attorney's fees and costs to the parent, parents, other custodian, or representative of the child who responds to this petition or motion.

(4) The court may order visitation between the petitioner or intervenor and the child between whom a significant relationship exists upon a finding supported by the evidence that the visitation is in the child's best interests.

(5)(a) Visitation with a grandparent shall be presumed to be in the child's best interests when a significant relationship has been shown to exist. This presumption may be rebutted by a preponderance of evidence showing that visitation would endanger the child's physical, mental, or emotional health.

(b) If the court finds that reasonable visitation by a grandparent would be in the child's best interest except for hostilities that exist between the grandparent and one or both of the parents or person with whom the child lives, the court may set the matter for mediation under RCW 26.09.015.

(6) The court may consider the following factors when making a determination of the child's best interests:

(a) The strength of the relationship between the child and the petitioner;

(b) The relationship between each of the child's parents or the person with whom the child is residing and the petitioner;

- (c) The nature and reason for either parent's objection to granting the petitioner visitation;
- (d) The effect that granting visitation will have on the relationship between the child and the child's parents or the person with whom the child is residing;
- (e) The residential time sharing arrangements between the parents;
- (f) The good faith of the petitioner;
- (g) Any criminal history or history of physical, emotional, or sexual abuse or neglect by the petitioner; and
- (h) Any other factor relevant to the child's best interest.

(7) The restrictions of RCW 26.09.191 that apply to parents shall be applied to a petitioner or intervenor who is not a parent. The nature and extent of visitation, subject to these restrictions, is in the discretion of the court.

(8) The court may order an investigation and report concerning the proposed visitation or may appoint a guardian ad litem as provided in RCW 26.09.220.

(9) Visitation granted pursuant to this section shall be incorporated into the parenting plan for the child.

(10) The court may modify or terminate visitation rights granted pursuant to this section in any subsequent modification action upon a showing that the visitation is no longer in the best interest of the child.

[1996 c 177 § 1; 1989 c 375 § 13; 1987 c 460 § 18; 1977 ex.s. c 271 § 1; 1973 1st ex.s. c 157 § 24.]

RCW 26.09.255 Remedies when a child is taken, enticed, or concealed.

A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative if, with intent to deny access to a child by that relative of the child who has a right to physical custody of or visitation with the child or a parent with whom the child resides pursuant to a parenting plan order, the relative takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees.

[1987 c 460 § 22; 1984 c 95 § 6.]

Notes:

Severability--1984 c 95: See note following RCW 9A.40.060.

RCW 26.09.260 Modification of parenting plan or custody decree.

(1) Except as otherwise provided in subsections (4), (5), (6), (8), and (10) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

- (a) The parents agree to the modification;
- (b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;
- (c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or
- (d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may reduce or restrict contact between the child and the parent with whom the child does not reside a majority of the time if it finds that the reduction or restriction would serve and protect the best interests of the child using the criteria in RCW 26.09.191.

(5) The court may order adjustments to the residential aspects of a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a minor modification in the residential schedule that does not change the residence the child is scheduled to reside in the majority of the time and:

- (a) Does not exceed twenty-four full days in a calendar year; or
- (b) Is based on a change of residence of the parent with whom the child does not reside the majority of the time or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow; or
- (c) Does not result in a schedule that exceeds ninety overnights per year in total, if the court finds that, at the time the petition for modification is filed, the decree of dissolution or parenting plan does not provide reasonable time with the parent with whom the child does not reside a majority of the time, and further, the court finds that it is in the best interests of the child to increase residential time with the parent in excess of the residential time period in (a) of this subsection. However, any motion under this subsection (5)(c) is subject to the factors established in subsection (2) of this section if the party bringing the petition has previously been granted a modification under this same subsection within twenty-four months of the current motion. Relief granted under this section shall not be the sole basis for adjusting or modifying child support.

(6) The court may order adjustments to the residential aspects of a parenting plan pursuant to a proceeding to permit or restrain a relocation of the child. The person objecting to the relocation of the child or the relocating person's proposed revised residential schedule may file a petition to modify the parenting plan, including a change of the residence in which the child resides the majority of the time, without a showing of adequate cause other than the proposed

relocation itself. A hearing to determine adequate cause for modification shall not be required so long as the request for relocation of the child is being pursued. In making a determination of a modification pursuant to relocation of the child, the court shall first determine whether to permit or restrain the relocation of the child using the procedures and standards provided in RCW 26.09.405 through 26.09.560. Following that determination, the court shall determine what modification pursuant to relocation should be made, if any, to the parenting plan or custody order or visitation order.

(7) A parent with whom the child does not reside a majority of the time and whose residential time with the child is subject to limitations pursuant to RCW 26.09.191 (2) or (3) may not seek expansion of residential time under subsection (5)(c) of this section unless that parent demonstrates a substantial change in circumstances specifically related to the basis for the limitation.

(8) If a parent with whom the child does not reside a majority of the time voluntarily fails to exercise residential time for an extended period, that is, one year or longer, the court upon proper motion may make adjustments to the parenting plan in keeping with the best interests of the minor child.

(9) A parent with whom the child does not reside a majority of the time who is required by the existing parenting plan to complete evaluations, treatment, parenting, or other classes may not seek expansion of residential time under subsection (5)(c) of this section unless that parent has fully complied with such requirements.

(10) The court may order adjustments to any of the nonresidential aspects of a parenting plan upon a showing of a substantial change of circumstances of either parent or of a child, and the adjustment is in the best interest of the child. Adjustments ordered under this section may be made without consideration of the factors set forth in subsection (2) of this section.

(11) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party.

[2000 c 21 § 19; 1999 c 174 § 1; 1991 c 367 § 9. Prior: 1989 c 375 § 14; 1989 c 318 § 3; 1987 c 460 § 19; 1973 1st ex.s. c 157 § 26.]

Notes:

Applicability--2000 c 21: See RCW 26.09.405.

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

Severability--1989 c 318: See note following RCW 26.09.160.

RCW 26.09.270 Child custody--Temporary custody order, temporary parenting plan, or modification of custody decree--Affidavits required.

A party seeking a temporary custody order or a temporary parenting plan or modification of a custody decree or parenting plan shall submit together with his motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a

copy of his affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

[1989 c 375 § 15; 1973 1st ex.s. c 157 § 27.]

RCW 26.09.280 Parenting plan or child support modification or enforcement--Venue.

Every action or proceeding to change, modify, or enforce any final order, judgment, or decree entered in any dissolution or legal separation or declaration concerning the validity of a marriage, whether under this chapter or prior law, regarding the parenting plan or child support for the minor children of the marriage may be brought in the county where the minor children are then residing, or in the court in which the final order, judgment, or decree was entered, or in the county where the parent or other person who has the care, custody, or control of the children is then residing.

[1991 c 367 § 10; 1987 c 460 § 20; 1975 c 32 § 4; 1973 1st ex.s. c 157 § 28.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.09.285 Designation of custody for the purpose of other state and federal statutes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes.

[1989 c 375 § 16; 1987 c 460 § 21.]

RCW 26.09.290 Final decree of divorce nunc pro tunc.

Whenever either of the parties in a divorce action is, under the law, entitled to a final judgment, but by mistake, negligence, or inadvertence the same has not been signed, filed, or entered, if no appeal has been taken from the interlocutory order or motion for a new trial made, the court, on the motion of either party thereto or upon its own motion, may cause a final judgment to be signed, dated, filed, and entered therein granting the divorce as of the date when the same could have been given or made by the court if applied for. The court may cause such final judgment to be signed, dated, filed, and entered nunc pro tunc as aforesaid, even though a final judgment may have been previously entered where by mistake, negligence or inadvertence

the same has not been signed, filed, or entered as soon as such final judgment, the parties to such action shall be deemed to have been restored to the status of single persons as of the date affixed to such judgment, and any marriage of either of such parties subsequent to six months after the granting of the interlocutory order as shown by the minutes of the court, and after the final judgment could have been entered under the law if applied for, shall be valid for all purposes as of the date affixed to such final judgment, upon the filing thereof.

[1973 1st ex.s. c 157 § 29.]

RCW 26.09.300 Restraining orders--Notice--Refusal to comply--Arrest--Penalty--Defense--Peace officers, immunity.

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, is punishable under RCW 26.50.110.

(2) A person is deemed to have notice of a restraining order if:

- (a) The person to be restrained or the person's attorney signed the order;
- (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;
- (c) The order was served upon the person to be restrained; or
- (d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

- (a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or
- (b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

- (a) A restraining order has been issued under this chapter;
- (b) The respondent or person to be restrained knows of the order; and
- (c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

[2000 c 119 § 21; 1996 c 248 § 9; 1995 c 246 § 27; 1984 c 263 § 28; 1974 ex.s. c 99 § 1.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Effective date--Severability--1984 c 263: See RCW 26.50.901 and 26.50.902.

RCW 26.09.310 Provision of health care to minor--Immunity of health care provider.

No health care provider or facility, or their agent, shall be liable for damages in any civil action brought by a parent or guardian based only on a lack of the parent or guardian's consent for medical care of a minor child, if consent to the care has been given by a parent or guardian of the minor. The immunity provided by this section shall apply regardless of whether:

- (1) The parents are married, unmarried, or separated at the time of consent or treatment;
- (2) The consenting parent is, or is not, a custodial parent of the minor;
- (3) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered pursuant to chapter 26.09 RCW;
- (4) The action or suit is brought by or on behalf of the nonconsenting parent, the minor child, or any other person.

[1989 c 377 § 1.]

NOTICE REQUIREMENTS AND STANDARDS FOR PARENTAL RELOCATION

RCW 26.09.405 Applicability.

(1) The provisions of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 apply to a court order regarding residential time or visitation with a child issued:

- (a) After June 8, 2000; and
- (b) Before June 8, 2000, if the existing court order does not expressly govern relocation of the child.

(2) To the extent that a provision of RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 conflicts with the express terms of a court order existing prior to June 8, 2000, then RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160 do not apply to those terms of that order governing relocation of the child.

[2000 c 21 § 3.]

Notes:

Intent--2000 c 21: "By this act, the legislature intends to supersede the state supreme court's decisions In

Re the Marriage of Littlefield, 133 Wn.2d 39 (1997), and In Re the Marriage of Pape, Docket No. 67527-9, December 23, 1999." [2000 c 21 § 1.]

Captions not law--2000 c 21: "Captions used in this act are not any part of the law." [2000 c 21 § 22.]

RCW 26.09.410 Definitions.

The definitions in this section apply throughout RCW 26.09.405 through 26.09.560 and 26.09.260 unless the context clearly requires otherwise.

(1) "Court order" means a temporary or permanent parenting plan, custody order, visitation order, or other order governing the residence of a child under this title.

(2) "Relocate" means a change in principal residence either permanently or for a protracted period of time.

[2000 c 21 § 2.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.420 Grant of authority.

When entering or modifying a court order, the court has the authority to allow or not allow a person to relocate the child.

[2000 c 21 § 4.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.430 Notice requirement.

Except as provided in RCW 26.09.460, a person with whom the child resides a majority of the time shall notify every other person entitled to residential time or visitation with the child under a court order if the person intends to relocate. Notice shall be given as prescribed in RCW 26.09.440 and 26.09.450.

[2000 c 21 § 5.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.440 Notice--Contents and delivery.

(1) Except as provided in RCW 26.09.450 and 26.09.460, the notice of an intended relocation of the child must be given by:

(a) Personal service or any form of mail requiring a return receipt; and

(b) No less than:

(i) Sixty days before the date of the intended relocation of the child; or

(ii) No more than five days after the date that the person knows the information required to be furnished under subsection (2) of this section, if the person did not know and could not reasonably have known the information in sufficient time to provide the sixty-days' notice, and it is not reasonable to delay the relocation.

(2)(a) The notice of intended relocation of the child must include: (i) An address at which service of process may be accomplished during the period for objection; (ii) a brief statement of the specific reasons for the intended relocation of the child; and (iii) a notice to the nonrelocating person that an objection to the intended relocation of the child or to the relocating person's proposed revised residential schedule must be filed with the court and served on the opposing person within thirty days or the relocation of the child will be permitted and the residential schedule may be modified pursuant to RCW 26.09.500. The notice shall not be deemed to be in substantial compliance for purposes of RCW 26.09.470 unless the notice contains the following statement: "THE RELOCATION OF THE CHILD WILL BE PERMITTED AND THE PROPOSED REVISED RESIDENTIAL SCHEDULE MAY BE CONFIRMED UNLESS, WITHIN THIRTY DAYS, YOU FILE A PETITION AND MOTION WITH THE COURT TO BLOCK THE RELOCATION OR OBJECT TO THE PROPOSED REVISED RESIDENTIAL SCHEDULE AND SERVE THE PETITION AND MOTION ON THE PERSON PROPOSING RELOCATION AND ALL OTHER PERSONS ENTITLED BY COURT ORDER TO RESIDENTIAL TIME OR VISITATION WITH THE CHILD."

(b) Except as provided in RCW 26.09.450 and 26.09.460, the following information shall also be included in every notice of intended relocation of the child, if available:

- (i) The specific street address of the intended new residence, if known, or as much of the intended address as is known, such as city and state;
- (ii) The new mailing address, if different from the intended new residence address;
- (iii) The new home telephone number;
- (iv) The name and address of the child's new school and day care facility, if applicable;
- (v) The date of the intended relocation of the child; and
- (vi) A proposal in the form of a proposed parenting plan for a revised schedule of residential time or visitation with the child, if any.

(3) A person required to give notice of an intended relocation of the child has a continuing duty to promptly update the information required with the notice as that new information becomes known.

[2000 c 21 § 6.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.450 Notice--Relocation within the same school district.

(1) When the intended relocation of the child is within the school district in which the child currently resides the majority of the time, the person intending to relocate the child, in lieu of notice prescribed in RCW 26.09.440, may provide actual notice by any reasonable means to

every other person entitled to residential time or visitation with the child under a court order.

(2) A person who is entitled to residential time or visitation with the child under a court order may not object to the intended relocation of the child within the school district in which the child currently resides the majority of the time, but he or she retains the right to move for modification under RCW 26.09.260.

[2000 c 21 § 7.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.460 Limitation of notices.

(1) If a person intending to relocate the child is entering a domestic violence shelter due to the danger imposed by another person, notice may be delayed for twenty-one days. This section shall not be construed to compel the disclosure by any domestic violence shelter of information protected by confidentiality except as provided by RCW 70.123.075 or equivalent laws of the state in which the shelter is located.

(2) If a person intending to relocate the child is a participant in the address confidentiality program pursuant to chapter 40.24 RCW or has a court order which permits the party to withhold some or all of the information required by RCW 26.09.440(2)(b), the confidential or protected information is not required to be given with the notice.

(3) If a person intending to relocate the child is relocating to avoid a clear, immediate, and unreasonable risk to the health or safety of a person or the child, notice may be delayed for twenty-one days.

(4) A person intending to relocate the child who believes that his or her health or safety or the health or safety of the child would be unreasonably put at risk by notice or disclosure of certain information in the notice may request an ex parte hearing with the court to have all or part of the notice requirements waived. If the court finds that the health or safety of a person or a child would be unreasonably put at risk by notice or the disclosure of certain information in the notice, the court may:

(a) Order that the notice requirements be less than complete or waived to the extent necessary to protect confidentiality or the health or safety of a person or child; or

(b) Provide such other relief as the court finds necessary to facilitate the legitimate needs of the parties and the best interests of the child under the circumstances.

(5) This section does not deprive a person entitled to residential time or visitation with a child under a court order the opportunity to object to the intended relocation of the child or the proposed revised residential schedule before the relocation occurs.

[2000 c 21 § 8.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.470 Failure to give notice.

(1) The failure to provide the required notice is grounds for sanctions, including contempt if applicable.

(2) In determining whether a person has failed to comply with the notice requirements for the purposes of this section, the court may consider whether:

(a) The person has substantially complied with the notice requirements;

(b) The court order in effect at the time of the relocation was issued prior to June 8, 2000, and the person substantially complied with the notice requirements, if any, in the existing order;

(c) A waiver of notice was granted;

(d) A person entitled to receive notice was substantially harmed; and

(e) Any other factor the court deems relevant.

(3) A person entitled to file an objection to the intended relocation of the child may file such objection whether or not the person has received proper notice.

[2000 c 21 § 9.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.480 Objection to relocation or proposed revised residential schedule.

(1) A party objecting to the intended relocation of the child or the relocating parent's proposed revised residential schedule shall do so by filing the objection with the court and serving the objection on the relocating party and all other persons entitled by court order to residential time or visitation with the child by means of personal service or mailing by any form of mail requiring a return receipt to the relocating party at the address designated for service on the notice of intended relocation and to other parties requiring notice at their mailing address. The objection must be filed and served, including a three-day waiting period if the objection is served by mail, within thirty days of receipt of the notice of intended relocation of the child. The objection shall be in the form of: (a) A petition for modification of the parenting plan pursuant to relocation; or (b) other court proceeding adequate to provide grounds for relief.

(2) Unless the special circumstances described in RCW 26.09.460 apply, the person intending to relocate the child shall not, without a court order, change the principal residence of the child during the period in which a party may object. The order required under this subsection may be obtained ex parte. If the objecting party notes a court hearing to prevent the relocation of the child for a date not more than fifteen days following timely service of an objection to relocation, the party intending to relocate the child shall not change the principal residence of the child pending the hearing unless the special circumstances described in RCW 26.09.460(3) apply.

(3) The administrator for the courts shall develop a standard form, separate from existing dissolution or modification forms, for use in filing an objection to relocation of the child or objection of the relocating person's proposed revised residential schedule.

[2000 c 21 § 10.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.490 Required provision in residential orders.

Unless waived by court order, after June 8, 2000, every court order shall include a clear restatement of the provisions in RCW 26.09.430 through 26.09.480.

[2000 c 21 § 11.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.500 Failure to object.

(1) Except for good cause shown, if a person entitled to object to the relocation of the child does not file an objection with the court within thirty days after receipt of the relocation notice, then the relocation of the child shall be permitted.

(2) A nonobjecting person shall be entitled to the residential time or visitation with the child specified in the proposed residential schedule included with the relocation notice.

(3) Any person entitled to residential time or visitation with a child under a court order retains his or her right to move for modification under RCW 26.09.260.

(4) If a person entitled to object to the relocation of the child does not file an objection with the court within thirty days after receipt of the relocation notice, a person entitled to residential time with the child may not be held in contempt of court for any act or omission that is in compliance with the proposed revised residential schedule set forth in the notice given.

(5) Any party entitled to residential time or visitation with the child under a court order may, after thirty days have elapsed since the receipt of the notice, obtain ex parte and file with the court an order modifying the residential schedule in conformity with the relocating party's proposed residential schedule specified in the notice upon filing a copy of the notice and proof of service of such notice. A party may obtain ex parte and file with the court an order modifying the residential schedule in conformity with the proposed residential schedule specified in the notice before the thirty days have elapsed if the party files a copy of the notice, proof of service of such notice, and proof that no objection will be filed.

[2000 c 21 § 12.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.510 Temporary orders.

(1) The court may grant a temporary order restraining relocation of the child, or ordering

return of the child if the child's relocation has occurred, if the court finds:

(a) The required notice of an intended relocation of the child was not provided in a timely manner and the nonrelocating party was substantially prejudiced;

(b) The relocation of the child has occurred without agreement of the parties, court order, or the notice required by RCW 26.09.405 through 26.09.560 and the chapter 21, Laws of 2000 amendments to RCW 26.09.260, 26.10.190, and 26.26.160; or

(c) After examining evidence presented at a hearing for temporary orders in which the parties had adequate opportunity to prepare and be heard, there is a likelihood that on final hearing the court will not approve the intended relocation of the child or no circumstances exist sufficient to warrant a relocation of the child prior to a final determination at trial.

(2) The court may grant a temporary order authorizing the intended relocation of the child pending final hearing if the court finds:

(a) The required notice of an intended relocation of the child was provided in a timely manner or that the circumstances otherwise warrant issuance of a temporary order in the absence of compliance with the notice requirements and issues an order for a revised schedule for residential time with the child; and

(b) After examining the evidence presented at a hearing for temporary orders in which the parties had adequate opportunity to prepare and be heard, there is a likelihood that on final hearing the court will approve the intended relocation of the child.

[2000 c 21 § 13.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.520 Basis for determination.

The person proposing to relocate with the child shall provide his or her reasons for the intended relocation. There is a rebuttable presumption that the intended relocation of the child will be permitted. A person entitled to object to the intended relocation of the child may rebut the presumption by demonstrating that the detrimental effect of the relocation outweighs the benefit of the change to the child and the relocating person, based upon the following factors. The factors listed in this section are not weighted. No inference is to be drawn from the order in which the following factors are listed:

(1) The relative strength, nature, quality, extent of involvement, and stability of the child's relationship with each parent, siblings, and other significant persons in the child's life;

(2) Prior agreements of the parties;

(3) Whether disrupting the contact between the child and the person with whom the child resides a majority of the time would be more detrimental to the child than disrupting contact between the child and the person objecting to the relocation;

(4) Whether either parent or a person entitled to residential time with the child is subject to limitations under RCW 26.09.191;

(5) The reasons of each person for seeking or opposing the relocation and the good faith

of each of the parties in requesting or opposing the relocation;

(6) The age, developmental stage, and needs of the child, and the likely impact the relocation or its prevention will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;

(7) The quality of life, resources, and opportunities available to the child and to the relocating party in the current and proposed geographic locations;

(8) The availability of alternative arrangements to foster and continue the child's relationship with and access to the other parent;

(9) The alternatives to relocation and whether it is feasible and desirable for the other party to relocate also;

(10) The financial impact and logistics of the relocation or its prevention; and

(11) For a temporary order, the amount of time before a final decision can be made at trial.

[2000 c 21 § 14.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.530 Factor not to be considered.

In determining whether to permit or restrain the relocation of the child, the court may not admit evidence on the issue of whether the person seeking to relocate the child will forego his or her own relocation if the child's relocation is not permitted or whether the person opposing relocation will also relocate if the child's relocation is permitted. The court may admit and consider such evidence after it makes the decision to allow or restrain relocation of the child and other parenting, custody, or visitation issues remain before the court, such as what, if any, modifications to the parenting plan are appropriate and who the child will reside with the majority of the time if the court has denied relocation of the child and the person is relocating without the child.

[2000 c 21 § 15.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.540 Objections by nonparents.

A court may not restrict the right of a parent to relocate the child when the sole objection to the relocation is from a third party, unless that third party is entitled to residential time or visitation under a court order and has served as the primary residential care provider to the child for a substantial period of time during the thirty-six consecutive months preceding the intended relocation.

[2000 c 21 § 16.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.550 Sanctions.

The court may sanction a party if it finds that a proposal to relocate the child or an objection to an intended relocation or proposed revised residential schedule was made to harass a person, to interfere in bad faith with the relationship between the child and another person entitled to residential time or visitation with the child, or to unnecessarily delay or needlessly increase the cost of litigation.

[2000 c 21 § 17.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.560 Priority for hearing.

A hearing involving relocations or intended relocations of children shall be accorded priority on the court's motion calendar and trial docket.

[2000 c 21 § 18.]

Notes:

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.09.900 Construction--Pending divorce actions.

Notwithstanding the repeals of prior laws enumerated in section 30, chapter 157, Laws of 1973 1st ex. sess., actions for divorce which were properly and validly pending in the superior courts of this state as of the effective date of such repealer (July 15, 1973) shall be governed and may be pursued to conclusion under the provisions of law applicable thereto at the time of commencement of such action and all decrees and orders heretofore or hereafter in all other respects regularly entered in such proceedings are declared valid: PROVIDED, That upon proper cause being shown at any time before final decree, the court may convert such action to an action for dissolution of marriage as provided for in RCW 26.09.901.

[1974 ex.s. c 15 § 1.]

RCW 26.09.901 Conversion of pending action to dissolution proceeding.

Any divorce action which was filed prior to July 15, 1973 and for which a final decree has not been entered on February 11, 1974, may, upon order of the superior court having jurisdiction over such proceeding for good cause shown, be converted to a dissolution proceeding and thereafter be continued under the provisions of this chapter.

[1974 ex.s. c 15 § 2.]

RCW 26.09.902 RCW 26.09.900 and 26.09.901 deemed in effect on July 16, 1973.

The provisions of RCW 26.09.900 and 26.09.901 are remedial and procedural and shall be construed to have been in effect as of July 16, 1973.

[1974 ex.s. c 15 § 3.]

RCW 26.09.905 Construction of chapter with uniform child custody jurisdiction act (chapter 26.27 RCW).

See RCW 26.27.900.

RCW 26.09.907 Construction--Pending actions as of January 1, 1988.

Notwithstanding the repeals of prior laws, actions which were properly and validly pending in the superior courts of this state as of January 1, 1988, shall not be governed by chapter 460, Laws of 1987 but shall be governed by the provisions of law in effect on December 31, 1987.

[1989 c 375 § 17; 1987 c 460 § 23.]

RCW 26.09.909 Decrees entered into prior to January 1, 1988.

(1) Decrees under this chapter involving child custody, visitation, or child support entered in actions commenced prior to January 1, 1988, shall be deemed to be parenting plans for purposes of this chapter.

(2) The enactment of the 1987 revisions to this chapter does not constitute substantially changed circumstances for the purposes of modifying decrees entered under this chapter in actions commenced prior to January 1, 1988, involving child custody, visitation, or child support. Any action to modify any decree involving child custody, visitation, child support, or a parenting plan shall be governed by the provisions of this chapter.

(3) Actions brought for clarification or interpretation of decrees entered under this chapter in actions commenced prior to January 1, 1988, shall be determined under the law in effect immediately prior to January 1, 1988.

[1990 1st ex.s. c 2 § 16; 1989 c 375 § 18; 1987 c 460 § 24.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.09.910 Short title--1987 c 460.

This act shall be known as the parenting act of 1987.

[1987 c 460 § 57.]

RCW 26.09.911 Section captions--1987 c 460.

Section captions as used in this act do not constitute any part of the law.

[1987 c 460 § 58.]

RCW 26.09.912 Effective date--1987 c 460.

This act shall take effect on January 1, 1988.

[1987 c 460 § 59.]

RCW 26.09.913 Severability--1987 c 460.

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

[1987 c 460 § 60.]

RCW 26.09.914 Severability--1989 c 375.

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.

[1989 c 375 § 33.]

**Chapter 26.10 RCW
NONPARENTAL ACTIONS FOR CHILD CUSTODY**

Sections

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26.10.912	Effective date--1987 c 460.
26.10.913	Severability--1987 c 460.

Notes:

Child support registry: Chapter 26.23 RCW.

RCW 26.10.010 Intent.

It is the intent of the legislature to reenact and continue the law relating to third-party actions involving custody of minor children in order to distinguish that body of law from the *1987 parenting act amendments to chapter 26.09 RCW, which previously contained these provisions.

[1987 c 460 § 25.]

Notes:

***Reviser's note:** For codification of the 1987 parenting act, 1987 c 460, see Codification Tables, Volume 0.

RCW 26.10.015 Mandatory use of approved forms.

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

[1992 c 229 § 4; 1990 1st ex.s. c 2 § 27.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.10.020 Civil practice to govern--Designation of proceedings--Decrees.

(1) Except as otherwise specifically provided in this chapter, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) In cases where a party other than a parent seeks custody of a minor child, a separate custody proceeding shall be entitled "In re the custody of"

(3) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

[1987 c 460 § 26.]

RCW 26.10.030 Child custody proceeding--Commencement--Notice--Intervention.

(1) Except as authorized for proceedings brought under chapter 13.34 RCW, or chapter 26.50 RCW in district or municipal courts, a child custody proceeding is commenced in the superior court by a person other than a parent, by filing a petition seeking custody of the child in the county where the child is permanently resident or where the child is found, but only if the child is not in the physical custody of one of its parents or if the petitioner alleges that neither parent is a suitable custodian. In proceedings in which the juvenile court has not exercised concurrent jurisdiction and prior to a child custody hearing, the court shall determine if the child is the subject of a pending dependency action.

(2) Notice of a child custody proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

[2000 c 135 § 3; 1998 c 130 § 4; 1987 c 460 § 27.]

RCW 26.10.040 Provisions for child support, custody, and visitation--Federal tax exemption--Continuing restraining orders--Domestic violence or antiharassment protection orders--Notice of modification or termination of restraining order.

(1) In entering an order under this chapter, the court shall consider, approve, or make provision for:

(a) Child custody, visitation, and the support of any child entitled to support;

(b) The allocation of the children as a federal tax exemption;

(c) Any necessary continuing restraining orders, including the provisions contained in RCW 9.41.800;

(d) A domestic violence protection order under chapter 26.50 RCW or an antiharassment

protection order under chapter 10.14 RCW. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080;

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

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

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

[2000 c 119 § 8; 1995 c 93 § 3; 1994 sp.s. c 7 § 453; 1989 c 375 § 31; 1987 c 460 § 28.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.10.045 Child support schedule.

A determination of child support shall be based upon the child support schedule and standards adopted under *RCW 26.19.040.

[1988 c 275 § 12.]

Notes:

***Reviser's note:** RCW 26.19.040 was repealed by 1991 sp.s. c 28 § 8, effective September 1, 1991.

Effective dates--Severability--1988 c 275: See notes following RCW 26.19.001.

RCW 26.10.050 Child support by parents--Apportionment of expense.

In a custody proceeding, the court may order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount reasonable or necessary for the child's support.

[1987 c 460 § 29.]

RCW 26.10.060 Health insurance coverage--Conditions.

In entering or modifying a custody order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage for any dependent child if the following conditions are met:

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

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

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

This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of medical expenses, medical costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

[1989 c 375 § 19; 1987 c 460 § 30.]

Notes:

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.10.070 Minor or dependent child--Court appointed attorney to represent--Payment of costs, fees, and disbursements.

The court may appoint an attorney to represent the interests of a minor or dependent child with respect to custody, support, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against any or all parties, except that, if all parties are indigent, the costs, fees, and disbursements shall be borne by the county.

[1989 c 375 § 20; 1987 c 460 § 31.]

Notes:

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.10.080 Payment of costs, attorney's fees, etc.

The court from time to time, after considering the financial resources of all parties, may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs.

The court may order that the attorney's fees be paid directly to the attorney who may enforce the order in his or her name.

[1987 c 460 § 35.]

RCW 26.10.090 Failure to comply with decree or temporary injunction--Obligation to make support payments or permit visitation not suspended--Motion.

If a party fails to comply with a provision of an order or temporary order of injunction, the obligation of the other party to make payments for support or to permit visitation is not suspended, but the party may move the court to grant an appropriate order.

[1987 c 460 § 36.]

RCW 26.10.100 Determination of custody--Child's best interests.

The court shall determine custody in accordance with the best interests of the child.

[1987 c 460 § 38.]

RCW 26.10.110 Temporary custody order--Vacation of order.

A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in RCW 26.10.200. The court may award temporary custody after a hearing, or, if there is no objection, solely on the basis of the affidavits.

If a custody proceeding commenced under this chapter is dismissed, any temporary order is vacated.

[1987 c 460 § 39.]

RCW 26.10.115 Temporary orders--Support--Restraining orders--Domestic violence or antiharassment protection orders--Notice of modification or termination of restraining order--Preservation of support debt.

(1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

- (a) Molesting or disturbing the peace of the other party or of any child;
- (b) Entering the family home or the home of the other party upon a showing of the necessity therefor;
- (c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and
- (d) Removing a child from the jurisdiction of the court.

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

(4) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

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

(6) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

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

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

(9) If a restraining order issued pursuant to this section is modified or terminated, the

clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

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

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

(b) May be revoked or modified;

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

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

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

[2000 c 119 § 9; 1995 c 246 § 29; 1994 sp.s. c 7 § 454; 1989 c 375 § 32.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.10.120 Interview with child by court--Advice of professional personnel.

The court may interview the child in chambers to ascertain the child's wishes as to his or her custodian and as to visitation privileges. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination any professional personnel consulted by the court.

[1987 c 460 § 40.]

RCW 26.10.130 Investigation and report.

(1) In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodian arrangements for the child, or may appoint a guardian ad litem pursuant to RCW 26.12.175, or both. The investigation and report may be made by the guardian ad litem, the staff of the juvenile court, or other professional social service organization experienced in counseling children and families.

(2) In preparing the report concerning a child, the investigator may consult any person who may have information about the child and potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if the child has reached the age of twelve, unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The investigator shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom the investigator has consulted for cross-examination. A party may not waive the right of cross-examination prior to the hearing.

[1993 c 289 § 2; 1987 c 460 § 41.]

RCW 26.10.140 Hearing--Record--Expenses of witnesses.

Custody proceedings shall receive priority in being set for hearing.

A party may petition the court to authorize the payment of necessary travel and other expenses incurred by any witness whose presence at the hearing the court deems necessary to determine the best interests of the child.

The court without a jury shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the work of the court.

If the court finds it necessary to protect the child's welfare that the record of any interview, report, investigation, or testimony in a custody proceeding be kept secret, the court

may make an appropriate order sealing the record.

[1987 c 460 § 42.]

RCW 26.10.150 Access to child's education and medical records.

Each parent shall have full and equal access to the education and medical records of the child absent a court order to the contrary.

[1987 c 460 § 43.]

RCW 26.10.160 Visitation rights--Limitations.

(1) A parent not granted custody of the child is entitled to reasonable visitation rights except as provided in subsection (2) of this section.

(2)(a) Visitation with the child shall be limited if it is found that the parent seeking visitation has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm; or (iv) the parent has been convicted as an adult of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (d) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (a)(iv)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (a)(iv)(A) through (H) of this subsection.

This subsection (2)(a) shall not apply when (c) or (d) of this subsection applies.

(b) The parent's visitation with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm; or (iii) the person has been convicted as an adult or as a juvenile has been adjudicated

of a sex offense under:

(A) RCW 9A.44.076 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(B) RCW 9A.44.079 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(C) RCW 9A.44.086 if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(D) RCW 9A.44.089;

(E) RCW 9A.44.093;

(F) RCW 9A.44.096;

(G) RCW 9A.64.020 (1) or (2) if, because of the difference in age between the offender and the victim, no rebuttable presumption exists under (e) of this subsection;

(H) Chapter 9.68A RCW;

(I) Any predecessor or antecedent statute for the offenses listed in (b)(iii)(A) through (H) of this subsection;

(J) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (b)(iii)(A) through (H) of this subsection.

This subsection (2)(b) shall not apply when (c) or (e) of this subsection applies.

(c) If a parent has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult or a juvenile who has been found to be a sexual predator under chapter 71.09 RCW or under an analogous statute of any other jurisdiction, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d) There is a rebuttable presumption that a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection poses a present danger to a child. Unless the parent rebuts this presumption, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (d)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (d)(i) through (vii) of this subsection.

(e) There is a rebuttable presumption that a parent who resides with a person who, as an adult, has been convicted, or as a juvenile has been adjudicated, of the sex offenses listed in (e)(i) through (ix) of this subsection places a child at risk of abuse or harm when that parent exercises visitation in the presence of the convicted or adjudicated person. Unless the parent rebuts the presumption, the court shall restrain the parent from contact with the parent's child except for contact that occurs outside of the convicted or adjudicated person's presence:

(i) RCW 9A.64.020 (1) or (2), provided that the person convicted was at least five years older than the other person;

(ii) RCW 9A.44.073;

(iii) RCW 9A.44.076, provided that the person convicted was at least eight years older than the victim;

(iv) RCW 9A.44.079, provided that the person convicted was at least eight years older than the victim;

(v) RCW 9A.44.083;

(vi) RCW 9A.44.086, provided that the person convicted was at least eight years older than the victim;

(vii) RCW 9A.44.100;

(viii) Any predecessor or antecedent statute for the offenses listed in (e)(i) through (vii) of this subsection;

(ix) Any statute from any other jurisdiction that describes an offense analogous to the offenses listed in (e)(i) through (vii) of this subsection.

(f) The presumption established in (d) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the parent requesting visitation, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, and (B) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the parent requesting visitation, (A) contact between the child and the offending parent is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the offending parent is in the child's best interest, and (C) the offending parent has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child.

(g) The presumption established in (e) of this subsection may be rebutted only after a written finding that:

(i) If the child was not the victim of the sex offense committed by the person who is residing with the parent requesting visitation, (A) contact between the child and the parent residing with the convicted or adjudicated person is appropriate and that parent is able to protect the child in the presence of the convicted or adjudicated person, and (B) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes such contact is appropriate and poses minimal risk to the child; or

(ii) If the child was the victim of the sex offense committed by the person who is residing with the parent requesting visitation, (A) contact between the child and the parent in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child, (B) if the child is in or has been in therapy for victims of sexual abuse, the child's counselor believes such contact between the child and the parent residing with the convicted or adjudicated person in the presence of the convicted or adjudicated person is in the child's best interest, and (C) the convicted or adjudicated person has successfully engaged in treatment for sex offenders or is engaged in and making progress in such treatment, if any was ordered by a court, and the treatment provider believes contact between the parent and child in the presence of the convicted or adjudicated person is appropriate and poses minimal risk to the child.

(h) If the court finds that the parent has met the burden of rebutting the presumption under (f) of this subsection, the court may allow a parent who has been convicted as an adult of a sex offense listed in (d)(i) through (ix) of this subsection to have visitation with the child supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(i) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who has been adjudicated as a juvenile of a sex offense listed in (e)(i) through (ix) of this subsection to have visitation with the child in the presence of the person adjudicated as a juvenile, supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(j) If the court finds that the parent has met the burden of rebutting the presumption under (g) of this subsection, the court may allow a parent residing with a person who, as an adult, has been convicted of a sex offense listed in (e)(i) through (ix) of this subsection to have visitation with the child in the presence of the convicted person supervised by a neutral and independent adult and pursuant to an adequate plan for supervision of such visitation. The court shall not

approve of a supervisor for contact between the child and the parent unless the court finds, based on the evidence, that the supervisor is willing and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing or capable of protecting the child.

(k) A court shall not order unsupervised contact between the offending parent and a child of the offending parent who was sexually abused by that parent. A court may order unsupervised contact between the offending parent and a child who was not sexually abused by the parent after the presumption under (d) of this subsection has been rebutted and supervised visitation has occurred for at least two years with no further arrests or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW and (i) the sex offense of the offending parent was not committed against a child of the offending parent, and (ii) the court finds that unsupervised contact between the child and the offending parent is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treating child sexual abuse victims who has supervised at least one period of visitation between the parent and the child, and after consideration of evidence of the offending parent's compliance with community supervision requirements, if any. If the offending parent was not ordered by a court to participate in treatment for sex offenders, then the parent shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the offender has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child.

(l) A court may order unsupervised contact between the parent and a child which may occur in the presence of a juvenile adjudicated of a sex offense listed in (e)(i) through (ix) of this subsection who resides with the parent after the presumption under (e) of this subsection has been rebutted and supervised visitation has occurred for at least two years during which time the adjudicated juvenile has had no further arrests, adjudications, or convictions of sex offenses involving children under chapter 9A.44 RCW, RCW 9A.64.020, or chapter 9.68A RCW, and (i) the court finds that unsupervised contact between the child and the parent that may occur in the presence of the adjudicated juvenile is appropriate and poses minimal risk to the child, after consideration of the testimony of a state-certified therapist, mental health counselor, or social worker with expertise in treatment of child sexual abuse victims who has supervised at least one period of visitation between the parent and the child in the presence of the adjudicated juvenile, and after consideration of evidence of the adjudicated juvenile's compliance with community supervision or parole requirements, if any. If the adjudicated juvenile was not ordered by a court to participate in treatment for sex offenders, then the adjudicated juvenile shall obtain a psychosexual evaluation conducted by a state-certified sex offender treatment provider indicating that the adjudicated juvenile has the lowest likelihood of risk to reoffend before the court grants unsupervised contact between the parent and a child which may occur in the presence of the adjudicated juvenile who is residing with the parent.

(m)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm

that could result if the child has contact with the parent requesting visitation. If the court expressly finds based on the evidence that limitations on visitation with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting visitation, the court shall restrain the person seeking visitation from all contact with the child.

(ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child in the offender's presence if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits visitation under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(n) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection, or if the court expressly finds that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a), (b), and (m)(i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m)(ii) of this subsection apply.

(3) Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

(4) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section.

(5) For the purposes of this section, a parent's child means that parent's natural child, adopted child, or stepchild.

[1996 c 303 § 2; 1994 c 267 § 2; 1989 c 326 § 2; 1987 c 460 § 44.]

Notes:

Effective date--1996 c 303: See note following RCW 26.09.191.

Effective date--1994 c 267: See note following RCW 26.09.191.

RCW 26.10.170 Powers and duties of custodian--Supervision by appropriate agency when necessary.

Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including education, health care, and religious training, unless the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority, the child's physical, mental, or emotional health would be endangered.

If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical, mental, or emotional health would be endangered, the court may order an appropriate agency which regularly deals with children to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out. Such order may be modified by the court at any time upon petition by either party.

[1987 c 460 § 45.]

RCW 26.10.180 Remedies when a child is taken, enticed, or concealed.

A relative, as defined in RCW 9A.40.010, may bring civil action against any other relative who, with intent to deny access to a child by another relative of the child who has a right to physical custody of or visitation with the child, takes, entices, or conceals the child from that relative. The plaintiff may be awarded, in addition to any damages awarded by the court, the reasonable expenses incurred by the plaintiff in locating the child, including, but not limited to, investigative services and reasonable attorneys' fees.

[1989 c 375 § 21; 1987 c 460 § 46.]

Notes:

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.10.190 Petitions for modification and proceedings concerning relocation of child--Assessment of attorneys' fees.

(1) The court shall hear and review petitions for modifications of a parenting plan, custody order, visitation order, or other order governing the residence of a child, and conduct any proceedings concerning a relocation of the residence where the child resides a majority of the time, pursuant to chapter 26.09 RCW.

(2) If the court finds that a motion to modify a prior custody decree has been brought in bad faith, the court shall assess the attorney's fees and court costs of the custodian against the

petitioner.

[2000 c 21 § 21; 1989 c 375 § 24; 1987 c 460 § 47.]

Notes:

Applicability--2000 c 21: See RCW 26.09.405.

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.10.195 Modification of child support order--Child support order summary report.

The party seeking the establishment or modification of a child support order shall file with the clerk of the court the child support order summary report. The summary report shall be on the form developed by the administrator for the courts pursuant to RCW 26.18.210. The party must complete the form and file the form with the court order. The clerk of the court must forward the form to the administrator for the courts on at least a monthly basis.

[1990 1st ex.s. c 2 § 24.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.10.200 Temporary custody order or modification of custody decree--Affidavits required.

A party seeking a temporary custody order or modification of a custody decree shall submit together with his or her motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of the affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted.

[1987 c 460 § 48.]

RCW 26.10.210 Venue.

Every action or proceeding to change, modify, or enforce any final order, judgment, or decree heretofore or hereafter entered, whether under this chapter or prior law, in relation to the care, custody, control, or support of the minor children may be brought in the county where the minor children are then residing, or in the court in which the final order, judgment, or decree was entered, or in the county where the parent or other person who has the care, custody, or control of the children is then residing.

[1987 c 460 § 49.]

RCW 26.10.220 Restraining orders--Notice--Refusal to comply--Arrest--Penalty--Defense--Peace officers, immunity.

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, is punishable under RCW 26.50.110.

(2) A person is deemed to have notice of a restraining order if:

- (a) The person to be restrained or the person's attorney signed the order;
- (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;
- (c) The order was served upon the person to be restrained; or
- (d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

- (a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or
- (b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

- (a) A restraining order has been issued under this chapter;
- (b) The respondent or person to be restrained knows of the order; and
- (c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

[2000 c 119 § 22; 1999 c 184 § 11; 1996 c 248 § 10; 1995 c 246 § 30; 1987 c 460 § 50.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Short title--Severability--1999 c 184: See RCW 26.52.900 and 26.52.902.

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.10.910 **Short title--1987 c 460.**

See RCW 26.09.910.

RCW 26.10.911 **Section captions--1987 c 460.**

See RCW 26.09.911.

RCW 26.10.912 **Effective date--1987 c 460.**

See RCW 26.09.912.

RCW 26.10.913 **Severability--1987 c 460.**

See RCW 26.09.913.

Chapter 26.12 RCW
FAMILY COURT

Sections

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Notes:

Dissolution of marriage, legal separation, declarations concerning validity of marriage: Chapter 26.09 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

Nonparental actions for child custody: Chapter 26.10 RCW.

RCW 26.12.010 Jurisdiction conferred on superior court--Family court proceeding defined.

Each superior court shall exercise the jurisdiction conferred by this chapter and while sitting in the exercise of such jurisdiction shall be known and referred to as the "family court." A family court proceeding under this chapter is: (1) Any proceeding under this title or any proceeding in which the family court is requested to adjudicate or enforce the rights of the parties or their children regarding the determination or modification of parenting plans, child custody, visitation, or support, or the distribution of property or obligations, or (2) concurrent with the juvenile court, any proceeding under Title 13 or chapter 28A.225 RCW.

[1999 c 397 § 6; 1994 sp.s. c 7 § 537; 1991 c 367 § 11; 1983 c 219 § 1; 1949 c 50 § 1; Rem. Supp. 1949 § 997-30.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.12.020 Designation of judge--Number of sessions.

In counties having more than one judge of the superior court the judges of such court shall annually, in the month of January, designate one or more of their number to hear all cases under this chapter. The judge or judges so designated shall hold as many sessions of the family court in each week as are necessary for the prompt disposition of matters before the court.

[1949 c 50 § 2; Rem. Supp. 1949 § 997-31.]

RCW 26.12.030 Transfer of cases to presiding judge.

The judge of the family court may transfer any case before the family court pursuant to this chapter to the department of the presiding judge of the superior court for assignment for trial or other proceedings by another judge of the court, whenever in the opinion of the judge of the family court such transfer is necessary to expedite the business of the family court or to insure the prompt consideration of the case. When any case is so transferred, the judge to whom it is transferred shall act as the judge of the family court in the matter.

[1949 c 50 § 3; Rem. Supp. 1949 § 997-32.]

RCW 26.12.040 Substitute judge of family court.

In counties having more than one judge of the superior court the presiding judge may appoint a judge other than the judge of the family court to act as judge of the family court during any period when the judge of the family court is on vacation, absent, or for any reason unable to perform his duties. Any judge so appointed shall have all the powers and authority of a judge of the family court in cases under this chapter.

[1949 c 50 § 4; Rem. Supp. 1949 § 997-33.]

RCW 26.12.050 Family courts--Appointment of assistants.

(1) Except as provided in subsection (2) of this section, in each county the superior court may appoint the following persons to assist the family court in disposing of its business:

- (a) One or more attorneys to act as family court commissioners, and
- (b) Such investigators, stenographers and clerks as the court shall find necessary to carry on the work of the family court.

(2) The county legislative authority must approve the creation of family court commissioner positions.

(3) The appointments provided for in this section shall be made by majority vote of the judges of the superior court of the county and may be made in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Family court commissioners and investigators shall serve at the pleasure of the judges appointing them and shall receive such compensation as the county legislative authority shall determine. The appointments may be full or part-time positions. A person appointed as a family court commissioner may also be appointed to any other commissioner position authorized by law.

[1993 c 15 § 1; 1991 c 363 § 17; 1989 c 199 § 1; 1965 ex.s. c 83 § 1; 1949 c 50 § 5; Rem. Supp. 1949 § 997-34.]

Notes:

Effective date--1993 c 15: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 12, 1993]." [1993 c 15 § 3.]

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

Court

clerks, reporters, and bailiffs: Chapter 2.32 RCW.

commissioners and referees: Chapter 2.24 RCW.

RCW 26.12.060 Court commissioners--Duties.

The court commissioners shall: (1) Make appropriate referrals to county family court services program if the county has a family court services program or appoint a guardian ad litem pursuant to RCW 26.12.175; (2) order investigation and reporting of the facts upon which to base

warrants, subpoenas, orders or directions in actions or proceedings under this chapter; (3) exercise all the powers and perform all the duties of court commissioners; (4) make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide supervision over the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; (7) cause other reports to be made and records kept as will indicate the value and extent of reconciliation, mediation, investigation, and treatment services; and (8) conduct hearings under Title 13 and chapter 28A.225 RCW, as provided in RCW 13.04.021.

[1999 c 397 § 7; 1993 c 289 § 3; 1991 c 367 § 12; 1988 c 232 § 4; 1949 c 50 § 6; Rem. Supp. 1949 § 997-35.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.12.070 Probation officers--Powers and duties.

The probation officer in every county shall give such assistance to the family court as may be requested to carry out the purposes of this chapter and to that end the probation officer shall, upon request, make investigations and reports as requested, and in cases pursuant to this chapter shall exercise all the powers and perform all the duties granted or imposed by the laws of this state relating to probation or to probation officers.

[1949 c 50 § 7; Rem. Supp. 1949 § 997-36.]

Notes:

Indeterminate sentences: Chapter 9.95 RCW.

Probation officers--Appointment--Powers--Compensation: RCW 13.04.040.

RCW 26.12.080 Protection of privacy of parties.

Whenever the court before whom any matter arising under this chapter is pending, deems publication of any matter before the court contrary to public policy or injurious to the interests of children or to the public morals, the court may by order close the files or any part thereof in the matter and make such other orders to protect the privacy of the parties as is necessary.

[1989 c 375 § 22; 1949 c 50 § 8; Rem. Supp. 1949 § 997-37.]

Notes:

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.12.160 When and where court may be convened.

For the purpose of conducting hearings pursuant to this chapter the family court may be convened at any time and place within the county and the hearing may be had in chambers or otherwise.

[1949 c 50 § 16; Rem. Supp. 1949 § 997-45.]

RCW 26.12.170 Authority of family court judges and court commissioners to order or recommend services--Report by court of child abuse or neglect.

To facilitate and promote the purposes of this chapter, family court judges and court commissioners may order or recommend family court services, parenting seminars, drug and alcohol abuse evaluations and monitoring of the parties through public or private treatment services, other treatment services, the aid of physicians, psychiatrists, other specialists, or other services or may recommend the aid of the pastor or director of any religious denomination to which the parties may belong.

If the court has reasonable cause to believe that a child of the parties has suffered abuse or neglect it may file a report with the proper law enforcement agency or the department of social and health services as provided in RCW 26.44.040. Upon receipt of such a report the law enforcement agency or the department of social and health services will conduct an investigation into the cause and extent of the abuse or neglect. The findings of the investigation may be made available to the court if ordered by the court as provided in RCW 42.17.310(3). The findings shall be restricted to the issue of abuse and neglect and shall not be considered custody investigations.

[1994 c 267 § 3; 1991 c 367 § 13; 1983 c 219 § 5; 1971 ex.s. c 151 § 2; 1949 c 50 § 17; Rem. Supp. 1949 § 997-46.]

Notes:

Effective date--1994 c 267: See note following RCW 26.09.191.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.12.172 Parenting seminars--Rules.

Any court rules adopted for the implementation of parenting seminars shall include the following provisions:

- (1) In no case shall opposing parties be required to attend seminars together;
- (2) Upon a showing of domestic violence or abuse which would not require mutual decision making pursuant to RCW 26.09.191, or that a parent's attendance at the seminar is not in the children's best interests, the court shall either:
 - (a) Waive the requirement of completion of the seminar; or
 - (b) Provide an alternative, voluntary parenting seminar for battered spouses; and
- (3) The court may waive the seminar for good cause.

[1994 c 267 § 5.]

Notes:

Effective date--1994 c 267: See note following RCW 26.09.191.

RCW 26.12.175 Appointment of guardian ad litem--Independent

investigation--Court-appointed special advocate program--Background information--Review of appointment.

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter. The family court services professionals may also make a recommendation to the court regarding whether a guardian ad litem should be appointed for the child. The court may appoint a guardian ad litem from the court-appointed special advocate program, if that program exists in the county.

(b) Unless otherwise ordered, the guardian ad litem's role is to investigate and report factual information to the court concerning parenting arrangements for the child, and to represent the child's best interests. Guardians ad litem and investigators under this title may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties. If a child expresses a preference regarding the parenting plan, the guardian ad litem shall report the preferences to the court, together with the facts relative to whether any preferences are being expressed voluntarily and the degree of the child's understanding. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(c) The parties to the proceeding may file with the court written responses to any report filed by the guardian ad litem or investigator. The court shall consider any written responses to a report filed by the guardian ad litem or investigator, including any factual information or recommendations provided in the report.

(d) The court shall enter an order for costs, fees, and disbursements to cover the costs of the guardian ad litem. The court may order either or both parents to pay for the costs of the guardian ad litem, according to their ability to pay. If both parents are indigent, the county shall bear the cost of the guardian, subject to appropriation for guardians' ad litem services by the county legislative authority. Guardians ad litem who are not volunteers shall provide the parties with an itemized accounting of their time and billing for services each month.

(2)(a) If the guardian ad litem appointed is from the county court-appointed special advocate program, the program shall supervise any guardian ad litem assigned to the case. The court-appointed special advocate program shall be entitled to notice of all proceedings in the case.

(b) The legislative authority of each county may authorize creation of a court-appointed special advocate program. The county legislative authority may adopt rules of eligibility for court-appointed special advocate program services.

(3) Each guardian ad litem program shall maintain a background information record for each guardian ad litem in the program. The background file shall include, but is not limited to, the following information:

- (a) Level of formal education;
- (b) Training related to the guardian's duties;

(c) Number of years' experience as a guardian ad litem;

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

(e) The names of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and

(f) Criminal history, as defined in RCW 9.94A.030.

The background information report shall be updated annually. As a condition of appointment, the guardian ad litem's background information record shall be made available to the court. If the appointed guardian ad litem is not a member of a guardian ad litem program the person shall provide the background information to the court.

Upon appointment, the guardian ad litem, or guardian ad litem program, shall provide the parties or their attorneys with a statement containing: His or her training relating to the duties as a guardian ad litem; the name of any counties in which the person was removed from a guardian ad litem registry pursuant to a grievance action, and the name of the court and the cause number of any case in which the court has removed the person for cause; and his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment. The background statement shall not include identifying information that may be used to harm a guardian ad litem, such as home addresses and home telephone numbers, and for volunteer guardians ad litem the court may allow the use of maiden names or pseudonyms as necessary for their safety.

(4) When a court-appointed special advocate or volunteer guardian ad litem is requested on a case, the program shall give the court the name of the person it recommends and the appointment shall be effective immediately. The court shall appoint the person recommended by the program. If a party in a case reasonably believes the court-appointed special advocate or volunteer is inappropriate or unqualified, the party may request a review of the appointment by the program. The program must complete the review within five judicial days and remove any appointee for good cause. If the party seeking the review is not satisfied with the outcome of the review, the party may file a motion with the court for the removal of the court-appointed special advocate on the grounds the advocate or volunteer is inappropriate or unqualified.

[2000 c 124 § 6; 1996 c 249 § 15; 1993 c 289 § 4; 1991 c 367 § 17.]

Notes:

Grievance rules--2000 c 124: See note following RCW 11.88.090.

Intent--1996 c 249: See note following RCW 2.56.030.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

**RCW 26.12.177 Guardians ad litem and
investigators--Training--Registry--Subregistry--Selection--Substitution--Exceptions.**

(1) All guardians ad litem and investigators appointed under this title must comply with the training requirements established under RCW 2.56.030(15), prior to their appointment in

cases under Title 26 RCW, except that volunteer guardians ad litem or court-appointed special advocates may comply with alternative training requirements approved by the office of the administrator for the courts that meet or exceed the state-wide requirements.

(2)(a) Each guardian ad litem program for compensated guardians ad litem shall establish a rotational registry system for the appointment of guardians ad litem and investigators under this title. If a judicial district does not have a program the court shall establish the rotational registry system. Guardians ad litem and investigators under this title shall be selected from the registry except in exceptional circumstances as determined and documented by the court. The parties may make a joint recommendation for the appointment of a guardian ad litem from the registry.

(b) In judicial districts with a population over one hundred thousand, a list of three names shall be selected from the registry and given to the parties along with the background information as specified in RCW 26.12.175(3), including their hourly rate for services. Each party may, within three judicial days, strike one name from the list. If more than one name remains on the list, the court shall make the appointment from the names on the list. In the event all three names are stricken the person whose name appears next on the registry shall be appointed.

(c) If a party reasonably believes that the appointed guardian ad litem lacks the necessary expertise for the proceeding, charges an hourly rate higher than what is reasonable for the particular proceeding, or has a conflict of interest, the party may, within three judicial days from the appointment, move for substitution of the appointed guardian ad litem by filing a motion with the court.

(d) Under this section, within either registry referred to in (a) of this subsection, a subregistry may be created that consists of guardians ad litem under contract with the department of social and health services' division of child support. Guardians ad litem on such a subregistry shall be selected and appointed in state-initiated paternity cases only.

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

(3) The rotational registry system shall not apply to court-appointed special advocate programs.

[2000 c 124 § 7; 1997 c 41 § 7; 1996 c 249 § 18.]

Notes:

Intent--1996 c 249: See note following RCW 2.56.030.

RCW 26.12.180 Guardian ad litem, special advocate, or investigator--Information discoverable--Confidentiality.

All information, records, and reports obtained or created by a guardian ad litem, court-appointed special advocate, or investigator under this title shall be discoverable pursuant to statute and court rule. The guardian ad litem, court-appointed special advocate, or investigator shall not release private or confidential information to any nonparty except pursuant to a court order signed by a judge. The guardian ad litem, court-appointed special advocate, or investigator may share private or confidential information with experts or staff he or she has retained as

necessary to perform the duties of guardian ad litem, court-appointed special advocate, or investigator. Any expert or staff retained are subject to the confidentiality rules governing the guardian ad litem, court-appointed special advocate, or investigator. Nothing in this section shall be interpreted to authorize disclosure of guardian ad litem records in personal injury actions.

[2000 c 124 § 8.]

RCW 26.12.183 Guardian ad litem or investigator--Fees.

Except for guardians ad litem appointed by the court from the subregistry created under RCW 26.12.177(2)(d), the court shall specify the hourly rate the guardian ad litem or investigator under this title may charge for his or her services, and shall specify the maximum amount the guardian ad litem or investigator under this title may charge without additional court review and approval. The court shall specify rates and fees in the order of appointment or at the earliest date the court is able to determine the appropriate rates and fees and prior to the guardian ad litem billing for his or her services. This section shall apply except as provided by local court rule.

[2000 c 124 § 15.]

RCW 26.12.185 Guardian ad litem, special advocate, or investigator--Release of information.

A guardian ad litem, court-appointed special advocate, or investigator under this title appointed under this chapter may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

[2000 c 124 § 9; 1999 c 390 § 4.]

RCW 26.12.187 Guardian ad litem, special advocate, or investigator--Ex parte communications--Removal.

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

[2000 c 124 § 12.]

RCW 26.12.190 Family court jurisdiction as to pending actions--Use of family court services.

(1) The family court shall have jurisdiction and full power in all pending cases to make, alter, modify, and enforce all temporary and permanent orders regarding the following: Parenting plans, child support, custody of children, visitation, possession of property, maintenance, contempt, custodial interference, and orders for attorneys' fees, suit money or costs as may appear just and equitable. Court commissioners or judges shall not have authority to require the parties to mediate disputes concerning child support.

(2) Family court investigation, evaluation, mediation, treatment, and reconciliation services, and any other services may be used to assist the court to develop an order as the court deems necessary to preserve the marriage, implement an amicable settlement, and resolve the issues in controversy.

[1991 c 367 § 14; 1983 c 219 § 7; 1949 c 50 § 19; Rem. Supp. 1949 § 997-48.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.12.205 Priority for proceedings involving children.

The family court shall give proceedings involving children priority over cases without children.

[1991 c 367 § 16.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.12.215 Revision by the superior court.

All acts and proceedings of the court commissioners shall be subject to revision by the superior court as provided in RCW 2.24.050.

[1991 c 367 § 18.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.12.220 Funding family court or family court services--Increase in marriage license fee authorized--Family court services program--Fees.

(1) The legislative authority of any county may authorize family court services as provided in RCW 26.12.230. The legislative authority may impose a fee in excess of that prescribed in RCW 36.18.010 for the issuance of a marriage license. The fee shall not exceed eight dollars.

(2) In addition to any other funds used therefor, the governing body of any county shall use the proceeds from the fee increase authorized by this section to pay the expenses of the family court and the family court services under chapter 26.12 RCW. If there is no family court in the county, the legislative authority may provide such services through other county agencies or may contract with a public or private agency or person to provide such services. Family court services also may be provided jointly with other counties as provided in RCW 26.12.230.

(3) The family court services program may hire professional employees to provide the investigation, evaluation and reporting, and mediation services, or the county may contract for these services, or both. To facilitate and promote the purposes of this chapter, the court may order or recommend the aid of physicians, psychiatrists, or other specialists.

(4) The family court services program may provide or contract for: (a) Mediation; (b) investigation, evaluation, and reporting to the court; and (c) reconciliation; and may provide a referral mechanism for drug and alcohol testing, monitoring, and treatment; and any other treatment, parenting, or anger management programs the family court professional considers necessary or appropriate.

(5) Services other than family court investigation, evaluation, reconciliation, and mediation services shall be at the expense of the parties involved absent a court order to the contrary. The parties shall bear all or a portion of the cost of parenting seminars and family court investigation, evaluation, reconciliation, and mediation services according to the parties' ability to pay.

(6) The county legislative authority may establish rules of eligibility for the family court services funded under this section. The rules shall not conflict with rules of the court adopted under chapter 26.12 RCW or any other statute.

(7) The legislative authority may establish fees for family court investigation, evaluation, reconciliation, and mediation services under this chapter according to the parties' ability to pay for the services. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section.

[1994 c 267 § 4; 1991 c 367 § 15; 1980 c 124 § 1.]

Notes:

Effective date--1994 c 267: See note following RCW 26.09.191.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.12.230 Joint family court services.

(1) Any county may contract under chapter 39.34 RCW with any other county or counties to provide joint family court services.

(2) Any agreement between two or more counties for the operation of a joint family court service may provide that the treasurer of one participating county shall be the custodian of moneys made available for the purposes of the joint services, and that the treasurer may make payments from the moneys upon proper authorization.

(3) Any agreement between two or more counties for the operation of a joint family court service may also provide:

(a) For the joint provision or operation of services and facilities or for the provision or operation of services and facilities by one participating county under contract for the other participating counties;

(b) For appointments of members of the staff of the family court including the supervising counselor;

(c) That, for specified purposes, the members of the staff of the family court including the supervising counselor, but excluding the judges of the family court and other court personnel, shall be considered to be employees of one participating county;

(d) For other matters as are necessary to carry out the purposes of this chapter.

(4) The provisions of this chapter relating to family court services provided by a single county are equally applicable to counties which contract, under this section, to provide joint family court services.

[1986 c 95 § 3.]

RCW 26.12.240 Courthouse facilitator program--Fee or surcharge.

A county may create a courthouse facilitator program to provide basic services to pro se litigants in family law cases. The legislative authority of any county may impose user fees or may impose a surcharge of up to ten dollars on only those superior court cases filed under Title 26 RCW, or both, to pay for the expenses of the courthouse facilitator program. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section.

[1993 c 435 § 2.]

RCW 26.12.800 Family court pilot program--Legislative recognition.

The legislature recognizes the increasing incidence of concurrent involvement of family members in multiple areas of the justice system. Analysis shows significant case overlap in the case types of juvenile offender, juvenile dependency, at-risk youth, child in need of services, truancy, domestic violence, and domestic relations. Also recognized is the increased complexity of the problems facing family members and the increased complexity of the laws affecting families. It is believed that in such situations, an efficient and effective response is through the creation of a unified court system centered around the family that: Provides a dedicated, trained, and informed judiciary; incorporates case management practices based on a family's judicial system needs; enables multiple case type resolution by one judicial officer or judicial team; provides coordinated legal and social services; and considers and evaluates the needs of the family as a whole.

[1999 c 397 § 1.]

RCW 26.12.802 Family court pilot program--Created.

The administrator for the courts shall conduct a unified family court pilot program.

(1) Pilot program sites shall be selected through a request for proposal process, and shall be established in no more than three superior court judicial districts.

(2) To be eligible for consideration as a pilot project site, judicial districts must have a statutorily authorized judicial complement of at least five judges.

(3) The administrator for the courts shall develop criteria for the unified family court pilot program. The pilot program shall include:

(a) All case types under Title 13 RCW, chapters 26.09, 26.10, 26.12, 26.18, 26.19, 26.20, 26.26, 26.50, 26.27, and 28A.225 RCW;

(b) Unified family court judicial officers, who volunteer for the program, and meet training requirements established by local court rule;

(c) Case management practices that provide a flexible response to the diverse court-related needs of families involved in multiple areas of the justice system. Case management practices should result in a reduction in process redundancies and an efficient use of time and resources, and create a system enabling multiple case type resolution by one judicial officer or judicial team;

(d) A court facilitator to provide assistance to parties with matters before the unified family court; and

(e) An emphasis on providing nonadversarial methods of dispute resolution such as a settlement conference, evaluative mediation by attorney mediators, and facilitative mediation by nonattorney mediators.

(4) The office of the administrator for the courts shall publish and disseminate a state-approved listing of definitions of nonadversarial methods of dispute resolution so that court officials, practitioners, and users can choose the most appropriate process for the matter at hand.

(5) The office of the administrator for the courts shall provide to the judicial districts selected for the pilot program the computer resources needed by each judicial district to implement the unified family court pilot program.

(6) The office of the administrator for the courts shall conduct a study of the pilot program measuring improvements in the judicial system's response to family involvement in the judicial system. The administrator for the courts shall report preliminary findings and final results of the study to the governor, the chief justice of the supreme court, and the legislature on a biennial basis. The initial report is due by July 1, 2000, and the final report is due by December 1, 2004.

[1999 c 397 § 2.]

RCW 26.12.804 Family court pilot program--Rules.

The judges of the superior court judicial districts with unified family court pilot programs

shall adopt local court rules directing the program. The local court rules shall comply with the criteria established by the administrator for the courts and shall include:

(1) A requirement that all judicial officers hearing cases in unified family court:

(a) Complete an initial training program including the topic areas of childhood development, domestic violence, cultural awareness, child abuse and neglect, chemical dependency, and mental illness; and

(b) Subsequent to the training in (a) of this subsection, annually attend a minimum of eight hours of continuing education of pertinence to the unified family court;

(2) Case management that is based on the practice of one judge or judicial team handling all matters relating to a family;

(3) An emphasis on coordinating or consolidating, to the extent possible, all cases before the unified family court relating to a family; and

(4) Programs that provide for record confidentiality to protect the confidentiality of court records in accordance with the law. However law enforcement agencies shall have access to the records to the extent permissible under the law.

[1999 c 397 § 3.]

Chapter 26.16 RCW

HUSBAND AND WIFE--RIGHTS AND LIABILITIES--COMMUNITY PROPERTY

Sections

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Notes:

Assignment of future wages invalid without written consent of spouse: RCW 49.48.100.

Banks and trust companies--Deposits: Chapter 30.20 RCW.

Cemeteries, morgues and human remains--Title and rights to cemetery plots: Chapter 68.32 RCW.

Crimes and punishment

bigamy: RCW 9A.64.010.

homicide by other person, when justifiable: RCW 9A.16.030.

libel, slander: Chapter 9.58 RCW.

Labor relations

child labor: Chapter 49.12 RCW.

hours of labor: Chapter 49.28 RCW.

Mental illness: Chapter 71.05 RCW.

Parties to actions--Husband and wife: RCW 4.08.030 and 4.08.040.

Privileged communications: RCW 5.60.060.

Probate and trust law: Title 11 RCW.

Public assistance: Title 74 RCW.

Public health and safety--Vital statistics: Chapter 70.58 RCW.

Tenancy in dower and by curtesy abolished: RCW 11.04.060.

Unemployment compensation, benefits and claims: Chapter 50.20 RCW.

Worker's compensation

actions at law for injury or death: Chapter 51.24 RCW.

right to and amount: Chapter 51.32 RCW.

RCW 26.16.010 Separate property of husband.

Property and pecuniary rights owned by the husband before marriage and that acquired by him afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his wife, and he may manage, lease, sell, convey, encumber or devise by will such property without the wife joining in such management, alienation or encumbrance, as fully and to the same effect as though he were unmarried.

[Code 1881 § 2408; RRS § 6890. Prior: See Reviser's note below.]

Notes:

Reviser's note: For prior laws dealing with this subject see Laws 1879 pp 77-81; 1873 pp 450-455; 1871 pp 67-74; 1869 pp 318-323.

Construction: "The rule of common law that statutes in derogation thereof are to be strictly construed has no application to this chapter. This chapter establishes the law of the state respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object." [Code 1881 § 2417.]

"This chapter shall not be construed to operate retrospectively and any right established, accrued or accruing or in any thing done prior to the time this chapter goes into effect shall be governed by the law in force at

the time such right was established or accrued." [Code 1881 § 2418.] This applies to RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Descent of separate real property: RCW 11.04.015.

Distribution of separate personal estate: RCW 11.04.015.

Rights of married persons in general: RCW 26.16.150.

RCW 26.16.020 Separate property of wife.

The property and pecuniary rights of every married woman at the time of her marriage or afterwards acquired by gift, devise or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of her husband, and she may manage, lease, sell, convey, encumber or devise by will such property to the same extent and in the same manner that her husband can, property belonging to him.

[Code 1881 § 2400; RRS § 6891. Prior: See Reviser's note following RCW 26.16.010.]

Notes:

Reviser's note: See notes following RCW 26.16.010.

Civil disabilities of wife abolished: RCW 26.16.160.

Earnings of parent and minor children living apart: RCW 26.16.140.

Exemption of separate property of married person from attachment and execution upon liability of spouse: RCW 6.15.040.

RCW 26.16.030 Community property defined--Management and control.

Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage by either husband or wife or both, is community property. Either spouse, acting alone, may manage and control community property, with a like power of disposition as the acting spouse has over his or her separate property, except:

(1) Neither spouse shall devise or bequeath by will more than one-half of the community property.

(2) Neither spouse shall give community property without the express or implied consent of the other.

(3) Neither spouse shall sell, convey, or encumber the community real property without the other spouse joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses.

(4) Neither spouse shall purchase or contract to purchase community real property without the other spouse joining in the transaction of purchase or in the execution of the contract to purchase.

(5) Neither spouse shall create a security interest other than a purchase money security interest as defined in *RCW 62A.9-107 in, or sell, community household goods, furnishings, or appliances, or a community mobile home unless the other spouse joins in executing the security agreement or bill of sale, if any.

(6) Neither spouse shall acquire, purchase, sell, convey, or encumber the assets, including

real estate, or the good will of a business where both spouses participate in its management without the consent of the other: PROVIDED, That where only one spouse participates in such management the participating spouse may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse.

[1981 c 304 § 1; 1972 ex.s. c 108 § 3; Code 1881 § 2409; RRS § 6892.]

Notes:

***Reviser's note:** Article 62A.9 RCW was repealed in its entirety by 2000 c 250 § 9A-901, effective July 1, 2001. For later enactment, see Article 62A.9A RCW.

Severability--1981 c 304: "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." [1981 c 304 § 46.]

Community property--Homestead selection: RCW 6.13.020.

Descent and distribution of community property: RCW 11.04.015.

Quasi-community property defined: RCW 26.16.220.

Simultaneous death, uniform act: Chapter 11.05 RCW.

RCW 26.16.040 Community realty subject to liens, execution.

Community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, to liens of judgments recovered for community debts, and to sale on execution issued thereon.

[1972 ex.s. c 108 § 4; Code 1881 § 2410; RRS § 6893.]

Notes:

Acknowledgments: Chapter 64.08 RCW.

Liens: Title 60 RCW.

RCW 26.16.050 Conveyances between husband and wife.

A husband may give, grant, sell or convey directly to his wife, and a wife may give, grant, sell or convey directly to her husband his or her community right, title, interest or estate in all or any portion of their community real property: And every deed made from husband to wife, or from wife to husband, shall operate to divest the real estate therein recited from any or every claim or demand as community property and shall vest the same in the grantee as separate property[. The] grantor in all such deeds, or the party releasing such community interest or estate shall sign, seal, execute and acknowledge the deed as a single person without the joinder therein of the married party therein named as grantee: PROVIDED, HOWEVER, That the conveyances or transfers hereby authorized shall not affect any existing equity in favor of creditors of the grantor at the time of such transfer, gift or conveyance. AND PROVIDED FURTHER, That any deeds of gift conveyances or releases of community estate by or between husband and wife heretofore made but in which the husband and wife have not joined as grantors, said deeds[.]

where made in good faith and without intent to hinder, delay or defraud creditors[,] shall be and the same are hereby fully legalized as valid and binding.

[1888 c 27 § 1; RRS § 10572.]

Notes:

Validating--1888 c 27: "All powers of attorney heretofore made and executed by any married woman joined with her husband and duly acknowledged and certified and all powers of attorney heretofore made or executed by husband or wife to the other, authorizing the sale or other disposition of real estate, whether separate or community real estate duly acknowledged conformably with the previous sections, and all conveyances heretofore and hereafter executed under and by virtue of such powers of attorney and acknowledged and certified in the manner provided herein, shall be valid and binding; provided, that any rights vested in third persons shall not be affected by anything in this section contained." [1888 c 27 § 5.] This applies to RCW 26.16.050 and 26.16.070 through 26.16.090.

Acknowledgments: Chapter 64.08 RCW.

Burden of proof in transactions between husband and wife: RCW 26.16.210.

RCW 26.16.060 Power of attorney between husband and wife.

A husband or wife may constitute the other his or her attorney in fact to manage, control or dispose of his or her property with the same power of revocation or substitution as could be exercised were they unmarried persons.

[Code 1881 § 2403; No RRS.]

RCW 26.16.070 Powers of attorney as to separate estate.

A husband or wife may make and execute powers of attorney for the sale, conveyance, transfer or encumbrance of his or her separate estate both real and personal, without the other spouse joining in the execution thereof. Such power of attorney shall be acknowledged and certified in the manner provided by law for the conveyance of real estate. Nor shall anything herein contained be so construed as to prevent either husband or wife from appointing the other his or her attorney in fact for the purposes provided in this section.

[1888 c 27 § 2; RRS § 10573.]

RCW 26.16.080 Execution of conveyance under power.

Any conveyance, transfer, deed, lease or other encumbrances executed under and by virtue of such power of attorney shall be executed, acknowledged and certified in the same manner as if the person making such power of attorney had been unmarried.

[1888 c 27 § 3; RRS § 10574.]

RCW 26.16.090 Powers of attorney as to community estate.

A husband may make and execute a letter of attorney to the wife, or the wife may make

and execute a letter of attorney to the husband authorizing the sale or other disposition of his or her community interest or estate in the community property and as such attorney in fact to sign the name of such husband or wife to any deed, conveyance, mortgage, lease or other encumbrance or to any instrument necessary to be executed by which the property conveyed or transferred shall be released from any claim as community property. And either said husband or said wife may make and execute a letter of attorney to any third person to join with the other in the conveyance of any interest either in separate real estate of either, or in the community estate held by such husband or wife in any real property. And both husband and wife owning community property may jointly execute a power of attorney to a third person authorizing the sale, encumbrance or other disposition of community real property, and so execute the necessary conveyance or transfer of said real estate.

[1888 c 27 § 4; RRS § 10575.]

RCW 26.16.095 Purchaser of community real property protected by record title.

Whenever any person, married or single, having in his or her name the legal title of record to any real estate, shall sell or dispose of the same to an actual bona fide purchaser, a deed of such real estate from the person holding such legal record title to such actual bona fide purchaser shall be sufficient to convey to, and vest in, such purchaser the full legal and equitable title to such real estate free and clear of any and all claims of any and all persons whatsoever, not appearing of record in the auditor's office of the county in which such real estate is situated.

[1891 c 151 § 1; RRS § 10577. Formerly RCW 64.04.080.] [SLC-RO-16]

Notes:

Saving--1891 c 151: "In so far as this act affects married persons having already acquired and now holding real estate under existing laws, a period of three months from the date at which this act shall take effect is hereby allowed to such persons within which to comply with its provisions." [1891 c 151 § 4.] This applies to RCW 26.16.095 through 26.16.110.

RCW 26.16.100 Claim of spouse in community realty to be filed.

A husband or wife having an interest in real estate, by virtue of the marriage relation, the legal title of record to which real estate is or shall be held by the other, may protect such interest from sale or disposition by the husband or wife, as the case may be, in whose name the legal title is held, by causing to be filed and recorded in the auditor's office of the county in which such real estate is situated an instrument in writing setting forth that the person filing such instrument is the husband or wife, as the case may be, of the person holding the legal title to the real estate in question, describing such real estate and the claimant's interest therein; and when thus presented for record such instrument shall be filed and recorded by the auditor of the county in which such real estate is situated, in the same manner and with like effect as regards notice to all the world, as deeds of real estate are filed and recorded. And if either husband or wife fails to cause such an instrument to be filed in the auditor's office in the county in which real estate is situated, the legal title to which is held by the other, within a period of ninety days from the date when such legal

title has been made a matter of record, any actual bona fide purchaser of such real estate from the person in whose name the legal title stands of record, receiving a deed of such real estate from the person thus holding the legal title, shall be deemed and held to have received the full legal and equitable title to such real estate free and clear of all claim of the other spouse.

[1891 c 151 § 2; RRS § 10578.] [SLC-RO-16]

Notes:

Recording of real property by county auditor: Chapters 65.04 and 65.08 RCW.

RCW 26.16.110 Cloud on title--Removal.

The instrument in writing provided for in RCW 26.16.100 shall be deemed to be a cloud upon the title of said real estate, and may be removed by the release of the party filing the same, or by any court having jurisdiction in the county where said real estate is situated, whenever it shall appear to said court that the real estate described in said instrument is the separate property of the person in whose name the title to the said real estate, or any part thereof, appears to be vested, from the conveyances on record in the office of the auditor of the county where said real estate is situated.

[1891 c 151 § 3; RRS § 10579.]

RCW 26.16.120 Agreements as to status.

Nothing contained in any of the provisions of *this chapter or in any law of this state, shall prevent the husband and wife from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by the husband and wife by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner. Such agreement shall not derogate from the right of creditors; nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party; nor prevent the application of laws governing the community property and inheritance rights of slayers under chapter 11.84 RCW.

[1998 c 292 § 505; Code 1881 § 2416; RRS § 6894.]

Notes:

***Reviser's note:** "this chapter", which is Code 1881, chapter CLXXXIII, is codified as RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140 through 26.16.160, and 26.16.180 through 26.16.210.

Application--Conflict with federal requirements--1998 c 292: See notes following RCW 41.04.273.

Part headings and section captions not law--Effective dates--1998 c 292: See RCW 11.11.902 and 11.11.903.

Acknowledgments: Chapter 64.08 RCW.

Descent and distribution of community property: RCW 11.04.015.

Private seals abolished: RCW 64.04.090.

RCW 26.16.125 Custody of children.

Henceforth the rights and responsibilities of the parents in the absence of misconduct shall be equal, and the mother shall be as fully entitled to the custody, control and earnings of the children as the father, and in case of the father's death, the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death.

[Code 1881 § 2399; 1879 p 151 § 2; RRS § 6907. Formerly RCW 26.20.020.]

RCW 26.16.140 Earnings and accumulations of husband and wife living apart, minor children.

When a husband and wife are living separate and apart, their respective earnings and accumulations shall be the separate property of each. The earnings and accumulations of minor children shall be the separate property of the spouse who has their custody or, if no custody award has been made, then the separate property of the spouse with whom said children are living.

[1972 ex.s. c 108 § 5; Code 1881 § 2413; RRS § 6896.]

RCW 26.16.150 Rights of married persons in general.

Every married person shall hereafter have the same right and liberty to acquire, hold, enjoy and dispose of every species of property, and to sue and be sued, as if he or she were unmarried.

[Code 1881 § 2396; RRS § 6900.]

Notes:

Separate property

of husband: RCW 26.16.010.

of wife: RCW 26.16.020.

RCW 26.16.160 Civil disabilities of wife abolished.

All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are hereby abolished, and for any unjust usurpation of her natural or property rights, she shall have the same right to appeal in her own individual name, to the courts of law or equity for redress and protection that the husband has: PROVIDED, ALWAYS, That nothing in *this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law.

[Code 1881 § 2398; 1879 p 151 § 1; RRS § 6901.]

Notes:

*Reviser's note: "this chapter," see note following RCW 26.16.120.

RCW 26.16.180 Husband and wife may sue each other.

Should either husband or wife obtain possession or control of property belonging to the other, either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

[Code 1881 § 2401; 1879 p 80 § 28; 1873 p 452 § 8; RRS § 6903.]

Notes:

Privileged communications: RCW 5.60.060.

RCW 26.16.190 Liability for acts of other spouse.

For all injuries committed by a married person, there shall be no recovery against the separate property of the other spouse except in cases where there would be joint responsibility if the marriage did not exist.

[1972 ex.s. c 108 § 6; Code 1881 § 2402; RRS § 6904.]

RCW 26.16.200 Antenuptial and separate debts, liability for--Child support obligation, liability for.

Neither husband or wife is liable for the debts or liabilities of the other incurred before marriage, nor for the separate debts of each other, nor is the rent or income of the separate property of either liable for the separate debts of the other: PROVIDED, That the earnings and accumulations of the husband shall be available to the legal process of creditors for the satisfaction of debts incurred by him prior to marriage, and the earnings and accumulations of the wife shall be available to the legal process of creditors for the satisfaction of debts incurred by her prior to marriage. For the purpose of this section, neither the husband nor the wife shall be construed to have any interest in the earnings of the other: PROVIDED FURTHER, That no separate debt, except a child support or maintenance obligation, may be the basis of a claim against the earnings and accumulations of either a husband or wife unless the same is reduced to judgment within three years of the marriage of the parties. The obligation of a parent or stepparent to support a child may be collected out of the parent's or stepparent's separate property, the parent's or stepparent's earnings and accumulations, and the parent's or stepparent's share of community personal and real property. Funds in a community bank account which can be identified as the earnings of the nonobligated spouse are exempt from satisfaction of the child support obligation of the debtor spouse.

[1983 1st ex.s. c 41 § 2; 1969 ex.s. c 121 § 1; Code 1881 § 2405; 1873 p 452 § 10; RRS § 6905.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.
Collection actions against community bank account: RCW 74.20A.120.

RCW 26.16.205 Liability for family support--Termination of support obligation of stepparent, when.

The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of both husband and wife, or either of them, and they may be sued jointly or separately. When a petition for dissolution of marriage or a petition for legal separation is filed, the court may, upon motion of the stepparent, terminate the obligation to support the stepchildren. The obligation to support stepchildren shall cease upon the entry of a decree of dissolution, decree of legal separation, or death.

[1990 1st ex.s. c 2 § 13; 1969 ex.s. c 207 § 1; Code 1881 § 2407; RRS § 6906. Formerly RCW 26.20.010.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.16.210 Burden of proof in transactions between husband and wife.

In every case, where any question arises as to the good faith of any transaction between husband and wife, whether a transaction between them directly or by intervention of third person or persons, the burden of proof shall be upon the party asserting the good faith.

[Code 1881 § 2397; RRS § 5828.]

RCW 26.16.220 Quasi-community property defined.

(1) Unless the context clearly requires otherwise, as used in RCW 26.16.220 through 26.16.250 "quasi-community property" means all personal property wherever situated and all real property described in subsection (2) of this section that is not community property and that was heretofore or hereafter acquired:

(a) By the decedent while domiciled elsewhere and that would have been the community property of the decedent and of the decedent's surviving spouse had the decedent been domiciled in this state at the time of its acquisition; or

(b) In derivation or in exchange for real or personal property, wherever situated, that would have been the community property of the decedent and the surviving spouse if the decedent had been domiciled in this state at the time the original property was acquired.

(2) For purposes of this section, real property includes:

(a) Real property situated in this state;

(b) Real property situated outside this state if the law of the state where the real property is located provides that the law of the decedent's domicile at death shall govern the rights of the decedent's surviving spouse to a share of such property; and

(c) Leasehold interests in real property described in (a) or (b) of this subsection.

(3) For purposes of this section, all legal presumptions and principles applicable to the

proper characterization of property as community property under the laws and decisions of this state shall apply in determining whether property would have been the community property of the decedent and the surviving spouse under the provisions of subsection (1) of this section.

[1988 c 34 § 1; 1986 c 72 § 1.]

RCW 26.16.230 Quasi-community property--Disposition at death.

Upon the death of any person domiciled in this state, one-half of any quasi-community property shall belong to the surviving spouse and the other one-half of such property shall be subject to disposition at death by the decedent, and in the absence thereof, shall descend in the manner provided for community property under chapter 11.04 RCW.

[1988 c 34 § 2; 1986 c 72 § 2.]

RCW 26.16.240 Quasi-community property--Effect of lifetime transfers--Claims by surviving spouse--Waiver.

(1) If a decedent domiciled in this state on the date of his or her death made a lifetime transfer of a property interest that is quasi-community property to a person other than the surviving spouse within three years of death, then within the time for filing claims against the estate as provided by RCW 11.40.010, the surviving spouse may require the transferee to restore to the decedent's estate one-half of such property interest, if the transferee retains the property interest, and, if not, one-half of its proceeds, or, if none, one-half of its value at the time of transfer, if:

(a) The decedent retained, at the time of death, the possession or enjoyment of or the right to income from the property interest;

(b) The decedent retained, at the time of death, a power, either alone or in conjunction with any other person, to revoke or to consume, invade or dispose of the property interest for the decedent's own benefit; or

(c) The decedent held the property interest at the time of death with another with the right of survivorship.

(2) Notwithstanding subsection (1) of this section, no such property interest, proceeds, or value may be required to be restored to the decedent's estate if:

(a) Such property interest was transferred for adequate consideration;

(b) Such property interest was transferred with the consent of the surviving spouse; or

(c) The transferee purchased such property interest in property from the decedent while believing in good faith that the property or property interest was the separate property of the decedent and did not constitute quasi-community property.

(3) All property interests, proceeds, or value restored to the decedent's estate under this section shall belong to the surviving spouse pursuant to RCW 26.16.230 as though the transfer had never been made.

(4) The surviving spouse may waive any right granted hereunder by written instrument

filed in the probate proceedings. If the surviving spouse acts as personal representative of the decedent's estate and causes the estate to be closed before the time for exercising any right granted by this section expires, such closure shall act as a waiver by the surviving spouse of any and all rights granted by this section.

[1988 c 34 § 3; 1986 c 72 § 3.]

RCW 26.16.250 Quasi-community property--Characterization limited to determination of disposition at death--Waiver by written agreement.

The characterization of property as quasi-community property under this chapter shall be effective solely for the purpose of determining the disposition of such property at the time of a death, and such characterization shall not affect the rights of the decedent's creditors. For all other purposes property characterized as quasi-community property under this chapter shall be characterized without regard to the provisions of this chapter. A husband and wife may waive, modify, or relinquish any quasi-community property right granted or created by this chapter by signed written agreement, wherever executed, before or after June 11, 1986, including without limitation, community property agreements, prenuptial and postnuptial agreements, or agreements as to status of property.

[1988 c 34 § 4; 1986 c 72 § 4.]

**Chapter 26.18 RCW
CHILD SUPPORT ENFORCEMENT**

Sections

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26.18.020	Definitions.
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26.18.900	Severability--1984 c 260.

Notes:

Child support registry: Chapter 26.23 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

Family abandonment, penalty: RCW 26.20.030.

Family nonsupport, penalty: RCW 26.20.035.

Homestead subject to execution for child support or spousal maintenance: RCW 6.13.080.

RCW 26.18.010 Legislative findings.

The legislature finds that there is an urgent need for vigorous enforcement of child support and spousal maintenance obligations, and that stronger and more efficient statutory remedies need to be established to supplement and complement the remedies provided in chapters 26.09, 26.21, 26.26, 74.20, and 74.20A RCW.

[1993 c 426 § 1; 1984 c 260 § 1.]

RCW 26.18.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of spousal maintenance" means the duty to provide for the needs of a spouse or former spouse imposed under chapter 26.09 RCW.

(3) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, including spousal maintenance in cases in which there is a dependent child, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(4) "Obligee" means the custodian of a dependent child, the spouse or former spouse, or person or agency, to whom a duty of support or duty of spousal maintenance is owed, or the person or agency to whom the right to receive or collect support or spousal maintenance has been assigned.

(5) "Obligor" means the person owing a duty of support or duty of spousal maintenance.

(6) "Support or maintenance order" means any judgment, decree, or order of support or spousal maintenance issued by the superior court or authorized agency of the state of

Washington; or a judgment, decree, or other order of support or spousal maintenance issued by a court or agency of competent jurisdiction in another state or country, which has been registered or otherwise made enforceable in this state.

(7) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings or remuneration for employment to the obligor.

(8) "Earnings" means compensation paid or payable for personal services or remuneration for employment, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support or spousal maintenance obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(9) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

(10) "Department" means the department of social and health services.

(11) "Health insurance coverage" includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

(12) "Insurer" means a commercial insurance company providing disability insurance under chapter 48.20 or 48.21 RCW, a health care service contractor providing health care coverage under chapter 48.44 RCW, a health maintenance organization providing comprehensive health care services under chapter 48.46 RCW, and shall also include any employer or union which is providing health insurance coverage on a self-insured basis.

(13) "Remuneration for employment" means moneys due from or payable by the United States to an individual within the scope of 42 U.S.C. Sec. 659 and 42 U.S.C. Sec. 662(f).

[1993 c 426 § 2; 1989 c 416 § 2; 1987 c 435 § 17; 1984 c 260 § 2.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

RCW 26.18.030 Application--Liberal construction.

(1) The remedies provided in this chapter are in addition to, and not in substitution for, any other remedies provided by law.

(2) This chapter applies to any dependent child, whether born before or after June 7, 1984, and regardless of the past or current marital status of the parents, and to a spouse or former spouse.

(3) This chapter shall be liberally construed to assure that all dependent children are adequately supported.

[1993 c 426 § 3; 1984 c 260 § 3.]

RCW 26.18.035 Other civil and criminal remedies applicable.

Nothing in this chapter limits the authority of the attorney general or prosecuting attorney to use any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial parent receives public assistance payments.

[1984 c 260 § 24.]

RCW 26.18.040 Support or spousal maintenance proceedings.

(1) A proceeding to enforce a duty of support or spousal maintenance is commenced:

(a) By filing a petition for an original action; or

(b) By motion in an existing action or under an existing cause number.

(2) Venue for the action is in the superior court of the county where the dependent child resides or is present, where the obligor or obligee resides, or where the prior support or maintenance order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child. A filing fee shall not be assessed in cases brought on behalf of the state of Washington.

(3) The court retains continuing jurisdiction under this chapter until all duties of either support or spousal maintenance, or both, of the obligor, including arrearages, have been satisfied.

[1993 c 426 § 4; 1984 c 260 § 4.]

RCW 26.18.050 Failure to comply with support or spousal maintenance order--Contempt action--Order to show cause--Bench warrant--Continuing jurisdiction.

(1) If an obligor fails to comply with a support or spousal maintenance order, a petition or motion may be filed without notice under RCW 26.18.040 to initiate a contempt action as provided in chapter 7.21 RCW. If the court finds there is reasonable cause to believe the obligor has failed to comply with a support or spousal maintenance order, the court may issue an order to show cause requiring the obligor to appear at a certain time and place for a hearing, at which time the obligor may appear to show cause why the relief requested should not be granted. A copy of the petition or motion shall be served on the obligor along with the order to show cause.

(2) Service of the order to show cause shall be by personal service, or in the manner provided in the civil rules of superior court or applicable statute.

(3) If the order to show cause served upon the obligor included a warning that an arrest warrant could be issued for failure to appear, the court may issue a bench warrant for the arrest of the obligor if the obligor fails to appear on the return date provided in the order.

(4) If the obligor contends at the hearing that he or she lacked the means to comply with the support or spousal maintenance order, the obligor shall establish that he or she exercised due diligence in seeking employment, in conserving assets, or otherwise in rendering himself or

herself able to comply with the court's order.

(5) As provided in RCW 26.18.040, the court retains continuing jurisdiction under this chapter and may use a contempt action to enforce a support or maintenance order until the obligor satisfies all duties of support, including arrearages, that accrued pursuant to the support or maintenance order.

[1993 c 426 § 5; 1989 c 373 § 22; 1984 c 260 § 5.]

Notes:

Severability--1989 c 373: See RCW 7.21.900.

RCW 26.18.055 Child support liens.

Child support debts, not paid when due, become liens by operation of law against all property of the debtor with priority of a secured creditor. This lien shall be separate and apart from, and in addition to, any other lien created by, or provided for, in this title. The lien attaches to all real and personal property of the debtor on the date of filing with the county auditor of the county in which the property is located. Liens filed by other states or jurisdictions that comply with the procedural rules for filing liens under chapter 65.04 RCW shall be accorded full faith and credit and are enforceable without judicial notice or hearing.

[2000 c 86 § 1; 1997 c 58 § 942.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.18.070 Mandatory wage assignment--Petition or motion.

(1) A petition or motion seeking a mandatory wage assignment in an action under RCW 26.18.040 may be filed by an obligee if the obligor is:

- (a) Subject to a support order allowing immediate income withholding; or
- (b) More than fifteen days past due in child support or spousal maintenance payments in an amount equal to or greater than the obligation payable for one month.

(2) The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the wage assignment order, including:

- (a) That the obligor, stating his or her name and residence, is:
 - (i) Subject to a support order allowing immediate income withholding; or
 - (ii) More than fifteen days past due in child support or spousal maintenance payments in an amount equal to or greater than the obligation payable for one month;
- (b) A description of the terms of the order requiring payment of support or spousal maintenance, and the amount past due, if any;
- (c) The name and address of the obligor's employer;
- (d) That notice by personal service or any form of mail requiring a return receipt, has been provided to the obligor at least fifteen days prior to the obligee seeking a mandatory wage assignment, unless the order for support or maintenance states that the obligee may seek a

mandatory wage assignment without notice to the obligor; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source and, if the obligee has received public assistance, that the department of social and health services has been notified in writing of the pending action.

(3) If the court in which a mandatory wage assignment is sought does not already have a copy of the support or maintenance order in the court file, then the obligee shall attach a copy of the support or maintenance order to the petition or motion seeking the wage assignment.

[1994 c 230 § 3; 1993 c 426 § 6; 1987 c 435 § 18; 1984 c 260 § 7.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

RCW 26.18.080 Wage assignment order--Issuance--Information transmitted to state support registry.

(1) Upon receipt of a petition or motion seeking a mandatory wage assignment that complies with RCW 26.18.070, the court shall issue a wage assignment order, as provided in RCW 26.18.100 and including the information required in RCW 26.18.090(1), directed to the employer, and commanding the employer to answer the order on the forms served with the order that comply with RCW 26.18.120 within twenty days after service of the order upon the employer.

(2) The clerk of the court shall forward a copy of the mandatory wage assignment order, a true and correct copy of the support orders in the court file, and a statement containing the obligee's address and social security number shall be forwarded to the Washington state support registry within five days of the entry of the order.

[1987 c 435 § 19; 1984 c 260 § 8.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

RCW 26.18.090 Wage assignment order--Contents--Amounts--Apportionment of disbursements.

(1) The wage assignment order in RCW 26.18.080 shall include:

(a) The maximum amount of current support or spousal maintenance, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support or spousal maintenance order, then the maximum amount to be withheld is the sum of: Either the current support or spousal maintenance ordered, or both; and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable earnings of the obligor, whichever is less.

order requiring immediate income withholding or is more than fifteen days past due in either child support or spousal maintenance payments, or both, in an amount equal to or greater than the child support or spousal maintenance payable for one month. The amount of the accrued child support or spousal maintenance debt as of this date is dollars, the amount of arrearage payments specified in the support or spousal maintenance order (if applicable) is dollars per, and the amount of the current and continuing support or spousal maintenance obligation under the order is dollars per

You are hereby commanded to answer this order by filling in the attached form according to the instructions, and you must mail or deliver the original of the answer to the court, one copy to the Washington state support registry, one copy to the obligee or obligee's attorney, and one copy to the obligor within twenty days after service of this wage assignment order upon you.

If you possess any earnings or other remuneration for employment due and owing to the obligor, then you shall do as follows:

(1) Withhold from the obligor's earnings or remuneration each month, or from each regular earnings disbursement, the lesser of:

(a) The sum of the accrued support or spousal maintenance debt and the current support or spousal maintenance obligation;

(b) The sum of the specified arrearage payment amount and the current support or spousal maintenance obligation; or

(c) Fifty percent of the disposable earnings or remuneration of the obligor.

(2) The total amount withheld above is subject to the wage assignment order, and all other sums may be disbursed to the obligor.

(3) Upon receipt of this wage assignment order you shall make immediate deductions from the obligor's earnings or remuneration and remit to the Washington state support registry or other address specified below the proper amounts within five working days of each regular pay interval.

You shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) The addressee specified in the wage assignment order under this section that the accrued child support or spousal maintenance debt has been paid.

You shall promptly notify the court and the addressee specified in the wage assignment order under this section if and when the employee is no longer employed by you, or if the obligor no longer receives earnings or remuneration from you. If you no longer employ the employee, the wage assignment order shall remain in effect until you are no longer in possession of any earnings or remuneration owed to the employee.

You shall deliver the withheld earnings or remuneration to the Washington state support registry or other address stated below within five working days of each regular pay interval.

You shall deliver a copy of this order to the obligor as soon as is reasonably possible. This wage assignment order has priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support or spousal maintenance, or order to

withhold or deliver under chapter 74.20A RCW.

WHETHER OR NOT YOU OWE ANYTHING TO THE OBLIGOR, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR THE AMOUNT OF SUPPORT MONEYS THAT SHOULD HAVE BEEN WITHHELD FROM THE OBLIGOR'S EARNINGS OR SUBJECT TO CONTEMPT OF COURT.

NOTICE TO OBLIGOR: YOU HAVE A RIGHT TO REQUEST A HEARING IN THE SUPERIOR COURT THAT ISSUED THIS WAGE ASSIGNMENT ORDER, TO REQUEST THAT THE COURT QUASH, MODIFY, OR TERMINATE THE WAGE ASSIGNMENT ORDER. REGARDLESS OF THE FACT THAT YOUR WAGES ARE BEING WITHHELD PURSUANT TO THIS ORDER, YOU MAY HAVE SUSPENDED OR NOT RENEWED A PROFESSIONAL, DRIVER'S, OR OTHER LICENSE IF YOU ACCRUE CHILD SUPPORT ARREARAGES TOTALING MORE THAN SIX MONTHS OF CHILD SUPPORT PAYMENTS OR FAIL TO MAKE PAYMENTS TOWARDS A SUPPORT ARREARAGE IN AN AMOUNT THAT EXCEEDS SIX MONTHS OF PAYMENTS.

DATED THIS day of, 19. . .

.....
Obligee, Judge/Court Commissioner
or obligee's attorney
Send withheld payments to:
.....
.....
.....

[1998 c 77 § 1. Prior: 1997 c 296 § 10; 1997 c 58 § 889; 1994 c 230 § 4; 1993 c 426 § 8; 1991 c 367 § 20; 1989 c 416 § 10; 1987 c 435 § 20; 1984 c 260 § 10.]

Notes:

- Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58:** See RCW 74.08A.900 through 74.08A.904.
- Effective dates--Intent--1997 c 58:** See notes following RCW 74.20A.320.
- Severability--Effective date--Captions not law--1991 c 367:** See notes following RCW 26.09.015.
- Effective date--1987 c 435:** See RCW 26.23.900.

RCW 26.18.110 Wage assignment order--Employer's answer, duties, and liability--Priorities.

(1) An employer upon whom service of a wage assignment order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings or other remuneration from the

employer, whether the employer will honor the wage assignment order, and whether there are either multiple child support or spousal maintenance attachments, or both, against the obligor.

(2) If the employer possesses any earnings or remuneration due and owing to the obligor, the earnings subject to the wage assignment order shall be withheld immediately upon receipt of the wage assignment order. The withheld earnings shall be delivered to the Washington state support registry or, if the wage assignment order is to satisfy a duty of spousal maintenance, to the addressee specified in the assignment within five working days of each regular pay interval.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) The Washington state support registry or obligee that the accrued child support or spousal maintenance debt has been paid, provided the wage assignment order contains the language set forth under RCW 26.18.100(3)(b). The employer shall promptly notify the addressee specified in the assignment when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect for one year after the employee has left the employment or the employer has been in possession of any earnings or remuneration owed to the employee, whichever is later. The employer shall continue to hold the wage assignment order during that period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings or remuneration according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period, unless the employer continues to owe remuneration for employment to the obligor.

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An order for wage assignment for support for a dependent child entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW. An order for wage assignment for spousal maintenance entered under this chapter shall have priority over any other wage assignment or garnishment, except for a wage assignment, garnishment, or order to withhold and deliver under chapter 74.20A RCW for support of a dependent child, and except for another wage assignment or garnishment for spousal maintenance.

(6) An employer who fails to withhold earnings as required by a wage assignment issued under this chapter may be held liable to the obligee for one hundred percent of the support or spousal maintenance debt, or the amount of support or spousal maintenance moneys that should have been withheld from the employee's earnings whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a wage assignment order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;

(b) Fails or refuses to submit an answer to the notice of wage assignment after being served; or

(c) Is unwilling to comply with the other requirements of this section.

Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.

(7) No employer who complies with a wage assignment issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

(9) For wage assignments payable to the Washington state support registry, an employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order to the obligor as soon as is reasonably possible.

[1998 c 77 § 2; 1994 c 230 § 5; 1993 c 426 § 9; 1991 c 367 § 21; 1989 c 416 § 11; 1987 c 435 § 21; 1984 c 260 § 11.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.
Effective date--1987 c 435: See RCW 26.23.900.

RCW 26.18.120 Wage assignment order--Employer's answer--Form.

The answer of the employer shall be made on forms, served on the employer with the wage assignment order, substantially as follows:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON IN AND FOR THE
COUNTY OF

..... No.
Obligee
vs. ANSWER
..... TO WAGE

Obligor ASSIGNMENT ORDER

.....

Employer

1. At the time of the service of the wage assignment order on the employer, was the above-named obligor employed by or receiving earnings or other remuneration for employment from the employer?

Yes No (check one).

2. Are there any other attachments for child support or spousal maintenance currently in effect against the obligor?

Yes No (check one).

3. If the answer to question one is yes and the employer cannot comply with the wage assignment order, provide an explanation:

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

..... Date and place
Signature of employer

.....
.....
Signature of person Address for future notice
answering for employer to employer

.....
Connection with employer

[1993 c 426 § 10; 1984 c 260 § 12.]

RCW 26.18.130 Wage assignment order--Service.

(1) Service of the wage assignment order on the employer is invalid unless it is served with five answer forms in substantial conformance with RCW 26.18.120, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the Washington state support registry, the obligee's attorney or the obligee, and the obligor. The obligee shall also include an extra copy of the wage assignment order for the employer to deliver to the obligor. Service on the employer shall be in person or by any form of mail requiring a

return receipt.

(2) On or before the date of service of the wage assignment order on the employer, the obligee shall mail or cause to be mailed by certified mail a copy of the wage assignment order to the obligor at the obligor's last known post office address; or, in the alternative, a copy of the wage assignment order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the employer. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection provides, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the wage assignment order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has suffered substantial injury due to the failure to mail or serve the copy.

[1987 c 435 § 22; 1984 c 260 § 13.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

RCW 26.18.140 Hearing to quash, modify, or terminate wage assignment order--Grounds--Alternate payment plan.

(1) Except as provided in subsection (2) of this section, in a hearing to quash, modify, or terminate the wage assignment order, the court may grant relief only upon a showing that the wage assignment order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order is not grounds to quash, modify, or terminate the wage assignment order. If a wage assignment order has been in operation for twelve consecutive months and the obligor's support or spousal maintenance obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order should remain in effect.

(2) The court may enter an order delaying, modifying, or terminating the wage assignment order and order the obligor to make payments directly to the obligee as provided in RCW 26.23.050(2).

[1994 c 230 § 6; 1993 c 426 § 11; 1991 c 367 § 22; 1984 c 260 § 14.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.18.150 Bond or other security.

(1) In any action to enforce a support or spousal maintenance order under Title 26 RCW, the court may, in its discretion, order a parent obligated to pay support for a minor child or person owing a duty of spousal maintenance to post a bond or other security with the court. The bond or other security shall be in the amount of support or spousal maintenance due for a two-year period. The bond or other security is subject to approval by the court. The bond shall

include the name and address of the issuer. If the bond is canceled, any person issuing a bond under this section shall notify the court and the person entitled to receive payment under the order.

(2) If the obligor fails to make payments as required under the court order, the person entitled to receive payment may recover on the bond or other security in the existing proceeding. The court may, after notice and hearing, increase the amount of the bond or other security. Failure to comply with the court's order to obtain and maintain a bond or other security may be treated as contempt of court.

[1993 c 426 § 12; 1984 c 260 § 15.]

RCW 26.18.160 Costs.

In any action to enforce a support or maintenance order under this chapter, the prevailing party is entitled to a recovery of costs, including an award for reasonable attorney fees. An obligor may not be considered a prevailing party under this section unless the obligee has acted in bad faith in connection with the proceeding in question.

[1993 c 426 § 13; 1984 c 260 § 25.]

RCW 26.18.170 Health insurance coverage--Enforcement.

(1) Whenever an obligor parent who has been ordered to provide health insurance coverage for a dependent child fails to provide such coverage or lets it lapse, the department or the obligee may seek enforcement of the coverage order as provided under this section.

(2)(a) If the obligor parent's order to provide health insurance coverage contains language notifying the obligor that failure to provide such coverage or proof that such coverage is unavailable may result in direct enforcement of the order and orders payments through, or has been submitted to, the Washington state support registry for enforcement, then the department may, without further notice to the obligor, send a notice of enrollment to the obligor's employer or union. The notice shall be served:

(i) By regular mail;

(ii) In the manner prescribed for the service of a summons in a civil action;

(iii) By certified mail, return receipt requested; or

(iv) By electronic means if there is an agreement between the secretary of the department and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means.

(b) The notice shall require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(c) The returned answer to the division of child support by the employer constitutes proof of service of the notice of enrollment in the case where the notice was served by regular mail.

(d) The division of child support may use uniform interstate forms adopted by the United

States department of health and human services to take insurance enrollment actions under this section.

(e) If the obligor parent's order to provide health insurance coverage does not order payments through, and has not been submitted to, the Washington state support registry for enforcement:

(i) The obligee may, without further notice to the obligor send a certified copy of the order requiring health insurance coverage to the obligor's employer or union by certified mail, return receipt requested; and

(ii) The obligee shall attach a notarized statement to the order declaring that the order is the latest order addressing coverage entered by the court and require the employer or union to enroll the child in the health insurance plan as provided in subsection (3) of this section.

(3) Upon receipt of an order that provides for health insurance coverage, or a notice of enrollment:

(a) The obligor's employer or union shall answer the party who sent the order or notice within twenty days and confirm that the child:

(i) Has been enrolled in the health insurance plan;

(ii) Will be enrolled; or

(iii) Cannot be covered, stating the reasons why such coverage cannot be provided;

(b) The employer or union shall withhold any required premium from the obligor's income or wages;

(c) If more than one plan is offered by the employer or union, and each plan may be extended to cover the child, then the child shall be enrolled in the obligor's plan. If the obligor's plan does not provide coverage which is accessible to the child, the child shall be enrolled in the least expensive plan otherwise available to the obligor parent;

(d) The employer or union shall provide information about the name of the health insurance coverage provider or issuer and the extent of coverage available to the obligee or the department and shall make available any necessary claim forms or enrollment membership cards.

(4) If the order for coverage contains no language notifying the obligor that failure to provide health insurance coverage or proof that such coverage is unavailable may result in direct enforcement of the order, the department or the obligee may serve a written notice of intent to enforce the order on the obligor by certified mail, return receipt requested, or by personal service. If the obligor fails to provide written proof that such coverage has been obtained or applied for or fails to provide proof that such coverage is unavailable within twenty days of service of the notice, the department or the obligee may proceed to enforce the order directly as provided in subsection (2) of this section.

(5) If the obligor ordered to provide health insurance coverage elects to provide coverage that will not be accessible to the child because of geographic or other limitations when accessible coverage is otherwise available, the department or the obligee may serve a written notice of intent to purchase health insurance coverage on the obligor by certified mail, return receipt requested. The notice shall also specify the type and cost of coverage.

(6) If the department serves a notice under subsection (5) of this section the obligor shall,

within twenty days of the date of service:

(a) File an application for an adjudicative proceeding; or

(b) Provide written proof to the department that the obligor has either applied for, or obtained, coverage accessible to the child.

(7) If the obligee serves a notice under subsection (5) of this section, within twenty days of the date of service the obligor shall provide written proof to the obligee that the obligor has either applied for, or obtained, coverage accessible to the child.

(8) If the obligor fails to respond to a notice served under subsection (5) of this section to the party who served the notice, the party who served the notice may purchase the health insurance coverage specified in the notice directly. The amount of the monthly premium shall be added to the support debt and be collectible without further notice. The amount of the monthly premium may be collected or accrued until the obligor provides proof of the required coverage.

(9) The signature of the obligee or of a department employee shall be a valid authorization to the coverage provider or issuer for purposes of processing a payment to the child's health services provider. An order for health insurance coverage shall operate as an assignment of all benefit rights to the obligee or to the child's health services provider, and in any claim against the coverage provider or issuer, the obligee or the obligee's assignee shall be subrogated to the rights of the obligor. Notwithstanding the provisions of this section regarding assignment of benefits, this section shall not require a health care service contractor authorized under chapter 48.44 RCW or a health maintenance organization authorized under chapter 48.46 RCW to deviate from their contractual provisions and restrictions regarding reimbursement for covered services. If the coverage is terminated, the employer shall mail a notice of termination to the department or the obligee at the obligee's last known address within thirty days of the termination date.

(10) This section shall not be construed to limit the right of the obligor or the obligee to bring an action in superior court at any time to enforce, modify, or clarify the original support order.

(11) Where a child does not reside in the issuer's service area, an issuer shall cover no less than urgent and emergent care. Where the issuer offers broader coverage, whether by policy or reciprocal agreement, the issuer shall provide such coverage to any child otherwise covered that does not reside in the issuer's service area.

(12) If an obligor fails to pay his or her portion of any deductible required under the health insurance coverage or fails to pay his or her portion of medical expenses incurred in excess of the coverage provided under the plan, the department or the obligee may enforce collection of the obligor's portion of the deductible or the additional medical expenses through a wage assignment order. The amount of the deductible or additional medical expenses shall be added to the support debt and be collectible without further notice if the obligor's share of the amount of the deductible or additional expenses is reduced to a sum certain in a court order.

[2000 c 86 § 2; 1995 c 34 § 7; 1994 c 230 § 7; 1993 c 426 § 14; 1989 c 416 § 5.]

RCW 26.18.180 Liability of employer or union--Penalties.

(1) An obligated parent's employer or union shall be liable for a fine of up to one thousand dollars per occurrence, if the employer or union fails or refuses, within twenty days of receiving the order or notice for health insurance coverage to:

(a) Promptly enroll the obligated parent's child in the health insurance plan; or
(b) Make a written answer to the person or entity who sent the order or notice for health insurance coverage stating that the child:

- (i) Will be enrolled in the next available open enrollment period; or
- (ii) Cannot be covered and explaining the reasons why coverage cannot be provided.

(2) Liability may be established and the fine may be collected by the office of support enforcement under chapter 74.20A or 26.23 RCW using any of the remedies contained in those chapters.

(3) Any employer or union who enrolls a child in a health insurance plan in compliance with chapter 26.18 RCW shall be exempt from liability resulting from such enrollment.

[2000 c 86 § 3; 1989 c 416 § 9.]

RCW 26.18.190 Compensation paid by agency, self-insurer, or social security administration on behalf of child.

(1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of the injured worker for whom the injured worker owes a duty of child support, the amount of compensation the department or self-insurer pays on behalf of the child or children shall be treated for all purposes as if the injured worker paid the compensation toward satisfaction of the injured worker's child support obligations.

(2) When the social security administration pays social security disability dependency benefits, retirement benefits, or survivors insurance benefits on behalf of or on account of the child or children of a disabled person, a retired person, or a deceased person, the amount of benefits paid for the child or children shall be treated for all purposes as if the disabled person, the retired person, or the deceased person paid the benefits toward the satisfaction of that person's child support obligation for that period for which benefits are paid.

(3) Under no circumstances shall the person who has the obligation to make the transfer payment have a right to reimbursement of any compensation paid under subsection (1) or (2) of this section.

[1995 c 236 § 1; 1990 1st ex.s. c 2 § 17.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.18.210 Child support order summary report form.

(1) The administrator for the courts shall develop a child support order summary report

form to provide for the reporting of summary information in every case in which a child support order is entered or modified either judicially or administratively. The administrator for the courts shall attempt to the greatest extent possible to make the form simple and understandable by the parties. The form shall indicate the following:

- (a) The county in which the order was entered and the cause number;
 - (b) Whether it was a judicial or administrative order;
 - (c) Whether the order is an original order or from a modification;
 - (d) The number of children of the parties and the children's ages;
 - (e) The combined monthly net income of parties;
 - (f) The monthly net income of the father as determined by the court;
 - (g) The monthly net income of the mother as determined by the court;
 - (h) The basic child support obligation for each child as determined from the economic table;
 - (i) Whether or not the court deviated from the child support for each child;
 - (j) The reason or reasons stated by the court for the deviation;
 - (k) The amount of child support after the deviation;
 - (l) Any amount awarded for day care;
 - (m) Any other extraordinary amounts in the order;
 - (n) Any amount ordered for postsecondary education;
 - (o) The total amount of support ordered;
 - (p) In the case of a modification, the amount of support in the previous order;
 - (q) If the change in support was in excess of thirty percent, whether the change was phased in;
 - (r) The amount of the transfer payment ordered;
 - (s) Which parent was ordered to make the transfer payment; and
 - (t) The date of the entry of the order.
- (2) The administrator for the courts shall make the form available to the parties.

[1990 1st ex.s. c 2 § 22.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.18.220 Standard court forms--Mandatory use.

(1) The administrator for the courts shall develop not later than July 1, 1991, standard court forms and format rules for mandatory use by litigants in all actions commenced under chapters 26.09, 26.10, and 26.26 RCW effective January 1, 1992. The administrator for the courts shall develop mandatory forms for financial affidavits for integration into the worksheets. The forms shall be developed and approved not later than September 1, 1992. The parties shall use the mandatory form for financial affidavits for actions commenced on or after September 1, 1992. The administrator for the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) A party may delete unnecessary portions of the forms according to the rules

established by the administrator for the courts. A party may supplement the mandatory forms with additional material.

(3) A party's failure to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. However, the court may require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrator for the courts shall distribute a master copy of the forms to all county court clerks. The administrator for the courts and county clerks shall distribute the mandatory forms to the public upon request and may charge for the cost of production and distribution of the forms. Private vendors may distribute the mandatory forms. Distribution may be in printed or electronic form.

[1992 c 229 § 5; 1990 1st ex.s. c 2 § 25.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.18.900 Severability--1984 c 260.

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.

[1984 c 260 § 43.]

**Chapter 26.19 RCW
CHILD SUPPORT SCHEDULE**

Sections

26.19.001	Legislative intent and finding.
26.19.011	Definitions.
26.19.020	Child support economic table.
26.19.025	Legislative review of support schedule.
26.19.035	Standards for application of the child support schedule.
26.19.045	Veterans' disability pensions, compensation for disability, and aid and attendant care payments.
26.19.050	Worksheets and instructions.
26.19.055	Payments for attendant services in cases of disability.
26.19.065	Standards for establishing lower and upper limits on child support amounts.
26.19.071	Standards for determination of income.
26.19.075	Standards for deviation from the standard calculation.
26.19.080	Allocation of child support obligation between parents--Court-ordered day care or special child rearing expenses.
26.19.090	Standards for postsecondary educational support awards.
26.19.100	Federal income tax exemptions.

RCW 26.19.001 Legislative intent and finding.

The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents.

The legislature finds that these goals will be best achieved by the adoption and use of a state-wide child support schedule. Use of a state-wide schedule will benefit children and their parents by:

- (1) Increasing the adequacy of child support orders through the use of economic data as the basis for establishing the child support schedule;
- (2) Increasing the equity of child support orders by providing for comparable orders in cases with similar circumstances; and
- (3) Reducing the adversarial nature of the proceedings by increasing voluntary settlements as a result of the greater predictability achieved by a uniform state-wide child support schedule.

[1988 c 275 § 1.]

Notes:

Effective dates--1988 c 275: "Except for sections 4, 8, and 9 of this act, this act shall take effect July 1, 1988. Sections 4 and 8 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 24, 1988]." [1988 c 275 § 23.]

Severability--1988 c 275: "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." [1988 c 275 § 24.]

RCW 26.19.011 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Basic child support obligation" means the monthly child support obligation determined from the economic table based on the parties' combined monthly net income and the number of children for whom support is owed.
- (2) "Child support schedule" means the standards, economic table, worksheets, and instructions, as defined in this chapter.
- (3) "Court" means a superior court judge, court commissioner, and presiding and reviewing officers who administratively determine or enforce child support orders.
- (4) "Deviation" means a child support amount that differs from the standard calculation.
- (5) "Economic table" means the child support table for the basic support obligation provided in RCW 26.19.020.
- (6) "Instructions" means the instructions developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in completing the worksheets.

(7) "Standards" means the standards for determination of child support as provided in this chapter.

(8) "Standard calculation" means the presumptive amount of child support owed as determined from the child support schedule before the court considers any reasons for deviation.

(9) "Support transfer payment" means the amount of money the court orders one parent to pay to another parent or custodian for child support after determination of the standard calculation and deviations. If certain expenses or credits are expected to fluctuate and the order states a formula or percentage to determine the additional amount or credit on an ongoing basis, the term "support transfer payment" does not mean the additional amount or credit.

(10) "Worksheets" means the forms developed by the office of the administrator for the courts pursuant to RCW 26.19.050 for use in determining the amount of child support.

[1991 sp.s. c 28 § 4.]

Notes:

Severability--Effective date--Captions not law--1991 sp.s. c 28: See notes following RCW 26.09.100.

RCW 26.19.020 Child support economic table.

ECONOMIC TABLE
 MONTHLY BASIC SUPPORT OBLIGATION
 PER CHILD
 KEY: A= AGE 0-11 B= AGE 12-18

COMBINED MONTHLY NET INCOME	ONE CHILD FAMILY		TWO CHILDREN FAMILY	
	A	B	A	B
0				
100				
200				
300	For income less than \$600 the obligation is based upon the resources and living expenses of each household. Minimum support shall not be less than \$25 per child per month except when allowed by RCW 26.19.065(2).			
400				
500				

Revised Code of Washington 2000

600	133	164	103	127
700	155	191	120	148
800	177	218	137	170
900	199	246	154	191
1000	220	272	171	211
1100	242	299	188	232
1200	264	326	205	253
1300	285	352	221	274
1400	307	379	238	294
1500	327	404	254	313
1600	347	428	269	333
1700	367	453	285	352
1800	387	478	300	371
1900	407	503	316	390
2000	427	527	331	409
2100	447	552	347	429
2200	467	577	362	448
2300	487	601	378	467
2400	506	626	393	486
2500	526	650	408	505
2600	534	661	416	513
2700	542	670	421	520
2800	549	679	427	527
2900	556	686	431	533
3000	561	693	436	538
3100	566	699	439	543
3200	569	704	442	546
3300	573	708	445	549
3400	574	710	446	551
3500	575	711	447	552
3600	577	712	448	553
3700	578	713	449	554
3800	581	719	452	558

Revised Code of Washington 2000

3900	596	736	463	572
4000	609	753	473	584
4100	623	770	484	598
4200	638	788	495	611
4300	651	805	506	625
4400	664	821	516	637
4500	677	836	525	649
4600	689	851	535	661
4700	701	866	545	673
4800	713	882	554	685
4900	726	897	564	697
5000	738	912	574	708
5100	751	928	584	720
5200	763	943	593	732
5300	776	959	602	744
5400	788	974	612	756
5500	800	989	622	768
5600	812	1004	632	779
5700	825	1019	641	791
5800	837	1035	650	803
5900	850	1050	660	815
6000	862	1065	670	827
6100	875	1081	680	839
6200	887	1096	689	851
6300	899	1112	699	863
6400	911	1127	709	875
6500	924	1142	718	887
6600	936	1157	728	899
6700	949	1172	737	911
6800	961	1188	747	923
6900	974	1203	757	935
7000	986	1218	767	946

The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact.

[1998 c 163 § 2; 1991 c 367 § 25; 1990 1st ex.s. c 2 § 19; 1989 c 175 § 76; 1988 c 275 § 3.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Effective date--1989 c 175: See note following RCW 34.05.010.

Effective dates--Severability--1988 c 275: See notes following RCW 26.19.001.

RCW 26.19.025 Legislative review of support schedule.

The legislature shall review the support schedule every four years to determine if the application of the support schedule results in appropriate support orders.

[1991 c 367 § 26.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.19.035 Standards for application of the child support schedule.

(1) **Application of the child support schedule.** The child support schedule shall be applied:

- (a) In each county of the state;
- (b) In judicial and administrative proceedings under this title or Title 13 or 74 RCW;
- (c) In all proceedings in which child support is determined or modified;
- (d) In setting temporary and permanent support;
- (e) In automatic modification provisions or decrees entered pursuant to RCW 26.09.100;

and

(f) In addition to proceedings in which child support is determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

The provisions of this chapter for determining child support and reasons for deviation from the standard calculation shall be applied in the same manner by the court, presiding officers, and reviewing officers.

(2) **Written findings of fact supported by the evidence.** An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation. The court shall enter written findings of fact in all cases whether or not the court: (a) Sets the support at the presumptive amount, for combined monthly net incomes below five thousand dollars; (b) sets the support at an advisory amount, for combined monthly net incomes between five thousand and seven thousand dollars; or (c) deviates from the presumptive or advisory amounts.

(3) **Completion of worksheets.** Worksheets in the form developed by the office of the administrator for the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the office of the administrator for the courts.

(4) **Court review of the worksheets and order.** The court shall review the worksheets and the order setting support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately shall be initialed or signed by the judge and filed with the order.

[1992 c 229 § 6; 1991 c 367 § 27.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.19.045 Veterans' disability pensions, compensation for disability, and aid and attendant care payments.

Veterans' disability pensions or regular compensation for disability incurred in or aggravated by service in the United States armed forces paid by the veterans' administration shall be disclosed to the court. The court may consider either type of compensation as disposable income for purposes of calculating the child support obligation. Aid and attendant care payments to prevent hospitalization paid by the veterans' administration solely to provide physical home care for a disabled veteran, and special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r) to provide either special care or special aids, or both, to assist with routine daily functions shall also be disclosed. The court may not include either aid and attendant care or special medical compensation payments in gross income for purposes of calculating the child support obligation or for purposes of deviating from the standard calculation.

[1991 c 367 § 30.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.19.050 Worksheets and instructions.

(1) The administrator for the courts shall develop and adopt worksheets and instructions to assist the parties and courts in establishing the appropriate child support level and apportionment of support. The administrator for the courts shall attempt to the greatest extent possible to make the worksheets and instructions understandable by persons who are not represented by legal counsel.

(2) The administrator for the courts shall develop and adopt standards for the printing of worksheets and shall establish a process for certifying printed worksheets. The administrator may maintain a register of sources for approved worksheets.

(3) The administrator for the courts should explore methods to assist pro se parties and judges in the courtroom to calculate support payments through automated software, equipment, or personal assistance.

[1990 1st ex.s. c 2 § 5; 1988 c 275 § 6.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

Effective dates--Severability--1988 c 275: See notes following RCW 26.19.001.

RCW 26.19.055 Payments for attendant services in cases of disability.

Payments from any source, other than veterans' aid and attendance allowances or special medical compensation paid under 38 U.S.C. Sec. 314 (k) through (r), for services provided by an attendant in case of a disability when the disability necessitates the hiring of the services of an attendant shall be disclosed but shall not be included in gross income and shall not be a reason to deviate from the standard calculation.

[1991 c 367 § 31.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.19.065 Standards for establishing lower and upper limits on child support amounts.

(1) **Limit at forty-five percent of a parent's net income.** Neither parent's total child support obligation may exceed forty-five percent of net income except for good cause shown. Good cause includes but is not limited to possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families.

(2) **Income below six hundred dollars.** When combined monthly net income is less than six hundred dollars, a support order of not less than twenty-five dollars per child per month shall be entered for each parent unless the obligor parent establishes that it would be unjust or inappropriate to do so in that particular case. The decision whether there is a sufficient basis to deviate below the presumptive minimum payment must take into consideration the best interests of the child and the circumstances of each parent. Such circumstances can include comparative

hardship to the affected households, assets or liabilities, and earning capacity. A parent's support obligation shall not reduce his or her net income below the need standard for one person established pursuant to RCW 74.04.770, except for the presumptive minimum payment of twenty-five dollars per child per month or in cases where the court finds reasons for deviation. This section shall not be construed to require monthly substantiation of income.

(3) **Income above five thousand and seven thousand dollars.** The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact.

[1998 c 163 § 1; 1991 c 367 § 33.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.19.071 Standards for determination of income.

(1) **Consideration of all income.** All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) **Verification of income.** Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) **Income sources included in gross monthly income.** Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime;
- (f) Contract-related benefits;
- (g) Income from second jobs;
- (h) Dividends;
- (i) Interest;

- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;
- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Spousal maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits; and
- (t) Disability insurance benefits.

(4) **Income sources excluded from gross monthly income.** The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) General assistance; and
- (g) Food stamps.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, general assistance, and food stamps shall not be a reason to deviate from the standard calculation.

(5) **Determination of net income.** The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;
- (e) State industrial insurance premiums;
- (f) Court-ordered spousal maintenance to the extent actually paid;
- (g) Up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the two tax years preceding the earlier of the (i) tax year in which the parties separated with intent to live separate and apart or (ii) tax year in which the parties filed for dissolution; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) **Imputation of income.** The court shall impute income to a parent when the parent is

voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of information to the contrary, a parent's imputed income shall be based on the median income of year-round full-time workers as derived from the United States bureau of census, current populations reports, or such replacement report as published by the bureau of census.

[1997 c 59 § 4; 1993 c 358 § 4; 1991 sp.s. c 28 § 5.]

Notes:

Severability--Effective date--Captions not law--1991 sp.s. c 28: See notes following RCW 26.09.100.

RCW 26.19.075 Standards for deviation from the standard calculation.

(1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) **Sources of income and tax planning.** The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse if the parent who is married to the new spouse is asking for a deviation based on any other reason. Income of a new spouse is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) **Nonrecurring income.** The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring

income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) **Debt and high expenses.** The court may deviate from the standard calculation after consideration of the following expenses:

- (i) Extraordinary debt not voluntarily incurred;
- (ii) A significant disparity in the living costs of the parents due to conditions beyond their control;
- (iii) Special needs of disabled children;
- (iv) Special medical, educational, or psychological needs of the children; or
- (v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) **Residential schedule.** The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) **Children from other relationships.** The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific

reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation.

[1997 c 59 § 5; 1993 c 358 § 5; 1991 sp.s. c 28 § 6.]

Notes:

Severability--Effective date--Captions not law--1991 sp.s. c 28: See notes following RCW 26.09.100.

RCW 26.19.080 Allocation of child support obligation between parents--Court-ordered day care or special child rearing expenses.

(1) The basic child support obligation derived from the economic table shall be allocated between the parents based on each parent's share of the combined monthly net income.

(2) Ordinary health care expenses are included in the economic table. Monthly health care expenses that exceed five percent of the basic support obligation shall be considered extraordinary health care expenses. Extraordinary health care expenses shall be shared by the parents in the same proportion as the basic child support obligation.

(3) Day care and special child rearing expenses, such as tuition and long-distance transportation costs to and from the parents for visitation purposes, are not included in the economic table. These expenses shall be shared by the parents in the same proportion as the basic child support obligation. If an obligor pays court or administratively ordered day care or special child rearing expenses that are not actually incurred, the obligee must reimburse the obligor for the overpayment if the overpayment amounts to at least twenty percent of the obligor's annual day care or special child rearing expenses. The obligor may institute an action in the superior court or file an application for an adjudicative hearing with the department of social and health services for reimbursement of day care and special child rearing expense overpayments that amount to twenty percent or more of the obligor's annual day care and special child rearing expenses. Any ordered overpayment reimbursement shall be applied first as an offset to child support arrearages of the obligor. If the obligor does not have child support arrearages, the reimbursement may be in the form of a direct reimbursement by the obligee or a credit against the obligor's future support payments. If the reimbursement is in the form of a credit against the obligor's future child support payments, the credit shall be spread equally over a twelve-month period. Absent agreement of the obligee, nothing in this section entitles an obligor to pay more than his or her proportionate share of day care or other special child rearing expenses in advance

and then deduct the overpayment from future support transfer payments.

(4) The court may exercise its discretion to determine the necessity for and the reasonableness of all amounts ordered in excess of the basic child support obligation.

[1996 c 216 § 1; 1990 1st ex.s. c 2 § 7.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.19.090 Standards for postsecondary educational support awards.

(1) The child support schedule shall be advisory and not mandatory for postsecondary educational support.

(2) When considering whether to order support for postsecondary educational expenses, the court shall determine whether the child is in fact dependent and is relying upon the parents for the reasonable necessities of life. The court shall exercise its discretion when determining whether and for how long to award postsecondary educational support based upon consideration of factors that include but are not limited to the following: Age of the child; the child's needs; the expectations of the parties for their children when the parents were together; the child's prospects, desires, aptitudes, abilities or disabilities; the nature of the postsecondary education sought; and the parents' level of education, standard of living, and current and future resources. Also to be considered are the amount and type of support that the child would have been afforded if the parents had stayed together.

(3) The child must enroll in an accredited academic or vocational school, must be actively pursuing a course of study commensurate with the child's vocational goals, and must be in good academic standing as defined by the institution. The court-ordered postsecondary educational support shall be automatically suspended during the period or periods the child fails to comply with these conditions.

(4) The child shall also make available all academic records and grades to both parents as a condition of receiving postsecondary educational support. Each parent shall have full and equal access to the postsecondary education records as provided in RCW 26.09.225.

(5) The court shall not order the payment of postsecondary educational expenses beyond the child's twenty-third birthday, except for exceptional circumstances, such as mental, physical, or emotional disabilities.

(6) The court shall direct that either or both parents' payments for postsecondary educational expenses be made directly to the educational institution if feasible. If direct payments are not feasible, then the court in its discretion may order that either or both parents' payments be made directly to the child if the child does not reside with either parent. If the child resides with one of the parents the court may direct that the parent making the support transfer payments make the payments to the child or to the parent who has been receiving the support transfer payments.

[1991 sp.s. c 28 § 7; 1990 1st ex.s. c 2 § 9.]

Notes:

Severability--Effective date--Captions not law--1991 sp.s. c 28: See notes following RCW 26.09.100.
Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.19.100 Federal income tax exemptions.

The parties may agree which parent is entitled to claim the child or children as dependents for federal income tax exemptions. The court may award the exemption or exemptions and order a party to sign the federal income tax dependency exemption waiver. The court may divide the exemptions between the parties, alternate the exemptions between the parties, or both.

[1990 1st ex.s. c 2 § 10.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

**Chapter 26.20 RCW
FAMILY ABANDONMENT OR NONSUPPORT**

(Formerly: Family desertion)

Sections

26.20.030 Family abandonment--Penalty.
26.20.035 Family nonsupport--Penalty.
26.20.071 Evidence--Spouse as witness.
26.20.080 Proof of wilfulness--Application of penalty provisions.

Notes:

Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.

Uniform interstate family support act: Chapter 26.21 RCW.

RCW 26.20.030 Family abandonment--Penalty.

(1) Any person who has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it is guilty of the crime of family abandonment.

(2) The crime of family abandonment is a class C felony under chapter 9A.20 RCW.

[1984 c 260 § 26; 1973 1st ex.s. c 154 § 34; 1969 ex.s. c 207 § 2; 1955 c 249 § 1; 1953 c 255 § 1; 1943 c 158 § 1; 1913 c 28 § 1; Rem. Supp. 1943 § 6908. Prior: 1907 c 103 § 1, part.]

Notes:

Severability--1984 c 260: See RCW 26.18.900.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

Leaving children unattended in parked automobile: RCW 9.91.060.

RCW 26.20.035 Family nonsupport--Penalty.

(1) Any person who is able to provide support, or has the ability to earn the means to provide support, and who:

(a) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to a child dependent upon him or her; or

(b) Wilfully omits to provide necessary food, clothing, shelter, or medical attendance to his or her spouse,

is guilty of the crime of family nonsupport.

(2) The crime of family nonsupport is a gross misdemeanor under chapter 9A.20 RCW.

[1984 c 260 § 27.]

Notes:

Severability--1984 c 260: See RCW 26.18.900.

RCW 26.20.071 Evidence--Spouse as witness.

In any proceedings relating to nonsupport or family desertion the laws attaching a privilege against the disclosure of communications between husband and wife shall be inapplicable and both husband and wife in such proceedings shall be competent witnesses to testify to any relevant matter, including marriage and parentage.

[1963 c 10 § 1.]

Notes:

Uniform criminal extradition act: Chapter 10.88 RCW.

RCW 26.20.080 Proof of wilfulness--Application of penalty provisions.

Proof of the nonsupport of a spouse or of a child or children, or the omission to furnish necessary food, clothing, shelter, or medical attendance for a spouse, or for a child or children, is prima facie evidence that the nonsupport or omission to furnish food, clothing, shelter, or medical attendance is wilful. The provisions of RCW 26.20.030 and 26.20.035 are applicable regardless of the marital status of the person who has a child dependent upon him or her, and regardless of the nonexistence of any decree requiring payment of support or maintenance.

[1984 c 260 § 28; 1973 1st ex.s. c 154 § 36; 1913 c 28 § 3; RRS § 6910. Formerly RCW 26.20.080 and 26.20.090.]

Notes:

Severability--1984 c 260: See RCW 26.18.900.

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

Chapter 26.21 RCW

UNIFORM INTERSTATE FAMILY SUPPORT ACT

(Formerly: Uniform reciprocal enforcement of support act)

Sections

ARTICLE 1 GENERAL PROVISIONS

- 26.21.005 Definitions.
- 26.21.015 Tribunal of this state.
- 26.21.016 Rules.
- 26.21.025 Remedies cumulative.
- 26.21.065 Child support schedule.

ARTICLE 2 JURISDICTION PART A

EXTENDED PERSONAL JURISDICTION

- 26.21.075 Bases for jurisdiction over nonresident.
- 26.21.085 Procedure when exercising jurisdiction over nonresident.

PART B PROCEEDINGS INVOLVING TWO OR MORE STATES

- 26.21.095 Initiating and responding tribunal of this state.
- 26.21.105 Simultaneous proceedings in another state.
- 26.21.115 Continuing, exclusive jurisdiction.
- 26.21.125 Orders--Compliance with RCW 26.23.050.
- 26.21.127 Enforcement and modification of support order by tribunal having continuing jurisdiction.

PART C RECONCILIATION WITH ORDERS OF OTHER STATES

- 26.21.135 Recognition of child support orders--Controlling order--Filing certified copy of order.
- 26.21.145 Multiple child support orders for two or more obligees.
- 26.21.155 Credit for payments.

ARTICLE 3 CIVIL PROVISIONS OF GENERAL APPLICATION

- 26.21.205 Proceedings under this chapter.
- 26.21.215 Action by minor parent.
- 26.21.225 Application of law of this state.
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Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

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ARTICLE 1
GENERAL PROVISIONS

RCW 26.21.005 Definitions.

In this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition

or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by RCW 50.04.080, to withhold support from the income of the obligor.

(7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(c) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(a) Who owes or is alleged to owe a duty of support;

(b) Who is alleged but has not been adjudicated to be a parent of a child; or

(c) Who is liable under a support order.

(14) "Register" means to record or file in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically, a support order or judgment determining parentage.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

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

(a) An Indian tribe; and

(b) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

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

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) Location of obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, that provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorneys' fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

[1997 c 58 § 911; 1993 c 318 § 101.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.015 Tribunal of this state.

The superior court is the state tribunal for judicial proceedings and the department of social and health services office of support enforcement is the state tribunal for administrative proceedings.

[1993 c 318 § 102.]

RCW 26.21.016 Rules.

The secretary of the department of social and health services shall issue such rules as necessary to act as the administrative tribunal pursuant to RCW 26.21.015.

[1997 c 58 § 932.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.025 Remedies cumulative.

Remedies provided by this chapter are cumulative and do not affect the availability of

remedies under other law.

[1993 c 318 § 103.]

RCW 26.21.065 Child support schedule.

A determination of child support shall be based upon the child support schedule and standards adopted under *RCW 26.19.040.

[1988 c 275 § 13.]

Notes:

***Reviser's note:** RCW 26.19.040 was repealed by 1991 sp.s. c 28 § 8, effective September 1, 1991.
Effective dates--Severability--1988 c 275: See notes following RCW 26.19.001.

ARTICLE 2
JURISDICTION
PART A
EXTENDED PERSONAL JURISDICTION

RCW 26.21.075 Bases for jurisdiction over nonresident.

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) The individual is personally served with summons within this state;
- (2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) The individual resided with the child in this state;
- (4) The individual resided in this state and provided prenatal expenses or support for the child;
- (5) The child resides in this state as a result of the acts or directives of the individual;
- (6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or
- (7) There is any other basis consistent with the Constitutions of this state and the United States for the exercise of personal jurisdiction.

[1993 c 318 § 201.]

RCW 26.21.085 Procedure when exercising jurisdiction over nonresident.

A tribunal of this state exercising personal jurisdiction over a nonresident under RCW 26.21.075 may apply RCW 26.21.355 to receive evidence from another state, and RCW 26.21.375 to obtain discovery through a tribunal of another state. In all other respects, Articles 3 through 7 do not apply and the tribunal shall apply the procedural and substantive law of this

state, including the rules on choice of law other than those established by this chapter.

[1993 c 318 § 202.]

PART B
PROCEEDINGS INVOLVING TWO OR MORE STATES

RCW 26.21.095 Initiating and responding tribunal of this state.

Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

[1993 c 318 § 203.]

RCW 26.21.105 Simultaneous proceedings in another state.

(1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(b) The contesting party timely challenges the exercise of jurisdiction in the other state; and

(c) If relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(a) The petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) The contesting party timely challenges the exercise of jurisdiction in this state; and

(c) If relevant, the other state is the home state of the child.

[1993 c 318 § 204.]

RCW 26.21.115 Continuing, exclusive jurisdiction.

(1) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Until all of the parties who are individuals have filed written consents with the

tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter.

(3) If a child support order of this state is modified by a tribunal of another state pursuant to this chapter or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

- (a) Enforce the order that was modified as to amounts accruing before the modification;
- (b) Enforce nonmodifiable aspects of that order; and
- (c) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that has issued a child support order pursuant to this chapter or a law substantially similar to this chapter.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

[1997 c 58 § 912; 1993 c 318 § 205.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.125 Orders--Compliance with RCW 26.23.050.

Every court order or decree establishing a child support obligation shall be entered in compliance with RCW 26.23.050.

[1987 c 435 § 23; 1986 c 138 § 2; 1984 c 260 § 22.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

Severability--1984 c 260: See RCW 26.18.900.

RCW 26.21.127 Enforcement and modification of support order by tribunal having continuing jurisdiction.

(1) A tribunal of this state may serve as an initiating tribunal to request a tribunal of

another state to enforce or modify a support order issued in that state.

(2) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply RCW 26.21.355 to receive evidence from another state and RCW 26.21.375 to obtain discovery through a tribunal of another state.

(3) A tribunal of this state that lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

[1993 c 318 § 206.]

PART C
RECONCILIATION WITH ORDERS OF OTHER STATES

RCW 26.21.135 Recognition of child support orders--Controlling order--Filing certified copy of order.

(1) If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.

(2) If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized.

(b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and must be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and must be so recognized.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and must be so recognized.

(3) If two or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and must be so recognized under subsection (2) of this section. The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(4) The tribunal that issued the controlling order under subsection (1), (2), or (3) of this section is the tribunal that has continuing, exclusive jurisdiction under RCW 26.21.115.

(5) A tribunal of this state which determines by order the identity of the controlling order

under subsection (2)(a) or (b) of this section or which issues a new controlling order under subsection (2)(c) of this section shall state in that order the basis upon which the tribunal made its determination.

(6) Within thirty days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

[1997 c 58 § 913; 1993 c 318 § 207.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.145 Multiple child support orders for two or more obligees.

In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

[1993 c 318 § 208.]

RCW 26.21.155 Credit for payments.

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

[1993 c 318 § 209.]

ARTICLE 3
CIVIL PROVISIONS OF GENERAL APPLICATION

RCW 26.21.205 Proceedings under this chapter.

(1) Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

(2) This chapter provides for the following proceedings:

(a) Establishment of an order for spousal support or child support pursuant to Article 4;

(b) Enforcement of a support order and income-withholding order of another state without registration pursuant to Article 5;

(c) Registration of an order for spousal support or child support of another state for enforcement pursuant to Article 6;

(d) Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to Article 2, Part B;

(e) Registration of an order for child support of another state for modification pursuant to Article 6;

(f) Determination of parentage pursuant to Article 7; and

(g) Assertion of jurisdiction over nonresidents pursuant to Article 2, Part A.

(3) An individual petitioner or a support enforcement agency may commence a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

[1993 c 318 § 301.]

RCW 26.21.215 Action by minor parent.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

[1993 c 318 § 302.]

RCW 26.21.225 Application of law of this state.

Except as otherwise provided by this chapter, a responding tribunal of this state:

(1) Shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) Shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

[1993 c 318 § 303.]

RCW 26.21.235 Duties of initiating tribunal.

(1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, a tribunal of this state may issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the

amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

[1997 c 58 § 914; 1993 c 318 § 304.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.245 Duties and powers of responding tribunal.

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to RCW 26.21.205(3), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant or writ of arrest for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant or writ of arrest in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorneys' fees and other fees and costs; and

(l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

[1997 c 58 § 915; 1993 c 318 § 305.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.255 Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

[1997 c 58 § 916; 1993 c 318 § 306.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.265 Duties of support enforcement agency.

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) Within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) This chapter does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

[1997 c 58 § 917; 1993 c 318 § 307.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.275 Duty of attorney general.

If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to

perform its duties under this chapter or may provide those services directly to the individual.

[1993 c 318 § 308.]

RCW 26.21.285 Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

[1993 c 318 § 309.]

RCW 26.21.295 Duties of department as state information agency.

(1) The department of social and health services office of support enforcement is the state information agency under this chapter.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state that have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

[1993 c 318 § 310.]

RCW 26.21.305 Pleadings and accompanying documents.

(1) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under RCW 26.21.315, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

[1993 c 318 § 311.]

RCW 26.21.315 Nondisclosure of information--Circumstances.

Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this chapter.

[1993 c 318 § 312.]

RCW 26.21.325 Costs--Fees.

(1) The petitioner may not be required to pay a filing fee or other costs.

(2) If an obligee prevails in a support enforcement proceeding, a responding tribunal may assess against an obligor filing fees, reasonable attorneys' fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal in a support enforcement proceeding may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by RCW 4.84.080, civil rule 11 or, if the obligee or the support enforcement agency has acted in bad faith.

(3) A responding tribunal may assess filing fees, reasonable attorneys' fees, and other costs to either party, and necessary travel and other reasonable costs incurred by the obligee and the obligee's witnesses to the obligee, in a proceeding to establish or modify support. Assessments under this section shall be made in accordance with RCW 4.84.080 and 26.09.140 and civil rule 11.

(4) Attorneys' fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(5) The tribunal shall order the payment of costs and reasonable attorneys' fees if it determines that a hearing was requested primarily for delay.

[1993 c 318 § 313.]

RCW 26.21.335 Limited immunity of petitioner.

(1) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this chapter committed by a party while present in this state to participate in the proceeding.

[1993 c 318 § 314.]

RCW 26.21.345 Nonparentage as defense.

A party whose parentage of a child has been previously determined by order of a tribunal may not plead nonparentage as a defense to a proceeding under this chapter.

[1993 c 318 § 315.]

RCW 26.21.355 Special rules of evidence and procedure.

(1) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under this chapter, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a

proceeding under this chapter.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.

[1993 c 318 § 316.]

RCW 26.21.365 Communications between tribunals.

A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

[1993 c 318 § 317.]

RCW 26.21.375 Assistance with discovery.

A tribunal of this state may:

- (1) Request a tribunal of another state to assist in obtaining discovery; and
- (2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

[1993 c 318 § 318.]

RCW 26.21.385 Receipt and disbursement of payments.

A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

[1993 c 318 § 319.]

ARTICLE 4
ESTABLISHMENT OF SUPPORT ORDER

RCW 26.21.420 Petition to establish support order--Notice--Hearing--Orders.

(1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

- (a) The individual seeking the order resides in another state; or
- (b) The support enforcement agency seeking the order is located in another state.

(2) The tribunal may issue a temporary child support order if:

- (a) The respondent has signed a verified statement acknowledging parentage;

(b) The respondent has been determined by order of a tribunal to be the parent; or
(c) There is other clear, cogent, and convincing evidence that the respondent is the child's parent.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to RCW 26.21.245.

[1993 c 318 § 401.]

ARTICLE 5
DIRECT ENFORCEMENT OF ORDER OF
ANOTHER STATE WITHOUT REGISTRATION

RCW 26.21.450 Recognition of income-withholding order of another state.

An income-withholding order issued in another state may be sent to the person or entity defined as the obligor's employer under RCW 50.04.080 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

[1997 c 58 § 918; 1993 c 318 § 501.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.452 Employer's compliance with income-withholding order of another state.

(1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

(2) The employer shall treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state.

(3) Except as provided in subsection (4) of this section and RCW 26.21.453, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order which specify:

(a) The duration and amount of periodic payments of current child support, stated as a sum certain;

(b) The person or agency designated to receive payments and the address to which the payments are to be forwarded;

(c) Medical support, whether in the form of periodic cash payment, stated as sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sum certain; and

(e) The amount of periodic payments of arrearages and interest on arrearages, stated as

sum certain.

(4) The employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

- (a) The employer's fee for processing an income-withholding order;
- (b) The maximum amount permitted to be withheld from the obligor's income; and
- (c) The times within which the employer must implement the withholding order and forward the child support payment.

[1997 c 58 § 919.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.453 Compliance with multiple income-withholding orders.

If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

[1997 c 58 § 920.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.455 Immunity from civil liability.

An employer who complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

[1997 c 58 § 921.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.456 Penalties for noncompliance.

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

[1997 c 58 § 922.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.458 Contest by obligor.

(1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. RCW 26.21.510 applies to the contest.

(2) The obligor shall give notice of the contest to:

(a) A support enforcement agency providing services to the obligee;

(b) Each employer that has directly received an income-withholding order; and

(c) The person or agency designated to receive payments in the income-withholding order, or if no person or agency is designated, to the obligee.

[1997 c 58 § 923.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.460 Administrative enforcement of orders.

(1) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

[1993 c 318 § 502.]

ARTICLE 6
ENFORCEMENT AND MODIFICATION OF
SUPPORT ORDER AFTER REGISTRATION
PART A
REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

RCW 26.21.480 Registration of order for enforcement.

A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

[1993 c 318 § 601.]

RCW 26.21.490 Procedure to register order for enforcement.

(1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the support enforcement agency of this state or to the superior court of any county in this state where the obligor resides, works, or has property:

- (a) A letter of transmittal to the tribunal requesting registration and enforcement;
- (b) Two copies, including one certified copy, of all orders to be registered, including any modification of an order;
- (c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (d) The name of the obligor and, if known:
 - (i) The obligor's address and social security number;
 - (ii) The name and address of the obligor's employer and any other source of income of the obligor; and
 - (iii) A description and the location of property of the obligor in this state not exempt from execution; and
- (e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

[1997 c 58 § 924; 1993 c 318 § 602.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.500 Effect of registration for enforcement.

(1) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(2) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

[1993 c 318 § 603.]

RCW 26.21.510 Choice of law--Statute of limitations for arrearages.

(1) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(2) In a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

[1993 c 318 § 604.]

PART B
CONTEST OF VALIDITY OR ENFORCEMENT

RCW 26.21.520 Notice of registration of order.

(1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of receipt by certified or registered mail or personal service of the notice given to a nonregistering party within the state and within sixty days after the date of receipt by certified or registered mail or personal service of the notice on a nonregistering party outside of the state;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(d) Of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the income-withholding law of this state.

[1997 c 58 § 925; 1993 c 318 § 605.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.530 Procedure to contest validity or enforcement of registered order.

(1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of receipt of certified or registered mail or the date of personal service of notice of the registration on the nonmoving party within this state, or, within sixty days after the receipt of certified or registered mail or personal service of the notice on the nonmoving party outside of the state. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged

arrearages pursuant to RCW 26.21.540.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

[1997 c 58 § 926; 1993 c 318 § 606.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.540 Contest of registration or enforcement.

(1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made; or

(g) The statute of limitation under RCW 26.21.510 precludes enforcement of some or all of the arrearages.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

[1993 c 318 § 607.]

RCW 26.21.550 Confirmed order.

Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

[1993 c 318 § 608.]

PART C

REGISTRATION AND MODIFICATION OF
CHILD SUPPORT ORDER

RCW 26.21.560 Procedure to register child support order of another state for modification.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in Part A of this article if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

[1993 c 318 § 609.]

RCW 26.21.570 Effect of registration for modification--Authority to enforce registered order.

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of RCW 26.21.580 have been met.

[1993 c 318 § 610.]

RCW 26.21.580 Modification of child support order of another state.

(1) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if RCW 26.21.595 does not apply and after notice and hearing it finds that:

(a) The following requirements are met:

(i) The child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) A petitioner who is a nonresident of this state seeks modification; and

(iii) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) The child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed written consents in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under the Uniform Interstate Family Support Act, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. If two or more tribunals have issued child support orders for the same obligor and child, the order that controls and must be so recognized under RCW 26.21.135 establishes the aspects of the support order that are nonmodifiable.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.

[1997 c 58 § 927; 1993 c 318 § 611.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.590 Recognition of order modified in another state--Enforcement.

A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall:

(1) Enforce the order that was modified only as to amounts accruing before the modification;

(2) Enforce only nonmodifiable aspects of that order;

(3) Provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

[1997 c 58 § 928; 1993 c 318 § 612.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.595 Jurisdiction to modify child support order of another state if individual parties reside in this state--Application of chapter.

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2, this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 of this chapter do not apply.

[1997 c 58 § 929.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal

law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.21.600 Notice to issuing tribunal of modification.

Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

[1997 c 58 § 930.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

ARTICLE 7
DETERMINATION OF PARENTAGE

RCW 26.21.620 Proceeding to determine parentage.

(1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law or procedure substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the Uniform Parentage Act, chapter 26.26 RCW, procedural and substantive law of this state, and the rules of this state on choice of law.

[1997 c 58 § 931; 1993 c 318 § 701.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

ARTICLE 8
INTERSTATE RENDITION

RCW 26.21.640 Grounds for rendition.

(1) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(2) The governor of this state may:

(a) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an

obligee; or

(b) On the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(3) A provision for extradition of individuals not inconsistent with this chapter applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from the demanding state.

[1993 c 318 § 801.]

RCW 26.21.650 Surrender of individual charged criminally with failure to support an obligee--Conditions of rendition.

(1) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

(2) If, under this chapter or a law substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

[1993 c 318 § 802.]

ARTICLE 9
MISCELLANEOUS PROVISIONS

RCW 26.21.912 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

[1993 c 318 § 901.]

RCW 26.21.913 Short title.

This chapter may be cited as the uniform interstate family support act.

[1993 c 318 § 902.]

RCW 26.21.914 Severability--1993 c 318.

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.

[1993 c 318 § 903.]

RCW 26.21.915 Captions, part headings, articles not law--1993 c 318.

Captions, part headings, and article designations as used in this act constitute no part of the law.

[1993 c 318 § 906.]

RCW 26.21.916 Effective date--1993 c 318.

This act shall take effect July 1, 1994.

[1993 c 318 § 907.]

**Chapter 26.23 RCW
STATE SUPPORT REGISTRY**

Sections

26.23.010	Intent.
26.23.020	Definitions.
26.23.030	Registry--Creation--Duties--Interest on unpaid child support--Record retention.
26.23.033	State case registry--Submission of support orders.
26.23.035	Distribution of support received.
26.23.040	Employment reporting requirements--Exceptions--Penalties--Retention of records.
26.23.045	Support enforcement services.
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26.23.055	Support proceedings, orders, and registry--Required information--Duty to update--Service.
26.23.060	Notice of payroll deduction--Answer--Processing fee.
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26.23.080	Certain acts by employers prohibited--Penalties.
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26.23.100	Motion to quash, modify, or terminate payroll deduction--Grounds for relief.

26.23.110	Procedures when amount of support obligation needs to be determined--Notice--Adjudicative proceeding.
26.23.120	Information and records--Confidentiality--Disclosure--Adjudicative proceeding--Rules--Penalties.
26.23.130	Notice to department of child support or maintenance orders.
26.23.140	Collection and disclosure of social security numbers--Finding--Waiver requested to prevent fraud.
26.23.150	Recording of social security numbers--Compliance with federal requirement--Restricted disclosure.
26.23.900	Effective date--1987 c 435.

Notes:

*Authority of office of support enforcement to take support enforcement action against earnings within the state:
RCW 74.20A.095.*

RCW 26.23.010 Intent.

The legislature recognizes the financial impact on custodial parents and children when child support is not received on time, or in the correct amount. The legislature also recognizes the burden placed upon the responsible parent and the second family when enforcement action must be taken to collect delinquent support.

It is the intent of the legislature to create a central Washington state support registry to improve the recordkeeping of support obligations and payments, thereby providing protection for both parties, and reducing the burden on employers by creating a single standardized process through which support payments are deducted from earnings.

It is also the intent of the legislature that child support payments be made through mandatory wage assignment or payroll deduction if the responsible parent becomes delinquent in making support payments under a court or administrative order for support.

To that end, it is the intent of the legislature to interpret all existing statutes and processes to give effect to, and to implement, one central registry for recording and distributing support payments in this state.

[1987 c 435 § 1.]

RCW 26.23.020 Definitions.

(1) The definitions contained in RCW 74.20A.020 shall be incorporated into and made a part of this chapter.

(2) "Support order" means a superior court order or administrative order, as defined in RCW 74.20A.020.

(3) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made

under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW. Earnings shall specifically include all gain from capital, from labor, or from both combined, not including profit gained through sale or conversion of capital assets.

(4) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of an amount required by law to be withheld.

(5) "Employer" means any person or entity who pays or owes earnings in employment as defined in Title 50 RCW to the responsible parent including but not limited to the United States government, or any state or local unit of government.

(6) "Employee" means a person in employment as defined in Title 50 RCW to whom an employer is paying, owes or anticipates paying earnings as a result of services performed.

[1987 c 435 § 2.]

RCW 26.23.030 Registry--Creation--Duties--Interest on unpaid child support--Record retention.

(1) There is created a Washington state support registry within the division of child support as the agency designated in Washington state to administer the child support program under Title IV-D of the federal social security act. The registry shall:

- (a) Provide a central unit for collection of support payments made to the registry;
- (b) Account for and disburse all support payments received by the registry;
- (c) Maintain the necessary records including, but not limited to, information on support orders, support debts, the date and amount of support due; the date and amount of payments; and the names, social security numbers, and addresses of the parties;
- (d) Develop procedures for providing information to the parties regarding action taken by, and support payments collected and distributed by the registry; and
- (e) Maintain a state child support case registry to compile and maintain records on all child support orders entered in the state of Washington.

(2) The division of child support may assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.

(3) The secretary of social and health services shall adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When a support obligation established under court order entered in a superior court of this state has been satisfied, a satisfaction of judgment form shall be prepared by the registry and filed with the clerk of the court in which the order was entered.

[1997 c 58 § 905; 1989 c 360 § 6; 1988 c 275 § 18; 1987 c 435 § 3.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal

law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.
Effective dates--Severability--1988 c 275: See notes following RCW 26.19.001.

RCW 26.23.033 State case registry--Submission of support orders.

(1) The division of child support, Washington state support registry shall operate a state case registry containing records of all orders establishing or modifying a support order that are entered after October 1, 1998.

(2) The superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry, a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation that provide that support payments shall be made to the support registry.

(3) The division of child support shall reimburse the clerk for the reasonable costs of copying and sending copies of court orders to the registry at the reimbursement rate provided in Title IV-D of the federal social security act.

(4) Effective October 1, 1998, the superior court clerk, the office of administrative hearings, and the department of social and health services shall, within five days of entry, forward to the Washington state support registry a true and correct copy of all superior court orders or administrative orders establishing or modifying a support obligation.

(5) Receipt of a support order by the registry or other action under this section on behalf of a person or persons who have not made a written application for support enforcement services to the division of child support and who are not recipients of public assistance is deemed to be:

(a) A request for payment services only if the order requires payment to the Washington state support registry;

(b) A submission for inclusion in the state case registry if the order does not require that support payments be made to the Washington state support registry.

[1997 c 58 § 903.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.23.035 Distribution of support received.

(1) The department of social and health services shall adopt rules for the distribution of support money collected by the division of child support. These rules shall:

(a) Comply with Title IV-D of the federal social security act as amended by the personal responsibility and work opportunity reconciliation act of 1996;

(b) Direct the division of child support to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:

(i) The location of the custodial parent is unknown;

(ii) The support debt is in litigation;

(iii) The division of child support cannot identify the responsible parent or the custodian;

(c) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV-D cases; and

(d) Authorize the distribution of support money, except money collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to the IV-D custodian before the debt owed to the state when the custodian stops receiving a public assistance grant.

(2) The division of child support may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:

(a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;

(b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and

(c) File a copy of the notice with the clerk of the court that entered the original support order.

(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support.

(4) The division of child support shall ensure that the fifty dollar pass through payment, as required by 42 U.S.C. Sec. 657 before the adoption of P.L. 104-193, is terminated immediately upon July 27, 1997, and all rules to the contrary adopted before July 27, 1997, are without force and effect.

[1997 c 58 § 933; 1991 c 367 § 38; 1989 c 360 § 34.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.23.040 Employment reporting requirements--Exceptions--Penalties--Retention of records.

(1) All employers doing business in the state of Washington shall report to the Washington state support registry:

(a) The hiring of any person who resides or works in this state to whom the employer anticipates paying earnings; and

(b) The rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment.

The secretary of the department of social and health services may adopt rules to establish additional exemptions if needed to reduce unnecessary or burdensome reporting.

(2) Employers may report by mailing the employee's copy of the W-4 form, or other means authorized by the registry which will result in timely reporting.

(3) Employers shall submit reports within twenty days of the hiring, rehiring, or return to work of the employee, except as provided in subsection (4) of this section. The report shall contain:

(a) The employee's name, address, social security number, and date of birth; and

(b) The employer's name, address, and identifying number assigned under section 6109 of the internal revenue code of 1986.

(4) In the case of an employer transmitting reports magnetically or electronically, the employer shall report newly hired employees by two monthly transmissions, if necessary, not less than twelve days nor more than sixteen days apart.

(5) An employer who fails to report as required under this section shall be subject to a civil penalty of:

(a) Twenty-five dollars per month per employee; or

(b) Five hundred dollars, if the failure to report is the result of a conspiracy between the employer and the employee not to supply the required report, or to supply a false report. All violations within a single month shall be considered a single violation for purposes of assessing the penalty. The penalty may be imposed and collected by the division of child support under RCW 74.20A.350.

(6) The registry shall retain the information for a particular employee only if the registry is responsible for establishing, enforcing, or collecting a support debt of the employee. The registry may, however, retain information for a particular employee for as long as may be necessary to:

(a) Transmit the information to the national directory of new hires as required under federal law; or

(b) Provide the information to other state agencies for comparison with records or information possessed by those agencies as required by law.

Information that is not permitted to be retained shall be promptly destroyed. Agencies that obtain information from the department of social and health services under this section shall maintain the confidentiality of the information received, except as necessary to implement the agencies' responsibilities.

[1998 c 160 § 5; 1997 c 58 § 944; 1997 c 58 § 943; 1994 c 127 § 1; 1993 c 480 § 1; 1989 c 360 § 39; 1987 c 435 § 4.]

Notes:

Effective date--1998 c 160 §§ 1, 5, and 8: See note following RCW 74.20A.080.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--1997 c 58: See note following RCW 74.20A.320.

Effective date--1993 c 480: "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 shall take effect immediately [May 17, 1993]." [1993 c 480 § 2.]

Effective dates--1989 c 360 §§ 9, 10, 16, and 39: See note following RCW 74.20A.060.

RCW 26.23.045 Support enforcement services.

(1) The division of child support, Washington state support registry, shall provide support enforcement services under the following circumstances:

- (a) Whenever public assistance under RCW 74.20.330 is paid;
- (b) Whenever a request for support enforcement services under RCW 74.20.040 is received;

(c) When a support order which contains language directing a responsible parent to make support payments to the Washington state support registry under RCW 26.23.050 is submitted and the division of child support receives a written application for services or is already providing services;

(d) When the obligor submits a support order or support payment, and an application, to the Washington state support registry.

(2) The division of child support shall continue to provide support enforcement services for so long as and under such conditions as the department shall establish by regulation or until the superior court enters an order removing the requirement that the obligor make support payments to the Washington state support registry as provided for in RCW 26.23.050.

[1997 c 58 § 902; 1994 c 230 § 8; 1989 c 360 § 33.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.23.050 Support orders--Provisions--Enforcement.

(1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the responsible parent to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the receiving parent might be required to submit an accounting of

how the support is being spent to benefit the child; and

(d) A statement that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the responsible parent to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement; and

(ii) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the responsible parent has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The parent entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent, after a payment is past due.

(c) If a mandatory wage withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW

26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding notice.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that a parent's licensing privileges may not be renewed, or may be suspended, the division of child support may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The social security number, residence address, date of birth, telephone number, driver's license number, and name and address of the employer of the responsible parent, except as provided under subsection (6) of this section;

(g) The social security number and residence address of the physical custodian except as

provided in subsection (6) or (7) of this section;

(h) The names, dates of birth, and social security numbers, if any, of the dependent children;

(i) A provision requiring the responsible parent to keep the Washington state support registry informed of whether he or she has access to health insurance coverage at reasonable cost and, if so, the health insurance policy information;

(j) That any parent owing a duty of child support shall be obligated to provide health insurance coverage for his or her child if coverage that can be extended to cover the child is or becomes available to that parent through employment or is union-related as provided under RCW 26.09.105;

(k) That if proof of health insurance coverage or proof that the coverage is unavailable is not provided within twenty days, the obligee or the department may seek direct enforcement of the coverage through the obligor's employer or union without further notice to the obligor as provided under chapter 26.18 RCW;

(l) The reasons for not ordering health insurance coverage if the order fails to require such coverage;

(m) That the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320; and

(n) That each parent must:

(i) Provide the state case registry with the information required by RCW 26.23.055; and

(ii) Update the information provided to the state case registry when the information changes.

(6) The address and employer's name and address of either party may be omitted from a support order if:

(a) There is reason to believe that release of the address information may result in physical or emotional harm to the party or to the child; or

(b) A restraining or protective order is in effect to protect one party from the other party.

(7) The physical custodian's address shall be omitted from an order entered under the administrative procedure act.

(8) When a party's employment or address is omitted from an order, the order shall state that the information is known to the division of child support, state case registry.

(9) After the responsible parent has been ordered or notified to make payments to the Washington state support registry under this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

5.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Intent--1997 c 58: See note following RCW 74.20A.320.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.23.055 Support proceedings, orders, and registry--Required information--Duty to update--Service.

(1) Each party to a paternity or child support proceeding must provide the court and the Washington state child support registry with his or her:

- (a) Social security number;
- (b) Current residential address;
- (c) Date of birth;
- (d) Telephone number;
- (e) Driver's license number; and
- (f) Employer's name, address, and telephone number.

(2) Each party to an order entered in a child support or paternity proceeding shall update the information required under subsection (1) of this section promptly after any change in the information. The duty established under this section continues as long as any monthly support or support debt remains due under the support order.

(3) In any proceeding to establish, enforce, or modify the child support order between the parties, a party may demonstrate to the presiding officer that he or she has diligently attempted to locate the other party. Upon a showing of diligent efforts to locate, the presiding officer shall deem service of process for the action by delivery of written notice to the address most recently provided by the party under this section to be adequate notice of the action.

(4) All support orders shall contain notice to the parties of the obligations established by this section and possibility of service of process according to subsection (3) of this section.

[1998 c 160 § 3; 1997 c 58 § 904.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.23.060 Notice of payroll deduction--Answer--Processing fee.

(1) The division of child support may issue a notice of payroll deduction:

(a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The division of child support shall serve a notice of payroll deduction upon a

responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW:

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested;

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means; or

(d) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (a) or (b) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement.

(3) Service of a notice of payroll deduction upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or unemployment compensation benefits. The employer or employment security department shall thereafter deduct each pay period the amount stated in the notice divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) A notice of payroll deduction for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The notice of payroll deduction shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings;

(d) The address to which the payments are to be mailed or delivered; and

(e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in RCW 74.20A.320.

(6) An informational copy of the notice of payroll deduction shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives a notice of payroll deduction shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry within seven working days of the date the earnings are payable to the responsible parent.

(8) An employer, or the employment security department, upon whom a notice of payroll deduction is served, shall make an answer to the division of child support within twenty days

after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives unemployment compensation benefits from the employment security department, whether the employer or employment security department anticipates paying earnings or unemployment compensation benefits and the amount of earnings. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving unemployment compensation benefits from the employment security department, the answer shall state the present employer's name and address, if known.

The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the notice of payroll deduction in the case where the notice was served by regular mail.

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the notice of payroll deduction, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The notice of payroll deduction shall remain in effect until released by the division of child support, the court enters an order terminating the notice and approving an alternate arrangement under RCW 26.23.050, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the notice. For the employment security department, the notice of payroll deduction shall remain in effect until released by the division of child support or until the court enters an order terminating the notice.

(11) The division of child support may use uniform interstate withholding forms adopted by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state.

[2000 c 86 § 4; 2000 c 29 § 1; 1998 c 160 § 8; 1997 c 58 § 890; 1994 c 230 § 10; 1991 c 367 § 40; 1989 c 360 § 32; 1987 c 435 § 6.]

Notes:

Reviser's note: This section was amended by 2000 c 29 § 1 and by 2000 c 86 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--2000 c 29: "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." [2000 c 29 § 2.]

Conflict with federal requirements--2000 c 29: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to

the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2000 c 29 § 3.]

Effective date--2000 c 29: "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 [March 17, 2000]." [2000 c 29 § 4.]

Effective date--1998 c 160 §§ 1, 5, and 8: See note following RCW 74.20A.080.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates--Intent--1997 c 58: See notes following RCW 74.20A.320.

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.23.070 Payments to registry--Methods--Immunity from civil liability.

(1) The employer or the employment security department may combine amounts withheld from the earnings of more than one responsible parent in a single payment to the Washington state support registry, listing separately the amount of the payment which is attributable to each individual.

(2) No employer nor employment security department that complies with a notice of payroll deduction under this chapter shall be civilly liable to the responsible parent for complying with a notice of payroll deduction under this chapter.

[1991 c 367 § 41; 1987 c 435 § 7.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.23.075 Payments--Dishonored checks--Fees--Rules.

For any payment made by a check as defined in RCW 62A.3-104, if the instrument is dishonored under RCW 62A.3-515, the costs and fees authorized under RCW 62A.3-515 apply. The department may establish procedures and adopt rules to enforce this section.

[2000 c 215 § 4.]

RCW 26.23.080 Certain acts by employers prohibited--Penalties.

No employer shall discipline or discharge an employee or refuse to hire a person by reason of an action authorized in this chapter. If an employer disciplines or discharges an employee or refuses to hire a person in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and any other damages suffered as a result of the violation and for costs and reasonable attorney fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

[1987 c 435 § 9.]

RCW 26.23.090 Employer liability for failure or refusal to respond or remit earnings.

(1) The employer shall be liable to the Washington state support registry, or to the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act and issuing a notice, garnishment, or wage assignment attaching wages or earnings in satisfaction of a support obligation, for the amount of support moneys which should have been withheld from the employee's earnings, if the employer:

(a) Fails or refuses, after being served with a notice of payroll deduction, or substantially similar action issued by the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act, to deduct and promptly remit from unpaid earnings the amounts of money required in the notice;

(b) Fails or refuses to submit an answer to the notice of payroll deduction, or substantially similar action issued by the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act, after being served; or

(c) Is unwilling to comply with the other requirements of RCW 26.23.060.

(2) Liability may be established in superior court or may be established pursuant to RCW 74.20A.350. Awards in superior court and in actions pursuant to RCW 74.20A.350 shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees and staff costs as a part of the award. Debts established pursuant to this section may be collected by the division of child support using any of the remedies available under chapter 26.09, 26.18, 26.21, 26.23, 74.20, or 74.20A RCW for the collection of child support.

[1997 c 296 § 13; 1997 c 58 § 894; 1990 c 165 § 2; 1987 c 435 § 10.]

Notes:

Reviser's note: This section was amended by 1997 c 58 § 894 and by 1997 c 296 § 13, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.23.100 Motion to quash, modify, or terminate payroll deduction--Grounds for relief.

(1) The responsible parent subject to a payroll deduction pursuant to this chapter, may file a motion in superior court to quash, modify, or terminate the payroll deduction.

(2) Except as provided in subsections (4) and (5) of this section, the court may grant relief only upon a showing: (a) That the payroll deduction causes extreme hardship or substantial injustice; or (b) that the support payment was not past due under the terms of the order when the notice of payroll deduction was served on the employer.

(3) Satisfaction by the obligor of all past due payments subsequent to the issuance of the notice of payroll deduction is not grounds to quash, modify, or terminate the notice of payroll

deduction.

(4) If a notice of payroll deduction has been in operation for twelve consecutive months and the obligor's support obligation is current, upon motion of the obligor, the court may order the office of support enforcement to terminate the payroll deduction, unless the obligee can show good cause as to why the payroll deduction should remain in effect.

(5) Subsection (2) of this section shall not prevent the court from ordering an alternative arrangement as provided under RCW 26.23.050(2).

[1994 c 230 § 11; 1991 c 367 § 42; 1989 c 360 § 31; 1987 c 435 § 8.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.23.110 Procedures when amount of support obligation needs to be determined--Notice--Adjudicative proceeding.

(1) The department may serve a notice of support owed on a responsible parent when a support order:

(a) Does not state the current and future support obligation as a fixed dollar amount; or

(b) Contains an escalation clause or adjustment provision for which additional information not contained in the support order is needed to determine the fixed dollar amount of the support debt or the fixed dollar amount of the current and future support obligation, or both.

(2) The notice of support owed shall facilitate enforcement of the support order and implement and effectuate the terms of the support order, rather than modify those terms. When the office of support enforcement issues a notice of support owed, the office shall inform the payee under the support order.

(3) The notice of support owed shall be served on a responsible parent by personal service or any form of mailing requiring a return receipt. The notice of support owed shall contain an initial finding of the fixed dollar amount of current and future support obligation that should be paid or the fixed dollar amount of the support debt owed under the support order, or both.

(4) A responsible parent who objects to the fixed dollar amounts stated in the notice of support owed has twenty days from the date of the service of the notice of support owed to file an application for an adjudicative proceeding or initiate an action in superior court.

(5) The notice of support owed shall state that the responsible parent may:

(a) File an application for an adjudicative proceeding governed by chapter 34.05 RCW, the administrative procedure act, in which the responsible parent will be required to appear and show cause why the fixed dollar amount of support debt or current and future support obligation, or both, stated in the notice of support owed is incorrect and should not be ordered; or

(b) Initiate an action in superior court.

(6) If the responsible parent does not file an application for an adjudicative proceeding or initiate an action in superior court, the fixed dollar amount of current and future support obligation or support debt, or both, stated in the notice of support owed shall become final and subject to collection action.

(7) If an adjudicative proceeding is requested, the department shall mail a copy of the notice of adjudicative proceeding to the payee under the support order at the payee's last known address. A payee who appears for the adjudicative proceeding is entitled to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the adjudicative proceeding, and offering rebuttal to other testimony. Nothing in this section shall preclude the administrative law judge from limiting participation to preserve the confidentiality of information protected by law.

(8) If the responsible parent does not initiate an action in superior court, and serve notice of the action on the department within the twenty-day period, the responsible parent shall be deemed to have made an election of remedies and shall be required to exhaust administrative remedies under this chapter with judicial review available as provided for in RCW 34.05.510 through 34.05.598.

(9) An adjudicative order entered in accordance with this section shall state the basis, rationale, or formula upon which the fixed dollar amounts established in the adjudicative order were based. The fixed dollar amount of current and future support obligation or the amount of the support debt, or both, determined under this section shall be subject to collection under this chapter and other applicable state statutes.

(10) The department shall also provide for:

(a) An annual review of the support order if either the office of support enforcement or the responsible parent requests such a review; and

(b) A late adjudicative proceeding if the responsible parent fails to file an application for an adjudicative proceeding in a timely manner under this section.

(11) If an annual review or late adjudicative proceeding is requested under subsection (10) of this section, the department shall mail a copy of the notice of adjudicative proceeding to the payee at the payee's last known address. A payee who appears for the adjudicative proceeding is entitled to participate. Participation includes, but is not limited to, giving testimony, presenting evidence, being present for or listening to other testimony offered in the adjudicative proceeding, and offering rebuttal to other testimony. The administrative law judge may limit participation to preserve the confidentiality of information protected by law.

[1993 c 12 § 1. Prior: 1989 c 360 § 16; 1989 c 175 § 77; 1987 c 435 § 11.]

Notes:

Effective dates--1989 c 360 §§ 9, 10, 16, and 39: See note following RCW 74.20A.060.

Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 26.23.120 Information and records--Confidentiality--Disclosure--Adjudicative proceeding--Rules--Penalties.

(1) Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided which are obtained or maintained by the Washington state support registry, the division of child support, or under chapter 74.20 RCW shall be private and confidential and shall only be subject to public disclosure as provided in subsection (2) of this section.

(2) The secretary of the department of social and health services may adopt rules:

(a) That specify what information is confidential;

(b) That specify the individuals or agencies to whom this information and these records may be disclosed;

(c) Limiting the purposes for which the information may be disclosed;

(d) Establishing procedures to obtain the information or records; or

(e) Establishing safeguards necessary to comply with federal law requiring safeguarding of information.

(3) The rules adopted under subsection (2) of this section shall provide for disclosure of the information and records, under appropriate circumstances, which shall include, but not be limited to:

(a) When authorized or required by federal statute or regulation governing the support enforcement program;

(b) To the person the subject of the records or information, unless the information is exempt from disclosure under RCW 42.17.310;

(c) To government agencies, whether state, local, or federal, and including federally recognized tribes, law enforcement agencies, prosecuting agencies, and the executive branch, if the disclosure is necessary for child support enforcement purposes or required under Title IV-D of the federal social security act;

(d) To the parties in a judicial or adjudicative proceeding upon a specific written finding by the presiding officer that the need for the information outweighs any reason for maintaining the privacy and confidentiality of the information or records;

(e) To private persons, federally recognized tribes, or organizations if the disclosure is necessary to permit private contracting parties to assist in the management and operation of the department;

(f) Disclosure of address and employment information to the parties to an action for purposes relating to a child support order, subject to the limitations in subsections (4) and (5) of this section;

(g) Disclosure of information or records when necessary to the efficient administration of the support enforcement program or to the performance of functions and responsibilities of the support registry and the division of child support as set forth in state and federal statutes; or

(h) Disclosure of the information or records when authorized under RCW 74.04.060.

(4) Prior to disclosing the whereabouts of a physical custodian, custodial parent or a child to the other parent or party, a notice shall be mailed, if appropriate under the circumstances, to the parent or physical custodian whose whereabouts are to be disclosed, at that person's last known address. The notice shall advise the parent or physical custodian that a request for disclosure has been made and will be complied with unless the department:

(a) Receives a copy of a court order within thirty days which enjoins the disclosure of the information or restricts or limits the requesting party's right to contact or visit the parent or party whose address is to be disclosed or the child;

(b) Receives a hearing request within thirty days under subsection (5) of this section; or

(c) Has reason to believe that the release of the information may result in physical or emotional harm to the physical custodian whose whereabouts are to be released, or to the child.

(5) A person receiving notice under subsection (4) of this section may request an adjudicative proceeding under chapter 34.05 RCW, at which the person may show that there is reason to believe that release of the information may result in physical or emotional harm to the person or the child. The administrative law judge shall determine whether the whereabouts of the person or child should be disclosed based on subsection (4)(c) of this section, however no hearing is necessary if the department has in its possession a protective order or an order limiting visitation or contact.

(6) The notice and hearing process in subsections (4) and (5) of this section do not apply to protect the whereabouts of a noncustodial parent, unless that parent has requested notice before whereabouts information is released. A noncustodial parent may request such notice by submitting a written request to the division of child support.

(7) Nothing in this section shall be construed as limiting or restricting the effect of RCW 42.17.260(9). Nothing in this section shall be construed to prevent the disclosure of information and records if all details identifying an individual are deleted or the individual consents to the disclosure.

(8) It shall be unlawful for any person or agency in violation of this section to solicit, publish, disclose, receive, make use of, or to authorize, knowingly permit, participate in or acquiesce in the use of any lists of names for commercial or political purposes or the use of any information for purposes other than those purposes specified in this section. A violation of this section shall be a gross misdemeanor as provided in chapter 9A.20 RCW.

[1998 c 160 § 4; 1997 c 58 § 908; 1994 c 230 § 12. Prior: 1989 c 360 § 17; 1989 c 175 § 78; 1987 c 435 § 12.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.
Effective date--1989 c 175: See note following RCW 34.05.010.

RCW 26.23.130 Notice to department of child support or maintenance orders.

The department shall be given twenty calendar days prior notice of the entry of any final order and five days prior notice of the entry of any temporary order in any proceeding involving child support or maintenance if the department has a financial interest based on an assignment of support rights under RCW 74.20.330 or the state has a subrogated interest under RCW 74.20A.030. Service of this notice upon the department shall be by personal service on, or mailing by any form of mail requiring a return receipt to, the office of the attorney general. The department shall not be entitled to terms for a party's failure to serve the department within the time requirements for this section, unless the department proves that the party knew that the department had an assignment of support rights or a subrogated interest and that the failure to serve the department was intentional.

[1991 c 367 § 43.]

Notes:

Severability--Effective date--Captions not law--1991 c 367: See notes following RCW 26.09.015.

RCW 26.23.140 Collection and disclosure of social security numbers--Finding--Waiver requested to prevent fraud.

The federal personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193, requires states to collect social security numbers as part of the application process for professional licenses, driver's licenses, occupational licenses, and recreational licenses. The legislature finds that if social security numbers are accessible to the public, it will be relatively easy for someone to use another's social security number fraudulently to assume that person's identity and gain access to bank accounts, credit services, billing information, driving history, and other sources of personal information. Public Law 104-193 could compound and exacerbate the disturbing trend of social security number-related fraud. In order to prevent fraud and curtail invasions of privacy, the governor, through the department of social and health services, shall seek a waiver to the federal mandate to record social security numbers on applications for professional, driver's, occupational, and recreational licenses. If a waiver is not granted, the licensing agencies shall collect and disclose social security numbers as required under RCW 26.23.150.

[1998 c 160 § 6.]

RCW 26.23.150 Recording of social security numbers--Compliance with federal requirement--Restricted disclosure.

In order to assist in child support enforcement as required by federal law, all applicants for an original, replacement, or renewal of a professional license, commercial driver's license, occupational license, or recreational license must furnish the licensing agency with the applicant's social security number, which shall be recorded on the application. No applicant for an original, replacement, or renewal noncommercial driver's license is required to furnish the licensing agency with the applicant's social security number for purposes of assisting in child support enforcement prior to the time necessary to comply with the federal deadline. The licensing agencies collecting social security numbers shall not display the social security number on the license document. Social security numbers collected by licensing agencies shall not be disclosed except as required by state or federal law or under RCW 26.23.120.

[1999 c 138 § 2; 1998 c 160 § 7.]

Notes:

Finding--Implementation--Intent--1999 c 138: "The legislature declares that enhancing the effectiveness of child support enforcement is an essential public policy goal, but that the use of social security numbers on licenses is an inappropriate, intrusive, and offensive method of improving enforceability. The legislature also finds that, in 1997, the federal government threatened sanction by withholding of funds for programs for poor families if states did not comply with a federal requirement to use social security numbers on licenses, thus causing the legislature to enact

such provisions under protest. Since that time, the federal government has delayed implementation of the noncommercial driver's license requirement until October 1, 2000.

The legislature will require compliance with federal law in this matter only at such time and in the event that the federal government actually implements the requirement of using social security numbers on noncommercial driver's license applications. Therefore, the legislature intends to delay the implementation of provisions enacted in 1998 requiring social security numbers be recorded on all applications for noncommercial driver's licenses." [1999 c 138 § 1.]

RCW 26.23.900 Effective date--1987 c 435.

Sections 1 through 3 and 5 through 36 of this act shall take effect January 1, 1988.

[1987 c 435 § 37.]

**Chapter 26.25 RCW
COOPERATIVE CHILD SUPPORT SERVICES--INDIAN TRIBES**

Sections

26.25.010	Purpose.
26.25.020	Cooperative agreements--Authorized.
26.25.030	Cooperative agreements--Contents.
26.25.040	Rules.

RCW 26.25.010 Purpose.

The legislature recognizes that Indian tribes are sovereign nations and the relationship between the state and the tribe is sovereign-to-sovereign.

The federal government acknowledged the importance of including Indian tribes in child support systems established by the federal government and the states. The personal responsibility and work opportunity reconciliation act of 1996, P.L. 104-193, provides Indian tribes the option of developing their own tribal plan and tribal child support enforcement program to receive funds directly from the federal government for their own Title IV-D program similar to that of other states. The act also expressly authorizes the states and Indian tribe or tribal organization to enter into cooperative agreements to provide for the delivery of child support enforcement services.

It is the purpose of this chapter to encourage the department of social and health services, division of child support, and the Indian tribes within the state's borders to enter into cooperative agreements that will assist the state and tribal governments in carrying out their respective responsibilities. The legislature recognizes that the state and the tribes each possess resources that are sometimes distinct to that government. The legislature intends that the state and the tribes work together to make the most efficient and productive use of all resources and authorities.

Cooperative agreements will enable the state and the tribes to better provide child support services to Indian children and to establish and enforce child support obligations, orders, and

judgments. Under cooperative agreements, the state and the tribes can work as partners to provide culturally relevant child support services, consistent with state and federal laws, that are based on tribal laws and customs. The legislature recognizes that the preferred method for handling cases where all or some of the parties are enrolled tribal members living on the tribal reservation is to develop an agreement so that appropriate cases are referred to the tribe to be processed in the tribal court. The legislature recognizes that cooperative agreements serve the best interests of the children.

[1997 c 386 § 60.]

RCW 26.25.020 Cooperative agreements--Authorized.

(1) The department of social and health services may enter into an agreement with an Indian tribe or tribal organization, which is within the state's borders and recognized by the federal government, for joint or cooperative action on child support services and child support enforcement.

(2) In determining the scope and terms of the agreement, the department and the tribe should consider, among other factors, whether the tribe has an established tribal court system with the authority to establish, modify, or enforce support orders, establish paternity, or enter support orders in accordance with child support guidelines established by the tribe.

[1997 c 386 § 61.]

RCW 26.25.030 Cooperative agreements--Contents.

An agreement established under this section may, but is not required to, address the following:

(1) Recognizing the state's and tribe's authority to address child support matters with the development of a process designed to determine how tribal member cases may be handled;

(2) The authority, procedures, and guidelines for all aspects of establishing, entering, modifying, and enforcing child support orders in the tribal court and the state court;

(3) The authority, procedures, and guidelines the department and tribe will follow for the establishment of paternity;

(4) The establishment and agreement of culturally relevant factors that may be considered in child support enforcement;

(5) The authority, procedures, and guidelines for the garnishing of wages of tribal members or employees of a tribe, tribally owned enterprise, or an Indian-owned business located on the reservation;

(6) The department's and tribe's responsibilities to each other;

(7) The ability for the department and the tribe to address the fiscal responsibilities between each other;

(8) Requirements for alternative dispute resolution procedures;

(9) The necessary procedures for notice and the continual sharing of information; and

(10) The duration of the agreement, under what circumstances the parties may terminate the agreement, and the consequences of breaching the provisions in the agreement.

[1997 c 386 § 62.]

RCW 26.25.040 Rules.

The department of social and health services may adopt rules to implement this chapter.

[1997 c 386 § 63.]

**Chapter 26.26 RCW
UNIFORM PARENTAGE ACT**

Sections

26.26.010	"Parent and child relationship" defined.
26.26.020	Relationship not dependent on marriage.
26.26.030	How parent and child relationship established.
26.26.035	Default.
26.26.040	Presumption of paternity.
26.26.050	Artificial insemination.
26.26.060	Determination of father and child relationship--Who may bring action--When action may be brought.
26.26.065	Mandatory use of approved forms.
26.26.070	Determination of father and child relationship--Petition to arrest alleged father--Warrant of arrest--Issuance--Grounds--Hearing.
26.26.080	Jurisdiction--Venue.
26.26.090	Parties.
26.26.100	Blood or genetic tests.
26.26.110	Evidence relating to paternity.
26.26.120	Civil action--Testimony--Evidence--Jury.
26.26.130	Judgment or order determining parent and child relationship--Support judgment and orders--Residential provisions--Custody--Restraining orders--Notice of modification or termination of restraining order.
26.26.132	Support orders--Compliance with RCW 26.23.050.
26.26.134	Support orders--Time limit, exception.
26.26.137	Temporary support--Temporary restraining order--Preliminary injunction--Domestic violence or antiharassment protection order--Notice of modification or termination of restraining order--Support debts, notice.
26.26.138	Restraining order--Knowing violation--Penalty--Law enforcement immunity.
26.26.140	Costs.
26.26.145	Proof of certain support and paternity establishment costs.
26.26.150	Enforcement of judgments or orders.
26.26.160	Modification of judgment or order--Continuing jurisdiction.
26.26.165	Health insurance coverage.
26.26.170	Action to determine mother and child relationship.
26.26.180	Promise to render support.

26.26.190	Relinquishment of child for adoption--Notice to other parent.
26.26.200	Hearing or trials to be in closed court--Records confidential.
26.26.210	Surrogate parenting--Definitions.
26.26.220	Surrogate parenting--Persons excluded from contracting.
26.26.230	Surrogate parenting--Compensation prohibited.
26.26.240	Surrogate parenting--Contract for compensation void.
26.26.250	Surrogate parenting--Provisions violated--Penalty.
26.26.260	Surrogate parenting--Custody of child.
26.26.270	Parenting plan--Designation of parent for other state and federal purposes.
26.26.900	Uniformity of application and construction.
26.26.901	Short title.
26.26.905	Severability--1975-'76 2nd ex.s. c 42.

Notes:

Arrest without warrant in domestic violence cases: RCW 10.31.100.

Child support enforcement: Chapter 26.18 RCW.

Child support registry: Chapter 26.23 RCW.

Domestic violence prevention: Chapter 26.50 RCW.

RCW 26.26.010 "Parent and child relationship" defined.

As used in this chapter, "parent and child relationship" means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

[1975-'76 2nd ex.s. c 42 § 2.]

RCW 26.26.020 Relationship not dependent on marriage.

The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

[1975-'76 2nd ex.s. c 42 § 3.]

RCW 26.26.030 How parent and child relationship established.

The parent and child relationship between a child and

(1) the natural mother may be established by proof of her having given birth to the child, or under this chapter;

(2) the natural father may be established under this chapter;

(3) an adoptive parent may be established by proof of adoption or under the provisions of chapter 26.33 RCW.

[1985 c 7 § 86; 1975-'76 2nd ex.s. c 42 § 4.]

RCW 26.26.035 Default.

In any action brought under this chapter, if the requirements of civil rule 55 are met, the superior court shall enter an order of default.

[1994 c 230 § 13.]

RCW 26.26.040 Presumption of paternity.

(1) A man is presumed to be the natural father of a child for all intents and purposes if:

(a) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution, or after a decree of separation is entered by a court; or

(b) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within three hundred days after the termination of cohabitation;

(c) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

(i) He has acknowledged his paternity of the child in writing filed with the state registrar of vital statistics,

(ii) With his consent, he is named as the child's father on the child's birth certificate, or

(iii) He is obligated to support the child under a written voluntary promise or by court order;

(d) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his child;

(e) He acknowledges his paternity of the child pursuant to RCW 70.58.080 or in a writing filed with the state registrar of vital statistics, which shall promptly inform the mother of the filing of the acknowledgment, if she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the state registrar of vital statistics. An acknowledgment of paternity under RCW 70.58.080 shall be a legal finding of paternity of the child sixty days after the acknowledgment is filed with the center for health statistics unless the acknowledgment is sooner rescinded or challenged. After the sixty-day period has passed, the acknowledgment may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger. Legal responsibilities of the challenger, including child support obligations, may not be suspended during the challenge, except for good cause shown. Judicial and administrative proceedings are neither required nor permitted to ratify an unchallenged acknowledgment of paternity filed after July 27, 1997. In order to enforce rights of residential time, custody, and visitation, a man presumed to be the father as a result of filing a written acknowledgment must seek appropriate judicial orders under

this title;

(f) The United States immigration and naturalization service made or accepted a determination that he was the father of the child at the time of the child's entry into the United States and he had the opportunity at the time of the child's entry into the United States to admit or deny the paternal relationship; or

(g) Genetic testing indicates a ninety-eight percent or greater probability of paternity.

(2) A presumption under this section may be rebutted in an appropriate action only by clear, cogent, and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

[1997 c 58 § 938; 1994 c 230 § 14; 1990 c 175 § 2; 1989 c 55 § 4; 1975-'76 2nd ex.s. c 42 § 5.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.26.050 Artificial insemination.

(1) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(2) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived unless the donor and the woman agree in writing that said donor shall be the father. The agreement must be in writing and signed by the donor and the woman. The physician shall certify their signatures and the date of the insemination and file the agreement with the registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(3) The failure of the licensed physician to perform any administrative act required by this section shall not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only in exceptional cases upon an order of the court for good cause shown.

[1975-'76 2nd ex.s. c 42 § 6.]

RCW 26.26.060 Determination of father and child relationship--Who may bring action--When action may be brought.

(1)(a) A child, a child's natural mother, a man alleged or alleging himself to be the father, a child's guardian, a child's personal representative, the state of Washington, or any interested

party may bring an action at any time for the purpose of declaring the existence or nonexistence of the father and child relationship.

(b) A man presumed to be a child's father under RCW 26.26.040 may bring an action for the purpose of declaring the nonexistence of the father and child relationship only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(2) In an action brought by the state pursuant to this chapter, the state may be represented by either the prosecuting attorney for the county where the action is brought or by the attorney general.

(3) Regardless of its terms, no agreement between an alleged or presumed father and the mother or child, shall bar an action under this section.

(4) If an action under this section is brought before the birth of the child, all proceedings may be stayed until after the birth, except service of process and discovery, including the taking of depositions to perpetuate testimony.

(5) Actions under this chapter may be maintained as to any child, whether born before or after the enactment of this chapter.

[1983 1st ex.s. c 41 § 5; 1975-'76 2nd ex.s. c 42 § 7.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.065 Mandatory use of approved forms.

(1) Effective January 1, 1992, a party shall not file any pleading with the clerk of the court in an action commenced under this chapter unless on forms approved by the administrator for the courts.

(2) The parties shall comply with requirements for submission to the court of forms as provided in RCW 26.18.220.

[1992 c 229 § 7; 1990 1st ex.s. c 2 § 28.]

Notes:

Effective dates--Severability--1990 1st ex.s. c 2: See notes following RCW 26.09.100.

RCW 26.26.070 Determination of father and child relationship--Petition to arrest alleged father--Warrant of arrest--Issuance--Grounds--Hearing.

(1) The petitioner in an action to determine the existence of the father and child relationship may petition the court to issue a warrant for the arrest of the alleged father at any stage of the proceeding including after a judgment has been entered. When such petition is filed, the court shall examine on oath the petitioner and any witnesses the court may require, take their statements, and cause the statements and the petition to be subscribed under oath by the person or persons making such.

(2) If it appears from such evidence that there is reasonable cause to believe that the father and child relationship exists as alleged in the petition the court shall issue a warrant for the arrest of the alleged father: PROVIDED, That in the case of a prejudgment petition, a warrant shall only be issued if there is reasonable cause to believe that: (a) The alleged father will not appear in response to a summons; or (b) the summons cannot be served; or (c) the alleged father is likely to leave the jurisdiction; or (d) the safety of the petitioner would be endangered if the warrant did not issue.

(3) In the case of a petition for the arrest of a person pursuant to the continuing jurisdiction of the court described in RCW 26.26.160 or as an aid to enforcement of a judgment and order previously rendered under this chapter, a warrant shall issue only if there is reasonable cause to believe that: (a) The respondent is delinquent in complying with court's order and conceals himself or has absconded or absented himself from his usual place of abode in this state so that ordinary process of law may not be served upon him; or (b) the respondent has or is about to remove any of his property from this state with the intent to delay or otherwise frustrate the court's order; or (c) the respondent has or is about to assign, secrete, convert, or dispose of any of his property with the intent to delay or otherwise frustrate the court's order.

(4) Any person arrested pursuant to this section shall be entitled upon request to a preliminary hearing as soon as practically possible, and in any event not later than the close of business of the next judicial day following the day of arrest. The court may, for good cause stated, enlarge the time prior to preliminary hearing.

(5) If a person arrested pursuant to this section is not afforded a preliminary hearing upon request as required by subsection (4) of this section, the court shall order such person brought before the court forthwith, and in default thereof, the court shall order his immediate release unless good cause to the contrary be shown.

(6) Any person arrested pursuant to this section shall at this first court appearance be ordered released on his personal recognizance pending trial, unless the court determines that such recognizance will not reasonably assure (a) his appearance, when required, or (b) compliance with the court's order. When such determination is made the court shall order the person returned to custody or impose such other conditions as will reasonably assure his appearance or compliance with the court's order.

[1975-'76 2nd ex.s. c 42 § 8.]

RCW 26.26.080 Jurisdiction--Venue.

(1) The superior courts have jurisdiction of an action brought under this chapter. The action may be joined with an action for divorce, dissolution, annulment, declaration of invalidity, separate maintenance, filiation, support, or any other civil action in which paternity is an issue including proceedings in juvenile court.

(2) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this chapter with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by

statute, personal jurisdiction may be acquired by personal service of summons outside this state or by service in accordance with RCW 4.28.185 as now or hereafter amended.

(3) The action may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

[1975-'76 2nd ex.s. c 42 § 9.]

RCW 26.26.090 Parties.

(1) The child shall be made a party to the action. If the child is a minor, the child shall be represented by the child's general guardian or a guardian ad litem appointed by the court subject to RCW 74.20.310. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under RCW 26.26.040, and a man or men alleged to be the natural father shall be made parties or, if not subject to the jurisdiction of the court, shall, if possible, be given actual notice of the action and an opportunity to be heard in a manner as the court may prescribe.

(2) Any party may cause to be joined as additional parties other men alleged to be the father of the child or any other person necessary for a full adjudication of the issues.

(3) The failure or inability to join as a party an alleged or presumed father does not deprive the court of jurisdiction to adjudicate some or all of the issues based on the evidence and parties available to it.

(4) If more than one party is alleged to be the father of the child, the default of a party shall not preclude the court from finding any other party to be the father of the child.

[1984 c 260 § 31; 1983 1st ex.s. c 41 § 6; 1975-'76 2nd ex.s. c 42 § 10.]

Notes:

Severability--1984 c 260: See RCW 26.18.900.

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.100 Blood or genetic tests.

(1) The court may, and upon request of a party shall, require the child, mother, and any alleged or presumed father who has been made a party to submit to blood tests or genetic tests of blood, tissues, or other bodily fluids. If a party objects to a proposed order requiring blood or genetic tests, the court shall require the party making the allegation of possible paternity to provide sworn testimony, by affidavit or otherwise, stating the facts upon which the allegation is based. The court shall order blood or genetic tests if it appears that a reasonable possibility exists that the requisite sexual contact occurred or where nonpaternity is alleged, that the requisite sexual contact did not occur. The tests shall be performed by an expert in paternity blood or genetic testing appointed by the court. The expert's verified report identifying the blood or genetic characteristics observed is admissible in evidence in any hearing or trial in the parentage action, if (a) the alleged or presumed father has had the opportunity to gain information about the

security, validity, and interpretation of the tests and the qualifications of any experts, and (b) the report is accompanied by an affidavit from the expert which describes the expert's qualifications as an expert and analyzes and interprets the results. Verified documentation of the chain of custody of the blood or genetic samples tested is admissible to establish the chain of custody. The court may consider published sources as aids to interpretation of the test results.

(2)(a) Any objection to genetic testing results must be made in writing and served upon the opposing party, within twenty days before any hearing at which such results may be introduced into evidence.

(b) If an objection is not made as provided in this subsection, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

(3) The court, upon request by a party, shall order that additional blood or genetic tests be performed by the same or other experts qualified in paternity blood or genetic testing, if the party requesting additional tests advances the full costs of the additional testing within a reasonable time. The court may order additional testing without requiring that the requesting party advance the costs only if another party agrees to advance the costs or if the court finds, after hearing, that (a) the requesting party is indigent, and (b) the laboratory performing the initial tests recommends additional testing or there is substantial evidence to support a finding as to paternity contrary to the initial blood or genetic test results. The court may later order any other party to reimburse the party who advanced the costs of additional testing for all or a portion of the costs.

(4) In all cases, the court shall determine the number and qualifications of the experts.

[1997 c 58 § 946. Prior: 1994 c 230 § 15; 1994 c 146 § 1; 1984 c 260 § 32; 1983 1st ex.s. c 41 § 7; 1975-'76 2nd ex.s. c 42 § 11.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Severability--1984 c 260: See RCW 26.18.900.

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.110 Evidence relating to paternity.

Evidence relating to paternity may include:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) An expert's opinion concerning the impossibility or the statistical probability of the alleged father's paternity based upon blood or genetic test results;

(4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man

to submit to appropriate tests; and

(5) All other evidence relevant to the issue of paternity of the child.

[1994 c 146 § 2; 1984 c 260 § 33; 1975-'76 2nd ex.s. c 42 § 12.]

Notes:

Severability--1984 c 260: See RCW 26.18.900.

RCW 26.26.120 Civil action--Testimony--Evidence--Jury.

(1) An action under this chapter is a civil action governed by the rules of civil procedures. The mother of the child and the alleged father are competent to testify and may be compelled to testify.

(2) Upon refusal of any witness, including a party, to testify under oath or produce evidence of any other kind on the ground that the witness may be incriminated thereby, and if a prosecuting attorney requests the court to order that person to testify or provide the evidence, the court shall then hold a hearing and shall so order, unless it finds that to do so would be clearly contrary to the public interest, and that person shall comply with the order.

If, but for this section, the witness would have been privileged to withhold the answer given or the evidence produced, the witness may not refuse to comply with the order on the basis of the privilege against self-incrimination; but the witness shall not be prosecuted or subjected to criminal penalty or forfeiture for or on account of any transaction, matter, or fact concerning which the witness has been ordered to testify pursuant to this section. The witness may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or for offering false evidence to the court.

(3) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

(4) In an action against an alleged father, evidence offered by the alleged father with respect to a man who has not been joined as a party concerning the nonparty's sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if the nonparty has undergone and made available to the court blood or genetic tests, the results of which do not exclude the possibility of the nonparty's paternity of the child.

(5) The trial shall be by the court without a jury.

[1994 c 146 § 3; 1984 c 260 § 34; 1975-'76 2nd ex.s. c 42 § 13.]

Notes:

Severability--1984 c 260: See RCW 26.18.900.

Nurse-patient privilege subject to RCW 26.26.120: RCW 5.62.030.

RCW 26.26.130 Judgment or order determining parent and child relationship--Support judgment and orders--Residential provisions--Custody--Restraining orders--Notice of modification or termination of restraining order.

(1) The judgment and order of the court determining the existence or nonexistence of the

parent and child relationship shall be determinative for all purposes.

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

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

(4) The judgment and order shall contain the social security numbers of all parties to the order.

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

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

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

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

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

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

UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

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

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

[2000 c 119 § 10; 1997 c 58 § 947; 1995 c 246 § 31; 1994 sp.s. c 7 § 455. Prior: 1989 c 375 § 23; 1989 c 360 § 18; 1987 c 460 § 56; 1983 1st ex.s. c 41 § 8; 1975-'76 2nd ex.s. c 42 § 14.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Severability--1995 c 246: See note following RCW 26.50.010.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability--1989 c 375: See RCW 26.09.914.

Short title--Section captions--Effective date--Severability--1987 c 460: See RCW 26.09.910 through 26.09.913.

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.132 Support orders--Compliance with RCW 26.23.050.

Every court order or decree establishing a child support obligation shall be entered in compliance with RCW 26.23.050.

[1987 c 435 § 27; 1986 c 138 § 3; 1984 c 260 § 23.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

Severability--1984 c 260: See RCW 26.18.900.

RCW 26.26.134 Support orders--Time limit, exception.

A court may not order payment for support provided or expenses incurred more than five years prior to the commencement of the action. Any period of time in which the responsible party has concealed himself or avoided the jurisdiction of the court under this chapter shall not be included within the five-year period.

[1983 1st ex.s. c 41 § 11.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.137 Temporary support--Temporary restraining order--Preliminary injunction--Domestic violence or antiharassment protection order--Notice of modification or termination of restraining order--Support debts, notice.

(1) If the court has made a finding as to the paternity of a child, or if a party's acknowledgment of paternity has been filed with the court, or a party alleges he is the father of the child, any party may move for temporary support for the child prior to the date of entry of the final order. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

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

- (a) Molesting or disturbing the peace of another party;
- (b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;
- (c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and
- (d) Removing a child from the jurisdiction of the court.

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

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

(5) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law

enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

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

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

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

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

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

(b) May be revoked or modified;

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

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

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

[2000 c 119 § 11; 1995 c 246 § 32; 1994 sp.s. c 7 § 456; 1983 1st ex.s. c 41 § 12.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.138 Restraining order--Knowing violation--Penalty--Law enforcement

immunity.

(1) Whenever a restraining order is issued under this chapter, and the person to be restrained knows of the order, a violation of the provisions restricting the person from acts or threats of violence or of a provision restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, is punishable under RCW 26.50.110.

(2) A person is deemed to have notice of a restraining order if:

- (a) The person to be restrained or the person's attorney signed the order;
- (b) The order recites that the person to be restrained or the person's attorney appeared in person before the court;
- (c) The order was served upon the person to be restrained; or
- (d) The peace officer gives the person oral or written evidence of the order by reading from it or handing to the person a certified copy of the original order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(3) A peace officer shall verify the existence of a restraining order by:

- (a) Obtaining information confirming the existence and terms of the order from a law enforcement agency; or
- (b) Obtaining a certified copy of the order, certified to be an accurate copy of the original by a notary public or by the clerk of the court.

(4) A peace officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

- (a) A restraining order has been issued under this chapter;
- (b) The respondent or person to be restrained knows of the order; and
- (c) The person to be arrested has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering the residence, workplace, school, or day care of another, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(5) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule.

(6) No peace officer may be held criminally or civilly liable for making an arrest under subsection (4) of this section if the officer acts in good faith and without malice.

[2000 c 119 § 23; 1999 c 184 § 12; 1996 c 248 § 11; 1995 c 246 § 33.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Short title--Severability--1999 c 184: See RCW 26.52.900 and 26.52.902.

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.26.140 Costs.

The court may order reasonable fees of experts and the child's guardian ad litem, and other costs of the action, including blood or genetic test costs, to be paid by the parties in proportions and at times determined by the court. The court may order that all or a portion of a party's reasonable attorney's fees be paid by another party, except that an award of attorney's fees assessed against the state or any of its agencies or representatives shall be under RCW 4.84.185.

[1994 c 146 § 4; 1984 c 260 § 35; 1975-'76 2nd ex.s. c 42 § 15.]

Notes:

Severability--1984 c 260: See RCW 26.18.900.

RCW 26.26.145 Proof of certain support and paternity establishment costs.

In all actions brought under this chapter, bills for pregnancy, childbirth, and genetic testing shall:

- (1) Be admissible as evidence without requiring third-party foundation testimony; and
- (2) Constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

[1997 c 58 § 939.]

Notes:

Short title--Part headings, captions, table of contents not law--Exemptions and waivers from federal law--Conflict with federal requirements--Severability--1997 c 58: See RCW 74.08A.900 through 74.08A.904.

RCW 26.26.150 Enforcement of judgments or orders.

(1) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

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

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

[1994 c 230 § 16; 1987 c 435 § 28; 1975-'76 2nd ex.s. c 42 § 16.]

Notes:

Effective date--1987 c 435: See RCW 26.23.900.

RCW 26.26.160 Modification of judgment or order--Continuing jurisdiction.

(1) Except as provided in subsection (2) of this section the court has continuing jurisdiction to prospectively modify a judgment and order for future education and future support, and with respect to matters listed in RCW 26.26.130 (3) and (5), and RCW 26.26.150(2)

upon showing a substantial change of circumstances. The procedures set forth in RCW 26.09.175 shall be used in modification proceedings under this section.

(2) A judgment or order entered under this chapter may be modified without a showing of substantial change of circumstances upon the same grounds as RCW 26.09.170 permits support orders to be modified without a showing of a substantial change of circumstance.

(3) The court may modify a parenting plan or residential provisions adopted pursuant to RCW 26.26.130(7) in accordance with the provisions of chapter 26.09 RCW.

(4) The court shall hear and review petitions for modifications of a parenting plan, custody order, visitation order, or other order governing the residence of a child, and conduct any proceedings concerning a relocation of the residence where the child resides a majority of the time, pursuant to chapter 26.09 RCW.

[2000 c 21 § 20; 1992 c 229 § 8; 1989 c 360 § 36; 1975-'76 2nd ex.s. c 42 § 17.]

Notes:

Applicability--2000 c 21: See RCW 26.09.405.

Intent--Captions not law--2000 c 21: See notes following RCW 26.09.405.

RCW 26.26.165 Health insurance coverage.

(1) In entering or modifying a support order under this chapter, the court shall require either or both parents to maintain or provide health insurance coverage for any dependent child as provided under RCW 26.09.105.

(2) This section shall not be construed to limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health costs, or insurance premiums which are in addition to and not inconsistent with this section. "Health insurance coverage" as used in this section does not include medical assistance provided under chapter 74.09 RCW.

(3) A parent ordered to provide health insurance coverage shall provide proof of such coverage or proof that such coverage is unavailable within twenty days of the entry of the order to:

(a) The physical custodian; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(4) Every order requiring a parent to provide health insurance coverage shall be entered in compliance with *RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

[1994 c 230 § 17; 1989 c 416 § 4.]

Notes:

***Reviser's note:** The reference to RCW 26.23.050 appears to refer to the amendments made by 1989 c 416 § 8, which was vetoed by the governor.

RCW 26.26.170 Action to determine mother and child relationship.

Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this chapter applicable to the father and child relationship apply.

[1975-'76 2nd ex.s. c 42 § 18.]

RCW 26.26.180 Promise to render support.

Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship, does not require consideration and is enforceable according to its terms, subject to RCW 26.26.060(3).

[1983 1st ex.s. c 41 § 9; 1975-'76 2nd ex.s. c 42 § 19.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.190 Relinquishment of child for adoption--Notice to other parent.

If a parent relinquishes or proposes to relinquish for adoption a child, the other parent shall be given notice of the adoption proceeding and have the rights provided under the provisions of chapter 26.33 RCW.

[1985 c 7 § 87; 1975-'76 2nd ex.s. c 42 § 20.]

RCW 26.26.200 Hearing or trials to be in closed court--Records confidential.

Notwithstanding any other rule of law concerning public hearings and records, any hearing or trial held under this chapter shall be held in closed court without admittance of any person other than those necessary to the action or proceeding or for the orderly administration of justice. All papers and records, other than the final judgment and matters related to the enforcement of the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the department of social and health services, are subject to inspection by a nonparty only upon an order of the court for good cause shown following reasonable notice to all parties of the hearing where such order is to be sought.

[1983 1st ex.s. c 41 § 10; 1975-'76 2nd ex.s. c 42 § 21.]

Notes:

Severability--1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 26.26.210 Surrogate parenting--Definitions.

As used in RCW 26.26.210 through 26.26.260:

(1) "Compensation" means a payment of money, objects, services, or anything else having monetary value except payment of expenses incurred as a result of the pregnancy and the actual

medical expenses of a surrogate mother, and the payment of reasonable attorney fees for the drafting of a surrogate parentage contract.

(2) "Surrogate gestation" means the implantation in a female of an embryo not genetically related to that female and subsequent gestation of a child by that female.

(3) "Surrogate mother" means a female, who is not married to the contributor of the sperm, and who is naturally or artificially inseminated and who subsequently gestates a child conceived through the insemination pursuant to a surrogate parentage contract.

(4) "Surrogate parentage contract" means a contract, agreement, or arrangement in which a female, not married to the contributor of the sperm, agrees to conceive a child through natural or artificial insemination or in which a female agrees to surrogate gestation, and to voluntarily relinquish her parental rights to the child.

[1989 c 404 § 1.]

RCW 26.26.220 Surrogate parenting--Persons excluded from contracting.

A person shall not enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract under which an unemancipated minor female or a female diagnosed as being mentally retarded or as having a mental illness or developmental disability is the surrogate mother.

[1989 c 404 § 2.]

RCW 26.26.230 Surrogate parenting--Compensation prohibited.

No person, organization, or agency shall enter into, induce, arrange, procure, or otherwise assist in the formation of a surrogate parentage contract, written or unwritten, for compensation.

[1989 c 404 § 3.]

RCW 26.26.240 Surrogate parenting--Contract for compensation void.

A surrogate parentage contract entered into for compensation, whether executed in the state of Washington or in another jurisdiction, shall be void and unenforceable in the state of Washington as contrary to public policy.

[1989 c 404 § 4.]

RCW 26.26.250 Surrogate parenting--Provisions violated--Penalty.

Any person, organization, or agency who intentionally violates any provision of RCW 26.26.210 through 26.26.260 shall be guilty of a gross misdemeanor.

[1989 c 404 § 5.]

RCW 26.26.260 Surrogate parenting--Custody of child.

If a child is born to a surrogate mother pursuant to a surrogate parentage contract, and there is a dispute between the parties concerning custody of the child, the party having physical custody of the child may retain physical custody of the child until the superior court orders otherwise. The superior court shall award legal custody of the child based upon the factors listed in RCW 26.09.187(3) and 26.09.191.

[1989 c 404 § 6.]

RCW 26.26.270 Parenting plan--Designation of parent for other state and federal purposes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes.

[1989 c 375 § 25.]

Notes:

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.26.900 Uniformity of application and construction.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

[1975-'76 2nd ex.s. c 42 § 42.]

RCW 26.26.901 Short title.

This act may be cited as the Uniform Parentage Act.

[1975-'76 2nd ex.s. c 42 § 43.]

RCW 26.26.905 Severability--1975-'76 2nd ex.s. c 42.

If any provision of this 1976 amendatory 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.

[1975-'76 2nd ex.s. c 42 § 44.]

Chapter 26.27 RCW
UNIFORM CHILD CUSTODY JURISDICTION ACT

Sections

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26.27.920	Severability--1979 c 98.
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RCW 26.27.010 Purposes of chapter--Construction of provisions.

(1) The general purposes of this chapter are to:

(a) Avoid jurisdiction competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;

(b) Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;

(c) Assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his

family have a closer connection with another state;

(d) Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(e) Deter abductions and other unilateral removals of children undertaken to obtain custody awards;

(f) Avoid relitigation of custody decisions of other states in this state insofar as feasible;

(g) Facilitate the enforcement of custody decrees of other states;

(h) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and

(i) Make uniform the law of those states which enact it.

(2) This chapter shall be construed to promote the general purposes stated in this section.

[1979 c 98 § 1.]

RCW 26.27.020 Definitions.

As used in this chapter:

(1) "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child;

(2) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person;

(3) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution of marriage, or legal separation, and includes child neglect and dependency proceedings;

(4) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;

(5) "Home state" means the state in which the child immediately preceding the time involved lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;

(6) "Initial decree" means the first custody decree concerning a particular child;

(7) "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court;

(8) "Physical custody" means actual possession and control of a child;

(9) "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by the court or claims a right to custody; and

(10) "State" means any state, territory, or possession of the United States, the

Commonwealth of Puerto Rico, and the District of Columbia.

[1979 c 98 § 2.]

RCW 26.27.030 Jurisdiction.

(1) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if the conditions as set forth in any of the following paragraphs are met:

(a) This state (i) is the home state of the child at the time of commencement of the proceeding, or (ii) had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state; or

(b) It is in the best interest of the child that a court of this state assume jurisdiction because (i) the child and his parents, or the child and at least one contestant, have a significant connection with this state, and (ii) there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or

(c) The child is physically present in this state and (i) the child has been abandoned or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

(d)(i) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (a), (b), or (c) of this subsection, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that this court assume jurisdiction.

(2) Except under subsection (1)(c) and (d) of this section, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

[1979 c 98 § 3.]

RCW 26.27.040 Notice and opportunity to be heard.

Before making a decree under this chapter, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given under RCW 26.27.050.

[1979 c 98 § 4.]

RCW 26.27.050 Notice to persons outside this state--Submission to jurisdiction.

(1) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be made in any of the following ways:

(a) By personal delivery outside this state in the manner prescribed for service of process within this state;

(b) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(c) By any form of mail addressed to the person to be served and requesting a receipt; or

(d) As directed by the court (including publication, if other means of notification are ineffective).

(2) Notice under this section shall be served, mailed, delivered, or last published at least ten days before any hearing in this state.

(3) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(4) Notice is not required if a person submits to the jurisdiction of the court.

[1979 c 98 § 5.]

RCW 26.27.060 Simultaneous proceedings in other states.

(1) A court of this state shall not exercise its jurisdiction under this chapter if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this chapter, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

(2) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under RCW 26.27.090 and shall consult the child custody registry established under RCW 26.27.160 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with RCW 26.27.190 through 26.27.220. If a court of this state has made a custody decree before being informed of a pending proceeding in a

court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

[1979 c 98 § 6.]

RCW 26.27.070 Inconvenient forum.

(1) A court which has jurisdiction under this chapter to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(2) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(3) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(a) If another state is or recently was the child's home state;

(b) If another state has a closer connection with the child and his family or with the child and one or more of the contestants;

(c) If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;

(d) If the parties have agreed on another forum which is no less appropriate; and

(e) If the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in RCW 26.27.010.

(4) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(5) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(6) The court may decline to exercise its jurisdiction under this chapter if a custody determination is incidental to an action for dissolution of marriage or another proceeding while retaining jurisdiction over the dissolution of marriage or other proceeding.

(7) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(8) Upon dismissal or stay of proceedings under this section the court shall inform the

court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(9) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.

[1979 c 98 § 7.]

RCW 26.27.080 Jurisdiction declined by reason of conduct.

(1) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction for purposes of adjudication of custody if this is just and proper under the circumstances.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(3) Where the court declines to exercise jurisdiction upon petition for an initial custody decree under subsection (1) of this section, the court shall notify the parent or other appropriate person and the prosecuting attorney of the appropriate jurisdiction in the other state. If a request to that effect is received from the other state, the court shall order the petitioner to appear with the child in a custody proceeding instituted in the other state in accordance with RCW 26.27.200. If no such request is made within a reasonable time after the notification, the court may entertain a petition to determine custody by the petitioner if it has jurisdiction under RCW 26.27.030.

(4) Where the court refuses to assume jurisdiction to modify the custody decree of another state under subsection (2) of this section or under RCW 26.27.140, the court shall notify the person who has legal custody under the decree of the other state and the prosecuting attorney of the appropriate jurisdiction in the other state and may order the petitioner to return the child to the person who has legal custody. If it appears that the order will be ineffective and the legal custodian is ready to receive the child within a period of a few days, the court may place the child in a foster care home for the period, pending return of the child to the legal custodian. At the same time, the court shall advise the petitioner that any petition for modification of custody must be directed to the appropriate court of the other state which has continuing jurisdiction, or, in the event that that court declines jurisdiction, to a court in a state which has jurisdiction under RCW 26.27.030.

(5) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees and the cost of

returning the child to another state.

[1979 c 98 § 8.]

RCW 26.27.090 Information under oath to be submitted to court.

(1) Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath as to each of the following whether:

(a) He has participated, as a party, witness, or in any other capacity, in any other litigation concerning the custody of the same child in this or any other state;

(b) He has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(c) He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(2) If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(3) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which he obtained information during this proceeding.

[1979 c 98 § 9.]

RCW 26.27.100 Additional parties.

If the court learns from information furnished by the parties under RCW 26.27.090 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he shall be served with process or otherwise notified in accordance with RCW 26.27.050.

[1979 c 98 § 10.]

RCW 26.27.110 Appearance of parties and child.

(1) The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child. If the party who is ordered to appear with the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a

warrant of arrest against the party to secure his appearance with the child.

(2) If a party to the proceeding whose presence is desired by the court is outside this state with or without the child the court may order that the notice given under RCW 26.27.050 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(3) If a party to the proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

[1979 c 98 § 11.]

RCW 26.27.120 Binding force and res judicata effect of custody decree.

A custody decree rendered by a court of this state which had jurisdiction under RCW 26.27.030 binds all parties who have been served in this state or notified in accordance with RCW 26.27.050 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this chapter.

[1979 c 98 § 12.]

RCW 26.27.130 Recognition of out-of-state custody decrees.

The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this chapter or which was made under factual circumstances meeting the jurisdictional standards of this chapter, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this chapter.

[1979 c 98 § 13.]

RCW 26.27.140 Modification of custody decree of another state.

(1) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (a) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or has declined to assume jurisdiction to modify the decree and (b) the court of this state has jurisdiction.

(2) If a court of this state is authorized under subsection (1) of this section and RCW 26.27.080 to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in

accordance with RCW 26.27.220.

[1979 c 98 § 14.]

RCW 26.27.150 Filing and enforcement of custody decree of another state.

(1) A certified copy of a custody decree of another state may be filed in the office of the clerk of any superior court of this state. The clerk shall treat the decree in the same manner as a custody decree of the superior court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

(2) A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.

[1979 c 98 § 15.]

RCW 26.27.160 Registry of out-of-state custody decrees and proceedings.

(1) The clerk of each superior court shall maintain a registry in which he or she shall enter certified copies of custody decrees of other states received for filing to which the clerk shall assign an individual cause number.

(2) The clerk shall maintain the following at no charge as miscellaneous filings:

(a) Communications as to the pendency of custody proceedings in other states;

(b) Communications concerning a finding of inconvenient forum by a court of another state; and

(c) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.

[1984 c 128 § 7; 1979 c 98 § 16.]

RCW 26.27.170 Certified copies of custody decree.

The clerk of a superior court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

[1979 c 98 § 17.]

RCW 26.27.180 Taking testimony in another state.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the

manner in which and the terms upon which the testimony shall be taken.

[1979 c 98 § 18.]

RCW 26.27.190 Hearings and studies in another state--Orders to appear.

(1) A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties or, if necessary, ordered paid by the state.

(2) A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

[1979 c 98 § 19.]

RCW 26.27.200 Assistance to courts of other states.

(1) Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this state or may order social studies under RCW 26.09.220 to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies made shall be forwarded by the clerk of the court to the requesting court.

(2) A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

(3) Upon request of the court of another state a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed. If the person who has physical custody of the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against such person to secure his appearance with the child in the other state.

[1979 c 98 § 20.]

RCW 26.27.210 Preservation of records of custody proceedings--Forwarding to another state.

In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.

[1979 c 98 § 21.]

RCW 26.27.220 Request for court records of another state.

If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in RCW 26.27.210.

[1979 c 98 § 22.]

RCW 26.27.230 International application.

The general policies of this chapter extend to the international area. The provisions of this chapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

[1979 c 98 § 23.]

RCW 26.27.900 Construction with chapter 26.09 RCW.

This chapter is in addition to and shall be construed in conjunction with chapter 26.09 RCW. In the event of an irreconcilable conflict between this chapter and chapter 26.09 RCW, chapter 26.09 RCW shall control.

[1979 c 98 § 24.]

RCW 26.27.910 Short title.

This chapter may be cited as the Uniform Child Custody Jurisdiction Act.

[1979 c 98 § 25.]

RCW 26.27.920 Severability--1979 c 98.

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.

[1979 c 98 § 26.]

RCW 26.27.930 Section captions.

Section captions used in this act shall constitute no part of the law.

[1979 c 98 § 27.]

**Chapter 26.28 RCW
AGE OF MAJORITY**

(Formerly: Infants)

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Schools and colleges, generally: Titles 28A and 28B RCW.

Sexual psychopaths and psychopathic delinquents: Chapter 71.06 RCW.

Sexually transmitted diseases: RCW 70.24.110.

Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.

Special education--Children with handicapping conditions: Chapter 28A.155 RCW.

Special rights of action (civil)

action by parent for sale or transfer of controlled substance to minor: RCW 69.50.414.

action by parent for seduction of child: RCW 4.24.020.

action for injury or death of child: RCW 4.24.010.
State school for blind and deaf--Who may be admitted: RCW 72.40.040.
State school for girls: Chapter 72.20 RCW.
State training school for boys: Chapter 72.16 RCW.
Survival of actions (civil)--Action for personal injury survives to spouse, child, stepchildren, or heirs: RCW 4.20.060.
Temporary assistance for needy families: Chapter 74.12 RCW.
Unemployment compensation, "employment"--Newsboy service exemption: RCW 50.04.240.
Uniform transfers to minors act: Chapter 11.114 RCW.
Uniform veterans' guardianship act--Guardian for minor: RCW 73.36.060.
Vital statistics, supplemental report on name of child: RCW 70.58.100.
Worker's compensation--"Child" defined: RCW 51.08.030.

RCW 26.28.010 Age of majority.

Except as otherwise specifically provided by law, all persons shall be deemed and taken to be of full age for all purposes at the age of eighteen years.

[1971 ex.s. c 292 § 1; 1970 ex.s. c 17 § 1; 1923 c 72 § 2; Code 1881 § 2363; 1866 p 92 § 1; 1863 p 434 § 1; 1854 p 407 § 1; RRS § 10548.]

Notes:

Severability--1971 ex.s. c 292: "If any provision of this 1971 amendatory 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." [1971 ex.s. c 292 § 77.]

Saving--1923 c 72: "This act shall not apply to females who shall have attained the age of eighteen years at the time this act shall go into effect." [1923 c 72 § 3.] 1923 c 72 was codified as RCW 11.92.010 and 26.28.010.
Age of majority for probate law and procedure purposes: RCW 11.76.080, 11.76.095, 11.88.020, and 11.92.010.

RCW 26.28.015 Age of majority for enumerated specific purposes.

Notwithstanding any other provision of law, and except as provided under RCW 26.50.020, all persons shall be deemed and taken to be of full age for the specific purposes hereafter enumerated at the age of eighteen years:

- (1) To enter into any marriage contract without parental consent if otherwise qualified by law;
- (2) To execute a will for the disposition of both real and personal property if otherwise qualified by law;
- (3) To vote in any election if authorized by the Constitution and otherwise qualified by law;
- (4) To enter into any legal contractual obligation and to be legally bound thereby to the full extent as any other adult person;
- (5) To make decisions in regard to their own body and the body of their lawful issue whether natural born to or adopted by such person to the full extent allowed to any other adult person including but not limited to consent to surgical operations;

(6) To sue and be sued on any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem.

[1992 c 111 § 12; 1971 ex.s. c 292 § 2.]

Notes:

Severability--1992 c 111: See RCW 26.50.903.

Findings--1992 c 111: See note following RCW 26.50.030.

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.

Alcohol and drug treatment: RCW 70.96A.095.

Mental health treatment: Chapter 71.34 RCW.

Sexually transmitted diseases: RCW 70.24.110.

RCW 26.28.020 Married persons--When deemed of full age.

All minor persons married to a person of full age shall be deemed and taken to be of full age.

[1973 1st ex.s. c 154 § 38; Code 1881 § 2364; 1863 p 434 § 2; 1854 p 407 § 2; RRS § 10549.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 26.28.030 Contracts of minors--Disaffirmance.

A minor is bound, not only by contracts for necessities, but also by his other contracts, unless he disaffirms them within a reasonable time after he attains his majority, and restores to the other party all money and property received by him by virtue of the contract, and remaining within his control at any time after his attaining his majority.

[1866 p 92 § 2; RRS § 5829.]

RCW 26.28.040 Disaffirmance barred in certain cases.

No contract can be thus disaffirmed in cases where on account of the minor's own misrepresentations as to his majority, or from his having engaged in business as an adult, the other party had good reasons to believe the minor capable of contracting.

[1866 p 93 § 3; RRS § 5830.]

RCW 26.28.050 Satisfaction of minor's contract for services.

When a contract for the personal services of a minor has been made with him alone, and those services are afterwards performed, payment made therefor to such minor in accordance with the terms of the contract, is a full satisfaction for those services, and the parents or guardian cannot recover therefor.

[1866 p 93 § 4; RRS § 5831.]

RCW 26.28.060 Child labor--Penalty.

(1) Every person who shall employ, and every parent, guardian or other person having the care, custody or control of such child, who shall permit to be employed, by another, any child under the age of fourteen years at any labor whatever, in or in connection with any store, shop, factory, mine or any inside employment not connected with farm or house work, without the written permit thereto of a judge of a superior court of the county wherein such child may live, shall be guilty of a misdemeanor.

(2) Subsection (1) of this section does not apply to children employed as actors or performers in film, video, audio, or theatrical productions.

[1994 c 62 § 1; 1973 1st ex.s. c 154 § 39; 1909 c 249 § 195; RRS § 2447.]

Notes:

Severability--1973 1st ex.s. c 154: See note following RCW 2.12.030.

Child labor: Chapter 49.12 RCW.

Employment permits: RCW 28A.225.080.

RCW 26.28.070 Certain types of employment prohibited--Penalty.

Every person who shall employ, or cause to be employed, exhibit or have in his custody for exhibition or employment any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer or other person having the care, custody, or control of any such minor, who shall in any way procure or consent to the employment of such minor:

(1) In begging, receiving alms, or in any mendicant occupation; or,

(2) In any indecent or immoral exhibition or practice; or,

(3) In any practice or exhibition dangerous or injurious to life, limb, health or morals; or,

(4) As a messenger for delivering letters, telegrams, packages or bundles, to any known house of prostitution or assignation;

Shall be guilty of a misdemeanor.

[1909 c 249 § 194; RRS § 2446.]

Notes:

Juvenile courts and juvenile offenders: Title 13 RCW.

RCW 26.28.080 Selling or giving tobacco to minor--Belief of representative capacity, no defense--Penalty.

Every person who sells or gives, or permits to be sold or given to any person under the age of eighteen years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form is guilty of a gross misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

[1994 sp.s. c 7 § 437. Prior: 1987 c 250 § 2; 1987 c 204 § 1; 1971 ex.s. c 292 § 37; 1919 c 17 § 1; 1911 c 133 § 1; 1909 ex.s. c 27 § 1; 1909 c 249 § 193; 1901 c 122 § 1; 1895 c 126 §§ 1, 3 and 4; RRS § 2445. Formerly RCW 26.08.080, 26.08.090, and 26.08.100.]

Notes:

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability--1971 ex.s. c 292: See note following RCW 26.28.010.

Juvenile courts and juvenile offenders: Title 13 RCW.

Minors, access to tobacco, role of liquor control board: Chapter 70.155 RCW.

RCW 26.28.085 Applying tattoo to a minor--Penalty.

Every person who applies a tattoo to any minor under the age of eighteen is guilty of a misdemeanor. It is not a defense to a violation of this section that the person applying the tattoo did not know the minor's age unless the person applying the tattoo establishes by a preponderance of the evidence that he or she made a reasonable, bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license or other picture identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

For the purposes of this section, "tattoo" includes any permanent marking or coloring of the skin with any pigment, ink, or dye, or any procedure that leaves a visible scar on the skin. Medical procedures performed by a licensed physician are exempted from this section.

[1995 c 373 § 1.]

Chapter 26.30 RCW
UNIFORM MINOR STUDENT CAPACITY TO BORROW ACT

Sections

26.30.010	Definitions.
26.30.020	Minors--Contracts--Educational purposes--Enforceability.
26.30.900	Uniformity of interpretation.
26.30.910	Short title.
26.30.920	Effective date--1970 ex.s. c 4.

RCW 26.30.010 Definitions.

As used in this chapter:

(1) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Educational institution" means any university, college, community college, junior

college, high school, technical, vocational, or professional school, or similar institution, wherever located, which has been accredited by the Northwest Association of Higher and Secondary Institutions or approved by the state agency having regulatory powers over the class of schools to which the school belongs, or accredited or approved by the appropriate official, department, or agency of the state in which the institution is located.

(3) "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution.

[1970 ex.s. c 4 § 1.]

Notes:

Student financial aid program: RCW 28B.10.800 through 28B.10.824.

RCW 26.30.020 Minors--Contracts--Educational purposes--Enforceability.

Any written obligation signed by a minor sixteen or more years of age in consideration of an educational loan received by him from any person is enforceable as if he were an adult at the time of execution, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution.

[1970 ex.s. c 4 § 2.]

Notes:

Contracts of minors, disaffirmance: RCW 26.28.030.

RCW 26.30.900 Uniformity of interpretation.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[1970 ex.s. c 4 § 3.]

RCW 26.30.910 Short title.

This chapter may be cited as the "Uniform Minor Student Capacity to Borrow Act."

[1970 ex.s. c 4 § 4.]

RCW 26.30.920 Effective date--1970 ex.s. c 4.

This chapter shall take effect on July 1, 1970.

[1970 ex.s. c 4 § 5.]

Chapter 26.33 RCW

ADOPTION

Sections

26.33.010	Intent.
26.33.020	Definitions.
26.33.030	Petitions--Place of filing--Consolidation of petitions and hearings.
26.33.040	Petitions--Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required.
26.33.045	Delay or denial of adoption on basis of race, color, or national origin prohibited--Consideration in placement--Exception.
26.33.050	Validity of consents, relinquishments, or orders of termination from other jurisdictions--Burden of proof.
26.33.060	Hearings--Procedure--Witnesses.
26.33.070	Appointment of guardian ad litem--When required--Payment of fees.
26.33.080	Petition for relinquishment--Filing--Written consent required.
26.33.090	Petition for relinquishment--Hearing--Temporary custody order--Notice--Order of relinquishment.
26.33.100	Petition for termination--Who may file--Contents--Time.
26.33.110	Petition for termination--Time and place of hearing--Notice of hearing and petition--Contents.
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26.33.160	Consent to adoption--When revocable--Procedure.
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26.33.380	Family and social history report required--Identity of birth parents confidential.
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26.33.390	Information on adoption-related services.
26.33.400	Advertisements--Prohibitions--Exceptions--Application of consumer protection act.
26.33.410	Advertisements--Exemption.
26.33.900	Effective date--Application--1984 c 155.
26.33.901	Severability--1984 c 155.

Notes:

Child selling and child buying, class C felony: RCW 9A.64.030.

Dependent and delinquent children: Title 13 RCW.

Descent and distribution--Adopted children: Chapter 11.04 RCW.

Paternity, determination: Chapter 26.26 RCW.

Welfare agencies for children: Title 13 RCW.

RCW 26.33.010 Intent.

The legislature finds that the purpose of adoption is to provide stable homes for children. Adoptions should be handled efficiently, but the rights of all parties must be protected. The guiding principle must be determining what is in the best interest of the child. It is the intent of the legislature that this chapter be used only as a means for placing children in adoptive homes and not as a means for parents to avoid responsibility for their children unless the department, an agency, or a prospective adoptive parent is willing to assume the responsibility for the child.

[1984 c 155 § 1.]

RCW 26.33.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alleged father" means a person whose parent-child relationship has not been terminated, who is not a presumed father under chapter 26.26 RCW, and who alleges himself or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than three hundred days before the birth of the child or who was separated from the mother more than three hundred days before the birth of the child.

(2) "Child" means a person under eighteen years of age.

(3) "Adoptee" means a person who is to be adopted or who has been adopted.

(4) "Adoptive parent" means the person or persons who seek to adopt or have adopted an adoptee.

(5) "Court" means the superior court.

(6) "Department" means the department of social and health services.

(7) "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child placing agency under chapter 74.15 RCW or as an adoption agency.

(8) "Parent" means the natural or adoptive mother or father of a child, including a presumed father under chapter 26.26 RCW. It does not include any person whose parent-child relationship has been terminated by a court of competent jurisdiction.

(9) "Legal guardian" means the department, an agency, or a person, other than a parent or stepparent, appointed by the court to promote the child's general welfare, with the authority and duty to make decisions affecting the child's development.

(10) "Guardian ad litem" means a person, not related to a party to the action, appointed by the court to represent the best interests of a party who is under a legal disability.

(11) "Relinquish or relinquishment" means the voluntary surrender of custody of a child to the department, an agency, or prospective adoptive parents.

(12) "Individual approved by the court" or "qualified salaried court employee" means a person who has a master's degree in social work or a related field and one year of experience in social work, or a bachelor's degree and two years of experience in social work, and includes a person not having such qualifications only if the court makes specific findings of fact that are entered of record establishing that the person has reasonably equivalent experience.

(13) "Birth parent" means the biological mother or biological or alleged father of a child, including a presumed father under chapter 26.26 RCW, whether or not any such person's parent-child relationship has been terminated by a court of competent jurisdiction. "Birth parent" does not include a biological mother or biological or alleged father, including a presumed father under chapter 26.26 RCW, if the parent-child relationship was terminated because of an act for which the person was found guilty under chapter 9A.42 or 9A.44 RCW.

(14) "Nonidentifying information" includes, but is not limited to, the following information about the birth parents, adoptive parents, and adoptee:

- (a) Age in years at the time of adoption;
- (b) Heritage, including nationality, ethnic background, and race;
- (c) Education, including number of years of school completed at the time of adoption, but not name or location of school;
- (d) General physical appearance, including height, weight, color of hair, eyes, and skin, or other information of a similar nature;
- (e) Religion;
- (f) Occupation, but not specific titles or places of employment;
- (g) Talents, hobbies, and special interests;
- (h) Circumstances leading to the adoption;
- (i) Medical and genetic history of birth parents;
- (j) First names;
- (k) Other children of birth parents by age, sex, and medical history;
- (l) Extended family of birth parents by age, sex, and medical history;

- (m) The fact of the death, and age and cause, if known;
- (n) Photographs;
- (o) Name of agency or individual that facilitated the adoption.

[1993 c 81 § 1; 1990 c 146 § 1; 1984 c 155 § 2.]

RCW 26.33.030 Petitions--Place of filing--Consolidation of petitions and hearings.

(1) A petition under this chapter may be filed in the superior court of the county in which the petitioner is a resident or of the county in which the adoptee is domiciled.

(2) A petition under this chapter may be consolidated with any other petition under this chapter. A hearing under this chapter may be consolidated with any other hearing under this chapter.

[1984 c 155 § 3.]

RCW 26.33.040 Petitions--Statements and findings about Indian Child Welfare Act and Soldiers and Sailors Civil Relief Act required.

(1) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Indian Child Welfare Act does or does not apply. In proceedings under this chapter, the adoption facilitator shall file a sworn statement documenting efforts to determine whether the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies.

(2) Every petition filed in proceedings under this chapter shall contain a statement alleging whether the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. Sec. 501 et seq. applies to the proceeding. Every order or decree entered in any proceeding under this chapter shall contain a finding that the Soldiers and Sailors Civil Relief Act of 1940 does or does not apply.

[1991 c 136 § 1; 1984 c 155 § 4.]

RCW 26.33.045 Delay or denial of adoption on basis of race, color, or national origin prohibited--Consideration in placement--Exception.

An adoption shall not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child involved. However, when the department or an agency considers whether a placement option is in a child's best interests, the department or agency may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background. This provision shall not apply to or affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. Sec. 1901 et seq.

[1995 c 270 § 8.]

Notes:

Finding--1995 c 270: See note following RCW 74.13.118.

RCW 26.33.050 Validity of consents, relinquishments, or orders of termination from other jurisdictions--Burden of proof.

Any consent, relinquishment, or order of termination that would be valid in the jurisdiction in which it was executed or obtained, and which comports with due process of law, is valid in Washington state, but the burden of proof as to validity and compliance is on the petitioner.

[1984 c 155 § 5.]

RCW 26.33.060 Hearings--Procedure--Witnesses.

All hearings under this chapter shall be heard by the court without a jury. Unless the parties and the court agree otherwise, proceedings of contested hearings shall be recorded. The general public shall be excluded and only those persons shall be admitted whose presence is requested by any person entitled to notice under this chapter or whom the judge finds to have a direct interest in the case or in the work of the court. Persons so admitted shall not disclose any information obtained at the hearing which would identify the individual adoptee or parent involved. The court may require the presence of witnesses deemed necessary to the disposition of the petition, including persons making any report, study, or examination which is before the court if those persons are reasonably available. A person who has executed a valid waiver need not appear at the hearing. If the court finds that it is in the child's best interest, the child may be excluded from the hearing.

[1984 c 155 § 6.]

RCW 26.33.070 Appointment of guardian ad litem--When required--Payment of fees.

(1) The court shall appoint a guardian ad litem for any parent or alleged father under eighteen years of age in any proceeding under this chapter. The court may appoint a guardian ad litem for a child adoptee or any incompetent party in any proceeding under this chapter. The guardian ad litem for a parent or alleged father, in addition to determining what is in the best interest of the party, shall make an investigation and report to the court concerning whether any written consent to adoption or petition for relinquishment signed by the parent or alleged father was signed voluntarily and with an understanding of the consequences of the action.

(2) The county in which a petition is filed shall pay the fees of a guardian ad litem or attorney appointed under this chapter.

[1984 c 155 § 7.]

RCW 26.33.080 Petition for relinquishment--Filing--Written consent required.

(1) A parent, an alleged father, the department, or an agency may file with the court a petition to relinquish a child to the department or an agency. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the department or the agency to assume custody shall be filed with the petition.

(2) A parent, alleged father, or prospective adoptive parent may file with the court a petition to relinquish a child to the prospective adoptive parent. The parent's or alleged father's written consent to adoption shall accompany the petition. The written consent of the prospective adoptive parent to assume custody shall be filed with the petition. The identity of the prospective adoptive parent need not be disclosed to the petitioner.

(3) A petition for relinquishment, together with the written consent to adoption, may be filed before the child's birth. If the child is an Indian child as defined in 25 U.S.C. Sec. 1903(4), the petition and consent shall not be signed until at least ten days after the child's birth and shall be recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

[1987 c 170 § 3; 1985 c 421 § 1; 1984 c 155 § 8.]

Notes:

Severability--1987 c 170: See note following RCW 13.04.030.

RCW 26.33.090 Petition for relinquishment--Hearing--Temporary custody order--Notice--Order of relinquishment.

(1) The court shall set a time and place for a hearing on the petition for relinquishment. The hearing may not be held sooner than forty-eight hours after the child's birth or the signing of all necessary consents to adoption, whichever is later. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth, and no consent shall be valid unless signed at least ten days after the child's birth and recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Except where the child is an Indian child, the court may enter a temporary order giving custody of the child to the prospective adoptive parent, if a preplacement report has been filed, or to the department or agency to whom the child will be relinquished pending the court's hearing on the petition. If the child is an Indian child, the court may enter a temporary custody order under this subsection only if the requirements of 25 U.S.C. Sec. 1913(a) regarding voluntary foster care placement have been satisfied.

(2) Notice of the hearing shall be served on any relinquishing parent or alleged father, and the department or agency in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by RCW 26.33.310.

(3) The court may require the parent to appear personally and enter his or her consent to adoption on the record. However, if the child is an Indian child, the court shall require the consenting parent to appear personally before a court of competent jurisdiction to enter on the record his or her consent to the relinquishment or adoption. The court shall determine that any

written consent has been validly executed, and if the child is an Indian child, such court shall further certify that the requirements of 25 U.S.C. Sec. 1913(a) have been satisfied. If the court determines it is in the best interests of the child, the court shall approve the petition for relinquishment.

(4) If the court approves the petition, it shall award custody of the child to the department, agency, or prospective adoptive parent, who shall be appointed legal guardian. The legal guardian shall be financially responsible for support of the child until further order of the court. The court shall also enter an order pursuant to RCW 26.33.130 terminating the parent-child relationship of the parent and the child.

(5) An order of relinquishment to an agency or the department shall include an order authorizing the agency to place the child with a prospective adoptive parent.

[1987 c 170 § 4; 1985 c 421 § 2; 1984 c 155 § 9.]

Notes:

Severability--1987 c 170: See note following RCW 13.04.030.

RCW 26.33.100 Petition for termination--Who may file--Contents--Time.

(1) A petition for termination of the parent-child relationship of a parent or alleged father who has not executed a written consent to adoption may be filed by:

- (a) The department or an agency;
- (b) The prospective adoptive parent to whom a child has been or may be relinquished if the prospective adoptive parent has filed or consented to a petition for relinquishment; or
- (c) The prospective adoptive parent if he or she seeks to adopt the child of his or her spouse.

(2) The petition for termination of the parent-child relationship shall contain a statement of facts identifying the petitioner, the parents, the legal guardian, a guardian ad litem for a party, any alleged father, and the child. The petition shall state the facts forming the basis for the petition and shall be signed under penalty of perjury or be verified.

(3) The petition may be filed before the child's birth.

[1985 c 421 § 3; 1984 c 155 § 10.]

RCW 26.33.110 Petition for termination--Time and place of hearing--Notice of hearing and petition--Contents.

(1) The court shall set a time and place for a hearing on the petition for termination of the parent-child relationship, which shall not be held sooner than forty-eight hours after the child's birth. However, if the child is an Indian child, the hearing shall not be held sooner than ten days after the child's birth and the time of the hearing shall be extended up to twenty additional days from the date of the scheduled hearing upon the motion of the parent, Indian custodian, or the child's tribe.

(2) Notice of the hearing shall be served on the petitioner, the nonconsenting parent or

alleged father, the legal guardian of a party, and the guardian ad litem of a party, in the manner prescribed by RCW 26.33.310. If the child is an Indian child, notice of the hearing shall also be served on the child's tribe in the manner prescribed by 25 U.S.C. Sec. 1912(a).

(3) Except as otherwise provided in this section, the notice of the petition shall:

(a) State the date and place of birth. If the petition is filed prior to birth, the notice shall state the approximate date and location of conception of the child and the expected date of birth, and shall identify the mother;

(b) Inform the nonconsenting parent or alleged father that: (i) He or she has a right to be represented by counsel and that counsel will be appointed for an indigent person who requests counsel; and (ii) failure to respond to the termination action within twenty days of service if served within the state or thirty days if served outside of this state, will result in the termination of his or her parent-child relationship with respect to the child;

(c) Inform an alleged father that failure to file a claim of paternity under chapter 26.26 RCW or to respond to the petition, within twenty days of the date of service of the petition is grounds to terminate his parent-child relationship with respect to the child;

(d) Inform an alleged father of an Indian child that if he acknowledges paternity of the child or if his paternity of the child is established prior to the termination of the parent-child relationship, that his parental rights may not be terminated unless he: (i) Gives valid consent to termination, or (ii) his parent-child relationship is terminated involuntarily pursuant to chapter 26.33 or 13.34 RCW.

[1995 c 270 § 5; 1987 c 170 § 5; 1985 c 421 § 4; 1984 c 155 § 11.]

Notes:

Finding--1995 c 270: See note following RCW 74.13.118.

Severability--1987 c 170: See note following RCW 13.04.030.

RCW 26.33.120 Termination--Grounds--Failure to appear.

(1) Except in the case of an Indian child and his or her parent, the parent-child relationship of a parent may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that the parent has failed to perform parental duties under circumstances showing a substantial lack of regard for his or her parental obligations and is withholding consent to adoption contrary to the best interest of the child.

(2) Except in the case of an Indian child and his or her alleged father, the parent-child relationship of an alleged father who appears and claims paternity may be terminated upon a showing by clear, cogent, and convincing evidence that it is in the best interest of the child to terminate the relationship and that:

(a) The alleged father has failed to perform parental duties under circumstances showing a substantial lack of regard for his parental obligations and is withholding consent to adoption contrary to the best interest of the child; or

(b) He is not the father.

(3) The parent-child relationship of a parent or an alleged father may be terminated if the parent or alleged father fails to appear after being notified of the hearing in the manner prescribed by RCW 26.33.310.

(4) The parent-child relationship of an Indian child and his or her parent or alleged father where paternity has been claimed or established, may be terminated only pursuant to the standards set forth in 25 U.S.C. Sec. 1912(f).

[1987 c 170 § 6; 1984 c 155 § 12.]

Notes:

Severability--1987 c 170: See note following RCW 13.04.030.

RCW 26.33.130 Termination order--Effect.

(1) If the court determines, after a hearing, that the parent-child relationship should be terminated pursuant to RCW 26.33.090 or 26.33.120, the court shall enter an appropriate order terminating the parent-child relationship.

(2) An order terminating the parent-child relationship divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other except past-due child support obligations owed by the parent.

(3) The parent-child relationship may be terminated with respect to one parent without affecting the parent-child relationship between the child and the other parent.

(4) The parent or alleged father whose parent-child relationship with the child has been terminated is not thereafter entitled to notice of proceedings for the adoption of the child by another, nor has the parent or alleged father any right to contest the adoption or otherwise to participate in the proceedings unless an appeal from the termination order is pending or unless otherwise ordered by the court.

[1984 c 155 § 13.]

RCW 26.33.140 Who may adopt or be adopted.

(1) Any person may be adopted, regardless of his or her age or residence.

(2) Any person who is legally competent and who is eighteen years of age or older may be an adoptive parent.

[1984 c 155 § 14.]

RCW 26.33.150 Petition for adoption--Filing--Contents--Preplacement report required.

(1) An adoption proceeding is initiated by filing with the court a petition for adoption. The petition shall be filed by the prospective adoptive parent.

(2) A petition for adoption shall contain the following information:

(a) The name and address of the petitioner;

- (b) The name, if any, gender, and place and date of birth, if known, of the adoptee;
 - (c) A statement that the child is or is not an Indian child covered by the Indian Child Welfare Act; and
 - (d) The name and address of the department or any agency, legal guardian, or person having custody of the child.
- (3) The written consent to adoption of any person, the department, or agency which has been executed shall be filed with the petition.
- (4) The petition shall be signed under penalty of perjury by the petitioner. If the petitioner is married, the petitioner's spouse shall join in the petition.
- (5) If a preplacement report prepared pursuant to RCW 26.33.190 has not been previously filed with the court, the preplacement report shall be filed with the petition for adoption.

[1984 c 155 § 15.]

RCW 26.33.160 Consent to adoption--When revocable--Procedure.

- (1) Except as otherwise provided in RCW 26.33.170, consent to an adoption shall be required of the following if applicable:
- (a) The adoptee, if fourteen years of age or older;
 - (b) The parents and any alleged father of an adoptee under eighteen years of age;
 - (c) An agency or the department to whom the adoptee has been relinquished pursuant to RCW 26.33.080; and
 - (d) The legal guardian of the adoptee.
- (2) Except as otherwise provided in subsection (4)(h) of this section, consent to adoption is revocable by the consenting party at any time before the consent is approved by the court. The revocation may be made in either of the following ways:
- (a) Written revocation may be delivered or mailed to the clerk of the court before approval; or
 - (b) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written.
- (3) Except as provided in subsections (2)(b) and (4)(h) of this section and in this subsection, a consent to adoption may not be revoked after it has been approved by the court. Within one year after approval, a consent may be revoked for fraud or duress practiced by the person, department, or agency requesting the consent, or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court.
- (4) Except as provided in (h) of this subsection, the written consent to adoption shall be signed under penalty of perjury and shall state that:
- (a) It is given subject to approval of the court;
 - (b) It has no force or effect until approved by the court;

- (c) The birth parent is or is not of Native American or Alaska native ancestry;
- (d) The consent will not be presented to the court until forty-eight hours after it is signed or forty-eight hours after the birth of the child, whichever occurs later;
- (e) It is revocable by the consenting party at any time before its approval by the court. It may be revoked in either of the following ways:
 - (i) Written revocation may be delivered or mailed to the clerk of the court before approval of the consent by the court; or
 - (ii) Written revocation may be delivered or mailed to the clerk of the court after approval, but only if it is delivered or mailed within forty-eight hours after a prior notice of revocation that was given within forty-eight hours after the birth of the child. The prior notice of revocation shall be given to the agency or person who sought the consent and may be either oral or written;
- (f) The address of the clerk of court where the consent will be presented is included;
- (g) Except as provided in (h) of this subsection, after it has been approved by the court, the consent is not revocable except for fraud or duress practiced by the person, department, or agency requesting the consent or for lack of mental competency on the part of the person giving the consent at the time the consent was given. A written consent to adoption may not be revoked more than one year after it is approved by the court;
- (h) In the case of a consent to an adoption of an Indian child, no consent shall be valid unless the consent is executed in writing more than ten days after the birth of the child and unless the consent is recorded before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at any time prior to the entry of the final decree of adoption. Consent may be withdrawn for fraud or duress within two years of the entry of the final decree of adoption. Revocation of the consent prior to a final decree of adoption, may be delivered or mailed to the clerk of the court or made orally to the court which shall certify such revocation. Revocation of the consent is effective if received by the clerk of the court prior to the entry of the final decree of adoption or made orally to the court at any time prior to the entry of the final decree of adoption. Upon withdrawal of consent, the court shall return the child to the parent unless the child has been taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130; and
- (i) The following statement has been read before signing the consent:

I understand that my decision to relinquish the child is an extremely important one, that the legal effect of this relinquishment will be to take from me all legal rights and obligations with respect to the child, and that an order permanently terminating all of my parental rights to the child will be entered. I also understand that there are social services and counseling services available in the community, and that there may be financial assistance available through state and local governmental agencies.

- (5) A written consent to adoption which meets all the requirements of this chapter but which does not name or otherwise identify the adopting parent is valid if it contains a statement

that it is voluntarily executed without disclosure of the name or other identification of the adopting parent.

(6) There must be a witness to the consent of the parent or alleged father. The witness must be at least eighteen years of age and selected by the parent or alleged father. The consent document shall contain a statement identifying by name, address, and relationship the witness selected by the parent or alleged father.

[1991 c 136 § 2; 1990 c 146 § 2; 1987 c 170 § 7; 1985 c 421 § 5; 1984 c 155 § 16.]

Notes:

Severability--1987 c 170: See note following RCW 13.04.030.

RCW 26.33.170 Consent to adoption--When not required.

(1) An agency's, the department's, or a legal guardian's consent to adoption may be dispensed with if the court determines by clear, cogent and convincing evidence that the proposed adoption is in the best interests of the adoptee.

(2) An alleged father's, birth parent's, or parent's consent to adoption may be dispensed with if the court finds that the proposed adoption is in the best interests of the adoptee and:

(a) The alleged father, birth parent, or parent has been found guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020, where the adoptee was the victim of the rape or incest; or

(b) The alleged father, birth parent, or parent has been found guilty of rape under chapter 9A.44 RCW or incest under RCW 9A.64.020, where the other parent of the adoptee was the victim of the rape or incest and the adoptee was conceived as a result of the rape or incest.

(3) Nothing in this section shall be construed to eliminate the notice provisions of this chapter.

[1999 c 173 § 1; 1988 c 203 § 1; 1984 c 155 § 17.]

Notes:

Severability--1999 c 173: See note following RCW 13.34.125.

RCW 26.33.180 Preplacement report required before placement with adoptive parents--Exception.

Except as provided in RCW 26.33.220, a child shall not be placed with prospective adoptive parents until a preplacement report has been filed with the court.

[1984 c 155 § 18.]

RCW 26.33.190 Preplacement report--Requirements--Fees.

(1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A

certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that the following issues were discussed with the prospective adoptive parents:

- (a) The concept of adoption as a lifelong developmental process and commitment;
- (b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;
- (c) Disclosure of the fact of adoption to the child;
- (d) The child's possible questions about birth parents and relatives; and
- (e) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include an investigation of the conviction record, pending charges, or disciplinary board final decisions of prospective adoptive parents. The investigation shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system as described in chapter 43.43 RCW.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done.

[1991 c 136 § 3; 1990 c 146 § 3; 1984 c 155 § 19.]

RCW 26.33.200 Post-placement report--Requirements--Exception--Fees.

(1) Except as provided in RCW 26.33.220, at the time the petition for adoption is filed, the court shall order a post-placement report made to determine the nature and adequacy of the placement and to determine if the placement is in the best interest of the child. The report shall be prepared by an agency, the department, an individual approved by the court, or a qualified salaried court employee appointed by the court. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each post-placement report. The report shall be in writing and contain all reasonably available information concerning the physical and mental condition of the child, home environment, family life, health, facilities and resources of the petitioners, and any other facts and circumstances relating to the propriety and advisability of the adoption. The report shall also include, if relevant, information on the child's special cultural heritage, including membership in any Indian tribe or band. The report shall be filed within sixty days of the date of appointment, unless the time is extended by the court. The preplacement report shall be made available to the person appointed to make the post-placement report.

(2) A fee may be charged for preparation of the post-placement report in the same manner as for a preplacement report under RCW 26.33.190.

[1990 c 146 § 4; 1984 c 155 § 20.]

RCW 26.33.210 Preplacement or post-placement report--Department or agency may make report.

The department or an agency having the custody of a child may make the preplacement or post-placement report on a petitioner for the adoption of that child.

[1984 c 155 § 21.]

RCW 26.33.220 Preplacement and post-placement reports--When not required.

Unless otherwise ordered by the court, the reports required by RCW 26.33.190 are not required if the petitioner seeks to adopt the child of the petitioner's spouse. The reports required by RCW 26.33.190 and 26.33.200 are not required if the adoptee is eighteen years of age or older.

[1984 c 155 § 22.]

RCW 26.33.230 Notice of proceedings at which preplacement reports

considered--Contents--Proof of service--Appearance--Waiver.

The petitioner shall give not less than three days written notice of any proceeding at which a preplacement report will be considered to all agencies, any court approved individual, or any court employee requested by the petitioner to make a preplacement report. The notice shall state the name of the petitioner, the cause number of the proceeding, the time and place of the hearing, and the object of the hearing. Proof of service on the agency or court approved individual in form satisfactory to the court shall be furnished. The agency or court approved individual may appear at the hearing and give testimony concerning any matters relevant to the relinquishment or the adoption and its recommendation as to the fitness of petitioners as parents. The agency or court approved individual may in writing acknowledge notice and state to the court that the agency or court approved individual does not desire to participate in the hearing or the agency or court approved individual may in writing waive notice of any hearing.

[1984 c 155 § 24.]

RCW 26.33.240 Petition for adoption--Hearing--Notice--Disposition.

(1) After the reports required by RCW 26.33.190 and 26.33.200 have been filed, the court shall schedule a hearing on the petition for adoption upon request of the petitioner for adoption. Notice of the date, time, and place of hearing shall be given to the petitioner and any person or agency whose consent to adoption is required under RCW 26.33.160, unless the person or agency has waived in writing the right to receive notice of the hearing. If the child is an Indian child, notice shall also be given to the child's tribe. Notice shall be given in the manner prescribed by RCW 26.33.310.

(2) Notice of the adoption hearing shall also be given to any person who or agency which has prepared a preplacement report. The notice shall be given in the manner prescribed by RCW 26.33.230.

(3) If the court determines, after review of the petition, preplacement and post-placement reports, and other evidence introduced at the hearing, that all necessary consents to adoption are valid or have been dispensed with pursuant to RCW 26.33.170 and that the adoption is in the best interest of the adoptee, and, in the case of an adoption of an Indian child, that the adoptive parents are within the placement preferences of 25 U.S.C. Sec. 1915 or good cause to the contrary has been shown on the record, the court shall enter a decree of adoption pursuant to RCW 26.33.250.

(4) If the court determines the petition should not be granted because the adoption is not in the best interest of the child, the court shall make appropriate provision for the care and custody of the child.

[1987 c 170 § 8; 1984 c 155 § 23.]

Notes:

Severability--1987 c 170: See note following RCW 13.04.030.

RCW 26.33.250 Decree of adoption--Determination of place and date of birth.

- (1) A decree of adoption shall provide, as a minimum, the following information:
- (a) The full original name of the person to be adopted;
 - (b) The full name of each petitioner for adoption;
 - (c) Whether the petitioner or petitioners are husband and wife, stepparent, or a single parent;
 - (d) The full new name of the person adopted, unless the name of the adoptee is not to be changed;
 - (e) Information to be incorporated in any new certificate of birth to be issued by the state or territorial registrar of vital records; and
 - (f) The adoptee's date of birth and place of birth as determined under subsection (3) of this section.
- (2) Except for the names of the person adopted and the petitioner, information set forth in the decree that differs from that shown on the original birth certificate, alternative birth record, or other information used in lieu of such a record shall be included in the decree only upon a clear showing that the information in the original record is erroneous.
- (3) In determining the date and place of birth of a person born outside the United States, the court shall:
- (a) If available, enter in the decree the exact date and place of birth as stated in the birth certificate from the country of origin or in the United States department of state's report of birth abroad or in the documents of the United States immigration and naturalization service;
 - (b) If the exact place of birth is unknown, enter in the decree such information as may be known and designate a place of birth in the country of origin;
 - (c) If the exact date of birth is unknown, determine a date of birth based upon medical testimony as to the probable chronological age of the adoptee and other evidence regarding the adoptee's age that the court finds appropriate to consider;
 - (d) In any other case where documents of the United States immigration and naturalization service are not available, the court shall determine the date and place of birth based upon such evidence as the court in its discretion determines appropriate.

[1984 c 155 § 25.]

RCW 26.33.260 Decree of adoption--Effect--Accelerated appeal--Limited grounds to challenge--Intent.

- (1) The entry of a decree of adoption divests any parent or alleged father who is not married to the adoptive parent or who has not joined in the petition for adoption of all legal rights and obligations in respect to the adoptee, except past-due child support obligations. The adoptee shall be free from all legal obligations of obedience and maintenance in respect to the parent. The adoptee shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of the adoptive parent, entitled to all rights and privileges, including the right of

inheritance and the right to take under testamentary disposition, and subject to all the obligations of a natural child of the adoptive parent.

(2) Any appeal of an adoption decree shall be decided on an accelerated review basis.

(3) Except as otherwise provided in RCW 26.33.160 (3) and (4)(h), no person may challenge an adoption decree on the grounds of:

(a) A person claiming or alleging paternity subsequently appears and alleges lack of prior notice of the proceeding; or

(b) The adoption proceedings were in any other manner defective.

(4) It is the intent of the legislature that this section provide finality for adoptive placements and stable homes for children.

[1995 c 270 § 7; 1984 c 155 § 26.]

Notes:

Finding--1995 c 270: See note following RCW 74.13.118.

Inheritance by adopted child: RCW 11.04.085.

RCW 26.33.270 Decree of adoption--Protection of certain rights and benefits.

An order or decree entered under this chapter shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States. Action under this chapter shall not affect any rights and benefits that a native American child derives from the child's descent from a member of an Indian tribe or band.

[1984 c 155 § 27.]

RCW 26.33.280 Decree of adoption--Transmittal to state registrar of vital statistics.

After a decree of adoption is entered, as soon as the time for appeal has expired, or if an appeal is taken, and the adoption is affirmed on appeal, the clerk of the court shall transmit to the state registrar of vital statistics a certified copy of the decree, along with any additional information and fees required by the registrar.

[1984 c 155 § 28.]

RCW 26.33.290 Decree of adoption--Duties of state registrar of vital statistics.

Upon receipt of a decree of adoption, the state registrar of vital statistics shall:

(1) Return the decree to the court clerk if all information required by RCW 26.33.250 is not included in the decree;

(2) If the adoptee was born in a state other than Washington, or in a territory of the United States, forward the certificate of adoption to the appropriate health record recording agency of the state or territory of the United States in which the birth occurred;

(3) If the adoptee was born outside of the United States or its territories, issue a new certificate of birth by the office of the state registrar of vital statistics which reflects the

information contained in the decree.

[1984 c 155 § 29.]

Notes:

Vital statistics: Chapter 70.58 RCW.

RCW 26.33.295 Open adoption agreements--Agreed orders--Enforcement.

(1) Nothing in this chapter shall be construed to prohibit the parties to a proceeding under this chapter from entering into agreements regarding communication with or contact between child adoptees, adoptive parents, and a birth parent or parents.

(2) Agreements regarding communication with or contact between child adoptees, adoptive parents, and a birth parent or parents shall not be legally enforceable unless the terms of the agreement are set forth in a written court order entered in accordance with the provisions of this section. The court shall not enter a proposed order unless the terms of such order have been approved in writing by the prospective adoptive parents, any birth parent whose parental rights have not previously been terminated, and, if the child is in the custody of the department or a licensed child-placing agency, a representative of the department or child-placing agency. If the child is represented by an attorney or guardian ad litem in a proceeding under this chapter or in any other child-custody proceeding, the terms of the proposed order also must be approved in writing by the child's representative. An agreement under this section need not disclose the identity of the parties to be legally enforceable. The court shall not enter a proposed order unless the court finds that the communication or contact between the child adoptee, the adoptive parents, and a birth parent or parents as agreed upon and as set forth in the proposed order, would be in the child adoptee's best interests.

(3) Failure to comply with the terms of an agreed order regarding communication or contact that has been entered by the court pursuant to this section shall not be grounds for setting aside an adoption decree or revocation of a written consent to an adoption after that consent has been approved by the court as provided in this chapter.

(4) An agreed order entered pursuant to this section may be enforced by a civil action and the prevailing party in that action may be awarded, as part of the costs of the action, a reasonable amount to be fixed by the court as attorneys' fees. The court shall not modify an agreed order under this section unless it finds that the modification is necessary to serve the best interests of the child adoptee, and that: (a) The modification is agreed to by the adoptive parent and the birth parent or parents; or (b) exceptional circumstances have arisen since the agreed order was entered that justify modification of the order.

[1990 c 285 § 4.]

Notes:

Findings--Purpose--Severability--1990 c 285: See notes following RCW 74.04.005.

RCW 26.33.300 Adoption statistical data.

The department of health shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department of health which shall compile the data and publish reports summarizing the data. A birth certificate shall not be issued showing the petitioner as the parent of any child adopted in the state of Washington until a data card has been completed and filed.

[1991 c 3 § 288; 1990 c 146 § 5; 1984 c 155 § 30.]

RCW 26.33.310 Notice--Requirements--Waiver.

(1) Petitions governed by this chapter shall be served in the manner as set forth in the superior court civil rules. Subsequent notice, papers, and pleadings may be served in the manner provided in superior court civil rules.

(2) If personal service on any parent or alleged father who has not consented to the termination of his or her parental rights can be given, the summons and notice of hearing on the petition to terminate parental rights shall be served at least twenty days before the hearing date if served within the state or thirty days if served outside of this state.

(3) If personal service on the parent or any alleged father, either within or without this state, cannot be given, notice shall be given: (a) By first class and registered mail, mailed at least thirty days before the hearing to the person's last known address; and (b) by publication at least once a week for three consecutive weeks with the first publication date at least thirty days before the hearing. Publication shall be in a legal newspaper in the city or town of the last known address within the United States and its territories of the parent or alleged father, whether within or without this state, or, if no address is known to the petitioner, publication shall be in the city or town of the last known whereabouts within the United States and its territories; or if no address or whereabouts are known to the petitioner or the last known address is not within the United States and its territories, in the city or town where the proceeding has been commenced.

(4) Notice and appearance may be waived by the department, an agency, a parent, or an alleged father before the court or in a writing signed under penalty of perjury. The waiver shall contain the current address of the department, agency, parent, or alleged father. The face of the waiver for a hearing on termination of the parent-child relationship shall contain language explaining the meaning and consequences of the waiver and the meaning and consequences of termination of the parent-child relationship. A person or agency who has executed a waiver shall not be required to appear except in the case of an Indian child where consent to termination or adoption must be certified before a court of competent jurisdiction pursuant to 25 U.S.C. Sec. 1913(a).

(5) If a person entitled to notice is known to the petitioner to be unable to read or understand English, all notices, if practicable, shall be given in that person's native language or through an interpreter.

(6) Where notice to an Indian tribe is to be provided pursuant to this chapter and the department is not a party to the proceeding, notice shall be given to the tribe at least ten business

days prior to the hearing by registered mail return receipt requested.

[1995 c 270 § 6; 1987 c 170 § 9; 1985 c 421 § 6; 1984 c 155 § 31.]

Notes:

Finding--1995 c 270: See note following RCW 74.13.118.

Severability--1987 c 170: See note following RCW 13.04.030.

RCW 26.33.320 Adoption of hard to place children--Court's consideration of state's agreement with prospective adoptive parents.

(1) In deciding whether to grant a petition for adoption of a hard to place child and in reviewing any request for the vacation or modification of a decree of adoption, the superior court shall consider any agreement made or proposed to be made between the department and any prospective adoptive parent for any payment or payments which have been provided or which are to be provided by the department in support of the adoption of such child. Before the date of the hearing on the petition to adopt, vacate, or modify an adoption decree, the department shall file as part of the adoption file with respect to the child a copy of any initial agreement, together with any changes made in the agreement, or in the related standards.

(2) If the court, in its judgment, finds the provision made in an agreement to be inadequate, it may make any recommendation as it deems warranted with respect to the agreement to the department. The court shall not, however, solely by virtue of this section, be empowered to direct the department to make payment. This section shall not be deemed to limit any other power of the superior court with respect to the adoption and any related matter.

[1984 c 155 § 32.]

RCW 26.33.330 Records sealed--Inspection--Fee.

(1) All records of any proceeding under this chapter shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, or except by using the procedure described in RCW 26.33.343. In determining whether good cause exists, the court shall consider any certified statement on file with the department of health as provided in RCW 26.33.347.

(2) The state registrar of vital statistics may charge a reasonable fee for the review of any of its sealed records.

[1996 c 243 § 3; 1990 c 145 § 3; 1984 c 155 § 33.]

Notes:

Finding--1996 c 243: See note following RCW 26.33.347.

RCW 26.33.340 Department, agency, and court files confidential--Limited disclosure of information.

Department, agency, and court files regarding an adoption shall be confidential except

that reasonably available nonidentifying information may be disclosed upon the written request for the information from the adoptive parent, the adoptee, or the birth parent. If the adoption facilitator refuses to disclose nonidentifying information, the individual may petition the superior court. Identifying information may also be disclosed through the procedure described in RCW 26.33.343.

[1993 c 81 § 2; 1990 c 145 § 4; 1984 c 155 § 34.]

RCW 26.33.343 Search for birth parent or adopted child--Confidential intermediary.

(1) An adopted person over the age of twenty-one years, or under twenty-one with the permission of the adoptive parent, or a birth parent or member of the birth parent's family after the adoptee has reached the age of twenty-one may petition the court to appoint a confidential intermediary. A petition under this section shall state whether a certified statement is on file with the department of health as provided for in RCW 26.33.347 and shall also state the intent of the adoptee as set forth in any such statement. The intermediary shall search for and discreetly contact the birth parent or adopted person, or if they are not alive or cannot be located within one year, the intermediary may attempt to locate members of the birth parent or adopted person's family. These family members shall be limited to the natural grandparents of the adult adoptee, a brother or sister of a natural parent, or the child of a natural parent. The court, for good cause shown, may allow a relative more distant in degree to petition for disclosure.

(2)(a) Confidential intermediaries appointed under this section shall complete training provided by a licensed adoption service or another court-approved entity and file an oath of confidentiality and a certificate of completion of training with the superior court of every county in which they serve as intermediaries. The court may dismiss an intermediary if the intermediary engages in conduct which violates professional or ethical standards.

(b) The confidential intermediary shall sign a statement of confidentiality substantially as follows:

I,, signing under penalty of contempt of court, state: "As a condition of appointment as a confidential intermediary, I affirm that, when adoption records are opened to me:

I will not disclose to the petitioner, directly or indirectly, any identifying information in the records without further order from the court.

I will conduct a diligent search for the person being sought and make a discreet and confidential inquiry as to whether that person will consent to being put in contact with the petitioner, and I will report back to the court the results of my search and inquiry.

If the person sought consents to be put in contact with the petitioner, I will attempt to obtain a dated, written consent from the person, and attach the original of the consent to my report to the court. If the person sought does not consent to the disclosure of his or her identity, I shall report the refusal of consent to the court.

I will not make any charge or accept any compensation for my services except as approved by the court, or as reimbursement from the petitioner for actual expenses incurred in

conducting the search. These expenses will be listed in my report to the court.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law, and subjects me to being found in contempt of court."

/s/ date

(c) The confidential intermediary shall be entitled to reimbursement from the petitioner for actual expenses in conducting the search. The court may authorize a reasonable fee in addition to these expenses.

(3) If the confidential intermediary is unable to locate the person being sought within one year, the confidential intermediary shall make a recommendation to the court as to whether or not a further search is warranted, and the reasons for this recommendation.

(4) In the case of a petition filed on behalf of a natural parent or other blood relative of the adoptee, written consent of any living adoptive parent shall be obtained prior to contact with the adoptee if the adoptee:

- (a) Is less than twenty-five years of age and is residing with the adoptive parent; or
- (b) Is less than twenty-five years of age and is a dependent of the adoptive parent.

(5) If the confidential intermediary locates the person being sought, a discreet and confidential inquiry shall be made as to whether or not that person will consent to having his or her present identity disclosed to the petitioner. The identity of the petitioner shall not be disclosed to the party being sought. If the party being sought consents to the disclosure of his or her identity, the confidential intermediary shall obtain the consent in writing and shall include the original of the consent in the report filed with the court. If the party being sought refuses disclosure of his or her identity, the confidential intermediary shall report the refusal to the court and shall refrain from further and subsequent inquiry without judicial approval.

(6)(a) If the confidential intermediary obtains from the person being sought written consent for disclosure of his or her identity to the petitioner, the court may then order that the name and other identifying information of that person be released to the petitioner.

(b) If the person being sought is deceased, the court may order disclosure of the identity of the deceased to the petitioner.

(c) If the confidential intermediary is unable to contact the person being sought within one year, the court may order that the search be continued for a specified time or be terminated.

[1996 c 243 § 4; 1990 c 145 § 1.]

Notes:

Finding--1996 c 243: See note following RCW 26.33.347.

RCW 26.33.345 Search for birth parent or adopted child--Limited release of information--Noncertified copies of original birth certificate.

(1) The department of social and health services, adoption agencies, and independent adoption facilitators shall release the name and location of the court where a relinquishment of

parental rights or finalization of an adoption took place to an adult adoptee, a birth parent of an adult adoptee, an adoptive parent, a birth or adoptive grandparent of an adult adoptee, or an adult sibling of an adult adoptee, or the legal guardian of any of these.

(2) The department of health shall make available a noncertified copy of the original birth certificate of a child to the child's birth parents upon request.

(3) For adoptions finalized after October 1, 1993, the department of health shall make available a noncertified copy of the original birth certificate to the adoptee after the adoptee's eighteenth birthday unless the birth parent has filed an affidavit of nondisclosure.

[1993 c 81 § 3; 1990 c 145 § 2.]

RCW 26.33.347 Consent or refusal to release adoptee's identifying information--Desire to be contacted--Certified statement.

(1) An adopted person over the age of eighteen may file with the department of health a certified statement declaring any one or more of the following:

(a) The adoptee refuses to consent to the release of any identifying information to a biological parent, biological sibling, or other biological relative and does not wish to be contacted by a confidential intermediary except in the case of a medical emergency as determined by a court of competent jurisdiction;

(b) The adoptee consents to the release of any identifying information to a confidential intermediary appointed under RCW 26.33.343, a biological parent, biological sibling, or other biological relative;

(c) The adoptee desires to be contacted by his or her biological parents, biological siblings, other biological relatives, or a confidential intermediary appointed under RCW 26.33.343;

(d) The current name, address, and telephone number of the adoptee who desires to be contacted.

(2) The certified statement shall be filed with the department of health and placed with the adoptee's original birth certificate if the adoptee was born in this state, or in a separate registry file for reference purposes if the adoptee was born in another state or outside of the United States. When the statement includes a request for confidentiality or a refusal to consent to the disclosure of identifying information, a prominent notice stating substantially the following shall also be placed at the front of the file: "AT THE REQUEST OF THE ADOPTEE, ALL RECORDS AND IDENTIFYING INFORMATION RELATING TO THIS ADOPTION SHALL REMAIN CONFIDENTIAL AND SHALL NOT BE DISCLOSED OR RELEASED WITHOUT A COURT ORDER SO DIRECTING."

(3) An adopted person who files a certified statement under subsection (1) of this section may subsequently file another certified statement requesting to rescind or amend the prior certified statement.

[1996 c 243 § 2.]

Notes:

Finding--1996 c 243: "The legislature finds that it is in the best interest of the people of the state of Washington to support the adoption process in a variety of ways, including protecting the privacy interests of adult adoptees when the confidential intermediary process is used." [1996 c 243 § 1.]

RCW 26.33.350 Medical reports--Requirements.

(1) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all known and available information concerning the mental, physical, and sensory handicaps of the child.

(2) The report shall not reveal the identity of the birth parent of the child except as authorized under this chapter but shall include any known or available mental or physical health history of the birth parent that needs to be known by the adoptive parent to facilitate proper health care for the child or that will assist the adoptive parent in maximizing the developmental potential of the child.

(3) Where known or available, the information provided shall include:

(a) A review of the birth family's and the child's previous medical history, including the child's x-rays, examinations, hospitalizations, and immunizations. After July 1, 1992, medical histories shall be given on a standardized reporting form developed by the department;

(b) A physical exam of the child by a licensed physician with appropriate laboratory tests and x-rays;

(c) A referral to a specialist if indicated; and

(d) A written copy of the evaluation with recommendations to the adoptive family receiving the report.

(4) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's mental, physical, and sensory handicaps. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's present or future health.

[1994 c 170 § 1; 1991 c 136 § 4; 1990 c 146 § 6; 1989 c 281 § 1; 1984 c 155 § 37.]

RCW 26.33.360 Petition by natural parent to set aside adoption--Costs--Time limit.

(1) If a natural parent unsuccessfully petitions to have an adoption set aside, the court shall award costs, including reasonable attorneys' fees, to the adoptive parent.

(2) If a natural parent successfully petitions to have an adoption set aside, the natural parent shall be liable to the adoptive parent for both the actual expenditures and the value of services rendered by the adoptive parents in caring for the child.

(3) A natural parent who has executed a written consent to adoption shall not bring an

action to set aside an adoption more than one year after the date the court approved the written consent.

[1984 c 155 § 35.]

RCW 26.33.370 Permanent care and custody of a child--Assumption, relinquishment, or transfer except by court order or statute, when prohibited--Penalty.

(1) Unless otherwise permitted by court order or statute, it is unlawful for any person, partnership, society, association, or corporation, except the parents, to assume the permanent care and custody of a child. Unless otherwise permitted by court order or statute, it is unlawful for any parent to relinquish or transfer to another person, partnership, society, association, or corporation the permanent care and custody of any child for adoption or any other purpose.

(2) Any relinquishment or transfer in violation of this section shall be void.

(3) Violation of this section is a gross misdemeanor.

[1984 c 155 § 36.]

RCW 26.33.380 Family and social history report required--Identity of birth parents confidential.

(1) Every person, firm, society, association, corporation, or state agency receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption, a family background and child and family social history report, which includes a chronological history of the circumstances surrounding the adoptive placement and any available psychiatric reports, psychological reports, court reports pertaining to dependency or custody, or school reports. Such reports or information shall not reveal the identity of the birth parents of the child but shall contain reasonably available nonidentifying information.

(2) Entities and persons obligated to provide information under this section shall make reasonable efforts to locate records and information concerning the child's family background and social history. The entities or persons providing the information have no duty, beyond providing the information, to explain or interpret the records or information regarding the child's mental or physical health.

[1994 c 170 § 2; 1993 c 81 § 4; 1989 c 281 § 2.]

RCW 26.33.385 Standards for locating records and information--Rules.

The department shall adopt rules, in consultation with affected parties, establishing minimum standards for making reasonable efforts to locate records and information relating to adoptions as required under RCW 26.33.350 and 26.33.380.

[1994 c 170 § 3.]

RCW 26.33.390 Information on adoption-related services.

(1) All persons adopting a child through the department shall receive written information on the department's adoption-related services including, but not limited to, adoption support, family reconciliation services, archived records, mental health, and developmental disabilities.

(2) Any person adopting a child shall receive from the adoption facilitator written information on adoption-related services. This information may be that published by the department or any other social service provider and shall include information about how to find and evaluate appropriate adoption therapists, and may include other resources for adoption-related issues.

(3) Any person involved in providing adoption-related services shall respond to requests for written information by providing materials explaining adoption procedures, practices, policies, fees, and services.

[1991 c 136 § 5; 1990 c 146 § 7; 1989 c 281 § 3.]

RCW 26.33.400 Advertisements--Prohibitions--Exceptions--Application of consumer protection act.

(1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption of children.

(3) A violation of subsection (2) of this section is a matter affecting the public interest for the purpose of applying chapter 19.86 RCW. A violation of subsection (2) of this section is not reasonable in relation to the development and preservation of business. A violation of subsection (2) of this section constitutes an unfair or deceptive act or practice in trade or commerce for the

purpose of applying chapter 19.86 RCW.

[1991 c 136 § 6; 1989 c 255 § 1.]

RCW 26.33.410 Advertisements--Exemption.

Nothing in RCW 26.33.400 applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of RCW 26.33.400.

[1989 c 255 § 2.]

RCW 26.33.900 Effective date--Application--1984 c 155.

This act shall take effect January 1, 1985. Any proceeding initiated before January 1, 1985, shall be governed by the law in effect on the date the proceeding was initiated.

[1984 c 155 § 41.]

RCW 26.33.901 Severability--1984 c 155.

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.

[1984 c 155 § 42.]

**Chapter 26.34 RCW
INTERSTATE COMPACT ON PLACEMENT OF CHILDREN**

Sections

26.34.010	Compact enacted--Provisions.
26.34.020	Financial responsibility.
26.34.030	"Appropriate public authorities" defined.
26.34.040	"Appropriate authority of the receiving state" defined.
26.34.050	Authority of state officers and agencies to enter into agreements--Approval.
26.34.060	Jurisdiction of courts.
26.34.070	"Executive head" defined--Compact administrator.
26.34.080	Violations--Penalty.

RCW 26.34.010 Compact enacted--Provisions.

The interstate compact on the placement of children is hereby enacted into law and

entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I. *Purpose and Policy*

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. *Definitions*

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. *Conditions for Placement*

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving

state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. *Penalty for Illegal Placement*

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. *Retention of Jurisdiction*

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or

crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. *Institutional Care of Delinquent Children*

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. *Compact Administrator*

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. *Limitations*

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. *Enactment and Withdrawal*

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. *Construction and Severability*

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[1971 ex.s. c 168 § 1.]

RCW 26.34.020 Financial responsibility.

Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of RCW 26.16.205 and 26.20.030 shall apply.

[1971 ex.s. c 168 § 2.]

RCW 26.34.030 "Appropriate public authorities" defined.

The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the department of social and health services, and said agency shall receive and act with reference to notices required by said Article III.

[1971 ex.s. c 168 § 3.]

RCW 26.34.040 "Appropriate authority of the receiving state" defined.

As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the department of social and health services.

[1971 ex.s. c 168 § 4.]

RCW 26.34.050 Authority of state officers and agencies to enter into agreements--Approval.

The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of financial management in the case of the state and of the treasurer in the case of a subdivision of the state.

[1979 c 151 § 10; 1971 ex.s. c 168 § 5.]

RCW 26.34.060 Jurisdiction of courts.

Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof.

[1971 ex.s. c 168 § 6.]

RCW 26.34.070 "Executive head" defined--Compact administrator.

As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

[1971 ex.s. c 168 § 7.]

RCW 26.34.080 Violations--Penalty.

Any person, firm, corporation, association or agency which places a child in the state of Washington without meeting the requirements set forth herein, or any person, firm, corporation, association or agency which receives a child in the state of Washington, where there has been no compliance with the requirements set forth herein, shall be guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

[1971 ex.s. c 168 § 8.]

Chapter 26.40 RCW HANDICAPPED CHILDREN

Sections

26.40.010	Declaration of purpose.
26.40.020	Removal, denial of parental responsibility--Commitment not an admission requirement to any school.
26.40.030	Petition by parent for order of commitment--Grounds.
26.40.040	Petition by parent for order of commitment--Contents--Who may be co-custodians--Effective date.
26.40.050	Petition by parent for order of commitment--Hearing--Written consent of co-custodians required.
26.40.060	Notice, copies, filing of order of commitment.
26.40.070	Petition by parent for rescission, change in co-custodians, determination of parental responsibility.
26.40.080	Health and welfare of committed child--State and co-custodian responsibilities.
26.40.090	Petition by co-custodians for rescission of commitment--Hearing.
26.40.100	Chapter does not affect commitments under other laws.
26.40.110	Lease of buses to transport children with disabilities.

Notes:

Child welfare agencies: Chapter 74.15 RCW.

Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.

Juvenile courts and offenders: Title 13 RCW.

Mental illness: Chapter 71.05 RCW.

Special education: Chapter 28A.155 RCW.

State institutions: Title 72 RCW.

Temporary assistance for needy families--Child welfare services--Services to crippled children: Chapter 74.12 RCW.

RCW 26.40.010 Declaration of purpose.

The purpose of this chapter is to assure the right of every physically, mentally or sensory handicapped child to parental love and care as long as possible, to provide for adequate custody of a handicapped child who has lost parental care, and to make available to the handicapped child the services of the state through its various departments and agencies.

[1977 ex.s. c 80 § 22; 1955 c 272 § 1.]

Notes:

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 26.40.020 Removal, denial of parental responsibility--Commitment not an admission requirement to any school.

So long as the parents of a handicapped child are able to assume parental responsibility for such child, their parental responsibility may not be removed or denied, and commitment by

the state or any officer or official thereof shall never be a requirement for the admission of such child to any state school, or institution, or to the common schools.

[1955 c 272 § 2.]

RCW 26.40.030 Petition by parent for order of commitment--Grounds.

The parents or parent of any child who is temporarily or permanently delayed in normal educational processes and/or normal social adjustment by reason of physical, sensory or mental handicap, or by reason of social or emotional maladjustment, or by reason of other handicap, may petition the superior court for the county in which such child resides for an order for the commitment of such child to custody as provided in RCW 26.40.040, as now or hereafter amended.

[1977 ex.s. c 80 § 23; 1955 c 272 § 3.]

Notes:

Purpose--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 26.40.040 Petition by parent for order of commitment--Contents--Who may be co-custodians--Effective date.

The petition for an order for the commitment of a child to custody shall request the court to issue an order for the commitment of such child to the co-custody of the state and a relative or relatives, a friend or friends, an attorney or attorneys, a church through its chief officers, a fraternal organization through its chief officers, or a service organization through its chief officers, who shall be named in the petition. The petition shall also request the court to issue such order making the commitment of such child to custody effective as of the date that both parents of such child are deceased or are determined by the court to be unable to continue parental responsibilities for such child as provided in RCW 26.40.070.

[1955 c 272 § 4.]

RCW 26.40.050 Petition by parent for order of commitment--Hearing--Written consent of co-custodians required.

Upon the filing of a petition for an order for the commitment of a child to custody, a hearing upon such petition shall be held in open court, and, if the court finds that the petition should be granted, the court shall issue an order for the commitment of the child to custody as petitioned and not otherwise. Written consent of the co-custodians other than the state must be filed with the court before such order for commitment may be issued.

[1955 c 272 § 5.]

RCW 26.40.060 Notice, copies, filing of order of commitment.

Upon the issuance of an order for the commitment of a child to custody, the court shall transmit copies thereof to the co-custodians named therein. For the state as co-custodian the copy of such order shall be filed with the department of social and health services whose duty it shall be to notify the state superintendent of public instruction, the state department of social and health services, and such other state departments or agencies as may have services for the child, of the filing of such order, which notice shall be given by the department of social and health services at the time commitment to custody becomes effective under the order.

[1982 c 35 § 195; 1979 c 141 § 35; 1955 c 272 § 6.]

Notes:

Intent--Severability--Effective dates--Application--1982 c 35: See notes following RCW 43.07.160.

RCW 26.40.070 Petition by parent for rescission, change in co-custodians, determination of parental responsibility.

The parents or parent upon whose petition an order for the commitment of a child to custody has been issued may, before such commitment becomes effective, petition the court for a rescission of the order or for a change in the co-custodians other than the state, or to determine that they are unable to continue parental responsibilities for the child, and the court shall proceed on such petition as on the original petition.

[1955 c 272 § 7.]

RCW 26.40.080 Health and welfare of committed child--State and co-custodian responsibilities.

It shall be the responsibility of the state and the appropriate departments and agencies thereof to discover methods and procedures by which the mental and/or physical health of the child in custody may be improved and, with the consent of the co-custodians, to apply those methods and procedures. The co-custodians other than the state shall have no financial responsibility for the child committed to their co-custody except as they may in written agreement with the state accept such responsibility. At any time after the commitment of such child they may inquire into his well-being, and the state and any of its agencies may do nothing with respect to the child that would in any way affect his mental or physical health without the consent of the co-custodians. The legal status of the child may not be changed without the consent of the co-custodians. If it appears to the state as co-custodian of a child that the health and/or welfare of such child is impaired or jeopardized by the failure of the co-custodians other than the state to consent to the application of certain methods and procedures with respect to such child, the state through its proper department or agency may petition the court for an order to proceed with such methods and procedures. Upon the filing of such petition a hearing shall be held in open court, and if the court finds that such petition should be granted it shall issue the order.

[1955 c 272 § 8.]

RCW 26.40.090 Petition by co-custodians for rescission of commitment--Hearing.

When the co-custodians of any child committed to custody under provisions of this chapter agree that such child is no longer in need of custody they may petition the court for a rescission of the commitment to custody. Upon the filing of such petition a hearing shall be held in open court and if the court finds that such petition should be granted it shall rescind the order of commitment to custody.

[1955 c 272 § 9.]

RCW 26.40.100 Chapter does not affect commitments under other laws.

Nothing in this chapter shall be construed as affecting the authority of the courts to make commitments as otherwise provided by law.

[1955 c 272 § 10.]

RCW 26.40.110 Lease of buses to transport children with disabilities.

See RCW 28A.160.040 through 28A.160.060.

**Chapter 26.44 RCW
ABUSE OF CHILDREN**

(Formerly: Abuse of children and adult dependent persons)

Sections

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- 26.44.170 Alleged child abuse or neglect--Use of alcohol or controlled substances as contributing factor--Evaluation.
- 26.44.180 Investigation of child sexual abuse--Protocols--Documentation of agencies' roles.
- 26.44.190 Investigation of child abuse or neglect--Participation by law enforcement officer.
- 26.44.900 Severability--1975 1st ex.s. c 217.

Notes:

Child abuse, investigation: RCW 74.13.031.

Child abuse and neglect training for participants in early childhood education programs: RCW 43.63A.066.

Council for the prevention of child abuse and neglect: Chapter 43.121 RCW.

Day care--Information to parents and providers: RCW 74.15.200.

Domestic violence prevention: Chapter 26.50 RCW.

Missing children clearinghouse and hot line: Chapter 13.60 RCW.

Persons over sixty, abuse: Chapter 74.34 RCW.

Primary prevention program for child abuse and neglect: RCW 28A.300.160.

Record checks: RCW 43.43.830 through 43.43.840 and 43.20A.710.

School districts to develop policies and participate in programs: RCW 28A.230.080.

Shaken baby syndrome: RCW 43.121.140.

Witness of offense against child, duty: RCW 9.69.100.

RCW 26.44.010 Declaration of purpose.

The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their

parents, custodians or guardians have occurred, and in the instance where a child is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children: PROVIDED, That such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions: PROVIDED FURTHER, That this chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

[1999 c 176 § 27; 1987 c 206 § 1; 1984 c 97 § 1; 1977 ex.s. c 80 § 24; 1975 1st ex.s. c 217 § 1; 1969 ex.s. c 35 § 1; 1965 c 13 § 1.]

Notes:

Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176: See notes following RCW 74.34.005.

Severability--1984 c 97: See RCW 74.34.900.

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 26.44.015 Limitations of chapter.

(1) This chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not injurious to the child's health, welfare, and safety.

(2) Nothing in this chapter may be used to prohibit the reasonable use of corporal punishment as a means of discipline.

(3) No parent or guardian may be deemed abusive or neglectful solely by reason of the parent's or child's blindness, deafness, developmental disability, or other handicap.

[1999 c 176 § 28; 1997 c 386 § 23; 1993 c 412 § 11.]

Notes:

Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176: See notes following RCW 74.34.005.

Application--Effective date--1997 c 386: See notes following RCW 74.14D.010.

RCW 26.44.020 Definitions.

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

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state

to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(13) "Child protective services section" means the child protective services section of the department.

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

(16) "Child protective services" means those services provided by the department

designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

[2000 c 162 § 19; 1999 c 176 § 29; 1998 c 314 § 7. Prior: 1997 c 386 § 45; 1997 c 386 § 24; 1997 c 282 § 4; 1997 c 132 § 2; 1996 c 178 § 10; prior: 1993 c 412 § 12; 1993 c 402 § 1; 1988 c 142 § 1; prior: 1987 c 524 § 9; 1987 c 206 § 2; 1984 c 97 § 2; 1982 c 129 § 6; 1981 c 164 § 1; 1977 ex.s. c 80 § 25; 1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

Notes:

Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176: See notes following RCW 74.34.005.

Application--Effective date--1997 c 386: See notes following RCW 74.14D.010.

Findings--1997 c 132: "The legislature finds that housing is frequently influenced by the economic situation faced by the family. This may include siblings sharing a bedroom. The legislature also finds that the family living situation due to economic circumstances in and of itself is not sufficient to justify a finding of child abuse, negligent treatment, or maltreatment." [1997 c 132 § 1.]

Effective date--1996 c 178: See note following RCW 18.35.110.

Severability--1984 c 97: See RCW 74.34.900.

Severability--1982 c 129: See note following RCW 9A.04.080.

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 26.44.030 Reports--Duty and authority to make--Duty of receiving agency--Duty to notify--Case planning and consultation--Penalty for unauthorized exchange of information--Filing dependency petitions--Interviews of children--Records--Risk assessment process--Reports to legislature.

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement

officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(c) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(d) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of alleged abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of

the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

The department shall provide annual reports to the legislature on the effectiveness of the risk assessment process.

(14) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(15) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

[1999 c 267 § 20; 1999 c 176 § 30; 1998 c 328 § 5; 1997 c 386 § 25; 1996 c 278 § 2; 1995 c 311 § 17. Prior: 1993 c 412 § 13; 1993 c 237 § 1; 1991 c 111 § 1; 1989 c 22 § 1; prior: 1988 c 142 § 2; 1988 c 39 § 1; prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

Notes:

Reviser's note: This section was amended by 1999 c 176 § 30 and by 1999 c 267 § 20, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings--Intent--Severability--1999 c 267: See notes following RCW 43.20A.790.

Short title--Purpose--Entitlement not granted--Federal waivers--1999 c 267 §§ 10-26: See RCW 74.15.900 and 74.15.901.

Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176: See notes following RCW 74.34.005.

Application--Effective date--1997 c 386: See notes following RCW 74.14D.010.

Finding--Intent--1996 c 278: "The legislature finds that including certain department of corrections personnel among the professionals who are mandated to report suspected abuse or neglect of children, dependent adults, or people with developmental disabilities is an important step toward improving the protection of these vulnerable populations. The legislature intends, however, to limit the circumstances under which department of corrections personnel are mandated reporters of suspected abuse or neglect to only those circumstances when the information is obtained during the course of their employment. This act is not to be construed to alter the circumstances under which other professionals are mandated to report suspected abuse or neglect, nor is it the legislature's intent to alter current practices and procedures utilized by other professional organizations who are mandated reporters under RCW 26.44.030(1)(a)." [1996 c 278 § 1.]

Severability--1987 c 512: See RCW 18.19.901.

Legislative findings--1985 c 259: "The Washington state legislature finds and declares:

The children of the state of Washington are the state's greatest resource and the greatest source of wealth to the state of Washington. Children of all ages must be protected from child abuse. Governmental authorities must give the prevention, treatment, and punishment of child abuse the highest priority, and all instances of child abuse must be reported to the proper authorities who should diligently and expeditiously take appropriate action, and child abusers must be held accountable to the people of the state for their actions.

The legislature recognizes the current heavy caseload of governmental authorities responsible for the prevention, treatment, and punishment of child abuse. The information obtained by child abuse reporting requirements, in addition to its use as a law enforcement tool, will be used to determine the need for additional funding to ensure that resources for appropriate governmental response to child abuse are available." [1985 c 259 § 1.]

Severability--1984 c 97: See RCW 74.34.900.

Severability--1982 c 129: See note following RCW 9A.04.080.

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 26.44.031 Unfounded referrals--Report retention.

To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not maintain information related to unfounded referrals in files or reports of child abuse or neglect for longer than six years except as provided in this section.

At the end of six years from receipt of the unfounded report, the information shall be purged unless an additional report has been received in the intervening period.

[1997 c 282 § 1.]

RCW 26.44.032 Legal defense of public employee.

In cases in which a public employee subject to RCW 26.44.030 acts in good faith and without gross negligence in his or her reporting duty, and if the employee's judgment as to what constitutes reasonable cause to believe that a child has suffered abuse or neglect is being challenged, the public employer shall provide for the legal defense of the employee.

[1999 c 176 § 31; 1988 c 87 § 1.]

Notes:

Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176: See notes following RCW 74.34.005.

RCW 26.44.035 Response to complaint by more than one agency--Procedure--Written records.

(1) If the department or a law enforcement agency responds to a complaint of alleged child abuse or neglect and discovers that another agency has also responded to the complaint, the agency shall notify the other agency of their presence, and the agencies shall coordinate the investigation and keep each other apprised of progress.

(2) The department, each law enforcement agency, each county prosecuting attorney, each city attorney, and each court shall make as soon as practicable a written record and shall maintain records of all incidents of suspected child abuse reported to that person or agency.

(3) Every employee of the department who conducts an interview of any person involved in an allegation of abuse or neglect shall retain his or her original written records or notes setting forth the content of the interview unless the notes were entered into the electronic system operated by the department which is designed for storage, retrieval, and preservation of such records.

(4) Written records involving child sexual abuse shall, at a minimum, be a near verbatim record for the disclosure interview. The near verbatim record shall be produced within fifteen calendar days of the disclosure interview, unless waived by management on a case-by-case basis.

(5) Records kept under this section shall be identifiable by means of an agency code for child abuse.

[1999 c 389 § 7; 1997 c 386 § 26; 1985 c 259 § 3.]

Notes:

Application--Effective date--1997 c 386: See notes following RCW 74.14D.010.

Legislative findings--1985 c 259: See note following RCW 26.44.030.

RCW 26.44.040 Reports--Oral, written--Contents.

An immediate oral report must be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, must be followed by a report in writing. Such reports must contain the following information, if known:

- (1) The name, address, and age of the child;
- (2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
- (3) The nature and extent of the alleged injury or injuries;
- (4) The nature and extent of the alleged neglect;
- (5) The nature and extent of the alleged sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information that may be helpful in establishing the cause of the child's

death, injury, or injuries and the identity of the alleged perpetrator or perpetrators.

[1999 c 176 § 32; 1997 c 386 § 27; 1993 c 412 § 14; 1987 c 206 § 4; 1984 c 97 § 4; 1977 ex.s. c 80 § 27; 1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.]

Notes:

Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176: See notes following RCW 74.34.005.

Application--Effective date--1997 c 386: See notes following RCW 74.14D.010.

Severability--1984 c 97: See RCW 74.34.900.

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

RCW 26.44.050 Abuse or neglect of child--Duty of law enforcement agency or department of social and health services--Taking child into custody without court order, when.

Upon the receipt of a report concerning the possible occurrence of abuse or neglect, the law enforcement agency or the department of social and health services must investigate and provide the protective services section with a report in accordance with chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

[1999 c 176 § 33. Prior: 1987 c 450 § 7; 1987 c 206 § 5; 1984 c 97 § 5; 1981 c 164 § 3; 1977 ex.s. c 291 § 51; 1977 ex.s. c 80 § 28; 1975 1st ex.s. c 217 § 5; 1971 ex.s. c 302 § 15; 1969 ex.s. c 35 § 5; 1965 c 13 § 5.]

Notes:

Findings--Purpose--Severability--Conflict with federal requirements--1999 c 176: See notes following RCW 74.34.005.

Severability--1984 c 97: See RCW 74.34.900.

Effective dates--Severability--1977 ex.s. c 291: See notes following RCW 13.04.005.

Purpose--Intent--Severability--1977 ex.s. c 80: See notes following RCW 4.16.190.

Severability--1971 ex.s. c 302: See note following RCW 9.41.010.

RCW 26.44.053 Guardian ad litem, appointment--Examination of person having legal custody--Hearing--Procedure.

(1) In any judicial proceeding under this chapter or chapter 13.34 RCW in which it is alleged that a child has been subjected to child abuse or neglect, the court shall appoint a guardian ad litem for the child as provided in chapter 13.34 RCW. The requirement of a guardian ad litem may be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, the court may, on its own

motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist, or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist, or psychiatrist conducting such an examination may be required to testify concerning the results of such examination and may be asked to give his or her opinion as to whether the protection of the child requires that he or she not be returned to the custody of his or her parents or other persons having custody of him or her at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No information given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the alleged abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be abused or neglected shall be a party to any proceeding that may impair or impede such person's interest in and custody or control of the child.

[1997 c 386 § 28; 1996 c 249 § 16; 1994 c 110 § 1; 1993 c 241 § 4. Prior: 1987 c 524 § 11; 1987 c 206 § 7; 1975 1st ex.s. c 217 § 8.]

Notes:

Application--Effective date--1997 c 386: See notes following RCW 74.14D.010.

Intent--1996 c 249: See note following RCW 2.56.030.

Conflict with federal requirements--1993 c 241: See note following RCW 13.34.030.

RCW 26.44.056 Protective detention or custody of abused child--Reasonable cause--Notice--Time limits--Monitoring plan--Liability.

(1) An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040. Such notification shall be made as soon as possible and in no case longer than seventy-two hours. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest. Child protective services may detain the child until the court assumes custody, but in no case longer than seventy-two hours, excluding Saturdays, Sundays, and holidays.

(2) Whenever an administrator or physician has reasonable cause to believe that a child would be in imminent danger if released to a parent, guardian, custodian, or other person or is in imminent danger if left in the custody of a parent, guardian, custodian, or other person, the

administrator or physician may notify a law enforcement agency and the law enforcement agency shall take the child into custody or cause the child to be taken into custody. The law enforcement agency shall release the child to the custody of child protective services. Child protective services shall detain the child until the court assumes custody or upon a documented and substantiated record that in the professional judgment of the child protective services the child's safety will not be endangered if the child is returned. If the child is returned, the department shall establish a six-month plan to monitor and assure the continued safety of the child's life or health. The monitoring period may be extended for good cause.

(3) A child protective services employee, an administrator, doctor, or law enforcement officer shall not be held liable in any civil action for the decision for taking the child into custody, if done in good faith under this section.

[1983 c 246 § 3; 1982 c 129 § 8; 1975 1st ex.s. c 217 § 9.]

Notes:

Severability--1982 c 129: See note following RCW 9A.04.080.

RCW 26.44.060 Immunity from civil or criminal liability--Confidential communications not violated--Actions against state not affected--False report, penalty.

(1)(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith or maliciously, knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

[1997 c 386 § 29; 1988 c 142 § 3; 1982 c 129 § 9; 1975 1st ex.s. c 217 § 6; 1965 c 13 § 6.]

Notes:

Application--Effective date--1997 c 386: See notes following RCW 74.14D.010.

Severability--1982 c 129: See note following RCW 9A.04.080.

Nurse-patient privilege subject to RCW 26.44.060(3): RCW 5.62.030.

RCW 26.44.063 Temporary restraining order or preliminary injunction--Enforcement--Notice of modification or termination of restraining order.

(1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged offender, rather than the child, shall be removed from the home and that this should be done at the earliest possible point of intervention in accordance with RCW 10.31.100, 13.34.130, this section, and RCW 26.44.130.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

- (a) Molesting or disturbing the peace of the alleged victim;
- (b) Entering the family home of the alleged victim except as specifically authorized by the court;
- (c) Having any contact with the alleged victim, except as specifically authorized by the court;
- (d) Knowingly coming within, or knowingly remaining within, a specified distance of a specified location.

(3) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

(4) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

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

(6) A temporary restraining order or preliminary injunction:

- (a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding; and
- (b) May be revoked or modified.

(7) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health

services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

(8) Willful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order with actual notice of its terms is a criminal offense under chapter 26.44 RCW, is also subject to contempt proceedings, and will subject a violator to arrest."

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

[2000 c 119 § 12; 1993 c 412 § 15; 1988 c 190 § 3; 1985 c 35 § 1.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Ex parte temporary order for protection: RCW 26.50.070.

Orders for protection in cases of domestic violence: RCW 26.50.030.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

RCW 26.44.067 Temporary restraining order or preliminary injunction--Contents--Notice--Noncompliance--Defense--Penalty.

(1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction pursuant to RCW 26.44.063 who refuses to comply with the provisions of such order shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) of this section may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified by a notary public or the clerk of the court to be an accurate copy of the original court order which is on file. The copy may be supplied by the court or any party.

(3) The remedies provided in this section shall not apply unless restraining orders subject to this section bear this legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.44 RCW AND IS ALSO SUBJECT TO CONTEMPT PROCEEDINGS.

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule. No right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest.

[2000 c 119 § 13; 1993 c 412 § 16; 1989 c 373 § 23; 1985 c 35 § 2.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1989 c 373: See RCW 7.21.900.

RCW 26.44.075 Inclusion of number of child abuse reports and cases in prosecuting attorney's annual report.

Commencing in 1986, the prosecuting attorney shall include in the annual report a section stating the number of child abuse reports received by the office under this chapter and the number of cases where charges were filed.

[1985 c 259 § 4.]

Notes:

Legislative findings--1985 c 259: See note following RCW 26.44.030.

RCW 26.44.080 Violation--Penalty.

Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a gross misdemeanor.

[1982 c 129 § 10; 1971 ex.s. c 167 § 3.]

Notes:

Severability--1982 c 129: See note following RCW 9A.04.080.

RCW 26.44.100 Information about rights--Legislative purpose--Notification of investigation, report, and findings.

(1) The legislature finds parents and children often are not aware of their due process rights when agencies are investigating allegations of child abuse and neglect. The legislature reaffirms that all citizens, including parents, shall be afforded due process, that protection of children remains the priority of the legislature, and that this protection includes protecting the family unit from unnecessary disruption. To facilitate this goal, the legislature wishes to ensure that parents and children be advised in writing and orally, if feasible, of their basic rights and other specific information as set forth in this chapter, provided that nothing contained in this chapter shall cause any delay in protective custody action.

(2) The department shall notify the alleged perpetrator of the allegations of child abuse and neglect at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process.

Whenever the department completes an investigation of a child abuse or neglect report under chapter 26.44 RCW, the department shall notify the alleged perpetrator of the report and the department's investigative findings. The notice shall also advise the alleged perpetrator that:

(a) A written response to the report may be provided to the department and that such response will be filed in the record following receipt by the department;

(b) Information in the department's record may be considered in subsequent investigations or proceedings related to child protection or child custody;

(c) Founded reports of child abuse and neglect may be considered in determining whether the person is disqualified from being licensed to provide child care, employed by a licensed child care agency, or authorized by the department to care for children; and

(d) An alleged perpetrator named in a founded report of child abuse or neglect has the right to seek review of the finding as provided in this chapter.

(3) The notification required by this section shall be made by certified mail, return receipt requested, to the person's last known address.

(4) The duty of notification created by this section is subject to the ability of the department to ascertain the location of the person to be notified. The department shall exercise reasonable, good-faith efforts to ascertain the location of persons entitled to notification under this section.

[1998 c 314 § 8; 1997 c 282 § 2; 1993 c 412 § 17; 1985 c 183 § 1.]

RCW 26.44.105 Information about rights--Oral and written information--Copies of dependency petition and any court order.

Whenever a dependency petition is filed by the department of social and health services, it shall advise the parents, and any child over the age of twelve who is subject to the dependency action, of their respective rights under RCW 13.34.090. The parents and the child shall be provided a copy of the dependency petition and a copy of any court orders which have been issued. This advice of rights under RCW 13.34.090 shall be in writing. The department caseworker shall also make reasonable efforts to advise the parent and child of these same rights orally.

[1985 c 183 § 2.]

RCW 26.44.110 Information about rights--Custody without court order--Written statement required--Contents.

If a child has been taken into custody by law enforcement pursuant to RCW 26.44.050, the law enforcement agency shall leave a written statement with a parent or in the residence of the parent if no parent is present. The statement shall give the reasons for the removal of the child from the home and the telephone number of the child protective services office in the parent's jurisdiction.

[1985 c 183 § 3.]

RCW 26.44.115 Child taken into custody under court order--Information to parents.

If a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.062, the child protective services worker shall take reasonable steps to advise the parents immediately, regardless of the time of day, that the child has been taken into custody, the reasons why the child was taken into custody, and general information about the

child's placement. The department shall comply with RCW 13.34.060 when providing notice under this section.

[2000 c 122 § 39; 1990 c 246 § 10; 1985 c 183 § 4.]

Notes:

Severability--1990 c 246: See note following RCW 13.34.060.

RCW 26.44.120 Information about rights--Notice to noncustodial parent.

Whenever the child protective services worker is required to notify parents and children of their basic rights and other specific information as set forth in RCW 26.44.105 through 26.44.115, the child protective services worker shall also make a reasonable effort to notify the noncustodial parent of the same information in a timely manner.

[1985 c 183 § 5.]

RCW 26.44.125 Alleged perpetrators--Right to review and amendment of finding--Hearing.

(1) A person who is named as an alleged perpetrator after October 1, 1998, in a founded report of child abuse or neglect has the right to seek review and amendment of the finding as provided in this section.

(2) Within twenty calendar days after receiving written notice from the department under RCW 26.44.100 that a person is named as an alleged perpetrator in a founded report of child abuse or neglect, he or she may request that the department review the finding. The request must be made in writing. If a request for review is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

(3) Upon receipt of a written request for review, the department shall review and, if appropriate, may amend the finding. Management level staff within the children's administration designated by the secretary shall be responsible for the review. The review must be conducted in accordance with procedures the department establishes by rule. Upon completion of the review, the department shall notify the alleged perpetrator in writing of the agency's determination. The notification must be sent by certified mail, return receipt requested, to the person's last known address.

(4) If, following agency review, the report remains founded, the person named as the alleged perpetrator in the report may request an adjudicative hearing to contest the finding. The adjudicative proceeding is governed by chapter 34.05 RCW and this section. The request for an adjudicative proceeding must be filed within thirty calendar days after receiving notice of the agency review determination. If a request for an adjudicative proceeding is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

(5) Reviews and hearings conducted under this section are confidential and shall not be

open to the public. Information about reports, reviews, and hearings may be disclosed only in accordance with federal and state laws pertaining to child welfare records and child protective services reports.

(6) The department may adopt rules to implement this section.

[1998 c 314 § 9.]

Notes:

Effective date--1998 c 314 § 9: "Section 9 of this act takes effect October 1, 1998." [1998 c 314 § 45.]

RCW 26.44.130 Arrest without warrant.

When a peace officer responds to a call alleging that a child has been subjected to sexual or physical abuse and has probable cause to believe that a crime has been committed or responds to a call alleging that a temporary restraining order or preliminary injunction has been violated, the peace officer has the authority to arrest the person without a warrant pursuant to RCW 10.31.100.

[1988 c 190 § 4.]

RCW 26.44.140 Treatment for abusive person removed from home.

The court shall require that an individual who, while acting in a parental role, has physically or sexually abused a child and has been removed from the home pursuant to a court order issued in a proceeding under chapter 13.34 RCW, prior to being permitted to reside in the home where the child resides, complete the treatment and education requirements necessary to protect the child from future abuse. The court may require the individual to continue treatment as a condition for remaining in the home where the child resides. Unless a parent, custodian, or guardian has been convicted of the crime for the acts of abuse determined in a fact-finding hearing under chapter 13.34 RCW, such person shall not be required to admit guilt in order to begin to fulfill any necessary treatment and education requirements under this section.

The department of social and health services or supervising agency shall be responsible for advising the court as to appropriate treatment and education requirements, providing referrals to the individual, monitoring and assessing the individual's progress, informing the court of such progress, and providing recommendations to the court.

The person removed from the home shall pay for these services unless the person is otherwise eligible to receive financial assistance in paying for such services. Nothing in this section shall be construed to create in any person an entitlement to services or financial assistance in paying for services.

[1997 c 344 § 1; 1991 c 301 § 15; 1990 c 3 § 1301.]

Notes:

Finding--1991 c 301: See note following RCW 10.99.020.

Index, part headings not law--Severability--Effective dates--Application--1990 c 3: See RCW 18.155.900 through 18.155.902.

RCW 26.44.150 Temporary restraining order restricting visitation for persons accused of sexually or physically abusing a child--Penalty for violating court order.

(1) If a person who has unsupervised visitation rights with a minor child pursuant to a court order is accused of sexually or physically abusing a child and the alleged abuse has been reported to the proper authorities for investigation, the law enforcement officer conducting the investigation may file an affidavit with the prosecuting attorney stating that the person is currently under investigation for sexual or physical abuse of a child and that there is a risk of harm to the child if a temporary restraining order is not entered. Upon receipt of the affidavit, the prosecuting attorney shall determine whether there is a risk of harm to the child if a temporary restraining order is not entered. If the prosecutor determines there is a risk of harm, the prosecutor shall immediately file a motion for an order to show cause seeking to restrict visitation with the child, and seek a temporary restraining order. The restraining order shall be issued for up to ninety days or until the investigation has been concluded in favor of the alleged abuser, whichever is shorter.

(2) Willful violation of a court order entered under this section is a misdemeanor. The court order shall state: "Violation of this order is a criminal offense under chapter 26.44 RCW and will subject the violator to arrest."

[1993 c 412 § 18.]

RCW 26.44.160 Allegations that child under twelve committed sex offense--Investigation--Referral to prosecuting attorney--Referral to department--Referral for treatment.

(1) If a law enforcement agency receives a complaint that alleges that a child under age twelve has committed a sex offense as defined in RCW 9.94A.030, the agency shall investigate the complaint. If the investigation reveals that probable cause exists to believe that the youth may have committed a sex offense and the child is at least eight years of age, the agency shall refer the case to the proper county prosecuting attorney for appropriate action to determine whether the child may be prosecuted or is a sexually aggressive youth. If the child is less than eight years old, the law enforcement agency shall refer the case to the department.

(2) If the prosecutor or a judge determines the child cannot be prosecuted for the alleged sex offense because the child is incapable of committing a crime as provided in RCW 9A.04.050 and the prosecutor believes that probable cause exists to believe that the child engaged in acts that would constitute a sex offense, the prosecutor shall refer the child as a sexually aggressive youth to the department. The prosecutor shall provide the department with an affidavit stating that the prosecutor has determined that probable cause exists to believe that the juvenile has committed acts that could be prosecuted as a sex offense but the case is not being prosecuted because the juvenile is incapable of committing a crime as provided in RCW 9A.04.050.

(3) The department shall investigate any referrals that allege that a child is a sexually aggressive youth. The purpose of the investigation shall be to determine whether the child is

abused or neglected, as defined in this chapter, and whether the child or the child's parents are in need of services or treatment. The department may offer appropriate available services and treatment to a sexually aggressive youth and his or her parents or legal guardians as provided in RCW 74.13.075 and may refer the child and his or her parents to appropriate treatment and services available within the community. If the parents refuse to accept or fail to obtain appropriate treatment or services under circumstances that indicate that the refusal or failure is child abuse or neglect, as defined in this chapter, the department may pursue a dependency action as provided in chapter 13.34 RCW.

(4) Nothing in this section shall affect the responsibility of a law enforcement agency to report incidents of abuse or neglect as required in RCW 26.44.030(5).

[1993 c 402 § 2.]

RCW 26.44.170 Alleged child abuse or neglect--Use of alcohol or controlled substances as contributing factor--Evaluation.

(1) When, as a result of a report of alleged child abuse or neglect, an investigation is made that includes an in-person contact with the person who is alleged to have committed the abuse or neglect, there shall be a determination of whether it is probable that the use of alcohol or controlled substances is a contributing factor to the alleged abuse or neglect.

(2) The department shall provide appropriate training for persons who conduct the investigations under subsection (1) of this section. The training shall include methods of identifying indicators of abuse of alcohol or controlled substances.

(3) If a determination is made under subsection (1) of this section that there is probable cause to believe abuse of alcohol or controlled substances has contributed to the child abuse or neglect, the department shall, within available funds, cause a comprehensive chemical dependency evaluation to be made of the person or persons so identified. The evaluation shall be conducted by a physician or persons certified under rules adopted by the department to make such evaluation. The department shall perform the duties assigned under this section within existing personnel resources.

[1997 c 386 § 48.]

RCW 26.44.180 Investigation of child sexual abuse--Protocols--Documentation of agencies' roles.

(1) Each agency involved in investigating child sexual abuse shall document its role in handling cases and how it will coordinate with other local agencies or systems and shall adopt a local protocol based on the state guidelines. The department and local law enforcement agencies may include other agencies and systems that are involved with child sexual abuse victims in the multidisciplinary coordination.

(2) Each county shall develop a written protocol for handling criminal child sexual abuse investigations. The protocol shall address the coordination of child sexual abuse investigations

between the prosecutor's office, law enforcement, the department, local advocacy groups, and any other local agency involved in the criminal investigation of child sexual abuse, including those investigations involving multiple victims and multiple offenders. The protocol shall be developed by the prosecuting attorney with the assistance of the agencies referenced in this subsection.

(3) Local protocols under this section shall be adopted and in place by July 1, 2000, and shall be submitted to the legislature prior to that date.

[1999 c 389 § 4.]

RCW 26.44.190 Investigation of child abuse or neglect--Participation by law enforcement officer.

A law enforcement agency shall not allow a law enforcement officer to participate as an investigator in the investigation of alleged abuse or neglect concerning a child for whom the law enforcement officer is, or has been, a parent, guardian, or foster parent. This section is not intended to limit the authority or duty of a law enforcement officer to report, testify, or be examined as authorized or required by this chapter, or to perform other official duties as a law enforcement officer.

[1999 c 389 § 9.]

Notes:

Findings--Intent--1999 c 389 § 9: "The legislature finds that the parent, guardian, or foster parent of a child who may be the victim of abuse or neglect may become involved in the investigation of the abuse or neglect. The parent, guardian, or foster parent may also be made a party to later court proceedings and be subject to a court-ordered examination by a physician, psychologist, or psychiatrist. It is the intent of the legislature by enacting section 9 of this act to avoid actual or perceived conflicts of interest that may occur when the parent, guardian, or foster parent is also a law enforcement officer and is assigned to conduct the investigation of alleged abuse or neglect concerning the child." [1999 c 389 § 8.]

RCW 26.44.900 Severability--1975 1st ex.s. c 217.

If any provision of this 1975 amendatory 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.

[1975 1st ex.s. c 217 § 10.]

**Chapter 26.50 RCW
DOMESTIC VIOLENCE PREVENTION**

Sections

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Notes:

Abuse of children: Chapter 26.44 RCW.

Arrest without warrant: RCW 10.31.100(2).

Dissolution of marriage: Chapter 26.09 RCW.

Domestic violence, official response: Chapter 10.99 RCW.

Nonparental actions for child custody: Chapter 26.10 RCW.

Shelters for victims of domestic violence: Chapter 70.123 RCW.

RCW 26.50.010 Definitions.

As used in this chapter, the following terms shall have the meanings given them:

(1) "Domestic violence" means: (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Dating relationship" means a social relationship of a romantic nature. Factors that the court may consider in making this determination include: (a) The length of time the relationship has existed; (b) the nature of the relationship; and (c) the frequency of interaction between the parties.

(4) "Court" includes the superior, district, and municipal courts of the state of Washington.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays.

(6) "Electronic monitoring" means a program in which a person's presence at a particular location is monitored from a remote location by use of electronic equipment.

(7) "Essential personal effects" means those items necessary for a person's immediate health, welfare, and livelihood. "Essential personal effects" includes but is not limited to clothing, cribs, bedding, documents, medications, and personal hygiene items.

[1999 c 184 § 13; 1995 c 246 § 1. Prior: 1992 c 111 § 7; 1992 c 86 § 3; 1991 c 301 § 8; 1984 c 263 § 2.]

Notes:

Short title--Severability--1999 c 184: See RCW 26.52.900 and 26.52.902.

Severability--1995 c 246: "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." [1995 c 246 § 40.]

Findings--1992 c 111: See note following RCW 26.50.030.

Finding--1991 c 301: See note following RCW 10.99.020.

Domestic violence offenses defined: RCW 10.99.020.

RCW 26.50.020 Commencement of action--Jurisdiction--Venue.

(1) Any person may seek relief under this chapter by filing a petition with a court alleging

that the person has been the victim of domestic violence committed by the respondent. The person may petition for relief on behalf of himself or herself and on behalf of minor family or household members.

(2) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) The courts defined in *RCW 26.50.010(3) have jurisdiction over proceedings under this chapter. The jurisdiction of district and municipal courts under this chapter shall be limited to enforcement of RCW 26.50.110(1), or the equivalent municipal ordinance, and the issuance and enforcement of temporary orders for protection provided for in RCW 26.50.070 if: (a) A superior court has exercised or is exercising jurisdiction over a proceeding under this title or chapter 13.34 RCW involving the parties; (b) the petition for relief under this chapter presents issues of residential schedule of and contact with children of the parties; or (c) the petition for relief under this chapter requests the court to exclude a party from the dwelling which the parties share. When the jurisdiction of a district or municipal court is limited to the issuance and enforcement of a temporary order, the district or municipal court shall set the full hearing provided for in RCW 26.50.050 in superior court and transfer the case. If the notice and order are not served on the respondent in time for the full hearing, the issuing court shall have concurrent jurisdiction with the superior court to extend the order for protection.

(6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides, unless the petitioner has left the residence or household to avoid abuse. In that case, the petitioner may bring an action in the county or municipality of the previous or the new household or residence.

(7) A person's right to petition for relief under this chapter is not affected by the person leaving the residence or household to avoid abuse.

[1992 c 111 § 8; 1989 c 375 § 28; 1987 c 71 § 1; 1985 c 303 § 1; 1984 c 263 § 3.]

Notes:

***Reviser's note:** RCW 26.50.010(3) was renumbered as RCW 26.50.010(4) by 1992 c 111 § 7.

Findings--1992 c 111: See note following RCW 26.50.030.

Severability--1989 c 375: See RCW 26.09.914.

Effective date--1985 c 303 §§ 1, 2: "Sections 1 and 2 of this act shall take effect September 1, 1985."

[1985 c 303 § 15.]

RCW 26.50.021 Actions on behalf of vulnerable adults--Authority of department of social and health services--Immunity from liability.

The department of social and health services, in its discretion, may seek the relief provided in this chapter on behalf of and with the consent of any vulnerable adult as those

persons are defined in RCW 74.34.020. Neither the department nor the state of Washington shall be liable for failure to seek relief on behalf of any persons under this section.

[2000 c 119 § 1.]

Notes:

Application--2000 c 119: "The penalties prescribed in this act apply to violations of court orders which occur on or after July 1, 2000, regardless of the date the court issued the order." [2000 c 119 § 31.]

RCW 26.50.025 Orders under this chapter and chapter 26.09, 26.10, or 26.26

RCW--Enforcement--Consolidation.

(1) Any order available under this chapter may be issued in actions under chapter 26.09, 26.10, or 26.26 RCW. If an order for protection is issued in an action under chapter 26.09, 26.10, or 26.26 RCW, the order shall be issued on the forms mandated by RCW 26.50.035(1). An order issued in accordance with this subsection is fully enforceable and shall be enforced under the provisions of this chapter.

(2) If a party files an action under chapter 26.09, 26.10, or 26.26 RCW, an order issued previously under this chapter between the same parties may be consolidated by the court under that action and cause number. Any order issued under this chapter after consolidation shall contain the original cause number and the cause number of the action under chapter 26.09, 26.10, or 26.26 RCW. Relief under this chapter shall not be denied or delayed on the grounds that the relief is available in another action.

[1995 c 246 § 2.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.030 Petition for an order for protection--Availability of forms and informational brochures--Bond not required.

There shall exist an action known as a petition for an order for protection in cases of domestic violence.

(1) A petition for relief shall allege the existence of domestic violence, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought. Petitioner and respondent shall disclose the existence of any other litigation concerning the custody or residential placement of a child of the parties as set forth in RCW 26.27.090 and the existence of any other restraining, protection, or no-contact orders between the parties.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties except in cases where the court realigns petitioner and respondent in accordance with RCW 26.50.060(4).

(3) Within ninety days of receipt of the master copy from the administrator for the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by RCW 26.50.035 and shall fill in and keep current specific

program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) No filing fee may be charged for proceedings under this section. Forms and instructional brochures shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

[1996 c 248 § 12; 1995 c 246 § 3; 1992 c 111 § 2; 1985 c 303 § 2; 1984 c 263 § 4.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

Findings--1992 c 111: "The legislature finds that:

Domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems: Child abuse, other crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs millions of dollars each year in the state of Washington for health care, absence from work, services to children, and more. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required particularly if they have limited English proficiency; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

When courts issue mutual protection orders without the filing of separate written petitions, notice to each respondent, and hearing on each petition, the original petitioner is deprived of due process. Mutual protection orders label both parties as violent and treat both as being equally at fault: Batterers conclude that the violence is excusable or provoked and victims who are not violent are confused and stigmatized. Enforcement may be ineffective and mutual orders may be used in other proceedings as evidence that the victim is equally at fault.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies; without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue.

Domestic violence must be addressed more widely and more effectively in our state: Greater knowledge by professionals who deal frequently with domestic violence is essential to enforce existing laws, to intervene in domestic violence situations that do not come to the attention of the law enforcement or judicial systems, and to reduce and prevent domestic violence by intervening before the violence becomes severe.

Adolescent dating violence is occurring at increasingly high rates: Preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships." [1992 c 111 § 1.]

Effective date--1985 c 303 §§ 1, 2: See note following RCW 26.50.020.

Child abuse, temporary restraining order: RCW 26.44.063.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

RCW 26.50.035 Development of instructions, informational brochures, forms, and handbook by the administrator for the courts--Community resource list--Distribution of master copy.

(1) The administrator for the courts shall develop and prepare instructions and

informational brochures required under RCW 26.50.030(4), standard petition and order for protection forms, and a court staff handbook on domestic violence and the protection order process. The standard petition and order for protection forms must be used after September 1, 1994, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state domestic violence coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining, modifying, and terminating a domestic violence protection order as provided under this chapter, an antiharassment no-contact order as provided under chapter 9A.46 RCW, a domestic violence no-contact order as provided under chapter 10.99 RCW, a restraining order as provided under chapters 26.09, 26.10, 26.26, and 26.44 RCW, an antiharassment protection order as provided by chapter 10.14 RCW, and a foreign protection order as defined in chapter 26.52 RCW.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a domestic violence program, defined in RCW 70.123.020, serving the county in which the court is located. The community resource list shall include the names and telephone numbers of domestic violence programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrator for the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrator for the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by January 1, 1997.

(6) The administrator for the courts shall update the instructions, brochures, standard

petition and order for protection forms, and court staff handbook when changes in the law make an update necessary.

[2000 c 119 § 14; 1995 c 246 § 4; 1993 c 350 § 2; 1985 c 303 § 3; 1984 c 263 § 31.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Findings--1993 c 350: "The legislature finds that domestic violence is a problem of immense proportions affecting individuals as well as communities. Domestic violence has long been recognized as being at the core of other major social problems including child abuse, crimes of violence against person or property, juvenile delinquency, and alcohol and drug abuse. Domestic violence costs include the loss of lives as well as millions of dollars each year in the state of Washington for health care, absence from work, and services to children. The crisis is growing.

While the existing protection order process can be a valuable tool to increase safety for victims and to hold batterers accountable, specific problems in its use have become evident. Victims have difficulty completing the paperwork required; model forms have been modified to be inconsistent with statutory language; different forms create confusion for law enforcement agencies about the contents and enforceability of orders. Refinements are needed so that victims have the easy, quick, and effective access to the court system envisioned at the time the protection order process was first created.

Valuable information about the reported incidents of domestic violence in the state of Washington is unobtainable without gathering data from all law enforcement agencies. Without this information, it is difficult for policymakers, funders, and service providers to plan for the resources and services needed to address the issue." [1993 c 350 § 1.]

Severability--1993 c 350: "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." [1993 c 350 § 9.]

RCW 26.50.040 Fees not permitted--Filing, service of process, certified copies.

No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this chapter. Petitioners shall be provided the necessary number of certified copies at no cost.

[1995 c 246 § 5; 1985 c 303 § 4; 1984 c 263 § 5.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.050 Hearing--Service--Time.

Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further acts of domestic violence. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in RCW 26.50.085 and 26.50.123, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the

court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or service by mail as provided in RCW 26.50.123. If the court permits service by publication or by mail, the court shall set the hearing date not later than twenty-four days from the date of the order. The court may issue an ex parte order for protection pending the hearing as provided in RCW 26.50.070, 26.50.085, and 26.50.123.

[1995 c 246 § 6; 1992 c 143 § 1; 1984 c 263 § 6.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.055 Appointment of interpreter.

(1) Pursuant to chapter 2.42 RCW, an interpreter shall be appointed for any party who, because of a hearing or speech impairment, cannot readily understand or communicate in spoken language.

(2) Pursuant to chapter 2.43 RCW, an interpreter shall be appointed for any party who cannot readily speak or understand the English language.

(3) The interpreter shall translate or interpret for the party in preparing forms, participating in the hearing and court-ordered assessments, and translating any orders.

[1995 c 246 § 11.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.060 Relief--Duration--Realignment of designation of parties--Award of costs, service fees, and attorneys' fees.

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling that the parties share, from the residence, workplace, or school of the petitioner, or from the day care or school of a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(e) Order the respondent to participate in a domestic violence perpetrator treatment program approved under RCW 26.50.150;

(f) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(g) Require the respondent to pay the administrative court costs and service fees, as established by the county or municipality incurring the expense and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorneys' fees;

(h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household;

(i) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring;

(j) Consider the provisions of RCW 9.41.800;

(k) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included; and

(l) Order use of a vehicle.

(2) If a protection order restrains the respondent from contacting the respondent's minor children the restraint shall be for a fixed period not to exceed one year. This limitation is not applicable to orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW. With regard to other relief, if the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either grant relief for a fixed period or enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 or 26.26 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123. If the court permits service by publication or mail, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order

expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in *subsection (1)(f) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service, service by publication, or service by mail and whether the court has approved service by publication or mail of an order issued under this section.

(7) If the court declines to issue an order for protection or declines to renew an order for protection, the court shall state in writing on the order the particular reasons for the court's denial.

[2000 c 119 § 15; 1999 c 147 § 2; 1996 c 248 § 13; 1995 c 246 § 7; 1994 sp.s. c 7 § 457. Prior: 1992 c 143 § 2; 1992 c 111 § 4; 1992 c 86 § 4; 1989 c 411 § 1; 1987 c 460 § 55; 1985 c 303 § 5; 1984 c 263 § 7.]

Notes:

***Reviser's note:** Subsection (1)(f) of this section was renumbered as subsection (1)(g) by 2000 c 119 § 15.

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Findings--1992 c 111: See note following RCW 26.50.030.

Short title--Section captions--Effective date--Severability--1987 c 460: See RCW 26.09.910 through 26.09.913.

RCW 26.50.070 Ex parte temporary order for protection.

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Restraining any party from going onto the grounds of or entering the dwelling that the parties share, from the residence, workplace, or school of the other, or from the day care or school of a child until further order of the court;

(c) Prohibiting any party from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(d) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;

(e) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and

(f) Considering the provisions of RCW 9.41.800.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085 or by mail under RCW 26.50.123. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication or by mail is permitted. Except as provided in RCW 26.50.050, 26.50.085, and 26.50.123, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(5) Any order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a state-wide judicial information system by the clerk of the court within one judicial day after issuance.

(6) If the court declines to issue an ex parte temporary order for protection the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order of protection shall be filed with the court.

[2000 c 119 § 16; 1996 c 248 § 14; 1995 c 246 § 8; 1994 sp.s. c 7 § 458; 1992 c 143 § 3; 1989 c 411 § 2; 1984 c 263 § 8.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Finding--Intent--Severability--1994 sp.s. c 7: See notes following RCW 43.70.540.

Effective date--1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Child abuse, temporary restraining order: RCW 26.44.063.

Orders prohibiting contact: RCW 10.99.040.

Temporary restraining order: RCW 26.09.060.

RCW 26.50.080 Issuance of order--Assistance of peace officer--Designation of appropriate law enforcement agency.

(1) When an order is issued under this chapter upon request of the petitioner, the court may order a peace officer to accompany the petitioner and assist in placing the petitioner in possession of those items indicated in the order or to otherwise assist in the execution of the

order of protection. The order shall list all items that are to be included with sufficient specificity to make it clear which property is included. Orders issued under this chapter shall include a designation of the appropriate law enforcement agency to execute, serve, or enforce the order.

(2) Upon order of a court, a peace officer shall accompany the petitioner in an order of protection and assist in placing the petitioner in possession of all items listed in the order and to otherwise assist in the execution of the order.

[1995 c 246 § 9; 1984 c 263 § 9.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.085 Hearing reset after ex parte order--Service by publication--Circumstances.

(1) If the respondent was not personally served with the petition, notice of hearing, and ex parte order before the hearing, the court shall reset the hearing for twenty-four days from the date of entry of the order and may order service by publication instead of personal service under the following circumstances:

(a) The sheriff or municipal officer files an affidavit stating that the officer was unable to complete personal service upon the respondent. The affidavit must describe the number and types of attempts the officer made to complete service;

(b) The petitioner files an affidavit stating that the petitioner believes that the respondent is hiding from the server to avoid service. The petitioner's affidavit must state the reasons for the belief that the petitioner [respondent] is avoiding service;

(c) The server has deposited a copy of the summons, in substantially the form prescribed in subsection (3) of this section, notice of hearing, and the ex parte order of protection in the post office, directed to the respondent at the respondent's last known address, unless the server states that the server does not know the respondent's address; and

(d) The court finds reasonable grounds exist to believe that the respondent is concealing himself or herself to avoid service, and that further attempts to personally serve the respondent would be futile or unduly burdensome.

(2) The court shall reissue the temporary order of protection not to exceed another twenty-four days from the date of reissuing the ex parte protection order and order to provide service by publication.

(3) The publication shall be made in a newspaper of general circulation in the county where the petition was brought and in the county of the last known address of the respondent once a week for three consecutive weeks. The newspaper selected must be one of the three most widely circulated papers in the county. The publication of summons shall not be made until the court orders service by publication under this section. Service of the summons shall be considered complete when the publication has been made for three consecutive weeks. The summons must be signed by the petitioner. The summons shall contain the date of the first publication, and shall require the respondent upon whom service by publication is desired, to

appear and answer the petition on the date set for the hearing. The summons shall also contain a brief statement of the reason for the petition and a summary of the provisions under the ex parte order. The summons shall be essentially in the following form:

In the court of the state of Washington for
the county of

....., Petitioner

vs.

No.

....., Respondent

The state of Washington to (respondent):

You are hereby summoned to appear on the day
of, 19 .., at a.m./p.m., and respond to the
petition. If you fail to respond, an order of protection will be
issued against you pursuant to the provisions of the domestic
violence protection act, chapter 26.50 RCW, for a minimum of
one year from the date you are required to appear. A
temporary order of protection has been issued against you,
restraining you from the following: (Insert a brief statement of
the provisions of the ex parte order). A copy of the petition,
notice of hearing, and ex parte order has been filed with the
clerk of this court.

.....
Petitioner

[1992 c 143 § 4.]

RCW 26.50.090 Order--Service--Fees.

(1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsections (6) and (8) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent

within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

(7) Municipal police departments serving documents as required under this chapter may collect from respondents ordered to pay fees under RCW 26.50.060 the same fees for service and mileage authorized by RCW 36.18.040 to be collected by sheriffs.

(8) If the court previously entered an order allowing service of the notice of hearing and temporary order of protection by publication pursuant to RCW 26.50.085 or by mail pursuant to RCW 26.50.123, the court may permit service by publication or by mail of the order of protection issued under RCW 26.50.060. Service by publication must comply with the requirements of RCW 26.50.085 and service by mail must comply with the requirements of RCW 26.50.123. The court order must state whether the court permitted service by publication or by mail.

[1995 c 246 § 10; 1992 c 143 § 6; 1985 c 303 § 6; 1984 c 263 § 10.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.095 Order following service by publication.

Following completion of service by publication as provided in RCW 26.50.085 or by mail as provided in RCW 26.50.123, if the respondent fails to appear at the hearing, the court may issue an order of protection as provided in RCW 26.50.060. That order must be served pursuant to RCW 26.50.090, and forwarded to the appropriate law enforcement agency pursuant to RCW 26.50.100.

[1995 c 246 § 12; 1992 c 143 § 5.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.100 Order--Transmittal to law enforcement agency--Record in law enforcement information system--Enforceability.

(1) A copy of an order for protection granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order.

Upon receipt of the order, the law enforcement agency shall forthwith enter the order into any computer-based criminal intelligence information system available in this state used by law

enforcement agencies to list outstanding warrants. The order shall remain in the computer for the period stated in the order. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served, served by publication, or served by mail.

[1996 c 248 § 15; 1995 c 246 § 13; 1992 c 143 § 7; 1984 c 263 § 11.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.110 Violation of order--Penalties.

(1) Whenever an order is granted under this chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of the restraint provisions, or of a provision excluding the person from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or of a provision of a foreign protection order specifically indicating that a violation will be a crime, for which an arrest is required under RCW 10.31.100(2) (a) or (b), is a gross misdemeanor except as provided in subsections (4) and (5) of this section. Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 10.99,

26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

[2000 c 119 § 24; 1996 c 248 § 16; 1995 c 246 § 14; 1992 c 86 § 5; 1991 c 301 § 6; 1984 c 263 § 12.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

Finding--1991 c 301: See note following RCW 10.99.020.

Violation of order protecting vulnerable adult: RCW 74.34.145.

RCW 26.50.115 Enforcement of ex parte order--Knowledge of order prerequisite to penalties--Reasonable efforts to serve copy of order.

(1) When the court issues an ex parte order pursuant to RCW 26.50.070 or an order of protection pursuant to RCW 26.50.060, the court shall advise the petitioner that the respondent may not be subjected to the penalties set forth in RCW 26.50.110 for a violation of the order unless the respondent knows of the order.

(2) When a peace officer investigates a report of an alleged violation of an order for protection issued under this chapter the officer shall attempt to determine whether the respondent knew of the existence of the protection order. If the law enforcement officer determines that the respondent did not or probably did not know about the protection order and the officer is provided a current copy of the order, the officer shall serve the order on the respondent if the respondent is present. If the respondent is not present, the officer shall make reasonable efforts to serve a copy of the order on the respondent. If the officer serves the respondent with the petitioner's copy of the order, the officer shall give petitioner a receipt indicating that petitioner's copy has been served on the respondent. After the officer has served the order on the respondent,

the officer shall enforce prospective compliance with the order.

(3) Presentation of an unexpired, certified copy of a protection order with proof of service is sufficient for a law enforcement officer to enforce the order regardless of the presence of the order in the law enforcement computer-based criminal intelligence information system.

[1996 c 248 § 17; 1995 c 246 § 15; 1992 c 143 § 8.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.120 Violation of order--Prosecuting attorney or attorney for municipality may be requested to assist--Costs and attorney's fee.

When a party alleging a violation of an order for protection issued under this chapter states that the party is unable to afford private counsel and asks the prosecuting attorney for the county or the attorney for the municipality in which the order was issued for assistance, the attorney shall initiate and prosecute a contempt proceeding if there is probable cause to believe that the violation occurred. In this action, the court may require the violator of the order to pay the costs incurred in bringing the action, including a reasonable attorney's fee.

[1984 c 263 § 13.]

RCW 26.50.123 Service by mail.

(1) In circumstances justifying service by publication under RCW 26.50.085(1), if the serving party files an affidavit stating facts from which the court determines that service by mail is just as likely to give actual notice as service by publication and that the serving party is unable to afford the cost of service by publication, the court may order that service be made by mail. Such service shall be made by any person over eighteen years of age, who is competent to be a witness, other than a party, by mailing copies of the order and other process to the party to be served at his or her last known address or any other address determined by the court to be appropriate. Two copies shall be mailed, postage prepaid, one by ordinary first class mail and the other by a form of mail requiring a signed receipt showing when and to whom it was delivered. The envelopes must bear the return address of the sender.

(2) Proof of service under this section shall be consistent with court rules for civil proceedings.

(3) Service under this section may be used in the same manner and shall have the same jurisdictional effect as service by publication for purposes of this chapter. Service shall be deemed complete upon the mailing of two copies as prescribed in this section.

[1995 c 246 § 16.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.125 Service by publication or mailing--Costs.

The court may permit service by publication or by mail under this chapter only if the petitioner pays the cost of publication or mailing unless the county legislative authority allocates funds for service of process by publication or by mail for indigent petitioners.

[1995 c 246 § 17; 1992 c 143 § 9.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.130 Order--Modification--Transmittal.

Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing order for protection. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the law enforcement information system.

[1984 c 263 § 14.]

RCW 26.50.135 Residential placement or custody of a child--Prerequisite.

(1) Before granting an order under this chapter directing residential placement of a child or restraining or limiting a party's contact with a child, the court shall consult the judicial information system, if available, to determine the pendency of other proceedings involving the residential placement of any child of the parties for whom residential placement has been requested.

(2) Jurisdictional issues regarding out-of-state proceedings involving the custody or residential placement of any child of the parties shall be governed by the uniform child custody jurisdiction act, chapter 26.27 RCW.

[1995 c 246 § 19.]

Notes:

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.140 Peace officers--Immunity.

No peace officer may be held criminally or civilly liable for making an arrest under RCW 26.50.110 if the police officer acts in good faith and without malice.

[1984 c 263 § 17.]

RCW 26.50.150 Domestic violence perpetrator programs.

The department of social and health services shall adopt rules for standards of approval of domestic violence perpetrator programs that accept perpetrators of domestic violence into treatment to satisfy court orders or that represent the programs as ones that treat domestic violence perpetrators. The treatment must meet the following minimum qualifications:

(1) All treatment must be based upon a full, complete clinical intake including: Current and past violence history; a lethality risk assessment; a complete diagnostic evaluation; a substance abuse assessment; criminal history; assessment of cultural issues, learning disabilities, literacy, and special language needs; and a treatment plan that adequately and appropriately addresses the treatment needs of the individual.

(2) To facilitate communication necessary for periodic safety checks and case monitoring, the program must require the perpetrator to sign the following releases:

(a) A release for the program to inform the victim and victim's community and legal advocates that the perpetrator is in treatment with the program, and to provide information, for safety purposes, to the victim and victim's community and legal advocates;

(b) A release to prior and current treatment agencies to provide information on the perpetrator to the program; and

(c) A release for the program to provide information on the perpetrator to relevant legal entities including: Lawyers, courts, parole, probation, child protective services, and child welfare services.

(3) Treatment must be for a minimum treatment period defined by the secretary of the department by rule. The weekly treatment sessions must be in a group unless there is a documented, clinical reason for another modality. Any other therapies, such as individual, marital, or family therapy, substance abuse evaluations or therapy, medication reviews, or psychiatric interviews, may be concomitant with the weekly group treatment sessions described in this section but not a substitute for it.

(4) The treatment must focus primarily on ending the violence, holding the perpetrator accountable for his or her violence, and changing his or her behavior. The treatment must be based on nonvictim-blaming strategies and philosophies and shall include education about the individual, family, and cultural dynamics of domestic violence. If the perpetrator or the victim has a minor child, treatment must specifically include education regarding the effects of domestic violence on children, such as the emotional impacts of domestic violence on children and the long-term consequences that exposure to incidents of domestic violence may have on children.

(5) Satisfactory completion of treatment must be contingent upon the perpetrator meeting specific criteria, defined by rule by the secretary of the department, and not just upon the end of a certain period of time or a certain number of sessions.

(6) The program must have policies and procedures for dealing with reoffenses and noncompliance.

(7) All evaluation and treatment services must be provided by, or under the supervision of, qualified personnel.

(8) The secretary of the department may adopt rules and establish fees as necessary to implement this section.

[1999 c 147 § 1; 1991 c 301 § 7.]

Notes:

Finding--1991 c 301: See note following RCW 10.99.020.

RCW 26.50.160 Judicial information system--Data base (as amended by 2000 c 51).

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a data base containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every criminal no-contact order issued under chapter 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under chapter 26.10 RCW, ~~(and)~~ every parentage action under chapter 26.10 RCW, and every order for protection issued under chapter 74.34 RCW;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee.

[2000 c 51 § 1; 1995 c 246 § 18.]

RCW 26.50.160 Judicial information system--Data base (as amended by 2000 c 119).

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a data base containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every criminal no-contact order issued under chapters 9A.46 and 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under chapter 26.10 RCW, ~~(and)~~ every parentage action under chapter ~~(26.10)~~ 26.26 RCW, every restraining order issued on behalf of an abused child or adult dependent person under chapter 26.44 RCW, every foreign protection order filed under chapter 26.52 RCW, and every order for protection of a vulnerable adult under chapter 74.34 RCW. When a guardian or the department of social and health services has petitioned for relief on behalf of an abused child, adult dependent person, or vulnerable adult, the name of the person on whose behalf relief was sought shall be included in the data base as a party rather than the guardian or department;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee.

[2000 c 119 § 25; 1995 c 246 § 18.]

Notes:

Reviser's note: RCW 26.50.160 was amended twice during the 2000 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Application--2000 c 119: See note following RCW 26.50.021.

Severability--1995 c 246: See note following RCW 26.50.010.

RCW 26.50.200 Title to real estate--Effect.

Nothing in this chapter may affect the title to real estate: PROVIDED, That a judgment for costs or fees awarded under this chapter shall constitute a lien on real estate to the extent provided in chapter 4.56 RCW.

[1985 c 303 § 7; 1984 c 263 § 15.]

RCW 26.50.210 Proceedings additional.

Any proceeding under chapter 263, Laws of 1984 is in addition to other civil or criminal remedies.

[1984 c 263 § 16.]

RCW 26.50.220 Parenting plan--Designation of parent for other state and federal purposes.

Solely for the purposes of all other state and federal statutes which require a designation or determination of custody, a parenting plan shall designate the parent with whom the child is scheduled to reside a majority of the time as the custodian of the child. However, this designation shall not affect either parent's rights and responsibilities under the parenting plan. In the absence of such a designation, the parent with whom the child is scheduled to reside the majority of the time shall be deemed to be the custodian of the child for the purposes of such federal and state statutes.

[1989 c 375 § 26.]

Notes:

Severability--1989 c 375: See RCW 26.09.914.

RCW 26.50.900 Short title.

This chapter may be cited as the "Domestic Violence Prevention Act".

[1984 c 263 § 1.]

RCW 26.50.901 Effective date--1984 c 263.

Sections 1 through 29 of this act shall take effect on September 1, 1984.

[1984 c 263 § 32.]

RCW 26.50.902 Severability--1984 c 263.

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.

[1984 c 263 § 33.]

RCW 26.50.903 Severability--1992 c 111.

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.

[1992 c 111 § 14.]

**Chapter 26.52 RCW
FOREIGN PROTECTION ORDER FULL FAITH AND CREDIT ACT**

Sections

26.52.005	Findings--Intent.
26.52.010	Definitions.
26.52.020	Foreign protection orders--Validity.
26.52.030	Foreign protection orders--Filing--Assistance.
26.52.040	Filed foreign protection orders--Transmittal to law enforcement agency--Entry into law enforcement information system.
26.52.050	Peace officer immunity.
26.52.060	Fees not permitted for filing, preparation, or copies.
26.52.070	Violation of foreign orders--Penalties.
26.52.080	Child custody disputes.
26.52.900	Short title--1999 c 184.
26.52.901	Captions not law--1999 c 184.
26.52.902	Severability--1999 c 184.

RCW 26.52.005 Findings--Intent.

The problem of women fleeing across state lines to escape their abusers is epidemic in the United States. In 1994, Congress enacted the violence against women act (VAWA) as Title IV of the violent crime control and law enforcement act (P.L. 103-322). The VAWA provides for

improved prevention and prosecution of violent crimes against women and children. Section 2265 of the VAWA (Title IV, P.L. 103-322) provides for nation-wide enforcement of civil and criminal protection orders in state and tribal courts throughout the country.

The legislature finds that existing statutes may not provide an adequate mechanism for victims, police, prosecutors, and courts to enforce a foreign protection order in our state. It is the intent of the legislature that the barriers faced by persons entitled to protection under a foreign protection order will be removed and that violations of foreign protection orders be criminally prosecuted in this state.

[1999 c 184 § 2.]

RCW 26.52.010 Definitions.

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

(1) "Domestic or family violence" includes, but is not limited to, conduct when committed by one family member against another that is classified in the jurisdiction where the conduct occurred as a domestic violence crime or a crime committed in another jurisdiction that under the laws of this state would be classified as domestic violence under RCW 10.99.020.

(2) "Family or household members" means spouses, former spouses, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship, persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

(3) "Foreign protection order" means an injunction or other order related to domestic or family violence, harassment, sexual abuse, or stalking, for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person issued by a court of another state, territory, or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or any United States military tribunal, or a tribal court, in a civil or criminal action.

(4) "Harassment" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as harassment or a crime committed in another jurisdiction that under the laws of this state would be classified as harassment under RCW 9A.46.040.

(5) "Judicial day" does not include Saturdays, Sundays, or legal holidays in Washington state.

(6) "Person entitled to protection" means a person, regardless of whether the person was the moving party in the foreign jurisdiction, who is benefited by the foreign protection order.

(7) "Person under restraint" means a person, regardless of whether the person was the responding party in the foreign jurisdiction, whose ability to contact or communicate with another person, or to be physically close to another person, is restricted by the foreign protection order.

(8) "Sexual abuse" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as a sex offense or a crime committed in another jurisdiction that under the laws of this state would be classified as a sex offense under RCW 9.94A.030.

(9) "Stalking" includes, but is not limited to, conduct that is classified in the jurisdiction where the conduct occurred as stalking or a crime committed in another jurisdiction that under the laws of this state would be classified as stalking under RCW 9A.46.110.

(10) "Washington court" includes the superior, district, and municipal courts of the state of Washington.

[1999 c 184 § 3.]

RCW 26.52.020 Foreign protection orders--Validity.

A foreign protection order is valid if the issuing court had jurisdiction over the parties and matter under the law of the state, territory, possession, tribe, or United States military tribunal. There is a presumption in favor of validity where an order appears authentic on its face.

A person under restraint must be given reasonable notice and the opportunity to be heard before the order of the foreign state, territory, possession, tribe, or United States military tribunal was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was given as soon as possible after the order was issued, consistent with due process.

[1999 c 184 § 4.]

RCW 26.52.030 Foreign protection orders--Filing--Assistance.

(1) A person entitled to protection who has a valid foreign protection order may file that order by presenting a certified, authenticated, or exemplified copy of the foreign protection order to a clerk of the court of a Washington court in which the person entitled to protection resides or to a clerk of the court of a Washington court where the person entitled to protection believes enforcement may be necessary. Any out-of-state department, agency, or court responsible for maintaining protection order records, may by facsimile or electronic transmission send a reproduction of the foreign protection order to the clerk of the court of Washington as long as it contains a facsimile or digital signature by any person authorized to make such transmission.

(2) Filing of a foreign protection order with a court and entry of the foreign protection order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants are not prerequisites for enforcement of the foreign protection order.

(3) The court shall accept the filing of a foreign protection order without a fee or cost.

(4) The clerk of the court shall provide information to a person entitled to protection of the availability of domestic violence, sexual abuse, and other services to victims in the community where the court is located and in the state.

(5) The clerk of the court shall assist the person entitled to protection in completing an information form that must include, but need not be limited to, the following:

- (a) The name of the person entitled to protection and any other protected parties;
- (b) The name and address of the person who is subject to the restraint provisions of the foreign protection order;
- (c) The date the foreign protection order was entered;
- (d) The date the foreign protection order expires;
- (e) The relief granted under (specify the relief awarded and citations thereto, and designate which of the violations are arrestable offenses);
- (f) The judicial district and contact information for court administration for the court in which the foreign protection order was entered;
- (g) The social security number, date of birth, and description of the person subject to the restraint provisions of the foreign protection order;
- (h) Whether the person who is subject to the restraint provisions of the foreign protection order is believed to be armed and dangerous;
- (i) Whether the person who is subject to the restraint provisions of the foreign protection order was served with the order, and if so, the method used to serve the order;
- (j) The type and location of any other legal proceedings between the person who is subject to the restraint provisions and the person entitled to protection.

An inability to answer any of the above questions does not preclude the filing or enforcement of a foreign protection order.

(6) The clerk of the court shall provide the person entitled to protection with a copy bearing proof of filing with the court.

(7) Any assistance provided by the clerk under this section does not constitute the practice of law. The clerk is not liable for any incomplete or incorrect information that he or she is provided.

[1999 c 184 § 5.]

RCW 26.52.040 Filed foreign protection orders--Transmittal to law enforcement agency--Entry into law enforcement information system.

(1) The clerk of the court shall forward a copy of a foreign protection order that is filed under this chapter on or before the next judicial day to the county sheriff along with the completed information form. The clerk may forward the foreign protection order to the county sheriff by facsimile or electronic transmission.

Upon receipt of a filed foreign protection order, the county sheriff shall immediately enter the foreign protection order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The foreign

protection order must remain in the computer for the period stated in the order. The county sheriff shall only expunge from the computer-based criminal intelligence information system foreign protection orders that are expired, vacated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the foreign protection order. The foreign protection order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system must include, if available, notice to law enforcement whether the foreign protection order was served and the method of service.

[1999 c 184 § 6.]

RCW 26.52.050 Peace officer immunity.

A peace officer or a peace officer's legal advisor may not be held criminally or civilly liable for making an arrest under this chapter if the peace officer or the peace officer's legal advisor acted in good faith and without malice.

[1999 c 184 § 7.]

RCW 26.52.060 Fees not permitted for filing, preparation, or copies.

A public agency may not charge a fee for filing or preparation of certified, authenticated, or exemplified copies to a person entitled to protection who seeks relief under this chapter or to a foreign prosecutor or a foreign law enforcement agency seeking to enforce a protection order entered by a Washington court. A person entitled to protection and foreign prosecutors or law enforcement agencies must be provided the necessary number of certified, authenticated, or exemplified copies at no cost.

[1999 c 184 § 8.]

RCW 26.52.070 Violation of foreign orders--Penalties.

(1) Whenever a foreign protection order is granted to a person entitled to protection and the person under restraint knows of the foreign protection order, a violation of a provision prohibiting the person under restraint from contacting or communicating with another person, or of a provision excluding the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime, is punishable under RCW 26.50.110.

(2) A peace officer shall arrest without a warrant and take into custody a person when the peace officer has probable cause to believe that a foreign protection order has been issued of which the person under restraint has knowledge and the person under restraint has violated a

provision of the foreign protection order that prohibits the person under restraint from contacting or communicating with another person, or a provision that excludes the person under restraint from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

[2000 c 119 § 26; 1999 c 184 § 9.]

Notes:

Application--2000 c 119: See note following RCW 26.50.021.

RCW 26.52.080 Child custody disputes.

(1) Any disputes regarding provisions in foreign protection orders dealing with custody of children, residential placement of children, or visitation with children shall be resolved judicially. The proper venue and jurisdiction for such judicial proceedings shall be determined in accordance with chapter 26.27 RCW and in accordance with the parental kidnapping prevention act, 28 U.S.C. 1738A.

(2) A peace officer shall not remove a child from his or her current placement unless:

(a) A writ of habeas corpus to produce the child has been issued by a superior court of this state; or

(b) There is probable cause to believe that the child is abused or neglected and the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050.

[1999 c 184 § 10.]

RCW 26.52.900 Short title--1999 c 184.

This act may be known and cited as the foreign protection order full faith and credit act.

[1999 c 184 § 1.]

RCW 26.52.901 Captions not law--1999 c 184.

Captions used in this chapter are not part of the law.

[1999 c 184 § 16.]

RCW 26.52.902 Severability--1999 c 184.

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.

[1999 c 184 § 17.]

Title 27 RCW
LIBRARIES, MUSEUMS, AND HISTORICAL ACTIVITIES

Chapters

- 27.04** State library.
- 27.12** Public libraries.
- 27.15** Library capital facility areas.
- 27.18** Interstate library compact.
- 27.20** State law library.
- 27.24** County law libraries.
- 27.34** State historical societies--Historic preservation.
- 27.40** Thomas Burke Memorial Washington State Museum of University of Washington.
- 27.44** Indian graves and records.
- 27.48** Preservation of historical materials.
- 27.53** Archaeological sites and resources.

Notes:

Chapter not to apply to certain materials printed in library or library district: RCW 82.04.600.

City libraries: RCW 35.22.280.

Highway advertising control act of 1961: Chapter 47.42 RCW.

Incorporation of libraries and scientific societies: Chapter 24.03 RCW.

Librarians--Qualifications and certification: RCW 27.04.055.

Periodicals, postage, purchase by public agencies--Manner of payment: RCW 42.24.035.

Power of cities and towns to acquire art museums, auditoriums, etc.: RCW 35.21.020.

Public bodies may retain collection agencies to collect public debts--Fees: RCW 19.16.500.

State publications distribution center: Chapter 40.06 RCW.

Chapter 27.04 RCW
STATE LIBRARY

Sections

- 27.04.010 Library created.
- 27.04.020 Library commission.
- 27.04.030 Duties of commission.
- 27.04.045 Duties of state librarian--Lending fees for interlibrary services.
- 27.04.055 Qualifications of librarians--Rules--Fees.
- 27.04.100 Reimbursement of employees for offender or resident assaults.

Notes:

Certain library records exempt from public inspection: RCW 42.17.310.

RCW 27.04.010 Library created.

There shall be a state library, with a state library commission to serve as the library's governing board, and a state librarian to serve as its chief executive officer.

[1999 c 123 § 1; 1943 c 207 § 1; Rem. Supp. 1943 § 8225-1. Prior: See Reviser's note below.]

Notes:

Reviser's note: For prior laws on this subject, see Laws 1929 c 159; 1921 c 7 § 13; 1913 c 72; 1903 c 171; 1901 c 43 and 46; 1893 c 63; 1891 c 37; Code 1881 §§ 2588-2613.

RCW 27.04.020 Library commission.

(1) A state library commission is created and shall consist of five commissioners appointed by the governor. The commission shall elect the chair from its membership.

(2) The commission appointment expiring in July 1999 shall thereafter be filled by a certified librarian actually engaged in library work at the time of appointment. The commission appointment expiring in July 2000 shall thereafter be filled by a member of the general public. The commission appointment expiring in July 2001 shall thereafter be filled by a representative from an executive branch agency. The commission appointment expiring in July 2002 shall thereafter be filled by a library trustee at the time of appointment. The position held by the *superintendent of public instruction shall be filled by an educator with knowledge in library and information technology policy, with an initial expiration date of 2003. A full term is five years. Commissioners may serve until reappointed or replaced. Vacancies shall be filled by appointments for the unexpired terms. An unexpired term of more than two and one-half years is considered a full term for purposes of reappointment. The governor may remove a commissioner for cause, in accordance with RCW 43.06.070. Each commissioner shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in the actual performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

[1999 c 123 § 2; 1984 c 287 § 58; 1975-'76 2nd ex.s. c 34 § 66; 1967 c 198 § 1; 1963 c 202 § 1; 1961 c 45 § 1; 1941 c 5 § 1; Rem. Supp. 1941 § 10771-2. Prior: See Reviser's note following RCW 27.04.010.]

Notes:

***Reviser's note:** 1999 c 123 § 2 deleted the reference to the superintendent of public instruction as the ex officio chairman of the library commission.

Legislative findings--Severability--Effective date--1984 c 287: See notes following RCW 43.03.220.

Effective date--Severability--1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

RCW 27.04.030 Duties of commission.

The state library commission:

(1) May make such rules under chapter 34.05 RCW as may be deemed necessary and proper to carry out the purposes of this chapter;

- (2) Shall set general policy and strategic directions pursuant to the provisions of this chapter;
- (3) Shall monitor agency progress toward its goals and objectives;
- (4) Shall exert leadership in the development of information access and library services;
- (5) Shall appoint a state librarian who shall serve at the pleasure of the commission. The commission may delegate such responsibilities and duties to the state librarian as it deems appropriate and shall regularly evaluate the performance of the state librarian;
- (6) Shall adopt recommended budgets and submit them to the governor;
- (7) Shall have authority to contract with any public library in the state for that library to render library service to the blind and/or physically handicapped throughout the state. The state library commission shall have authority to compensate such public library for the cost of the service it renders under such contract;
- (8) May adopt rules under chapter 34.05 RCW for the allocation of grants of state, federal, or private funds;
- (9) Shall have authority to accept and to expend in accordance with the terms thereof grants of federal, state, local, or private funds. For the purpose of qualifying to receive such grants, the state library commission is authorized to make applications and reports required by the grantor; and
- (10) Shall establish content-related standards for common formats and agency indexes for state agency-produced information. In developing these standards, the commission is encouraged to seek involvement of, and comments from, public and private entities with an interest in such standards.

[1999 c 123 § 3; 1987 c 330 § 401; 1986 c 79 § 1; 1984 c 152 § 1; 1943 c 207 § 2; 1941 c 5 § 2; Rem. Supp. 1943 § 10771-3. Prior: See Reviser's note following RCW 27.04.010.]

Notes:

Construction--Application of rules--Severability--1987 c 330: See notes following RCW 28B.12.050.

RCW 27.04.045 Duties of state librarian--Lending fees for interlibrary services.

The state librarian shall be responsible and accountable for the following functions:

- (1) Advising the commission and implementing policies, directions, and delegated authority set by the commission;
- (2) Managing and administering the state library;
- (3) Exerting leadership in information access and the development of library services;
- (4) Acquiring library materials, equipment, and supplies by purchase, exchange, gift, or otherwise; and, as appropriate, assisting the legislature, other state agencies, and other libraries in the cost-effective purchase of information resources;
- (5) Employing and terminating personnel in accordance with chapter 41.06 RCW as may be necessary to implement the purposes of this chapter;
- (6) Entering into agreements with other public or private entities as a means of implementing the mission, goals, and objectives of the state library and the entity with which it

enters such agreements. In agreements for services between the library and other state agencies, the library may negotiate an exchange of services in lieu of monetary reimbursement for the library's indirect or overhead costs, when such an arrangement facilitates the delivery of library services;

(7) Maintaining a library at the state capitol grounds to effectively provide library and information services to members of the legislature, state officials, and state employees in connection with their official duties;

(8) Serving as the depository for newspapers published in the state of Washington thus providing a central location for a valuable historical record for scholarly, personal, and commercial reference and circulation;

(9) Promoting and facilitating electronic access to public information and services, including providing, or providing for, a service that identifies, describes, and provides location information for government information through electronic means, and that assists government agencies in making their information more readily available to the public;

(10) Collecting and distributing copies of state publications, as defined in RCW 40.06.010, prepared by any state agency for distribution. The state library shall maintain the state publications distribution center, as provided in chapter 40.06 RCW. The state library commission, on recommendation of the state librarian, may provide by rule for deposit with the state library of up to three copies of each publication;

(11) Providing for the sale of library material in accordance with RCW 27.12.305;

(12) Providing advisory services to state agencies regarding their information needs;

(13) Providing for library and information service to residents and staff of state-supported residential institutions;

(14) Providing for library and information services to persons throughout the state who are blind and/or physically handicapped;

(15) Assisting individuals and groups such as libraries, library boards, governing bodies, and citizens throughout the state toward the establishment and development of library services;

(16) Making studies and surveys of library needs in order to provide, expand, enlarge, and otherwise improve access to library facilities and services throughout the state; and

(17) Serving as an interlibrary loan, information, reference, and referral resource for all libraries in the state. The state library may charge lending fees to other libraries who [that] charge the state library for similar services. Money paid as fees shall be retained by the state library as a recovery of costs.

[1999 c 123 § 5; 1996 c 171 § 6; 1989 c 96 § 7; 1984 c 152 § 2.]

Notes:

Captions not law--Effective dates--1996 c 171: See notes following RCW 43.105.250.

RCW 27.04.055 Qualifications of librarians--Rules--Fees.

No library serving a community having over four thousand population, nor any library operated by the state or under its authority, may have in its employ, in the position of librarian or

in any other full-time professional library position, a person who does not hold a librarian's certificate issued by the commission or its predecessor. A full-time professional library position, is one that requires, in the opinion of the commission, a knowledge of information resources and library/information service delivery equivalent to that required for graduation from an accredited library education program. This section does not apply to the state law library or to county law libraries. The state library commission shall:

(1) Establish rules for, and prescribe and hold examinations to test, the qualifications of those seeking certificates as librarians;

(2) Grant librarians' certificates without examination to applicants who are graduates of library schools programs accredited or otherwise officially recognized by the American library association for general library training, and grant certificates to other applicants when it has satisfied itself by examination that the applicant has attainments and abilities equivalent to those of a graduate of a library school program accredited or otherwise officially recognized by the American library association; and

(3) Charge a fee to recover the costs associated with the application to be paid by each applicant for a librarian's certificate. Money paid as fees shall be retained by the state library as a recovery of costs.

[1999 c 123 § 4.]

RCW 27.04.100 Reimbursement of employees for offender or resident assaults.

(1) In recognition of prison overcrowding and the hazardous nature of employment in state institutions and offices, the legislature hereby provides a supplementary program to reimburse employees of the state library for some of their costs attributable to their being the victims of offender or resident assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the state librarian, or the state librarian's designee, finds that each of the following has occurred:

(a) An offender or resident has assaulted the employee while the employee is performing the employee's official duties and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) With respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays

missed.

(4) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the state librarian, or the state librarian's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the state librarian, or the state librarian's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the state library. The payments shall be considered as a salary or wage expense and shall be paid by the state library in the same manner and from the same appropriations as other salary and wage expenses of the state library.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

(10) For the purposes of this section, "offender or resident" means: (a) Inmate as defined in *RCW 72.09.020, (b) offender as defined in RCW 9.94A.030, (c) any other person in the custody of or subject to the jurisdiction of the department of corrections, or (d) a resident of a state institution.

[1990 c 68 § 1.]

Notes:

***Reviser's note:** RCW 72.09.020 was repealed by 1995 1st sp.s. c 19 § 36.

**Chapter 27.12 RCW
PUBLIC LIBRARIES**

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Notes:

Certain library records exempt from public inspection: RCW 42.17.310.

Librarians--Qualifications and certification: RCW 27.04.055.

Rural library district regular property tax levy: RCW 84.52.063.

Special purpose districts, expenditures to recruit job candidates: RCW 42.24.170.

RCW 27.12.010 Definitions.

As used in this chapter, unless the context requires a different meaning:

(1) "Governmental unit" means any county, city, town, rural county library district, intercounty rural library district, rural partial-county library district, or island library district;

(2) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit; in rural county library districts, in intercounty rural library districts, and in island library districts, the legislative body shall be the board of library trustees of the district;

(3) "Library" means a free public library supported in whole or in part with money derived from taxation;

(4) "Regional library" means a free public library maintained by two or more counties or other governmental units as provided in RCW 27.12.080;

(5) "Rural county library district" means a library serving all the area of a county not included within the area of incorporated cities and towns: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390;

(6) "Intercounty rural library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns within two or more counties: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390;

(7) "Island library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns on a single island only, and not all of the area of the county, in counties composed entirely of islands and having a population of less than twenty-five thousand at the time the island library district was created: PROVIDED, That any city or town with a population of one hundred thousand or less at the time of annexation may be included therein as provided in RCW 27.12.360 through 27.12.390; and

(8) "Rural partial-county library district" means a municipal corporation organized to provide library service for a portion of the unincorporated area of a county. Any city or town located in the same county as a rural partial-county library district may annex to the district if the city or town has a population of one hundred thousand or less at the time of annexation.

[1994 c 198 § 1; 1993 c 284 § 2; 1982 c 123 § 1; 1981 c 26 § 1; 1977 ex.s. c 353 § 5; 1965 c 122 § 1; 1947 c 75 § 10; 1941 c 65 § 1; 1935 c 119 § 2; Rem. Supp. 1947 § 8226-2.]

RCW 27.12.020 Policy of state.

It is hereby declared to be the policy of the state, as a part of its provision for public

education, to promote the establishment and development of public library service throughout its various subdivisions.

[1935 c 119 § 1; RRS § 8226-1. FORMER PART OF SECTION: 1941 c 65 § 2; 1935 c 119 § 3; Rem. Supp. 1941 § 8226-3 now codified as RCW 27.12.025.]

RCW 27.12.025 Authorization.

Any governmental unit has power to establish and maintain a library, either by itself or in cooperation with one or more other governmental units.

[1941 c 65 § 2; 1935 c 119 § 3; Rem. Supp. 1941 § 8226-3. Formerly RCW 27.12.020, part.]

RCW 27.12.030 Libraries, how established.

A library may be established in any county, city, or town either (1) by its legislative body of its own initiative; or (2) upon the petition of one hundred taxpayers of such a governmental unit, the legislative body shall submit to a vote of the qualified electors thereof, at the next municipal or special election held therein (in the case of a city or town) or the next general election or special election held therein (in the case of a county), the question whether a library shall be established; and if a majority of the electors voting on the question vote in favor of the establishment of a library, the legislative body shall forthwith establish one.

[1965 c 122 § 2; 1941 c 65 § 3; 1935 c 119 § 4; Rem. Supp. 1941 § 8226-4. Prior: 1915 c 12 § 1; 1913 c 123 § 1; 1909 c 116 § 1; 1901 c 166 § 1.]

RCW 27.12.040 Rural library districts--Establishment.

The procedure for the establishment of a rural county library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the county who voted in the last general election, outside of the area of incorporated cities and towns, asking that the question, "Shall a rural county library district be established?" be submitted to a vote of the people, shall be filed with the county legislative authority.

(2) The county legislative authority, after having determined that the petitions were signed by the requisite number of registered voters, shall place the proposition for the establishment of a rural county library district on the ballot for the vote of the people of the county, outside incorporated cities and towns, at the next succeeding general or special election.

(3) If a majority of those voting on the proposition vote in favor of the establishment of the rural county library district, the county legislative authority shall forthwith declare it established.

[1990 c 259 § 1; 1955 c 59 § 4. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Notes:

Dissolution--Disposition of property: RCW 27.12.320.

Dissolution of island library district: RCW 27.12.450.

RCW 27.12.050 Rural library districts--Board of library trustees--Tax levies.

After the board of county commissioners has declared a rural county library district established, it shall appoint a board of library trustees and provide funds for the establishment and maintenance of library service for the district by making a tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year sufficient for the library service as shown to be required by the budget submitted to the board of county commissioners by the board of library trustees, and by making a tax levy in such further amount as shall be authorized pursuant to RCW 27.12.222 or 84.52.052 or 84.52.056. Such levies shall be a part of the general tax roll and shall be collected as a part of the general taxes against the property in the district.

[1973 1st ex.s. c 195 § 5; 1955 c 59 § 5. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Notes:

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Budget for capital outlays--Accumulation of funds: RCW 27.12.220.

Capital outlays--Bonds--Excess levies: RCW 27.12.222.

RCW 27.12.060 Rural library districts--General powers.

A rural county library district shall be a public corporation with such powers as are necessary to carry out its functions and for taxation purposes shall have the power vested in municipal corporations for such purposes.

[1984 c 186 § 6; 1983 c 167 § 19; 1980 c 100 § 1; 1955 c 59 § 6. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

RCW 27.12.070 Rural county library districts or rural partial-county library districts--Disbursement of revenues and collection of taxes.

The county treasurer of the county in which any rural county library district or rural partial-county library district is created shall receive and disburse all district revenues and collect all taxes levied under this chapter.

[1993 c 284 § 3; 1984 c 186 § 7; 1973 1st ex.s. c 195 § 6; 1970 ex.s. c 42 § 2; 1955 c 59 § 7. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Annual appropriations--Control of expenditures: RCW 27.12.240.

Capital outlays--General obligation bonds--Excess levies: RCW 27.12.222.

RCW 27.12.079 Disincorporation of district located in county with a population of two hundred ten thousand or more and inactive for five years.

See chapter 57.90 RCW.

RCW 27.12.080 Regional libraries.

Two or more counties, or other governmental units, by action of their legislative bodies, may join in establishing and maintaining a regional library under the terms of a contract to which all will agree. The expenses of the regional library shall be apportioned between or among the contracting parties concerned on such basis as shall be agreed upon in the contract. The treasurer of one of the governmental units, as shall be provided in the contract, shall have the custody of the funds of the regional library; and the treasurers of the other governmental units concerned shall transfer quarterly to him all moneys collected for free public library purposes in their respective governmental units. If the legislative body of any governmental unit decides to withdraw from a regional library contract, the governmental unit withdrawing shall be entitled to a division of the property on the basis of its contributions.

[1941 c 65 § 5; 1935 c 119 § 5; Rem. Supp. 1941 § 8226-5.]

RCW 27.12.090 Intercounty rural library districts--Establishment.

Intercounty rural library districts may be established to provide throughout several counties free public library service similar to that provided within a single county by a rural county library district.

[1947 c 75 § 1; Rem. Supp. 1947 § 8246-1.]

Notes:

Dissolution--Disposition of property: RCW 27.12.320.

RCW 27.12.100 Intercounty rural library districts--Establishment--Procedure.

An intercounty rural library district shall be established by joint action of two or more counties proceeding by either of the following alternative methods:

(1) The boards of county commissioners of any two or more counties shall adopt identical resolutions proposing the formation of such a district to include all of the areas outside of incorporated cities or towns in such counties as may be designated in such resolutions. In lieu of such resolutions a petition of like purport signed by ten percent of the registered voters residing

outside of incorporated cities or towns of a county, may be filed with the county auditor thereof, and shall have the same effect as a resolution. The proposition for the formation of the district as stated on the petition shall be prepared by the attorney general upon request of the state library commission. Action to initiate the formation of such a district shall become ineffective in any county if corresponding action is not completed within one year thereafter by each other county included in such proposal. The county auditor in each county shall check the validity of the signatures on the petition and shall certify to the board of county commissioners the sufficiency of the signatures. If each petition contains the signatures of ten percent of the registered voters residing outside the incorporated cities and towns of the county, each board of county commissioners shall pass a resolution calling an election for the purpose of submitting the question to the voters and setting the date of said election. When such action has been taken in each of the counties involved, notification shall be made by each board of county commissioners to the board of county commissioners of the county having the largest population according to the last federal census, who shall give proper notification to each county auditor. At the next general or special election held in the respective counties there shall be submitted to the voters in the areas outside of incorporated cities and towns a question as to whether an intercounty rural library district shall be established as outlined in the resolutions or petitions. Notice of said election shall be given the county auditor pursuant to RCW 29.27.080. The county auditor shall provide for the printing of a separate ballot and shall provide for the distribution of ballots to the polling places pursuant to RCW 29.04.020. The county auditor shall instruct the election boards in split precincts. The respective county canvassing boards in each county to be included within the intercounty rural library district shall canvass the votes and certify the results to the county auditor pursuant to chapter 29.62 RCW; the result shall then be certified by each county auditor to the county auditor of the county having the largest population according to the last federal census. If a majority of the electors voting on the proposition in each of the counties affected shall vote in favor of such district it shall thereby become established, and the board of county commissioners of the county having the largest population according to the last federal census shall declare the intercounty rural library district established. If two or more of the counties affected are in an existing intercounty rural library district, then the electors in areas outside incorporated cities and towns in those counties shall vote as a unit and the electors in areas outside incorporated cities and towns in each of the other affected counties shall vote as separate units. If a majority of the electors voting on the proposition in the existing district and a majority of the voters in any of the other affected counties shall vote in favor of an expanded intercounty rural library district it shall thereby become established.

(2) The county commissioners of two or more counties meeting in joint session attended by a majority of the county commissioners of each county may, by majority vote of those present, order the establishment of an intercounty rural library district to include all of the area outside of incorporated cities and towns in as many of the counties represented at such joint meeting as shall be determined by resolution of such joint meeting. If two or more counties are in an existing intercounty rural library district, then a majority vote of all of the commissioners present from those counties voting as a unit, and a majority vote of the commissioners present from any other

county shall cause the joint session to order the establishment of an expanded intercounty rural library district. No county, however, shall be included in such district if a majority of its county commissioners vote against its inclusion in such district.

[1965 c 63 § 1; 1961 c 82 § 1; 1947 c 75 § 2; Rem. Supp. 1947 § 8246-2.]

RCW 27.12.110 Intercounty rural library districts--Expansion of existing districts.

An existing rural county library district may be expanded into an intercounty rural library district or an established intercounty rural library district may be expanded to include additional counties by joint action of all counties included in the proposed expanded district taken in the same manner as prescribed for the initiation of an intercounty rural library district.

[1947 c 75 § 3; Rem. Supp. 1947 § 8246-3.]

RCW 27.12.120 Intercounty rural library districts--Assumption of property, assets, liabilities.

All property, assets and liabilities of preexisting library districts within the area included in an intercounty rural library district shall pass to and be assumed by an intercounty rural library district: PROVIDED, That where within any intercounty rural library district heretofore or hereafter organized under the provisions of this chapter a preexisting library district had incurred a bonded indebtedness which was outstanding at the time of the formation of the intercounty rural library district, such preexisting library district shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of said formation has been paid in full: PROVIDED FURTHER, That a special election may be called by the board of trustees of the intercounty rural library district, to be held at the next general or special election held in the respective counties for the purpose of affording the voters residing within the area outside of the preexisting library district an opportunity to assume the obligation of the bonded indebtedness of the preexisting library district or the question may be submitted to the voters as a separate proposition at the election on the proposal for the formation of the intercounty rural library district.

[1961 c 82 § 2; 1947 c 75 § 4; Rem. Supp. 1947 § 8246-4.]

RCW 27.12.130 Intercounty rural library districts--Board of trustees.

Immediately following the establishment of an intercounty rural library district the boards of county commissioners of the counties affected shall jointly appoint a board of five or seven trustees for the district in accordance with RCW 27.12.190. The board of trustees shall appoint a librarian for the district.

[1959 c 133 § 1; 1947 c 75 § 5; Rem. Supp. 1947 § 8246-5.]

RCW 27.12.140 Intercounty rural library districts--Name may be adopted.

The board of trustees of an intercounty rural library district may adopt a name by which the district shall be known and under which it shall transact all of its business.

[1947 c 75 § 6; Rem. Supp. 1947 § 8246-6.]

RCW 27.12.150 Intercounty rural library districts--Tax levies.

Funds for the establishment and maintenance of the library service of the district shall be provided by the boards of county commissioners of the respective counties by means of an annual tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year. The tax levy in the several counties shall be at a uniform rate and shall be based on a budget to be compiled by the board of trustees of the intercounty rural library district who shall determine the uniform tax rate necessary and certify their determination to the respective boards of county commissioners.

Excess levies authorized pursuant to RCW 27.12.222 and 84.52.052 or 84.52.056 shall be at a uniform rate which uniform rate shall be determined by the board of trustees of the intercounty rural library district and certified to the respective boards of county commissioners.

[1973 1st ex.s. c 195 § 7; 1955 c 59 § 8; 1947 c 75 § 7; Rem. Supp. 1947 § 8246-7.]

Notes:

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Budget for capital outlays--Accumulation of funds: RCW 27.12.220.

Capital outlays--Bonds--Excess levies: RCW 27.12.222.

RCW 27.12.160 Intercounty rural library districts--District treasurer.

The board of trustees of an intercounty rural library district shall designate the county treasurer of one of the counties included in the district to act as treasurer for the district. All moneys raised for the district by taxation within the participating counties or received by the district from any other sources shall be paid over to him, and he shall disburse the funds of the district upon warrants drawn thereon by the auditor of the county to which he belongs pursuant to vouchers approved by the trustees of the district.

[1947 c 75 § 8; Rem. Supp. 1947 § 8246-8.]

Notes:

Annual expenditures--Control of appropriations: RCW 27.12.240.

RCW 27.12.170 Intercounty rural library districts--Powers of board--Procedures.

Except as otherwise specifically provided intercounty rural library districts and the trustees thereof shall have the same powers as are prescribed by RCW 27.12.040 through

27.12.070, for rural county library districts and shall follow the same procedures and be subject to the same limitations as are provided therein with respect to the contracting of indebtedness.

[1947 c 75 § 9; Rem. Supp. 1947 § 8246-9.]

RCW 27.12.180 Contracts for library service.

Instead of establishing or maintaining an independent library, the legislative body of any governmental unit authorized to maintain a library shall have power to contract to receive library service from an existing library, the board of trustees of which shall have reciprocal power to contract to render the service with the consent of the legislative body of its governmental unit. Such a contract shall require that the existing library perform all the functions of a library within the governmental unit wanting service. In like manner a legislative body may contract for library service from a library not owned by a public corporation but maintained for free public use: PROVIDED, That such a library be subject to inspection by the state librarian and be certified by him as maintaining a proper standard. Any school district may contract for school library service from any existing library, such service to be paid for from funds available to the school district for library purposes.

[1941 c 65 § 6; 1935 c 119 § 7; Rem. Supp. 1941 § 8226-7.]

RCW 27.12.190 Library trustees--Appointment, election, removal, compensation.

The management and control of a library shall be vested in a board of either five or seven trustees as hereinafter in this section provided. In cities and towns five trustees shall be appointed by the mayor with the consent of the legislative body. In counties, rural county library districts, and island library districts, five trustees shall be appointed by the board of county commissioners. In a regional library district a board of either five or seven trustees shall be appointed by the joint action of the legislative bodies concerned. In intercounty rural library districts a board of either five or seven trustees shall be appointed by the joint action of the boards of county commissioners of each of the counties included in a district. The first appointments for boards comprised of but five trustees shall be for terms of one, two, three, four, and five years respectively, and thereafter a trustee shall be appointed annually to serve for five years. The first appointments for boards comprised of seven trustees shall be for terms of one, two, three, four, five, six, and seven years respectively, and thereafter a trustee shall be appointed annually to serve for seven years. No person shall be appointed to any board of trustees for more than two consecutive terms. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen.

A library trustee shall not receive a salary or other compensation for services as trustee, but necessary expenses actually incurred shall be paid from the library funds.

A library trustee in the case of a city or town may be removed only by vote of the legislative body. A trustee of a county library, a rural county library district library, or an island library district library may be removed for just cause by the county commissioners after a public

hearing upon a written complaint stating the ground for removal, which complaint, with a notice of the time and place of hearing, shall have been served upon the trustee at least fifteen days before the hearing. A trustee of an intercounty rural library district may be removed by the joint action of the board of county commissioners of the counties involved in the same manner as provided herein for the removal of a trustee of a county library.

[1982 c 123 § 8; 1981 c 26 § 2; 1965 c 122 § 3; 1959 c 133 § 2; 1947 c 75 § 12; 1941 c 65 § 7; 1939 c 108 § 1; 1935 c 119 § 8; Rem. Supp. 1947 § 8226-8. Prior: 1915 c 12 § 2; 1909 c 116 § 4; 1901 c 166 § 4. Formerly RCW 27.12.190 and 27.12.200.]

RCW 27.12.210 Library trustees--Organization--Bylaws--Powers and duties.

The trustees, immediately after their appointment or election, shall meet and organize by the election of such officers as they deem necessary. They shall:

- (1) Adopt such bylaws, rules, and regulations for their own guidance and for the government of the library as they deem expedient;
- (2) Have the supervision, care, and custody of all property of the library, including the rooms or buildings constructed, leased, or set apart therefor;
- (3) Employ a librarian, and upon his recommendation employ such other assistants as may be necessary, all in accordance with the provisions of *RCW 27.08.010, prescribe their duties, fix their compensation, and remove them for cause;
- (4) Submit annually to the legislative body a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year; except that in a library district the board of library trustees shall prepare its budget, certify the same and deliver it to the board of county commissioners in ample time for it to make the tax levies for the purpose of the district;
- (5) Have exclusive control of the finances of the library;
- (6) Accept such gifts of money or property for library purposes as they deem expedient;
- (7) Lease or purchase land for library buildings;
- (8) Lease, purchase, or erect an appropriate building or buildings for library purposes, and acquire such other property as may be needed therefor;
- (9) Purchase books, periodicals, maps, and supplies for the library; and
- (10) Do all other acts necessary for the orderly and efficient management and control of the library.

[1982 c 123 § 9; 1941 c 65 § 8; 1935 c 119 § 9; Rem. Supp. 1941 § 8226-9. Prior: 1909 c 116 § 5; 1901 c 166 § 5.]

Notes:

***Reviser's note:** RCW 27.08.010 was repealed by 1987 c 330 § 402. See RCW 27.04.055 for qualifications of librarians.

RCW 27.12.215 Job recruitment expenditures authorized.

The trustees of a library or a library district have the authority to spend funds to recruit job candidates. The trustees have the authority to reimburse job candidates for reasonable and necessary travel expenses including transportation, subsistence, and lodging.

[1979 ex.s. c 40 § 1.]

RCW 27.12.220 Rural, island, and intercounty rural districts--Budget for capital outlays--Accumulation of funds.

The trustees of any rural county library district, any island library district, or any intercounty rural library district may include in the annual budget of such district an item for the accumulation during such year of a specified sum of money to be expended in a future year for the acquisition, enlargement or improvement of real or personal property for library purposes.

[1982 c 123 § 10; 1947 c 22 § 1; Rem. Supp. 1947 § 8246a.]

RCW 27.12.222 Rural, island, and intercounty rural districts--General obligation bonds--Excess levies.

A rural county library district, intercounty rural library district, or island library district may contract indebtedness and issue general obligation bonds not to exceed an amount, together with any outstanding nonvoter approved general obligation indebtedness, equal to one-tenth of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. The maximum term of nonvoter approved general obligation bonds shall not exceed six years. A rural county library district, island library district, or intercounty rural library district may additionally contract indebtedness and issue general obligation bonds for capital purposes only, together with any outstanding general indebtedness, not to exceed an amount equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015 whenever a proposition authorizing the issuance of such bonds has been approved by the voters of the district pursuant to RCW 39.36.050, by three-fifths of the persons voting on the proposition at which election the number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in such taxing district at the last preceding general election. If the voters shall so authorize at an election held pursuant to RCW 39.36.050, the district may levy annual taxes in excess of normal legal limitations to pay the principal and interest upon such bonds as they shall become due. The excess levies mentioned in this section or in RCW 84.52.052 or 84.52.056 may be made notwithstanding anything contained in RCW 27.12.050 or 27.12.150 or any other statute pertaining to such library districts.

[1984 c 186 § 8; 1982 c 123 § 11; 1970 ex.s. c 42 § 3; 1955 c 59 § 1.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Severability--Effective date--1970 ex.s. c 42: See notes following RCW 39.36.015.

Island library districts--Tax levies: RCW 27.12.420.

RCW 27.12.223 Bonds--Sale--Security for deposit.

Bonds authorized by RCW 27.12.222 shall be issued and sold in accordance with chapter 39.46 RCW. All such bonds shall be legal securities for any bank or trust company for deposit with the state treasurer or any county or city treasurer as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys.

[1984 c 186 § 9; 1983 c 167 § 20; 1970 ex.s. c 56 § 6; 1969 ex.s. c 232 § 4; 1955 c 59 § 2.]

Notes:

Purpose--1984 c 186: See note following RCW 39.46.110.

Liberal construction--Severability--1983 c 167: See RCW 39.46.010 and note following.

Purpose--1970 ex.s. c 56: See note following RCW 39.52.020.

Validation--Saving--Severability--1969 ex.s. c 232: See notes following RCW 39.52.020.

RCW 27.12.240 Annual appropriations--Control of expenditures.

After a library shall have been established or library service contracted for, the legislative body of the governmental unit for which the library was established or the service engaged, shall appropriate money annually for the support of the library. All funds for the library, whether derived from taxation or otherwise, shall be in the custody of the treasurer of the governmental unit, and shall be designated by him in some manner for identification, and shall not be used for any but library purposes. The board of trustees shall have the exclusive control of expenditures for library purposes subject to any examination of accounts required by the state and money shall be paid for library purposes only upon vouchers of the board of trustees, without further audit. The board shall not make expenditures or incur indebtedness in any year in excess of the amount of money appropriated and/or available for library purposes.

[1965 c 122 § 4; 1941 c 65 § 9; 1939 c 108 § 3; 1935 c 119 § 10; Rem. Supp. 1941 § 8226-10. Prior: 1909 c 116 § 3; 1901 c 166 § 3. Formerly RCW 27.12.240 and 27.12.250.]

RCW 27.12.260 Annual report of trustees.

At the close of each year the board of trustees of every library shall make a report to the legislative body of the governmental unit wherein the board serves, showing the condition of their trust during the year, the sums of money received for the library fund from taxes and other sources, the sums of money expended and the purposes of the expenditures, the number of books and periodicals on hand, the number added during the year, the number retired, the number loaned out, and such other statistics and information and such suggestions as they deem of public interest. A copy of this report shall be filed with the state librarian.

[1935 c 119 § 12; RRS § 8226-12. Prior: 1909 c 116 § 8; 1901 c 166 § 8.]

RCW 27.12.270 Rules and regulations--Free use of libraries.

Every library established or maintained under *this act shall be free for the use of the inhabitants of the governmental unit in which it is located, subject to such reasonable rules and regulations as the trustees find necessary to assure the greatest benefit to the greatest number,

except that the trustees may charge a reasonable fee for the use of certain duplicate copies of popular books.

[1935 c 119 § 13; RRS § 8226-13. Prior: 1909 c 116 § 9, part; 1901 c 166 § 9, part.]

Notes:

***Reviser's note:** Term "this act" was first used in basic act, 1935 c 119 and appeared in subsequent amendments. Chapter 119, Laws of 1935 was codified in RCW 27.08.010, 27.12.010 through 27.12.080, 27.12.180 through 27.12.210, 27.12.230 through 27.12.280, 27.12.290 through 27.12.320, 27.12.330, and 27.12.340.

RCW 27.12.280 Use by nonresidents--Exchange of books.

The board of trustees of a library, under such rules and regulations as it may deem necessary and upon such terms and conditions as may be agreed upon, may allow nonresidents of the governmental unit in which the library is situated to use the books thereof, and may make exchanges of books with any other library, either permanently or temporarily.

[1935 c 119 § 14; RRS § 8226-14. Prior: 1909 c 116 § 10; 1901 c 166 § 10.]

RCW 27.12.285 Library services for Indian tribes.

The legislature finds that it is necessary to give the several boards of library trustees in this state additional powers in order to effectuate the state's policy with regard to libraries as set forth in RCW 27.12.020. On and after March 27, 1975 the board of library trustees in any county of this state, in addition to any other powers and duties, is hereby authorized to provide library services to Indian tribes recognized as such by the federal government or to supplement any existing library services of such an Indian tribe. The power granted by this section shall extend beyond the geographic limits of the library district and the county or counties in which the district is located.

[1975 c 50 § 1.]

RCW 27.12.290 Violators may be excluded.

A board of library trustees may exclude from the use of the library under its charge any person who wilfully and persistently violates any rule or regulation prescribed for the use of the library or its facilities or any person whose physical condition is deemed dangerous or offensive to other library users.

[1935 c 119 § 15; RRS § 8226-15. Prior: 1909 c 116 § 9, part; 1901 c 166 § 9, part.]

RCW 27.12.300 Gifts--Title to property.

The title to money or property given to or for the use or benefit of a library shall vest in the board of trustees, to be held and used according to the terms of the gift.

[1935 c 119 § 18; RRS § 8226-18. Prior: 1909 c 116 § 20; 1901 c 166 § 20.]

RCW 27.12.305 Sale of library materials authorized--Disposition of proceeds.

Any public library, including the state library created pursuant to chapter 27.04 RCW, shall have the authority to provide for the sale of library materials developed by the library staff for its use but which are of value to others such as book catalogs, books published by the library, indexes, films, slides, book lists, and similar materials.

The library commission, board of library trustees, or other governing authority charged with the direct control of a public library shall determine the prices and quantities of materials to be prepared and offered for sale. Prices shall be limited to the publishing and preparation costs, exclusive of staff salaries and overhead. Any moneys received from the sales of such materials shall be placed in the appropriate library fund.

Nothing in this section shall be construed to authorize any library to charge any resident for a library service nor to authorize any library to sell materials to a branch library or library which is part of a depository library system when such materials may be distributed free of cost to such library nor shall this section be construed to prevent, curtail, or inhibit any free distribution programs or exchange programs between libraries or between libraries and other agencies.

[1972 ex.s. c 90 § 1.]

RCW 27.12.310 Charter provisions superseded.

Every existing free public library shall be considered as if established under *this act, and the board of trustees and the legislative body of the governmental unit in which the library is located shall proceed forthwith to make such changes as may be necessary to effect compliance with the terms hereof; and every existing contract for library service shall continue in force and be subject to *this act until the contract be terminated or a library be established by the governmental unit for which the service was engaged. The provisions of *this act shall be construed as superseding the provisions of any municipal charter in conflict herewith.

[1935 c 119 § 19; RRS § 8226-19.]

Notes:

*Reviser's note: For "this act," see note following RCW 27.12.270.

RCW 27.12.320 Dissolution--Disposition of property.

A library established or maintained under this chapter (except a regional or a rural county library district library, an intercounty rural library district library, or an island library district library) may be abolished only in pursuance of a vote of the electors of the governmental unit in which the library is located, taken in the manner prescribed in RCW 27.12.030 for a vote upon the establishment of a library. If a library of a city or town be abolished, the books and other printed or written matter belonging to it shall go to the library of the county whereof the municipality is a part, if there be a county library, but if not, then to the state library. If a library of a county or region be abolished, the books and other printed matter belonging to it shall go to

the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct.

After a rural county library district, an island library district, or an intercounty rural library district has been in operation for three or more years, it may be dissolved pursuant to a majority vote of all of the qualified electors residing outside of incorporated cities and towns voting upon a proposition for its dissolution, at a general election, which proposition may be placed upon the ballot at any such election whenever a petition by ten percent or more qualified voters residing outside of incorporated cities or towns within a rural county library district, an island library district, or an intercounty rural library district requesting such dissolution shall be filed with the board of trustees of such district not less than ninety days prior to the holding of any such election. An island library district may also be dissolved pursuant to RCW 27.12.450.

If a rural county library district is dissolved, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct. When an intercounty rural library district is dissolved, the books, funds and other property thereof shall be divided among the participating counties in the most equitable manner possible as determined by the state librarian, who shall give consideration to such items as the original source of property, the amount of funds raised from each county by the district, and the ability of the counties to make further use of such property or equipment for library purposes. Printed material which the state librarian finds will not be used by any of the participating counties for further library purposes shall be turned over to the state library.

When an island library district is dissolved pursuant to this section, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct. When an island library district is dissolved due to the establishment of a county library district, pursuant to RCW 27.12.450, all property, assets, and liabilities of the preexisting island library district within the area included in the county rural library district shall pass to and be assumed by the county rural library district: PROVIDED, That where within any county rural library district heretofore or hereafter organized under the provisions of this chapter a preexisting island library district has incurred a bonded indebtedness which was outstanding at the time of the formation of the county rural library district, the preexisting island library district shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of the formation has been paid in full: PROVIDED FURTHER, That a special election may be called by the board of trustees of the county rural library district, to be held at the next general or special election held in the respective counties, for the purpose of affording the voters residing within the area outside of the preexisting island library district an opportunity to assume the obligation of the bonded indebtedness of the preexisting island library district or the question may be submitted to the voters as a separate proposition at the election on the proposal for the formation of the county rural library district.

[1982 c 123 § 12; 1965 c 122 § 5; 1947 c 75 § 13; 1935 c 119 § 20; Rem. Supp. 1947 § 8226-20. Prior: 1909 c 116 § 19; 1901 c 166 § 19.]

RCW 27.12.321 School district public libraries abolished--Disposition of assets.

School district public libraries organized under chapter 119, Laws of 1935, as amended prior to *this 1965 amendatory act, are hereby abolished as of January 1, 1966.

All assets belonging to any school district public library abolished by this section shall go to the rural county library district of the county in which the school district public library is located.

[1965 c 122 § 6.]

Notes:

***Reviser's note:** "This 1965 amendatory act" [1965 ex.s. c 122] consists of the enactment of RCW 27.12.321, amendments to RCW 27.12.010, 27.12.030, 27.12.190, 27.12.240, and 27.12.320, and the repeal of RCW 27.12.230.

RCW 27.12.330 Penalty for injury to property.

Whoever intentionally injures, defaces, or destroys any property belonging to or deposited in any public library, reading room, or other educational institution, shall be guilty of a misdemeanor.

[1935 c 119 § 16; RRS § 8226-16. Prior: 1909 c 116 § 11; 1901 c 166 § 11.]

RCW 27.12.340 Wilfully retaining books--Infraction.

It is a class 4 civil infraction for any person to wilfully retain any book, newspaper, magazine, pamphlet, manuscript, or other property belonging in or to any public library, reading room, or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time that by the rules of such institution such article or other property may be kept.

[1987 c 456 § 29; 1935 c 119 § 17; RRS § 8226-17. Prior: 1909 c 116 § 12; 1901 c 166 § 12.]

Notes:

Legislative finding--1987 c 456: See RCW 7.80.005.

Effective date--1987 c 456 §§ 9-31: See RCW 7.80.901.

RCW 27.12.350 Executory conditional sales contracts for purchase of property--Limit on indebtedness--Election, when.

See RCW 39.30.010.

RCW 27.12.355 Rural county library district, island library district, or intercounty rural library district--Withdrawal or reannexation of areas.

(1) As provided in this section, a rural county library district, island library district, or intercounty rural library district may withdraw areas from its boundaries, or reannex areas into the library district that previously had been withdrawn from the library district under this section.

(2) The withdrawal of an area shall be authorized upon: (a) Adoption of a resolution by the board of trustees requesting the withdrawal and finding that, in the opinion of the board, inclusion of this area within the library district will result in a reduction of the district's tax levy rate under the provisions of RCW 84.52.010; and (b) adoption of a resolution by the city or town council approving the withdrawal, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the withdrawal, if the area is located outside of a city or town. A withdrawal shall be effective at the end of the day on the thirty-first day of December in the year in which the resolutions are adopted, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution.

The authority of an area to be withdrawn from a library district as provided under this section is in addition, and not subject, to the provisions of RCW 27.12.380.

The withdrawal of an area from the boundaries of a library district shall not exempt any property therein from taxation for the purpose of paying the costs of redeeming any indebtedness of the library district existing at the time of the withdrawal.

(3) An area that has been withdrawn from the boundaries of a library district under this section may be reannexed into the library district upon: (a) Adoption of a resolution by the board of trustees proposing the reannexation; and (b) adoption of a resolution by the city or town council approving the reannexation, if the area is located within the city or town, or adoption of a resolution by the county legislative authority of the county within which the area is located approving the reannexation, if the area is located outside of a city or town. The reannexation shall be effective at the end of the day on the thirty-first day of December in the year in which the adoption of the second resolution occurs, but for purposes of establishing boundaries for property tax purposes, the boundaries shall be established immediately upon the adoption of the second resolution. Referendum action on the proposed reannexation may be taken by the voters of the area proposed to be reannexed if a petition calling for a referendum is filed with the city or town council, or county legislative authority, within a thirty-day period after the adoption of the second resolution, which petition has been signed by registered voters of the area proposed to be reannexed equal in number to ten percent of the total number of the registered voters residing in that area.

If a valid petition signed by the requisite number of registered voters has been so filed, the effect of the resolutions shall be held in abeyance and a ballot proposition to authorize the reannexation shall be submitted to the voters of the area at the next special election date specified in *RCW 29.13.020 that occurs forty-five or more days after the petitions have been validated. Approval of the ballot proposition authorizing the reannexation by a simple majority vote shall authorize the reannexation.

[1987 c 138 § 1.]

Notes:

***Reviser's note:** As enacted by 1987 c 138 § 1, this section contained an apparently erroneous reference to RCW 29.13.030, a section repealed in 1965. Pursuant to RCW 1.08.015, this reference has been changed to RCW 29.13.020, a later enactment of the section repealed.

RCW 27.12.360 Annexation of city or town into rural county library district, island library district, or intercounty rural library district--Initiation procedure.

Any city or town with a population of one hundred thousand or less at the time of annexation may become a part of any rural county library district, island library district, or intercounty rural library district lying contiguous thereto by annexation in the following manner: The inclusion of such a city or town may be initiated by the adoption of an ordinance by the legislative authority thereof stating its intent to join the library district and finding that the public interest will be served thereby. Before adoption, the ordinance shall be submitted to the library board of the city or town for its review and recommendations. If no library board exists in the city or town, the state librarian shall be notified of the proposed ordinance. If the board of trustees of the library district concurs in the annexation, notification thereof shall be transmitted to the legislative authority or authorities of the counties in which the city or town is situated.

[1982 c 123 § 13; 1981 c 26 § 3; 1977 ex.s. c 353 § 1.]

RCW 27.12.370 Annexation of city or town into library district--Special election procedure.

The county legislative authority or authorities shall by resolution call a special election to be held in such city or town at the next date provided in RCW 29.13.010 but not less than forty-five days from the date of the declaration of such finding, and shall cause notice of such election to be given as provided for in RCW 29.27.080.

The election on the annexation of the city or town into the library district shall be conducted by the auditor of the county or counties in which the city or town is located in accordance with the general election laws of the state and the results thereof shall be canvassed by the canvassing board of the county or counties. No person shall be entitled to vote at such election unless he or she is registered to vote in said city or town for at least thirty days preceding the date of the election. The ballot proposition shall be in substantially the following form:

"Shall the city or town of be annexed to and be a part of library district?

YES
NO

If a majority of the persons voting on the proposition shall vote in favor thereof, the city or town shall thereupon be annexed and shall be a part of such library district.

[1982 c 123 § 14; 1977 ex.s. c 353 § 2.]

RCW 27.12.380 Annexation of city or town into library district--Withdrawal of annexed city or town.

The legislative body of such a city or town which has annexed to such a library district, may, by resolution, present to the voters of such city or town a proposition to withdraw from said library district at any general election held at least three years following the annexation to the library district.

[1982 c 123 § 15; 1977 ex.s. c 353 § 3.]

RCW 27.12.390 Annexation of city or town into library district--Tax levies.

The annual tax levy authorized by RCW 27.12.050, 27.12.150, and 27.12.420 shall be imposed throughout the library district, including any city or town annexed thereto. Any city or town annexed to a rural library district, island library district, or intercounty rural library district shall be entitled to levy up to three dollars and sixty cents per thousand dollars of assessed valuation less any regular levy made by such library district in the incorporated area, notwithstanding any other provision of law: PROVIDED, That the limitations upon regular property taxes imposed by chapter 84.55 RCW shall apply.

[1982 c 123 § 16; 1977 ex.s. c 353 § 4.]

RCW 27.12.395 Annexation of city or town into library district--Assumption of liabilities.

(1) All liabilities of a city or town that is annexed to a rural county library district or intercounty rural library district, which liabilities were incurred for the purpose of or in the course of acquiring, operating, or maintaining a library or libraries, may, if provided for in the ordinance providing for annexation and in the resolution of the district consenting to annexation, pass to and be assumed by the rural county library district or intercounty rural library district. Notwithstanding the foregoing, if the city or town has incurred any voted bonded indebtedness for the purpose of acquiring, operating, or maintaining a library or libraries, and if the indebtedness is outstanding at the time of the annexation, the voted bonded indebtedness shall not be assumed by the annexing district.

(2) Notwithstanding subsection (1) of this section, if the annexed city or town has outstanding at the time of the annexation any voted bonded indebtedness incurred for the purpose of acquiring, operating, or maintaining a library or libraries, a special election may be called by the board of trustees of the rural county library district or intercounty rural library district, to be held at the next general or special election held in the applicable county or counties, for the purpose of affording the voters residing within the area of the district outside the annexed city or town an opportunity to assume the voted bonded indebtedness of the annexed city or town upon the assent of three-fifths of the voters.

[1985 c 392 § 1.]

RCW 27.12.400 Island library districts--Establishment--Procedure.

The procedure for the establishment of an island library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the island, outside of the area of incorporated cities and towns, asking that the question, "Shall an island library district be established?" be submitted to a vote of the people of the island, shall be filed with the board of county commissioners.

(2) The board of county commissioners, after having determined that the petitions were signed by the requisite number of qualified petitioners, shall place the proposition for the establishment of an island library district on the ballot for the vote of the people of the island, outside incorporated cities and towns, at the next succeeding general or special election.

(3) If a majority of those voting on the proposition vote in favor of the establishment of the island library district, the board of county commissioners shall forthwith declare it established.

[1982 c 123 § 2.]

RCW 27.12.410 Island library districts--Restrictions on establishment.

An island library district may not be established if there is in existence a library district serving all of the area of the county not included within the area of incorporated cities and towns.

[1982 c 123 § 3.]

RCW 27.12.420 Island library districts--Board of trustees--Tax levies.

Immediately following the establishment of an island library district, the board of county commissioners shall appoint a board of library trustees for the district in accordance with RCW 27.12.190. The board of trustees shall appoint a librarian for the district.

Funds for the establishment and maintenance of the library service of the district shall be provided by the board of county commissioners by means of an annual tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year. The tax levy shall be based on a budget to be compiled by the board of trustees of the island library district who shall determine the tax rate necessary and certify their determination to the board of county commissioners.

Excess levies authorized pursuant to RCW 27.12.222, 84.52.052, or 84.52.056 shall be at a rate determined by the board of trustees of the island library district and certified to the board of county commissioners.

[1982 c 123 § 4.]

RCW 27.12.430 Island library districts--Name may be adopted.

The board of trustees of an island library district may adopt a name by which the district shall be known and under which it shall transact all of its business.

[1982 c 123 § 6.]

RCW 27.12.440 Island library districts--Powers and limitations for indebtedness.

Except as otherwise specifically provided, island library districts and the trustees thereof shall have the same powers and limitations as are prescribed by RCW 27.12.060 through 27.12.070 for rural county library districts and shall follow the same procedures and be subject to the same limitations as are provided therein with respect to the contracting of indebtedness.

[1982 c 123 § 5.]

RCW 27.12.450 Island library districts--Dissolution, when.

If after an island library district serving a single island has been established, a rural county library district serving all of the area of the county not included within the area of incorporated cities and towns is established as provided in RCW 27.12.040, the district serving the single island in the county shall be dissolved.

[1982 c 123 § 7.]

Notes:

Dissolution of library districts: RCW 27.12.320.

RCW 27.12.470 Rural partial-county library districts.

A rural partial-county library district may be created in a portion of the unincorporated area of a county as provided in this section if a rural county library district, intercounty rural library district, or island library district has not been created in the county.

The procedure to create a rural partial-county library district is initiated by the filing of petitions with the county auditor proposing the creation of the district that have been signed by at least ten percent of the registered voters residing in the area proposed to be included in the rural partial-county library district. The county auditor shall review the petitions and certify the sufficiency or insufficiency of the signatures to the county legislative authority.

If the petitions are certified as having sufficient valid signatures, the county legislative authority shall hold a public hearing on the proposed rural partial-county library district, may adjust the boundaries of the proposed district, and may cause a ballot proposition to be submitted to the voters of the proposed rural partial-county library district authorizing its creation if the county legislative authority finds that the creation of the rural partial-county library district is in the public interest. A subsequent public hearing shall be held if additional territory is added to the proposed rural partial-county library district by action of the county legislative authority.

The rural partial-county library district shall be created if the ballot proposition authorizing the creation of the district is approved by a simple majority vote of the voters voting on the proposition. Immediately after creation of the rural partial-county library district the county legislative authority shall appoint a board of library trustees for the district as provided

under RCW 27.12.190.

Except as provided in this section, a rural partial-county library district is subject to all the provisions of law applicable to a rural county library district and shall have all the powers, duties, and authorities of a rural county library district, including, but not limited to, the authority to impose property taxes, incur debt, and annex a city or town with a population of less than one hundred thousand at the time of the annexation that is located in the same county as the rural partial-county library district.

Adjacent unincorporated territory in the county may be annexed to a rural partial-county library district in the same manner as territory is annexed to a water-sewer district, except that an annexation is not subject to potential review by a boundary review board.

If, at the time of creation, a rural partial-county library district has an assessed valuation of less than fifty million dollars, it may provide library services only by contracting for the services through an interlocal agreement with an adjacent library district, or an adjacent city or town that maintains its own library. If the assessed valuation of the rural partial-county library district subsequently reaches fifty million dollars as a result of annexation or appreciation, the fifty million dollar limitation shall not apply.

If a ballot proposition is approved creating a rural county library district in the county, every rural partial-county library district in that county shall be dissolved and its assets and liabilities transferred to the rural county library district. Where a rural partial-county library district has annexed a city or town, the voters of the city or town shall be allowed to vote on the proposed creation of a rural county library district and, if created, the rural county library district shall include each city and town that was annexed to the rural partial-county library district.

Nothing in this section authorizes the consolidation of a rural partial-county library district with any rural county library district; island library district; city, county, or regional library; intercounty library district; or other rural partial-county library district, unless, in addition to any other requirements imposed by statute, the boards of all library districts involved approve the consolidation.

[1999 c 153 § 25; 1994 c 198 § 2; 1993 c 284 § 1.]

Notes:

Part headings not law--1999 c 153: See note following RCW 57.04.050.

Chapter 27.15 RCW LIBRARY CAPITAL FACILITY AREAS

Sections

27.15.005	Findings.
27.15.010	Definitions.
27.15.020	Request to establish library capital facility area--Ballot propositions.
27.15.030	Governing body.
27.15.040	Authority to construct, acquire, maintain, and remodel facilities--Interlocal agreements--Legal title.
27.15.050	Financing--Bonds authorized.
27.15.060	Dissolution of library capital facility area.

RCW 27.15.005 Findings.

The legislature finds that it is in the interests of the people of the state of Washington to be able to establish library capital facility areas as quasi-municipal corporations and independent taxing units existing within the boundaries of existing rural county library districts, rural intercounty library districts, rural partial-county library districts, or island library districts, for the purpose of financing the construction of capital library facilities.

[1995 c 368 § 1.]

RCW 27.15.010 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Library district" means rural county library district, rural intercounty library district, rural partial-county library district, or island library district.

(2) "Library capital facility area" means a quasi-municipal corporation and independent taxing authority within the meaning of Article VII, section 1 of the state Constitution, and a taxing district within the meaning of Article VII, section 2 of the state Constitution, created by a county legislative authority of one or several counties. A library capital facility area may include all or a portion of a city or town.

(3) "Library capital facilities" includes both real and personal property including, but not limited to, land, buildings, site improvements, equipment, furnishings, collections, and all necessary costs related to acquisition, financing, design, construction, equipping, and remodeling.

[1995 c 368 § 2.]

RCW 27.15.020 Request to establish library capital facility area--Ballot propositions.

Upon receipt of a completed written request to both establish a library capital facility area and submit a ballot proposition under RCW 27.15.050 to finance library capital facilities, that is signed by a majority of the members of the board of trustees of a library district or board of trustees of a city or town library, the county legislative authority or county legislative authorities for the county or counties in which a proposed library capital facility area is to be established shall submit separate ballot propositions to voters to authorize establishing the proposed library capital facility area and authorizing the library capital facility area, if established, to finance library capital facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. The ballot propositions shall be submitted to voters at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW

29.13.020. Approval of the ballot proposition to create a library capital facility area shall be by a simple majority vote.

A completed request submitted under this section shall include: (1) A description of the boundaries of the library capital facility area; and (2) a copy of the resolution of the legislative authority of each city or town, and board of trustees of each library district, with territory included within the proposed library capital facility area indicating both: (a) Its approval of the creation of the proposed library capital facility area; and (b) agreement on how election costs will be paid for submitting ballot propositions to voters that authorize the library capital facility area to incur general indebtedness and impose excess levies to retire the general indebtedness.

[1996 c 258 § 1; 1995 c 368 § 3.]

RCW 27.15.030 Governing body.

The governing body of the library capital facility area shall be three members of the county legislative authority from each county in which the library capital facility area is located. In counties that have more than three members of their legislative body, the three members who shall serve on the governing body of the library capital facility area shall be chosen by the full membership of the county legislative authority. Where the library capital facility area is located in more than one county, a county may be represented by less than three members by mutual agreement of the legislative authorities of the participating counties.

[1995 c 368 § 4.]

RCW 27.15.040 Authority to construct, acquire, maintain, and remodel facilities--Interlocal agreements--Legal title.

A library capital facilities [facility] area may construct, acquire, maintain, and remodel library capital facilities and the governing body of the library capital facility area may, by interlocal agreement or otherwise, contract with a county, city, town, or library district to design, administer the construction of, operate, or maintain a library capital facility financed pursuant to this chapter. Legal title to library capital facilities acquired or constructed pursuant to this chapter may be transferred, acquired, or held by the library capital facility area or by a county, city, town, or library district in which the facility is located.

[1995 c 368 § 5.]

RCW 27.15.050 Financing--Bonds authorized.

(1) A library capital facility area may contract indebtedness or borrow money to finance library capital facilities and may issue general obligation bonds for such purpose not exceeding an amount, together with any existing indebtedness of the library capital facility area, equal to one and one-quarter percent of the value of the taxable property in the district and impose excess property tax levies to retire the general indebtedness as provided in RCW 39.36.050 if a ballot

proposition authorizing both the indebtedness and excess levies is approved by at least three-fifths of the voters of the library capital facility area voting on the proposition, and the total number of voters voting on the proposition constitutes not less than forty percent of the total number of voters in the library capital facility area voting at the last preceding general election. The term "value of the taxable property" has the meaning set forth in RCW 39.36.015. Such a proposition shall be submitted to voters at a general or special election and may be submitted to voters at the same election as the election when the ballot proposition authorizing the establishing of the library capital facility area is submitted. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW 29.13.020.

(2) A library capital facility area may accept gifts or grants of money or property of any kind for the same purposes for which it is authorized to borrow money in subsection (1) of this section.

[1996 c 258 § 2; 1995 c 368 § 6.]

RCW 27.15.060 Dissolution of library capital facility area.

(1) A library capital facility area may be dissolved by a majority vote of the governing body when all obligations under any general obligation bonds issued by the library capital facility area have been discharged and any other contractual obligations of the library capital facility area have either been discharged or assumed by another governmental entity.

(2) A library capital facility area shall be dissolved by the governing body if the first two ballot propositions under RCW 27.15.050 that are submitted to voters are not approved.

[1995 c 368 § 7.]

**Chapter 27.18 RCW
INTERSTATE LIBRARY COMPACT**

Sections

27.18.010	Definitions.
27.18.020	Compact enacted--Provisions.
27.18.030	Compact administrator--Deputies--Library agreements, submittal.
27.18.040	Compliance with tax and bonding laws enjoined.
27.18.050	Withdrawal--Compact administrator to send and receive notices.

RCW 27.18.010 Definitions.

As used in this chapter, except where the context otherwise requires:

(1) "Compact" means the interstate library compact.

(2) "Public library agency", with reference to this state, means the state library and any county or city library or any regional library, rural county library district library, island library district library, or intercounty rural library district library.

(3) "State library agency", with reference to this state, means the commissioners of the state library.

[1982 c 123 § 17; 1965 ex.s. c 93 § 1.]

RCW 27.18.020 Compact enacted--Provisions.

The interstate library compact hereby is enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

ARTICLE I. POLICY AND PURPOSE

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

ARTICLE II. DEFINITIONS

As used in this compact:

(a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.

(b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.

(c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

ARTICLE III. INTERSTATE LIBRARY DISTRICTS

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an

interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.

2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.

3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

4. Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the inservice training of such personnel.

5. Sue and be sued in any court of competent jurisdiction.

6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

7. Construct, maintain and operate a library, including any appropriate branches thereof.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

*ARTICLE IV. INTERSTATE LIBRARY DISTRICTS,
GOVERNING BOARD*

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the

district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

ARTICLE V. STATE LIBRARY AGENCY COOPERATION

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

ARTICLE VI. LIBRARY AGREEMENTS

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable.
2. Provide for the allocation of costs and other financial responsibilities.
3. Specify the respective rights, duties, obligations and liabilities of the parties.
4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

ARTICLE VII. APPROVAL OF LIBRARY AGREEMENTS

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in

which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

ARTICLE VIII. OTHER LAWS APPLICABLE

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

ARTICLE IX. APPROPRIATIONS AND AID

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

ARTICLE X. COMPACT ADMINISTRATOR

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take

such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

ARTICLE XI. ENTRY INTO FORCE AND WITHDRAWAL

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

ARTICLE XII. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[1965 ex.s. c 93 § 2.]

RCW 27.18.030 Compact administrator--Deputies--Library agreements, submittal.

The state librarian shall be the compact administrator pursuant to Article X of the compact. The state librarian shall appoint one or more deputy compact administrators. Every library agreement made pursuant to Article VI of the compact shall, as a condition precedent to its entry into force, be submitted to the state librarian for his recommendations.

[1965 ex.s. c 93 § 3.]

RCW 27.18.040 Compliance with tax and bonding laws enjoined.

No regional library, county library, rural county library district library, island library district library, intercounty rural library district library, or city library of this state shall be a party to a library agreement which provides for the construction or maintenance of a library pursuant to

Article III, subdivision (c-7) of the compact, nor levy a tax or issue bonds to contribute to the construction or maintenance of such a library, except after compliance with any laws applicable to regional libraries, county libraries, rural county library district libraries, island library district libraries, intercounty rural library district libraries, or city libraries relating to or governing the levying of taxes or the issuance of bonds.

[1982 c 123 § 18; 1965 ex.s. c 93 § 4.]

RCW 27.18.050 Withdrawal--Compact administrator to send and receive notices.

In the event of withdrawal from the compact the compact administrator shall send and receive any notices required by Article XI(b) of the compact.

[1965 ex.s. c 93 § 5.]

**Chapter 27.20 RCW
STATE LAW LIBRARY**

Sections

27.20.030	Library part of judicial branch.
27.20.040	State law librarian and assistants--Appointment, tenure, compensation.
27.20.050	Duties of law librarian.

RCW 27.20.030 Library part of judicial branch.

The state law library shall be a part of the judicial branch of state government and shall be under the exclusive jurisdiction and control of the supreme court.

[1959 c 188 § 1.]

Notes:

Committee abolished: "The state law library committee is hereby abolished." [1959 c 188 § 5.] Provisions relating to the state law library committee were formerly codified in chapter 43.36 RCW but were repealed by 1959 c 188 § 6.

RCW 27.20.040 State law librarian and assistants--Appointment, tenure, compensation.

The supreme court shall appoint a state law librarian, who may be removed at its pleasure. The librarian shall receive such compensation only as shall be fixed by the court.

The court may also appoint and fix the salaries of such assistants and clerical personnel as may be required.

[1959 c 188 § 2.]

Notes:

Rules of court: SAR 18.

RCW 27.20.050 Duties of law librarian.

The duties of the state law librarian shall be as prescribed by statute and by rules of court.

[1959 c 188 § 3.]

Notes:

Duties of state law librarian relative to session laws, legislative journals and supreme court reports: Chapter 40.04 RCW.

**Chapter 27.24 RCW
COUNTY LAW LIBRARIES**

Sections

27.24.010	Establishment.
27.24.020	Board of trustees--Composition--Terms.
27.24.030	Powers of board.
27.24.040	Annual report.
27.24.062	Establishment of regional law libraries.
27.24.066	Library rooms and service.
27.24.067	Free use of library.
27.24.068	Establishment of county law library--Trustee--Free use of library.
27.24.070	Portion of filing fees for county or regional law library.
27.24.090	Discontinuance of fees.
27.24.900	Effective date--1992 c 62.

RCW 27.24.010 Establishment.

Each county with a population of eight thousand or more shall have a county law library, which shall be governed and maintained as hereinafter provided.

[1992 c 62 § 1; 1919 c 84 § 1; RRS § 8247.]

RCW 27.24.020 Board of trustees--Composition--Terms.

(1) Every county with a population of three hundred thousand or more must have a board of law library trustees consisting of five members to be constituted as follows: The chairman of the county legislative authority is an ex officio trustee, the judges of the superior court of the county shall choose two of their number to be trustees, and the members of the county bar association shall choose two members of the bar of the county to be trustees.

(2) Every county with a population of eight thousand or more but less than three hundred thousand must have a board of law library trustees consisting of five members to be constituted

as follows: The chairman of the county legislative authority is an ex officio trustee, the judges of the superior court of the county shall choose one of their number to be a trustee, and the members of the county bar association shall choose three members of the county to be trustees. If there is no county bar association, then the lawyers of the county shall choose three of their number to be trustees.

(3) If a county has a population of less than eight thousand, then the provisions contained in RCW 27.24.068 shall apply to the establishment and operation of the county law library.

(4) If a regional law library is created pursuant to RCW 27.24.062, then it shall be governed by one board of trustees. The board shall consist of the following representatives from each county: The judges of the superior court of the county shall choose one of their number to be a trustee, the county legislative authority shall choose one of their number to be a trustee, and the members of the county bar association shall choose one member of the bar of the county to be a trustee. If there is no county bar association, then the lawyers of the county shall choose one of their number to be a trustee.

(5) The term of office of a member of the board who is a judge is for as long as he or she continues to be a judge, and the term of a member who is from the bar is four years. Vacancies shall be filled as they occur and in the manner directed in this section. The office of trustee shall be without salary or other compensation. The board shall elect one of their number president and the librarian shall act as secretary, except that in counties with a population of eight thousand or more but less than three hundred thousand, the board shall elect one of their number to act as secretary if no librarian is appointed. Meetings shall be held at least once per year, and if more often, then at such times as may be prescribed by rule.

[1992 c 62 § 2; 1919 c 84 § 2; RRS § 8248.]

RCW 27.24.030 Powers of board.

The board of law library trustees shall have power:

(1) To make and enforce rules for their own procedure and for the government, care and use of the library, and for the guidance of employees.

(2) To remove any trustee, except an ex officio trustee, for neglect to attend the meetings of the board.

(3) To employ a librarian and assistants and to prescribe their duties, fix their compensation and remove them at will.

(4) To purchase books, periodicals and other property suitable for the library and to accept gifts and bequests of money and property for the library, and to sell property which is unsuitable or not needed for the library.

(5) To examine and approve for payment claims and demands payable out of the county law library fund.

[1919 c 84 § 3; RRS § 8249.]

RCW 27.24.040 Annual report.

The board of law library trustees shall, on or before the first Monday in September of each year, make a report to the county legislative authority of their county giving the condition of their trust, with a full statement of all property received and how used, the number of books and other publications on hand, the number added by purchase, gift or otherwise during the preceding year, the number lost or missing, and such other information as may be of public interest, together with a financial report showing all receipts and disbursements of money.

[1992 c 62 § 3; 1919 c 84 § 4; RRS § 8250.]

RCW 27.24.062 Establishment of regional law libraries.

Two or more counties each with a population of from eight thousand to less than one hundred twenty-five thousand may, by agreement of the respective law library boards of trustees, create a regional law library and establish and maintain one principal law library at such location as the regional board of trustees may determine will best suit the needs of the users: PROVIDED, HOWEVER, That there shall be at all times a law library in such size as the board of trustees may determine necessary to be located at the courthouse where each superior court is located.

[1992 c 62 § 4; 1991 c 363 § 18; 1971 ex.s. c 141 § 1; 1943 c 195 § 1; 1933 c 167 § 1; 1925 ex.s. c 94 § 1; Rem. Supp. 1943 § 8254-1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 27.24.066 Library rooms and service.

The county legislative authority of each county that is required to maintain a county law library shall upon demand by the board of law library trustees, provide a room suitable for the law library, with adequate heat, light, and janitor service.

[1992 c 62 § 5; 1933 c 167 § 3, part; RRS § 8254-7.]

RCW 27.24.067 Free use of library.

The use of the county law library shall be free to the judges of the state, to state and county officials, and to members of the bar, and to such others as the board of trustees may by rule provide. Residents of counties with a population of three hundred thousand or more shall have free use of the law library.

[1992 c 62 § 6; 1933 c 167 § 3, part; RRS § 8254-8.]

RCW 27.24.068 Establishment of county law library--Trustee--Free use of library.

In each county with a population of less than eight thousand, there may be a county law library which shall be governed and maintained by the prosecuting attorney who shall also serve as trustee of such library without additional salary or other compensation.

The use of the county law library shall be free to the judges of the state, to state and county officials, and to members of the bar, and to such others as the prosecuting attorney may by rule provide.

[1991 c 363 § 19; 1975 c 37 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW 27.24.070 Portion of filing fees for county or regional law library.

In each county pursuant to this chapter, the county treasurer shall deposit in the county or regional law library fund a sum equal to twelve dollars for every new probate or civil filing fee, including appeals, collected by the clerk of the superior court and six dollars for every fee collected for the commencement of a civil action in district court for the support of the law library in that county or the regional law library to which the county belongs: PROVIDED, That upon a showing of need the twelve dollar contribution may be increased up to fifteen dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies.

[1992 c 54 § 6; 1985 c 389 § 2; 1984 c 258 § 310; 1979 c 126 § 1; 1971 ex.s. c 141 § 3; 1969 c 25 § 2; 1961 c 304 § 9; 1957 c 31 § 1; 1953 c 249 § 1. Prior: (i) 1937 c 32 § 1, part; 1919 c 84 § 8, part; RRS § 8254, part. (ii) 1933 c 167 § 2, part; 1925 ex.s. c 94 § 3, part; RRS § 8254-3, part. (iii) 1943 c 195 § 2; Rem. Supp. 1943 § 8254-9.]

Notes:

Effective date--1992 c 54: See note following RCW 36.18.020.

Effective date--1985 c 389: "Sections 2 through 9 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985." [1985 c 389 § 10.]

Court Improvement Act of 1984--Effective dates--Severability--Short title--1984 c 258: See notes following RCW 3.30.010.

Intent--1984 c 258: See note following RCW 3.46.120.

County clerk's fees: RCW 36.18.020.

District courts, filing fees in civil cases: RCW 3.62.060.

RCW 27.24.090 Discontinuance of fees.

The collection of the fees directed in RCW 27.24.070 shall be discontinued whenever the board of trustees of a county library or the prosecuting attorney, as the case may be, files with the county clerk and clerks of the district courts a written resolution to the effect that the county library fund in its county is sufficient for all present needs, which resolution shall remain effective until it is later rescinded. Upon its rescission, the county clerk and clerks of the district courts shall resume the collection of such fees.

[1987 c 202 § 188; 1975 c 37 § 2; 1953 c 249 § 3; 1933 c 167 § 2, part; 1925 ex.s. c 94 § 3, part; RRS § 8254-3, part.]

Notes:

Intent--1987 c 202: See note following RCW 2.04.190.

RCW 27.24.900 Effective date--1992 c 62.

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 shall take effect April 1, 1992.

[1992 c 62 § 10.]

Chapter 27.34 RCW
STATE HISTORICAL SOCIETIES--HISTORIC PRESERVATION

Sections

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27.34.906	Pickett House--In trust--Reverter.
27.34.910	Effective date--1983 c 91.
27.34.915	Severability--1993 c 101.
27.34.916	Effective date--1993 c 101.

Notes:

Archaeological sites and resources: Chapter 27.53 RCW.

*Historic preservation--Authority of county, city, or town to acquire property, borrow money, issue bonds, etc.:
RCW 35.21.395, 36.32.435.*

RCW 27.34.010 Purpose.

The legislature finds that those articles and properties which illustrate the history of the state of Washington should be maintained and preserved for the use and benefit of the people of the state. It is the purpose of this chapter to designate the two state historical societies as trustees of the state for these purposes, and to establish:

- (1) A comprehensive and consistent state-wide policy pertaining to archaeology, history, historic preservation, and other historical matters;
- (2) State-wide coordination of historical programs; and
- (3) A coordinated budget for all state historical agencies.

[1993 c 101 § 9; 1983 c 91 § 1.]

Notes:

Findings--1993 c 101: "The legislature finds that:

(1) There is a strong community of interest between the Washington state historical society and the state capital historical association. This community of interest is expressed through many common goals, missions, and heritage programs, as well as a close geographic proximity between these two state historical agencies.

(2) The capacity to preserve our state's rich and diverse heritage and the unique political and cultural history of the state capital will be strengthened if the programs of both agencies are combined into a single, cohesive entity.

(3) In a time of limited state resources, operational efficiencies and savings can be achieved if the programs and personnel of both agencies are managed by a single entity.

It is, therefore, the purpose of this act to transfer the powers and duties of the state historical agency known as the state capital historical association to the Washington state historical society. However, it is the intent of the legislature that as the consolidation of these two agencies occurs, the unique missions and programs of the state capital historical association and the state capital historical museum be preserved." [1993 c 101 § 1.]

RCW 27.34.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Advisory council" means the advisory council on historic preservation.
- (2) "Department" means the department of community, trade, and economic development.
- (3) "Director" means the director of community, trade, and economic development.
- (4) "Federal act" means the national historic preservation act of 1966 (Public Law 89-655; 80 Stat. 915).
- (5) "Heritage council" means the Washington state heritage council.
- (6) "Historic preservation" includes the protection, rehabilitation, restoration, identification, scientific excavation, and reconstruction of districts, sites, buildings, structures,

and objects significant in American and Washington state history, architecture, archaeology, or culture.

(7) "Office" means the office of archaeology and historic preservation within the department.

(8) "Preservation officer" means the state historic preservation officer as provided for in RCW 27.34.210.

(9) "Project" means programs leading to the preservation for public benefit of historical properties, whether by state and local governments or other public bodies, or private organizations or individuals, including the acquisition of title or interests in, and the development of, any district, site, building, structure, or object that is significant in American and Washington state history, architecture, archaeology, or culture, and property used in connection therewith, or for its development.

(10) "State historical agencies" means the state historical societies and the office of archaeology and historic preservation within the department.

(11) "State historical societies" means the Washington state historical society and the eastern Washington state historical society.

(12) "Cultural resource management plan" means a comprehensive plan which identifies and organizes information on the state of Washington's historic, archaeological, and architectural resources into a set of management criteria, and which is to be used for producing reliable decisions, recommendations, and advice relative to the identification, evaluation, and protection of these resources.

[1995 c 399 § 13; 1993 c 101 § 10; 1986 c 266 § 9; 1983 c 91 § 2.]

Notes:

Findings--1993 c 101: See note following RCW 27.34.010.

Severability--1986 c 266: See note following RCW 38.52.005.

Transfer of powers and duties of office of archaeology and historic preservation--Construction of statutory references: See note following RCW 38.52.005.

RCW 27.34.060 State historical societies--Budget requests.

Each state historical society shall submit its budget requests to the heritage council for review and comment.

[1983 c 91 § 6.]

RCW 27.34.070 State historical societies--Powers and duties.

(1) Each state historical society is designated a trustee for the state whose powers and duties include but are not limited to the following:

(a) To collect, catalog, preserve, and interpret objects, manuscripts, sites, photographs, and other materials illustrative of the cultural, artistic, and natural history of this state;

(b) To operate state museums and assist and encourage cultural and historical studies and museum interpretive efforts throughout the state, including those sponsored by local historical

organizations, and city, county, and state agencies;

(c) To engage in cultural, artistic, and educational activities, including classes, exhibits, seminars, workshops, and conferences if these activities are related to the basic purpose of the society;

(d) To plan for and conduct celebrations of significant events in the history of the state of Washington and to give assistance to and coordinate with state agencies, local governments, and local historical organizations in planning and conducting celebrations;

(e) To create one or more classes of membership in the society;

(f) To engage in the sale of various articles which are related to the basic purpose of the society;

(g) To engage in appropriate fund-raising activities for the purpose of increasing the self-support of the society;

(h) To accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend the same or the proceeds, rents, profits, and income therefrom except as limited by the donor's terms. The governing boards of the state historical societies shall adopt rules to govern and protect the receipt and expenditure of the proceeds, rents, profits, and income of all such gifts, grants, conveyances, bequests, and devises;

(i) To accept on loan or lend objects of historical interest, and sell, exchange, divest itself of, or refuse to accept, items which do not enhance the collection;

(j) To charge general or special admission fees to its museums or exhibits and to waive or decrease such fees as it finds appropriate; and

(k) To work with the heritage council in developing the plan under *RCW 27.34.050.

(2) All objects, sites, manuscripts, photographs, and all property, including real property, now held or hereafter acquired by the state historical societies shall be held by the societies in trust for the use and benefit of the people of Washington state.

[1983 c 91 § 7.]

Notes:

***Reviser's note:** RCW 27.34.050 was repealed by 1994 sp.s. c 9 § 858, effective July 1, 1994.

RCW 27.34.075 Educational publications printing.

The provisions of chapter 43.78 RCW shall not apply to the printing of educational publications of the state historical societies.

[1994 c 82 § 2.]

RCW 27.34.080 State historical societies--Appointment of directors--Removal.

The governing board of each state historical society shall appoint its respective director with the consent of the governor. The governor may remove a director for cause or if a majority of the society's governing board votes for removal.

[1983 c 91 § 8.]

RCW 27.34.200 Archaeology and historic preservation--Legislative declaration.

The legislature hereby finds that the promotion, enhancement, perpetuation, and use of structures, sites, districts, buildings, and objects of historic, archaeological, architectural, and cultural significance is desirable in the interest of the public pride and general welfare of the people of the state; and the legislature further finds that the economic, cultural, and aesthetic standing of the state can be maintained and enhanced by protecting the heritage of the state and by preventing the destruction or defacement of these assets; therefore, it is hereby declared by the legislature to be the public policy and in the public interest of the state to designate, preserve, protect, enhance, and perpetuate those structures, sites, districts, buildings, and objects which reflect outstanding elements of the state's historic, archaeological, architectural, or cultural heritage, for the inspiration and enrichment of the citizens of the state.

[1983 c 91 § 10.]

RCW 27.34.210 Office of archaeology and historic preservation--Preservation officer--Qualifications.

There is hereby established the office of archaeology and historic preservation within the department.

The director shall appoint the preservation officer to assist the director in implementing this chapter. The preservation officer shall have a background in program administration, an active involvement in historic preservation, and a knowledge of the national, state, and local preservation programs as they affect the state of Washington.

[1995 c 399 § 14; 1986 c 266 § 10; 1983 c 91 § 11.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

Identification of historic properties and sites in need of rehabilitation or renovation--Use of conservation corps members: RCW 43.220.180.

RCW 27.34.220 Director--Powers.

The director or the director's designee is authorized:

(1) To promulgate and maintain the Washington heritage register of districts, sites, buildings, structures, and objects significant in American or Washington state history, architecture, archaeology, and culture, and to prepare comprehensive state-wide historic surveys and plans and research and evaluation of surveyed resources for the preparation of nominations to the Washington heritage register and the national register of historic places, in accordance with criteria approved by the advisory council established under RCW 27.34.250. Nominations to the national register of historic places shall comply with any standards and regulations promulgated

by the United States secretary of the interior for the preservation, acquisition, and development of such properties. Nominations to the Washington heritage register shall comply with rules adopted under this chapter.

(2) To establish a program of matching grants-in-aid to public agencies, public or private organizations, or individuals for projects having as their purpose the preservation for public benefit of properties that are significant in American or Washington state history, architecture, archaeology, and culture.

(3) To promote historic preservation efforts throughout the state, including private efforts and those of city, county, and state agencies.

(4) To enhance the effectiveness of the state preservation program through the initiation of legislation, the use of varied funding sources, the creation of special purpose programs, and contact with state, county, and city officials, civic groups, and professionals.

(5) To spend funds, subject to legislative appropriation and the availability of funds, where necessary to assist the Indian tribes of Washington state in removing prehistoric human remains for scientific examination and reburial, if the human remains have been unearthed inadvertently or through vandalism and if no other public agency is legally responsible for their preservation.

(6) To consult with the governor and the legislature on issues relating to the conservation of the man-made environment and their impact on the well-being of the state and its citizens.

(7) To charge fees for professional and clerical services provided by the office.

(8) To adopt such rules, in accordance with chapter 34.05 RCW, as are necessary to carry out RCW 27.34.200 through 27.34.280.

[1997 c 145 § 1; 1987 c 505 § 8; 1986 c 266 § 11; 1985 c 64 § 2; 1983 c 91 § 12.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 27.34.230 Director--Duties.

The director or the director's designee shall:

(1) Submit the budget requests for the office to the heritage council for review and comment;

(2) Receive, administer, and disburse such gifts, grants, and endowments from private sources as may be made in trust or otherwise for the purposes of RCW 27.34.200 through *27.34.290 or the federal act; and

(3) Develop and implement a cultural resource management plan.

[1986 c 266 § 12; 1983 c 91 § 13.]

Notes:

***Reviser's note:** RCW 27.34.290 was repealed by 1986 c 266 § 53.

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 27.34.240 Apportionment of grants.

The amounts made available for grants to the public agencies, public or private organizations, or individuals for projects for each fiscal year shall be apportioned among program applicants by the director or the director's designee, with the advice of the preservation officer, in accordance with needs as contained in state-wide archaeology and historic preservation plans developed by the department.

[1986 c 266 § 13; 1983 c 91 § 14.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 27.34.250 Advisory council on historic preservation--Members.

(1) There is hereby established an advisory council on historic preservation, which shall be composed of nine members appointed by the governor as follows:

- (a) A representative of a local or state heritage organization;
 - (b) Six members of the public who are interested and experienced in matters to be considered by the council including the fields of history, architecture, and archaeology;
 - (c) A representative from the Washington archaeological community; and
 - (d) A native American.
- (2) Each member of the council shall serve a four-year term.
- (3) A vacancy in the council shall not affect its powers, but shall be filled in the same manner as the original appointment for the balance of the unexpired term.
- (4) The chairperson of the council shall be designated by the governor.
- (5) Five members of the council shall constitute a quorum.

[1995 c 150 § 1. Prior: 1993 c 185 § 1; 1993 c 101 § 12; 1983 c 91 § 15.]

Notes:

Effective date--1993 c 185: "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 shall take effect June 30, 1993." [1993 c 185 § 2.]

Findings--1993 c 101: See note following RCW 27.34.010.

RCW 27.34.260 Advisory council--Compensation and reimbursement of members.

The directors of the state historical societies shall serve as members of the advisory council on historic preservation without additional compensation. All other members of the advisory council shall be reimbursed for travel expenses incurred in the performance of the duties of the council in accordance with RCW 43.03.050 and 43.03.060.

[1983 c 91 § 18.]

RCW 27.34.270 Advisory council--Duties.

The advisory council shall:

(1) Advise the governor and the department on matters relating to historic preservation; recommend measures to coordinate activities of state and local agencies, private institutions, and individuals relating to historic preservation; and advise on the dissemination of information pertaining to such activities; and

(2) Review and recommend nominations for the national register of historic places to the preservation officer and the director.

[1997 c 145 § 2; 1986 c 266 § 14; 1983 c 91 § 17.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 27.34.280 Advisory council, heritage council--Financial and administrative services.

The department shall provide administrative and financial services to the advisory council on historic preservation and to the Washington state heritage council.

[1986 c 266 § 15; 1983 c 91 § 16.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 27.34.310 Inventory of state-owned properties--Definitions.

Unless the context clearly requires otherwise, the following definitions apply throughout RCW 27.34.320.

(1) "Agency" means the state agency, department, or institution that has ownership of historic property.

(2) "Historic properties" means those buildings, sites, objects, structures, and districts that are listed in or eligible for listing in the National Register of Historic Places.

(3) "Office" means the office of archaeology and historic preservation within the department of community, trade, and economic development.

[1995 c 399 § 15; 1993 c 325 § 3.]

Notes:

Purpose--1993 c 325 §§ 3 and 4: "It is the purpose of sections 3 and 4 of this act to give authority to the office of archaeology and historic preservation to identify and record all state-owned facilities to determine which of these facilities may be considered historically significant and to require the office to provide copies of the inventory to departments, agencies, and institutions that have jurisdiction over the buildings and sites listed." [1993 c 325 § 2.]

RCW 27.34.320 Inventory of state-owned properties--Procedure--Grants.

(1) By January 2, 1994, the office shall provide each agency with a list of the agency's properties currently listed on the National Register of Historic Places. By January 2, 1995,

agencies that own property shall provide to the office a list of those properties that are either at least fifty years old or that may be eligible for listing in the National Register of Historic Places. If funding is available, the office may provide grants to state agencies to assist in the development of the agency's list. By June 30, 1995, the office shall compile and disseminate an inventory of state-owned historic properties.

(2) The office shall provide technical information to agency staff involved with the identification of historic properties, including the criteria for facilities to be placed on the National Register of Historic Places.

[1993 c 325 § 4.]

Notes:

Purpose--1993 c 325 §§ 3 and 4: See note following RCW 27.34.310.

RCW 27.34.330 Heritage capital projects--Proposals for funding--Prioritized list.
(Expires June 30, 2007.)

The Washington state historical society shall establish a competitive process to solicit proposals for and prioritize heritage capital projects for potential funding in the state capital budget. The society shall adopt rules governing project eligibility and evaluation criteria. Application for funding of specific projects may be made to the society by local governments, public development authorities, nonprofit corporations, tribal governments, and other entities, as determined by the society. The society, with the advice of leaders in the heritage field, including but not limited to representatives from the office of the secretary of state, the eastern Washington state historical society, and the state office of archaeology and historic preservation, shall establish and submit a prioritized list of heritage capital projects to the governor and the legislature in the society's biennial capital budget request. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project. The total amount of recommended state funding for projects on a biennial project list shall not exceed four million dollars. The department may provide an additional alternate project list which shall not exceed five hundred thousand dollars. The prioritized list shall be developed through open and public meetings and the amount of state funding shall not exceed thirty-three percent of the total cost of the project. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects. In contracts for grants authorized under this section, the society shall include provisions requiring that capital improvements be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

[1999 c 295 § 2; 1995 c 182 § 2.]

Notes:

Expiration date--1999 c 295: See note following RCW 43.63A.750.

Findings--1995 c 182: "The legislature finds that the state of Washington has a rich heritage in historical sites and artifacts that have the potential to provide life-long learning opportunities for citizens of the state. Further, the legislature finds that many of these historical treasures are not readily accessible to citizens, and that there is a need to create an ongoing program to support the capital needs of heritage organizations and facilities." [1995 c 182 § 1.]

RCW 27.34.342 Lewis and Clark bicentennial advisory committee. (*Expires June 30, 2007.*)

The Lewis and Clark bicentennial advisory committee is created under the auspices of the Washington state historical society. The committee shall consist of fifteen members, as follows:

- (1) Six citizen members, at least three of whom must be enrolled members of a Washington Indian tribe, who shall be appointed by the governor;
- (2) The president of the Washington state historical society;
- (3) The director of the Washington state parks and recreation commission;
- (4) The secretary of the Washington state department of transportation;
- (5) The director of the Washington state department of community, trade, and economic development;
- (6) Four members of the Washington state legislature, one from each caucus in the senate and the house of representatives as designated by each caucus; and
- (7) The chair of the Lewis and Clark trail advisory committee.

[1999 c 35 § 1.]

Notes:

Expiration date--1999 c 35: "Sections 1 through 3 of this act expire June 30, 2007." [1999 c 35 § 4.]

RCW 27.34.344 Lewis and Clark bicentennial advisory committee--Duties--Role of Washington state historical society. (*Expires June 30, 2007.*)

(1) The Lewis and Clark bicentennial [advisory] committee shall coordinate and provide guidance to Washington's observance of the bicentennial of the Lewis and Clark expedition. The committee may:

- (a) Cooperate with national, regional, state-wide, and local events promoting the bicentennial;
- (b) Assist, plan, or conduct bicentennial events;
- (c) Engage in or encourage fund-raising activities including revenue-generating enterprises, as well as the solicitation of charitable gifts, grants, or donations;
- (d) Promote public education concerning the importance of the Lewis and Clark expedition in American history, including the role of native people in making the expedition a

success;

- (e) Coordinate interagency participation in the observance; and
- (f) Perform other related duties.

(2) The committee is attached to the Washington state historical society for administrative purposes. Accordingly, the society shall:

- (a) Direct and supervise the budgeting, recordkeeping, reporting, and related administrative and clerical functions of the committee;
- (b) Include the committee's budgetary requests in the society's departmental budget;
- (c) Collect all nonappropriated revenues for the committee and deposit them in the proper fund or account;
- (d) Provide staff support for the committee;
- (e) Print and disseminate for the committee any required notices, rules, or orders adopted by the committee; and
- (f) Allocate or otherwise provide office space to the committee as may be necessary.

[1999 c 35 § 2.]

Notes:

Expiration date--1999 c 35: See note following RCW 27.34.342.

RCW 27.34.346 Lewis and Clark bicentennial account. (*Expires June 30, 2007.*)

The Lewis and Clark bicentennial account is created in the state treasury. Expenditures from the account may only be expended to finance the activities of the Lewis and Clark bicentennial [advisory] committee and all expenditures must be authorized by the director of the Washington state historical society or the director's designee. Moneys in the account may only be spent after appropriation. The account is subject to the allotment procedures under chapter 43.88 RCW.

[1999 c 35 § 3.]

Notes:

Expiration date--1999 c 35: See note following RCW 27.34.342.

RCW 27.34.350 Governor's award for excellence in teaching history.

(1) Many people throughout the state contribute significantly to the promotion of historical study as a means to give the state's citizens a better sense of the past. The Washington state historical society recognizes the accomplishments of many men and women in the teaching professions whose skill and achievement in the inculcating of historic values are not given the recognition nor the support they deserve or given the encouragement to continue their work.

(2) The governor's award for excellence in teaching history is created to annually recognize teachers and public and private nonprofit historical organizations that have organized, conducted, published, or offered on a consistently exemplary basis, outstanding activities that

promote a better understanding and appreciation of the state's history. One cash award to an individual teacher and one cash award to an organization shall be made each year. The sums described in this section shall be raised through solicitations from private donors.

(3) The Washington state historical society's board of trustees shall make the final determination of award recipients.

[1997 c 263 § 1.]

RCW 27.34.900 State capital historical museum.

The building and grounds designated as Block 2, Grainger's Addition to the City of Olympia, County of Thurston, acquired by the state under senate joint resolution No. 18, session of 1939, is hereby designated a part of the state capitol, to be known as the state capital historical museum. This structure is to be used to house and interpret the collection of the Washington state historical society. This section does not limit the society's use of other structures.

[1993 c 101 § 13; 1981 c 253 § 3; 1941 c 44 § 3; Rem. Supp. 1941 § 8265-6. Formerly RCW 27.36.020.]

Notes:

Findings--1993 c 101: See note following RCW 27.34.010.

RCW 27.34.906 Pickett House--In trust--Reverter.

Said chapter, by acceptance of such conveyance, shall be deemed to have agreed to hold said property in trust for the state of Washington, and to maintain and keep the same open to the public as an historical site, and, in case of its failure so to do, title to said property shall revert to the state of Washington.

[1965 c 31 § 2. Formerly RCW 27.28.022.]

RCW 27.34.910 Effective date--1983 c 91.

This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983.

[1983 c 91 § 27.]

RCW 27.34.915 Severability--1993 c 101.

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.

[1993 c 101 § 16.]

RCW 27.34.916 Effective date--1993 c 101.

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 shall take effect July 1, 1993.

[1993 c 101 § 17.]

Chapter 27.40 RCW
THOMAS BURKE MEMORIAL WASHINGTON STATE MUSEUM OF UNIVERSITY
OF WASHINGTON

(Formerly: Museum of University of Washington)

Sections

- | | |
|-----------|---|
| 27.40.010 | Thomas Burke Memorial Washington State Museum constituted state natural history and anthropology museum. |
| 27.40.030 | Acceptance of materials from private sources. |
| 27.40.034 | Permanent acquisition of documents and materials on loan to museum, procedure--Return of stolen documents and materials to owner. |
| 27.40.036 | Sale or trade of acquired documents or materials--Use of proceeds. |
| 27.40.040 | Management in board of regents. |

RCW 27.40.010 Thomas Burke Memorial Washington State Museum constituted state natural history and anthropology museum.

The Thomas Burke Memorial Washington State Museum of the University of Washington is hereby constituted the state natural history and anthropology museum as a repository for the preservation, exhibition, interpretation, and conservation of documents and objects of a systematic anthropological, geological, and zoological character for the state.

[1985 c 29 § 1; 1899 c 30 § 1; RRS § 8255.]

Notes:

Effective date--1985 c 29: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on June 30, 1985." [1985 c 29 § 3.]

RCW 27.40.030 Acceptance of materials from private sources.

This museum may receive all such above named documents or material for preservation and exhibition from any private person under such rules and regulations as the board of regents of the University of Washington may deem proper to make for the care of the aforesaid museum.

[1899 c 30 § 3; RRS § 8257.]

RCW 27.40.034 Permanent acquisition of documents and materials on loan to

museum, procedure--Return of stolen documents and materials to owner.

The board of regents may provide, by rule or regulation, for:

(1) The permanent acquisition of documents or materials on loan to the state museum at the University of Washington, if the documents or materials have not been claimed by the owner thereof within ninety days after notice is sent by certified mail, return receipt requested, to the owner at his last known address by the board of regents and if the certified letter be returned because it could not be delivered to the addressee, public notice shall be published by the University of Washington once each week during two successive weeks in a newspaper circulating in the city of Seattle and the county of King describing the unclaimed documents or materials, giving the name of the reputed owner thereof and requesting all persons who may have any knowledge of the whereabouts of the owner to contact the office of the museum of the University of Washington: PROVIDED HOWEVER, That more than one item may be described in each of the notices;

(2) The return to the rightful owner of documents or materials in the possession of the museum, which documents or materials are determined to have been stolen: PROVIDED, That any person claiming to be the rightful legal owner of the documents or materials who wishes to challenge the determination by the board shall have the right to commence a declaratory judgment action pursuant to chapter 7.24 RCW in the superior court for King county to determine the validity of his claim of ownership to the documents or materials.

[1985 c 469 § 13; 1975 1st ex.s. c 159 § 1.]

RCW 27.40.036 Sale or trade of acquired documents or materials--Use of proceeds.

Documents or materials acquired under the provisions of RCW 27.40.034 may be sold, or may be traded for other documents or materials. The proceeds from the sale of any such documents or materials may be used to acquire additional documents or materials or may be used to defray the cost of operating the museum.

[1975 1st ex.s. c 159 § 2.]

RCW 27.40.040 Management in board of regents.

The board of regents of the University of Washington ex officio shall have full charge and management of the state museum hereby created.

[1899 c 30 § 4; RRS § 8258.]

**Chapter 27.44 RCW
INDIAN GRAVES AND RECORDS**

Sections

27.44.020 Examination permitted--Removal to archaeological repository.

27.44.030	Intent.
27.44.040	Protection of Indian graves--Penalty.
27.44.050	Civil action by Indian tribe or member--Time for commencing action--Venue--Damages--Attorneys' fees.
27.44.900	Captions not law--1989 c 44.
27.44.901	Liberal construction--1989 c 44.

RCW 27.44.020 Examination permitted--Removal to archaeological repository.

Any archaeologist or interested person may copy and examine such glyptic or painted records or examine the surface of any such cairn or grave, but no such record or archaeological material from any such cairn or grave may be removed unless the same shall be destined for reburial or perpetual preservation in a duly recognized archaeological repository and permission for scientific research and removal of specimens of such records and material has been granted by the state historic preservation officer. Whenever a request for permission to remove records or material is received, the state historic preservation officer shall notify the affected Indian tribe or tribes.

[1985 c 64 § 1; 1977 ex.s. c 169 § 6; 1941 c 216 § 2; Rem. Supp. 1941 § 3207-11.]

Notes:

Severability--Nomenclature--Savings--1977 ex.s. c 169: See notes following RCW 28B.10.016.

RCW 27.44.030 Intent.

The legislature hereby declares that:

(1) Native Indian burial grounds and historic graves are acknowledged to be a finite, irreplaceable, and nonrenewable cultural resource, and are an intrinsic part of the cultural heritage of the people of Washington. The legislature recognizes the value and importance of respecting all graves, and the spiritual significance of such sites to the people of this state;

(2) There have been reports and incidents of deliberate interference with native Indian and historic graves for profit-making motives;

(3) There has been careless indifference in cases of accidental disturbance of sites, graves, and burial grounds;

(4) Indian burial sites, cairns, glyptic markings, and historic graves located on public and private land are to be protected and it is therefore the legislature's intent to encourage voluntary reporting and respectful handling in cases of accidental disturbance and provide enhanced penalties for deliberate desecration.

[1989 c 44 § 1.]

RCW 27.44.040 Protection of Indian graves--Penalty.

(1) Any person who knowingly removes, mutilates, defaces, injures, or destroys any cairn

or grave of any native Indian, or any glyptic or painted record of any tribe or peoples is guilty of a class C felony punishable under chapter 9A.20 RCW. Persons disturbing native Indian graves through inadvertence, including disturbance through construction, mining, logging, agricultural activity, or any other activity, shall reinter the human remains under the supervision of the appropriate Indian tribe. The expenses of reinterment are to be paid by the office of archaeology and historic preservation pursuant to RCW 27.34.220.

(2) Any person who sells any native Indian artifacts or any human remains that are known to have been taken from an Indian cairn or grave, is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) This section does not apply to:

(a) The possession or sale of native Indian artifacts discovered in or taken from locations other than native Indian cairns or graves, or artifacts that were removed from cairns or graves as may be authorized by RCW 27.53.060 or by other than human action; or

(b) Actions taken in the performance of official law enforcement duties.

(4) It shall be a complete defense in the prosecution under this section if the defendant can prove by a preponderance of evidence that the alleged acts were accidental or inadvertent and that reasonable efforts were made to preserve the remains, glyptic, or painted records, or artifacts accidentally disturbed or discovered, and that the accidental discovery or disturbance was properly reported.

[1989 c 44 § 2.]

RCW 27.44.050 Civil action by Indian tribe or member--Time for commencing action--Venue--Damages--Attorneys' fees.

(1) Apart from any criminal prosecution, an Indian tribe or enrolled member thereof, shall have a civil action to secure an injunction, damages, or other appropriate relief against any person who is alleged to have violated RCW 27.44.040. The action must be brought within two years of the discovery of the violation by the plaintiff. The action may be filed in the superior or tribal court of the county in which the grave, cairn, remains, or artifacts are located, or in the superior court of the county within which the defendant resides.

(2) Any conviction pursuant to RCW 27.44.040 shall be prima facie evidence in an action brought under this section.

(3) If the plaintiff prevails:

(a) The court may award reasonable attorneys' fees to the plaintiff;

(b) The court may grant injunctive or such other equitable relief as is appropriate, including forfeiture of any artifacts or remains acquired or equipment used in the violation. The court shall order the disposition of any items forfeited as the court sees fit, including the reinterment of human remains;

(c) The plaintiff shall recover imputed damages of five hundred dollars or actual damages, whichever is greater. Actual damages include special and general damages, which include damages for emotional distress;

(d) The plaintiff may recover punitive damages upon proof that the violation was willful. Punitive damages may be recovered without proof of actual damages. All punitive damages shall be paid by the defendant to the office of archaeology and historic preservation for the purposes of Indian historic preservation and to cover the cost of reinterment expenses by the office; and

(e) An award of imputed or punitive damages may be made only once for a particular violation by a particular person, but shall not preclude the award of such damages based on violations by other persons or on other violations.

(4) If the defendant prevails, the court may award reasonable attorneys' fees to the defendant.

[1989 c 44 § 3.]

RCW 27.44.900 Captions not law--1989 c 44.

Section captions used in this act do not constitute any part of the law.

[1989 c 44 § 10.]

RCW 27.44.901 Liberal construction--1989 c 44.

This act is to be liberally construed to achieve the legislature's intent.

[1989 c 44 § 11.]

**Chapter 27.48 RCW
PRESERVATION OF HISTORICAL MATERIALS**

Sections

27.48.010 Public purpose declared--Powers of counties and municipalities.

27.48.040 Capitol furnishings preservation committee--Capitol furnishings preservation committee account.

Notes:

Preservation and destruction of public records, state archivist: Chapter 40.14 RCW.

RCW 27.48.010 Public purpose declared--Powers of counties and municipalities.

The storage, preservation and exhibit of historical materials, including, but not restricted to, books, maps, writings, newspapers, ancient articles, and tools of handicraft, antiques, artifacts, and relics is declared to be a public project carried on for public purpose and the legislative body of any county, city or town, may provide quarters therefor within the territorial limits thereof and may provide funds necessary for the proper operation of any such institution already in operation, or otherwise provide for the preservation of historical material covered by this chapter.

[1957 c 47 § 1; 1949 c 160 § 1; Rem. Supp. 1949 § 8265-9.]

RCW 27.48.040 Capitol furnishings preservation committee--Capitol furnishings preservation committee account.

(1) Unless the context clearly requires otherwise, the definitions in this section apply throughout this section.

(a) "State capitol group" includes the legislative building, the insurance building, the Cherberg building, the John L. O'Brien building, the Newhouse building, and the temple of justice building.

(b) "Historic furnishings" means furniture, fixtures, and artwork fifty years of age or older.

(2) The capitol furnishings preservation committee is established to promote and encourage the recovery and preservation of the original and historic furnishings of the state capitol group, prevent future loss of historic furnishings, and review and advise future remodeling and restoration projects as they pertain to historic furnishings. The committee's authority does not extend to the placement of any historic furnishings within the state capitol group.

(3) The capitol furnishings preservation committee account is created in the custody of the state treasurer. All receipts designated for the account from appropriations and from other sources must be deposited into the account. Expenditures from the account may be used only to finance the activities of the capitol furnishings preservation committee. Only the director of the Washington state historical society or the director's designee may authorize expenditures from the account when authorized to do so by the committee. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) The committee may:

(a) Authorize the director of the Washington state historical society or the director's designee to expend funds from the capitol furnishings preservation committee account for limited purposes of purchasing and preserving historic furnishings of the state capitol group;

(b) Accept monetary donations, grants, and donations of historic furnishings from, but not limited to, (i) current and former legislators, state officials, and lobbyists; (ii) the families of former legislators, state officials, and lobbyists; and (iii) the general public. Moneys received under this section must be deposited in the capitol furnishings preservation committee account; and

(c) Engage in or encourage fund-raising activities including the solicitation of charitable gifts, grants, or donations specifically for the limited purpose of the recovery of the original and historic furnishings.

(5) The membership of the committee shall include: Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives; two members of the senate, one from each major caucus, appointed by the president of the senate; the chief clerk of the house of representatives; the secretary of the senate;

the governor or the governor's designee; the lieutenant governor or the lieutenant governor's designee; a representative from the office of the secretary of state, the office of the state treasurer, the office of the state auditor, and the office of the insurance commissioner; a representative from the supreme court; a representative from the Washington state historical society, the department of general administration, and the Thurston county planning council, each appointed by the governor; and three private citizens, appointed by the governor.

(6) Original or historic furnishings from the state capitol group are not surplus property under chapter 43.19 RCW or other authority unless designated as such by the committee.

[1999 c 343 § 2.]

Notes:

Findings--Purpose--1999 c 343: "The legislature finds that those historic furnishings that illustrate the history of the state of Washington should be maintained and preserved for the use and benefit of the people of the state. It is the purpose of this act to establish the capitol furnishings preservation committee to increase the awareness of the public and state employees about the significance of the furnishings within the state capitol campus buildings as envisioned by the original architects Wilder and White." [1999 c 343 § 1.]

Chapter 27.53 RCW

ARCHAEOLOGICAL SITES AND RESOURCES

Sections

27.53.010	Declaration.
27.53.020	Archaeological resource preservation, etc., declared public functions--Archaeological research center designated state agency--Cooperation enjoined.
27.53.030	Definitions.
27.53.040	Archaeological resources--Declaration.
27.53.045	Abandoned archaeological resources--Declaration.
27.53.060	Disturbing, etc., archaeological resource or site without written permit or permission unlawful--Conditions allowed--Exceptions.
27.53.070	Field investigations--Communication of site or resource location to research center.
27.53.080	Archaeological activities upon public lands--Entry--Agreement--Approval of activities.
27.53.090	Violations--Penalty.
27.53.100	Historic archaeological resources on state-owned aquatic lands--Discovery and report--Right of first refusal.
27.53.110	Contracts for discovery and salvage of state-owned historic archaeological resources.
27.53.120	Recovery of property from historic archaeological sites--Mitigation of damage--Refusal to issue salvage permit to prevent destruction of resource.
27.53.130	List of areas requiring permits.
27.53.140	Rule-making authority.
27.53.150	Proceeds from state's property--Deposit and use.
27.53.900	Severability--1975 1st ex.s. c 134.
27.53.901	Severability--1988 c 124.

Notes:

Office of archaeology and historic preservation: RCW 27.34.200 through 27.34.240.

RCW 27.53.010 Declaration.

The legislature hereby declares that the public has an interest in the conservation, preservation, and protection of the state's archaeological resources, and the knowledge to be derived and gained from the scientific study of these resources.

[1975 1st ex.s. c 134 § 1.]

RCW 27.53.020 Archaeological resource preservation, etc., declared public functions--Archaeological research center designated state agency--Cooperation enjoined.

The discovery, identification, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the Washington archaeological research center, created under the authority of chapter 39.34 RCW as now existing or hereafter amended, is hereby designated as an appropriate agency to carry out these functions. The director, in consultation with the Washington archaeological research center, shall provide guidelines for the selection of depositories designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the department, the Washington archaeological research center, and other agencies of the state.

[1986 c 266 § 16; 1977 ex.s. c 195 § 12; 1975-'76 2nd ex.s. c 82 § 1; 1975 1st ex.s. c 134 § 2.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

Severability--1977 ex.s. c 195: "If any provision of this 1977 amendatory 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." [1977 ex.s. c 195 § 20.]

RCW 27.53.030 Definitions.

Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not

limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of community, trade, and economic development.

(5) "Director" means the director of community, trade, and economic development or the director's designee.

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person who has met the educational, training, and experience requirements of the society of professional archaeologists.

(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists.

(10) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

(11) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

[1995 c 399 § 16; 1989 c 44 § 6; 1988 c 124 § 2; 1986 c 266 § 17; 1983 c 91 § 20; 1977 ex.s. c 195 § 13; 1975 1st ex.s. c 134 § 3.]

Notes:

Intent--1989 c 44: See RCW 27.44.030.

Captions not law--Liberal construction--1989 c 44: See RCW 27.44.900 and 27.44.901.

Intent--1988 c 124: "It is the intent of the legislature that those historic archaeological resources located on state-owned aquatic lands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that divers have long enjoyed the recreation of diving near shipwrecks and picking up artifacts from the state-owned aquatic lands, and it is not the intent of the legislature to regulate these occasional, recreational activities except in areas where necessary to protect underwater historic archaeological sites. The legislature also recognizes that salvors who invest in a project to salvage underwater archaeological resources on state-owned aquatic lands should be required to obtain a state permit for their operation in order to protect the interest of the people of the state, as well as to protect the interest of the salvors who have invested considerable time and money in the salvage expedition." [1988 c 124 § 1.]

Application--1988 c 124: "This act shall not affect any ongoing salvage effort in which the state has

entered into separate contracts or agreements prior to March 18, 1988." [1988 c 124 § 13.]

Severability--1986 c 266: See note following RCW 38.52.005.

Effective date--1983 c 91: See RCW 27.34.910.

Severability--1977 ex.s. c 195: See note following RCW 27.53.020.

RCW 27.53.040 Archaeological resources--Declaration.

All sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material that are located in, on, or under the surface of any lands or waters owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state are hereby declared to be archaeological resources.

[1975 1st ex.s. c 134 § 4.]

RCW 27.53.045 Abandoned archaeological resources--Declaration.

All historic archaeological resources abandoned for thirty years or more in, on, or under the surface of any public lands or waters owned by or under the possession, custody, or control of the state of Washington, including, but not limited to all ships, or aircraft, and any part or the contents thereof, and all treasure trove is hereby declared to be the property of the state of Washington.

[1988 c 124 § 3.]

Notes:

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.060 Disturbing, etc., archaeological resource or site without written permit or permission unlawful--Conditions allowed--Exceptions.

(1) On the private and public lands of this state it shall be unlawful for any person, firm, corporation, or any agency or institution of the state or a political subdivision thereof to knowingly remove, alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, or remove any archaeological object from such site, except for Indian graves or cairns, or any glyptic or painted record of any tribe or peoples, or historic graves as defined in chapter 68.05 RCW, disturbances of which shall be a class C felony punishable under chapter 9A.20 RCW, without having obtained a written permit from the director for such activities.

(2) The director must obtain the consent of the private or public property owner or agency

responsible for the management thereof, prior to issuance of the permit. The property owner or agency responsible for the management of such land may condition its consent on the execution of a separate agreement, lease, or other real property conveyance with the applicant as may be necessary to carry out the legal rights or duties of the public property landowner or agency. The director, in consultation with the affected tribes, shall develop guidelines for the issuance and processing of permits. Such written permit and any agreement or lease or other conveyance required by any public property owner or agency responsible for management of such land shall be physically present while any such activity is being conducted. The provisions of this section shall not apply to the removal of artifacts found exposed on the surface of the ground which are not historic archaeological resources or sites.

[1989 c 44 § 7; 1988 c 124 § 4; 1986 c 266 § 18; 1977 ex.s. c 195 § 14; 1975-'76 2nd ex.s. c 82 § 2; 1975 1st ex.s. c 134 § 6.]

Notes:

Intent--1989 c 44: See RCW 27.44.030.

Captions not law--Liberal construction--1989 c 44: See RCW 27.44.900 and 27.44.901.

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

Severability--1986 c 266: See note following RCW 38.52.005.

Severability--1977 ex.s. c 195: See note following RCW 27.53.020.

RCW 27.53.070 Field investigations--Communication of site or resource location to research center.

It is the declared intention of the legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this chapter and persons having knowledge of the location of archaeological sites or resources are encouraged to communicate such information to the Washington archaeological research center. Such information shall not constitute a public record which requires disclosure pursuant to the exception authorized in RCW 42.17.310, as now or hereafter amended, to avoid site deprecation.

[1975-'76 2nd ex.s. c 82 § 3; 1975 1st ex.s. c 134 § 7.]

RCW 27.53.080 Archaeological activities upon public lands--Entry--Agreement--Approval of activities.

Qualified or professional archaeologists, in performance of their duties, are hereby authorized to enter upon public lands of the state of Washington and its political subdivisions, at such times and in such manner as not to interfere with the normal management thereof, for the purposes of doing archaeological resource location and evaluation studies, including site sampling activities. Scientific excavations are to be carried out only after appropriate agreement has been made between a professional archaeologist or an institution of higher education and the agency or political subdivision responsible for such lands. Notice of such agreement shall be filed with the Washington archaeological research center and by them to the department.

Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the Washington archaeological research center for review and recommendation.

[1986 c 266 § 19; 1977 ex.s. c 195 § 15; 1975 1st ex.s. c 134 § 8.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

Severability--1977 ex.s. c 195: See note following RCW 27.53.020.

RCW 27.53.090 Violations--Penalty.

Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day of continued violation of any provision of this chapter shall constitute a distinct and separate offense. Offenses shall be reported to the appropriate law enforcement agency or to the director.

[1986 c 266 § 20; 1977 ex.s. c 195 § 16; 1975-'76 2nd ex.s. c 82 § 4; 1975 1st ex.s. c 134 § 9.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

Severability--1977 ex.s. c 195: See note following RCW 27.53.020.

RCW 27.53.100 Historic archaeological resources on state-owned aquatic lands--Discovery and report--Right of first refusal.

Persons, firms, corporations, institutions, or agencies which discover a previously unreported historic archaeological resource on state-owned aquatic lands and report the site or location of such resource to the department shall have a right of first refusal to future salvage permits granted for the recovery of that resource, subject to the provisions of RCW 27.53.110. Such right of first refusal shall exist for five years from the date of the report. Should another person, firm, corporation, institution, or agency apply for a permit to salvage that resource, the reporting entity shall have sixty days to submit its own permit application and exercise its first refusal right, or the right shall be extinguished.

[1988 c 124 § 5.]

Notes:

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.110 Contracts for discovery and salvage of state-owned historic archaeological resources.

The director is hereby authorized to enter into contracts with other state agencies or institutions and with qualified private institutions, persons, firms, or corporations for the

discovery and salvage of state-owned historic archaeological resources. Such contracts shall include but are not limited to the following terms and conditions:

(1) Historic shipwrecks:

(a) The contract shall provide for fair compensation to a salvor. "Fair compensation" means an amount not less than ninety percent of the appraised value of the objects recovered following successful completion of the contract.

(b) The salvor may retain objects with a value of up to ninety percent of the appraised value of the total objects recovered, or cash, or a combination of objects and cash. In no event may the total of objects and cash exceed ninety percent of the total appraised value of the objects recovered. A salvor shall not be entitled to further compensation from any state sources.

(c) The contract shall provide that the state will be given first choice of which objects it may wish to retain for display purposes for the people of the state from among all the objects recovered. The state may retain objects with a value of up to ten percent of the appraised value of the total objects recovered. If the state chooses not to retain recovered objects with a value of up to ten percent of the appraised value, the state shall be entitled to receive its share in cash or a combination of recovered objects and cash so long as the state's total share does not exceed ten percent of the appraised value of the objects recovered.

(d) The contract shall provide that both the state and the salvor shall have the right to select a single appraiser or joint appraisers.

(e) The contract shall also provide that title to the objects shall pass to the salvor when the permit is issued. However, should the salvor fail to fully perform under the terms of the contract, title to all objects recovered shall revert to the state.

(2) Historic aircraft:

(a) The contract shall provide that historic aircraft belonging to the state of Washington may only be recovered if the purpose of that salvage operation is to recover the aircraft for a museum, historical society, nonprofit organization, or governmental entity.

(b) Title to the aircraft may only be passed by the state to one of the entities listed in (a) of this subsection.

(c) Compensation to the salvor shall only be derived from the sale or exchange of the aircraft to one of the entities listed in (a) of this subsection or such other compensation as one of the entities listed in (a) of this subsection and the salvor may arrange. The salvor shall not have a claim to compensation from state funds.

(3) Other historic archaeological resources: The director, in his or her discretion, may negotiate the terms of such contracts.

[1988 c 124 § 6.]

Notes:

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.120 Recovery of property from historic archaeological sites--Mitigation of damage--Refusal to issue salvage permit to prevent destruction of resource.

The salvor shall agree to mitigate any archaeological damage which occurs during the salvage operation. The department shall have access to all property recovered from historic archaeological sites for purposes of scholarly research and photographic documentation for a period to be agreed upon by the parties following completion of the salvage operation. The department shall also have the right to publish scientific papers concerning the results of all research conducted as project mitigation.

The director has the right to refuse to issue a permit for salvaging an historic archaeological resource if that resource would be destroyed beyond mitigation by the proposed salvage operation. Any agency, institution, person, firm, or corporation which has been denied a permit because the resource would be destroyed beyond mitigation by their method of salvage shall have a right of first refusal for that permit at a future date should technology be found which would make salvage possible without destroying the resource. Such right of first refusal shall be in effect for sixty days after the director has determined that salvage can be accomplished by a subsequent applicant without destroying the resource.

No person, firm, or corporation may conduct such salvage or recovery operation herein described without first obtaining such contract.

[1988 c 124 § 7.]

Notes:

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.130 List of areas requiring permits.

The department shall publish annually and update as necessary a list of those areas where permits are required to protect historic archaeological sites on aquatic lands.

[1995 c 399 § 17; 1988 c 124 § 10.]

Notes:

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.140 Rule-making authority.

The department shall have such rule-making authority as is necessary to carry out the provisions of this chapter.

[1995 c 399 § 18; 1988 c 124 § 11.]

Notes:

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.150 Proceeds from state's property--Deposit and use.

Any proceeds from the state's share of property under this chapter shall be transmitted to the state treasurer for deposit in the general fund to be used only for the purposes of historic

preservation and underwater archaeology.

[1988 c 124 § 12.]

Notes:

Intent--Application--1988 c 124: See notes following RCW 27.53.030.

RCW 27.53.900 Severability--1975 1st ex.s. c 134.

If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected.

[1975 1st ex.s. c 134 § 10.]

RCW 27.53.901 Severability--1988 c 124.

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.

[1988 c 124 § 14.]

**Title 28A RCW
COMMON SCHOOL PROVISIONS**

Chapters

- 28A.150 General provisions.**
- 28A.155 Special education.**
- 28A.160 Student transportation.**
- 28A.165 Learning assistance program.**
- 28A.170 Substance abuse awareness program.**
- 28A.175 Dropout prevention and retrieval program.**
- 28A.180 Transitional bilingual instruction program.**
- 28A.185 Highly capable students.**
- 28A.190 Residential education programs.**
- 28A.193 Education programs for juvenile inmates.**
- 28A.195 Private schools.**
- 28A.200 Home-based instruction.**
- 28A.205 Education centers.**
- 28A.210 Health--Screening and requirements.**
- 28A.215 Early childhood, preschools, and before-and-after school care.**
- 28A.220 Traffic safety.**
- 28A.225 Compulsory school attendance and admission.**

- 28A.230 Compulsory course work and activities.**
- 28A.235 Food services.**
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Blind, school for: Chapter 72.40 RCW.

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- Declaratory judgments, bond issues: Chapter 7.25 RCW.*
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High school athletic eligibility, penalty for violating: RCW 67.04.140.

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Libraries, contracts for library service: RCW 27.12.180.

Medical schools, requisites for accreditation and approval: RCW 18.71.055.

Meetings, minutes of governmental bodies: Chapter 42.32 RCW.

Motor vehicles, speed regulations when passing public school or playground cross walk: RCW 46.61.440.

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Savings and loan associations, school savings accounts, priority in liquidation distribution: RCW 33.40.050.

School directors' association to furnish information to legislature and governor: RCW 44.04.170.

School districts

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fiscal year defined: RCW 1.16.030.

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exceeding limitations upon, capital outlays: State Constitution Art. 8 § 6 (Amendment 27).

limitation on levies: State Constitution Art. 7 § 2 (Amendment 59), RCW 84.52.050.

limitations upon

contracts made in violation of void: RCW 39.36.040.

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teachers' retirement system, employer reports: RCW 41.50.230.
School patrol: RCW 46.61.385.
Sectarian control, free from: State Constitution Art. 9 § 4.
State otologists, duties of: RCW 70.50.010, 70.50.020.
State school for blind: Chapter 72.40 RCW.
State school for deaf: Chapter 72.40 RCW.
State toxicological laboratories: RCW 68.50.107.
Superintendents, duties: State Constitution Art. 3 § 22.
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Taxation, property taxes, exemptions: State Constitution Art. 7 § 1 (Amendment 14).
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RCW 28A.150.010 Public schools.

Public schools shall mean the common schools as referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense.

[1969 ex.s. c 223 § 28A.01.055. Formerly RCW 28A.01.055.]

RCW 28A.150.020 Common schools.

"Common schools" means schools maintained at public expense in each school district and carrying on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law.

[1969 ex.s. c 223 § 28A.01.060. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28A.01.060, 28.58.190, part, 28.01.060.]

RCW 28A.150.030 School day.

A school day shall mean each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity planned by and under the direction of the school district staff, as directed by the administration and board of directors of the district.

[1971 ex.s. c 161 § 1; 1969 ex.s. c 223 § 28A.01.010. Prior: (i) 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part; 1897 c 118 § 66, part; 1890 p 372 § 46. Formerly RCW 28.01.010, part. (ii) 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1, part; 1909 c 97 p 371 subchapter 19, part; 1897 c 118 § 181, part. Formerly RCW 28A.01.010, 28.35.030, part.]

RCW 28A.150.040 School year--Beginning--End.

The school year shall begin on the first day of September and end with the last day of August: PROVIDED, That any school district may elect to commence the minimum annual school term as required under RCW 28A.150.220 in the month of August of any calendar year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district.

[1990 c 33 § 101; 1982 c 158 § 5; 1977 ex.s. c 286 § 1; 1975-'76 2nd ex.s. c 118 § 22; 1969 ex.s. c 223 § 28A.01.020. Prior: 1909 c 97 p 262 § 4; RRS § 4688; prior: 1897 c 118 § 67; 1890 p 373 § 49. Formerly RCW 28A.01.020, 28.01.020.]

Notes:

Severability--1982 c 158: See note following RCW 28A.150.220.

Severability--1975-'76 2nd ex.s. c 118: See note following RCW 28A.505.010.

RCW 28A.150.050 School holidays.

The following are school holidays, and school shall not be taught on these days: Sunday; the first day of January, commonly called New Year's Day; the third Monday of January, being celebrated as the anniversary of the birth of Martin Luther King, Jr.; the third Monday in February to be known as Presidents' Day and to be celebrated as the anniversary of the births of

Abraham Lincoln and George Washington; the last Monday in May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the eleventh day of November, to be known as Veterans' Day, the fourth Thursday in November, commonly known as Thanksgiving Day; the day immediately following Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day: PROVIDED, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught.

[1989 c 233 § 11; 1985 c 189 § 2; 1984 c 92 § 1; 1975-'76 2nd ex.s. c 24 § 2; 1973 c 32 § 1; 1969 ex.s. c 283 § 13. Prior: 1969 ex.s. c 223 § 28A.02.060; prior: 1955 c 20 § 2; 1909 c 97 p 308 § 6; RRS § 4853. Formerly RCW 28A.02.061, 28A.02.060, 28.02.060.]

Notes:

Severability--1969 ex.s. c 283: "If any provision of this 1969 amendatory 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." [1969 ex.s. c 283 § 59.]
"Legal holidays": RCW 1.16.050.

RCW 28A.150.060 Certificated employee.

The term "certificated employee" as used in RCW 28A.195.010, 28A.150.060, 28A.150.260, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, shall include those persons who hold certificates as authorized by rule or regulation of the state board of education or the superintendent of public instruction.

[1990 c 33 § 102; 1977 ex.s. c 359 § 17; 1975 1st ex.s. c 288 § 21; 1973 1st ex.s. c 105 § 1. Formerly RCW 28A.01.130.]

Notes:

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.
Effective dates--1975 1st ex.s. c 288: See RCW 41.59.940.
Severability--1975 1st ex.s. c 288: See RCW 41.59.950.
Basic Education Act, RCW 28A.150.060 as part of: RCW 28A.150.200.
Construction of chapter--Employee's rights preserved: RCW 41.59.920.
Construction of chapter--Employer's responsibilities and rights preserved: RCW 41.59.930.

RCW 28A.150.070 General public school system--Administration.

The administration of the public school system shall be entrusted to such state and local officials, boards, and committees as the state Constitution and the laws of the state shall provide.

[1969 ex.s. c 223 § 28A.02.020. Prior: 1909 c 97 p 230 § 2; RRS § 4519; prior: 1897 c 118 § 19; 1890 p 348 § 2; Code 1881 §§ 3154, 3155; 1861 p 55 § 1. Formerly RCW 28A.02.020, 28.02.020.]

RCW 28A.150.080 Superintendent of the school district.

"Superintendent of the school district", if there be no such superintendent, shall mean such other administrative or certificated employee as the school district board of directors shall so designate.

[1969 ex.s. c 223 § 28A.01.100. Formerly RCW 28A.01.100.]

RCW 28A.150.100 Basic education certificated instructional staff--Definition--Ratio to students.

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" shall mean all full time equivalent certificated instructional staff in the following programs as defined for state-wide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) In the 1988-89 school year and thereafter, each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

[1990 c 33 § 103; 1987 1st ex.s. c 2 § 203. Formerly RCW 28A.41.110.]

Notes:

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

RCW 28A.150.200 Basic Education Act--Program contents--As meeting constitutional requirements.

*This 1977 amendatory act shall be known and may be cited as "The Washington Basic Education Act of 1977." The program evolving from the Basic Education Act shall include (1) the goal of the school system as defined in RCW 28A.150.210, (2) those program requirements enumerated in RCW 28A.150.220, and (3) the determination and distribution of state resources as defined in RCW 28A.150.250 and 28A.150.260.

The requirements of the Basic Education Act are deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex," and are adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools."

[1990 c 33 § 104; 1977 ex.s. c 359 § 1. Formerly RCW 28A.58.750.]

Notes:

***Reviser's note:** For codification of "this 1977 amendatory act" [1977 ex.s. c 359], see Codification Tables, Volume 0.

Effective date--1977 ex.s. c 359: "This 1977 amendatory act shall take effect September 1, 1978." [1977

ex.s. c 359 § 22.]

Severability--1977 ex.s. c 359: "If any provision of this 1977 amendatory 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." [1977 ex.s. c 359 § 21.]

RCW 28A.150.205 Definition.

Unless the context clearly requires otherwise, the definition in this section applies throughout RCW 28A.150.200 through 28A.150.295.

"Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

[1992 c 141 § 502.]

Notes:

Contingent effective date--1992 c 141 §§ 502-504, 506, and 507: "Sections 502 through 504, 506, and 507 of this act shall take effect September 1, 2000. However, these sections shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1993 c 336 § 1202; 1992 c 141 § 509.] That law was not enacted by September 1, 2000.

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

RCW 28A.150.210 Basic Education Act--Goal.

The goal of the Basic Education Act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for all students to develop the knowledge and skills essential to:

- (1) Read with comprehension, write with skill, and communicate effectively and responsibly in a variety of ways and settings;
- (2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history; geography; arts; and health and fitness;
- (3) Think analytically, logically, and creatively, and to integrate experience and knowledge to form reasoned judgments and solve problems; and
- (4) Understand the importance of work and how performance, effort, and decisions directly affect future career and educational opportunities.

[1993 c 336 § 101; (1992 c 141 § 501 repealed by 1993 c 336 § 1203); 1977 ex.s. c 359 § 2. Formerly RCW 28A.58.752.]

Notes:

Findings--Intent--1993 c 336: "The legislature finds that student achievement in Washington must be

improved to keep pace with societal changes, changes in the workplace, and an increasingly competitive international economy.

To increase student achievement, the legislature finds that the state of Washington needs to develop a public school system that focuses more on the educational performance of students, that includes high expectations for all students, and that provides more flexibility for school boards and educators in how instruction is provided.

The legislature further finds that improving student achievement will require:

- (1) Establishing what is expected of students, with standards set at internationally competitive levels;
- (2) Parents to be primary partners in the education of their children, and to play a significantly greater role in local school decision making;
- (3) Students taking more responsibility for their education;
- (4) Time and resources for educators to collaboratively develop and implement strategies for improved student learning;
- (5) Making instructional programs more relevant to students' future plans;
- (6) All parties responsible for education to focus more on what is best for students; and
- (7) An educational environment that fosters mutually respectful interactions in an atmosphere of collaboration and cooperation.

It is the intent of the legislature to provide students the opportunity to achieve at significantly higher levels, and to provide alternative or additional instructional opportunities to help students who are having difficulty meeting the essential academic learning requirements in RCW 28A.630.885.

It is also the intent of the legislature that students who have met or exceeded the essential academic learning requirements be provided with alternative or additional instructional opportunities to help advance their educational experience.

The provisions of chapter 336, Laws of 1993 shall not be construed to change current state requirements for students who receive home-based instruction under chapter 28A.200 RCW, or for students who attend state-approved private schools under chapter 28A.195 RCW." [1993 c 336 § 1.]

Effective date--1993 c 336 § 101: "Section 101 of this act shall take effect September 1, 1994." [1993 c 336 § 102.]

Findings--1993 c 336: "(1) The legislature finds that preparing students to make successful transitions from school to work helps promote educational, career, and personal success for all students.

(2) A successful school experience should prepare students to make informed career direction decisions at critical points in their educational progress. Schools that demonstrate the relevancy and practical application of course work will expose students to a broad range of interrelated career and educational opportunities and will expand students' posthigh school options.

(3) The school-to-work transitions program, under chapter 335, Laws of 1993, is intended to help secondary schools develop model programs for school-to-work transitions. The purposes of the model programs are to provide incentives for selected schools to:

- (a) Integrate vocational and academic instruction into a single curriculum;
- (b) Provide each student with a choice of multiple, flexible educational pathways based on the student's career interest areas;
- (c) Emphasize increased vocational and academic guidance and counseling for students;
- (d) Foster partnerships with local employers and employees to incorporate work sites as part of work-based learning experiences;
- (e) Encourage collaboration among middle or junior high schools and secondary schools in developing successful transition programs and to encourage articulation agreements between secondary schools and community and technical colleges.

(4) The legislature further finds that successful implementation of the school-to-work transitions program is an important part of achieving the purposes of chapter 336, Laws of 1993." [1993 c 336 § 601.]

Part headings not law--1993 c 336: "Part headings as used in this act constitute no part of the law." [1993 c 336 § 1204.]

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

RCW 28A.150.211 Values and traits recognized.

The legislature also recognizes that certain basic values and character traits are essential to individual liberty, fulfillment, and happiness. However, these values and traits are not intended to be assessed or be standards for graduation. The legislature intends that local communities have the responsibility for determining how these values and character traits are learned as determined by consensus at the local level. These values and traits include the importance of:

- (1) Honesty, integrity, and trust;
- (2) Respect for self and others;
- (3) Responsibility for personal actions and commitments;
- (4) Self-discipline and moderation;
- (5) Diligence and a positive work ethic;
- (6) Respect for law and authority;
- (7) Healthy and positive behavior; and
- (8) Family as the basis of society.

[1994 c 245 § 10.]

Notes:

Effective date--1994 c 245 § 10: "Section 10 of this act shall take effect September 1, 1994." [1994 c 245 § 15.]

RCW 28A.150.220 Basic Education Act--Program requirements--Program accessibility--Rules.

(1) Satisfaction of the basic education program requirements identified in RCW 28A.150.210 shall be considered to be implemented by the following program:

(a) Each school district shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours. The program shall include instruction in the essential academic learning requirements under *RCW 28A.630.885 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students enrolled in grades one through twelve, at least a district-wide annual average total instructional hour offering of one thousand hours. The state board of education may define alternatives to classroom instructional time for students in grades nine through twelve enrolled in alternative learning experiences. The state board of education shall establish rules to determine annual average instructional hours for districts including fewer than twelve grades. The program shall include the essential academic learning requirements under *RCW 28A.630.885 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such group;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more

American Indian languages.

(2) Nothing contained in subsection (1) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(3) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: PROVIDED, That effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(4) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

[1993 c 371 § 2; (1995 c 77 § 1 and 1993 c 371 § 1 expired September 1, 2000); 1992 c 141 § 503; 1990 c 33 § 105; 1982 c 158 § 1; 1979 ex.s. c 250 § 1; 1977 ex.s. c 359 § 3. Formerly RCW 28A.58.754.]

Notes:

***Reviser's note:** RCW 28A.630.885 was recodified as RCW 28A.655.060 pursuant to 1999 c 388 § 607.

Contingent expiration date--1995 c 77 § 1: "Section 1 of this act shall expire September 1, 2000.

However, section 1 of this act shall not expire if, by September 1, 2000, a law is not enacted stating that a school accountability and academic assessment system is not in place." [1995 c 77 § 32.] That law was not enacted by September 1, 2000.

Contingent effective date--1993 c 371 § 2: "Section 2 of this act shall take effect September 1, 2000.

However, section 2 of this act shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1993 c 371 § 5.] That law was not enacted by September 1, 2000.

Contingent effective date--1992 c 141 §§ 502-504, 506, and 507: See note following RCW 28A.150.205.

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

Severability--1982 c 158: "If any provision of this amendatory 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." [1982 c 158 § 8.]

Effective date--1979 ex.s. c 250: "This amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and except as otherwise provided in subsection (5) of section 1, and section 2 of this amendatory act, shall take effect August 15, 1979." [1979 ex.s. c 250 § 10.]

Severability--1979 ex.s. c 250: "If any provision of this amendatory 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." [1979 ex.s. c 250 § 11.]

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

RCW 28A.150.230 Basic Education Act--District school directors as accountable for proper operation of district--Scope--Responsibilities.

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs;

(c) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules and regulations of the state board of education;

(d) Determine the allocation of staff time, whether certificated or classified;

(e) Establish final curriculum standards consistent with law and rules and regulations of the state board of education, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

(f) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

[1994 c 245 § 9; 1991 c 61 § 1; 1990 c 33 § 106; 1979 ex.s. c 250 § 7; 1977 ex.s. c 359 § 18. Formerly RCW 28A.58.758.]

Notes:

Effective date--Severability--1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

RCW 28A.150.240 Basic Education Act--Certificated teaching and administrative staff as accountable for classroom teaching--Scope--Responsibilities--Penalty.

(1) It is the intended purpose of this section to guarantee that the certificated teaching and administrative staff in each common school district be held accountable for the proper and efficient conduct of classroom teaching in their school which will provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the other provisions of Title 28A RCW, it shall be the responsibility of the certificated teaching and administrative staff in each common school to:

(a) Implement the district's prescribed curriculum and enforce, within their area of responsibility, the rules and regulations of the school district, the state superintendent of public instruction, and the state board of education, taking into due consideration individual differences among students, and maintain and render appropriate records and reports pertaining thereto.

(b) Maintain good order and discipline in their classrooms at all times.

(c) Hold students to a strict accountability while in school for any disorderly conduct while under their supervision.

(d) Require excuses from the parents, guardians, or custodians of minor students in all cases of absence, late arrival to school, or early dismissal.

(e) Give careful attention to the maintenance of a healthful atmosphere in the classroom.

(f) Give careful attention to the safety of the student in the classroom and report any doubtful or unsafe conditions to the building administrator.

(g) Evaluate each student's educational growth and development and make periodic reports thereon to parents, guardians, or custodians and to school administrators.

Failure to carry out such requirements as set forth in subsection (2)(a) through (g) above shall constitute sufficient cause for discharge of any member of such teaching or administrative staff.

[1979 ex.s. c 250 § 5; 1977 ex.s. c 359 § 19. Formerly RCW 28A.58.760.]

Notes:

Effective date--Severability--1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

RCW 28A.150.250 Annual basic education allocation of funds according to average FTE student enrollment--Student/teacher ratio standard.

From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.510.250 to each school district of the state operating a program approved by the state board of education an amount which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to RCW 28A.520.010 and 28A.520.020, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full time equivalent student enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.150.220.

Basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW 28A.150.250 and 28A.150.260 to fund those program requirements identified in RCW 28A.150.220 in accordance with the formula and ratios provided in RCW 28A.150.260 and those amounts of dollars appropriated by the legislature to

fund the salary requirements of RCW 28A.150.100 and 28A.150.410.

Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district: PROVIDED, That for the purposes of this section, "classroom teacher" shall be defined as an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students: PROVIDED FURTHER, That the state board of education shall adopt rules and regulations to insure compliance with the student/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the student/teacher ratio requirements of this section by virtue of a small number of students.

If a school district's basic education program fails to meet the basic education requirements enumerated in RCW 28A.150.250, 28A.150.260, and 28A.150.220, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured: PROVIDED, That the state board of education may waive this requirement in the event of substantial lack of classroom space.

[1990 c 33 § 107; 1987 1st ex.s. c 2 § 201; 1986 c 144 § 1; 1983 c 3 § 30; 1982 c 158 § 3; 1982 c 158 § 2; 1980 c 154 § 12; 1979 ex.s. c 250 § 2; 1977 ex.s. c 359 § 4; 1975 1st ex.s. c 211 § 1; 1973 2nd ex.s. c 4 § 1; 1973 1st ex.s. c 195 § 9; 1973 c 46 § 2. See also 1973 1st ex.s. c 195 §§ 136, 137, 138 and 139. Prior: 1972 ex.s. c 124 § 1; 1972 ex.s. c 105 § 2; 1971 ex.s. c 294 § 19; 1969 c 138 § 2; 1969 ex.s. c 223 § 28A.41.130; prior: 1967 ex.s. c 140 § 3; 1965 ex.s. c 171 § 1; 1965 ex.s. c 154 § 2; prior: (i) 1949 c 212 § 1, part; 1945 c 141 § 4, part; 1923 c 96 § 1, part; 1911 c 118 § 1, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-4, part. (ii) 1949 c 212 § 2, part; 1945 c 141 § 5, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-5, part. Formerly RCW 28A.41.130, 28.41.130.]

Notes:

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Effective date--1986 c 144: "Section 1 of this act shall be effective September 1, 1987." [1986 c 144 § 2.]

Severability--1982 c 158: See note following RCW 28A.150.220.

Purpose--Effective dates--Savings--Disposition of certain funds--Severability--1980 c 154: See notes following chapter 82.45 RCW digest.

Effective date--Severability--1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

Emergency--Effective date--1973 2nd ex.s. c 4: See notes following RCW 84.52.043.

Severability--Effective dates and termination dates--Construction--1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Effective date--1972 ex.s. c 124: "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety and the support of the state government and its existing public institutions, and sections 2, 3, 4, 6, 7 and 11 shall take effect immediately [February 25, 1972]; sections 1, 8, 9 and 10 hereof shall take effect July 1, 1973; and section 5 hereof shall take effect July 1, 1974." [1972 ex.s. c 124 § 12.]

Severability--1972 ex.s. c 124: "If any provision of this 1972 amendatory 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." [1972 ex.s. c 124 § 13.]

Effective date--1972 ex.s. c 105: "This act except for section 4 will take effect July 1, 1973." [1972 ex.s. c 105 § 5.]

Severability--1972 ex.s. c 105: "If any provision of this 1972 amendatory 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." [1972 ex.s. c 105 § 6.]

Basic Education Act, RCW 28A.150.250 as part of: RCW 28A.150.200.

Distribution of forest reserve funds--As affects basic education allocation: RCW 28A.520.020.

RCW 28A.150.260 Annual basic education allocation of funds according to average FTE student enrollment--Procedure to determine distribution formula--Submittal to legislature--Enrollment, FTE student, certificated and classified staff, defined.

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and
- (f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum:
(i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent students with disabilities recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such classified people shall not occur during a labor dispute and such classified people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

[1997 c 13 § 2; (1997 c 13 § 1 and 1995 c 77 § 2 expired September 1, 2000); 1995 c 77 § 3; 1992 c 141 § 507; 1992 c 141 § 303; 1991 c 116 § 10; 1990 c 33 § 108; 1987 1st ex.s. c 2 § 202; 1985 c 349 § 5; 1983 c 229 § 1; 1979 ex.s. c 250 § 3; 1979 c 151 § 12; 1977 ex.s. c 359 § 5; 1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28A.41.140, 28.41.140.]

Notes:

Contingent effective date--1997 c 13 § 2: "Section 2 of this act shall take effect September 1, 2000. However, section 2 of this act shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1997 c 13 § 15.] That law was not enacted by September 1, 2000.

Contingent effective date--1995 c 77 § 3: "Section 3 of this act shall take effect September 1, 2000. However, section 3 of this act shall not take effect if, by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place." [1995 c 77 § 33.] That law was not enacted by September 1, 2000.

Contingent effective date--1992 c 141 §§ 502-504, 506, and 507: See note following RCW 28A.150.205.

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

Severability--1985 c 349: "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." [1985 c 349 § 9.]

Effective date--Severability--1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

Basic Education Act, RCW 28A.150.260 as part of: RCW 28A.150.200.

Distribution of forest reserve funds--As affects basic education allocation: RCW 28A.520.020.

RCW 28A.150.270 Annual basic education allocation of funds according to average FTE student enrollment--Procedure for crediting portion for school building purposes.

The board of directors of a school district may, by properly executed resolution, request that the superintendent of public instruction direct a portion of the district's basic education allocation be credited to the district's capital projects fund and/or bond redemption fund. Moneys so credited shall be used solely for school building purposes.

[1985 c 7 § 89; 1980 c 154 § 13. Formerly RCW 28A.41.143.]

Notes:

Purpose--Effective dates--Savings--Disposition of certain funds--Severability--1980 c 154: See notes following chapter 82.45 RCW digest.

School funds enumerated--Deposits--Uses: RCW 28A.320.330.

RCW 28A.150.275 Annual basic education allocation for students in technical colleges.

The basic education allocation, including applicable vocational entitlements and special education program money, generated under this chapter and under state appropriation acts by school districts for students enrolled in a technical college program established by an interlocal agreement under RCW 28B.50.533 shall be allocated in amounts as determined by the superintendent of public instruction to the serving college rather than to the school district, unless the college chooses to continue to receive the allocations through the school districts. This section does not apply to students enrolled in the running start program established in RCW 28A.600.310.

[1995 c 77 § 4; 1993 c 223 § 1.]

RCW 28A.150.280 Reimbursement for acquisition of approved transportation equipment--Method.

Costs of acquisition of approved transportation equipment purchased prior to September 1, 1982, shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be placed in the transportation vehicle fund for the current or future purchase of approved transportation

equipment and for major transportation equipment repairs consistent with rules and regulations authorized in RCW 28A.160.130.

[1993 c 111 § 1. Prior: 1990 c 33 § 110; 1990 c 33 § 109; 1981 c 343 § 1; 1981 c 265 § 9; 1981 c 265 § 8; 1977 ex.s. c 359 § 6; 1977 c 80 § 3; 1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160; prior: 1965 ex.s. c 154 § 5. Formerly RCW 28A.41.160, 28.41.160.]

Notes:

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

Severability--1977 c 80: See note following RCW 28A.160.030.

Severability--1971 c 48: See note following RCW 28A.305.040.

Additional programs for which legislative appropriations must or may be made: RCW 28A.150.370.

Basic Education Act, RCW 28A.150.280 as part of: RCW 28A.150.200.

Transportation vehicle fund--Deposits in--Use--Rules for establishment and use: RCW 28A.160.130.

RCW 28A.150.290 State superintendent to make rules and regulations--Unforeseen conditions or actions to be recognized--Paperwork limited.

(1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through *28A.160.220, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW 28A.160.150 through *28A.160.220, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW 28A.150.250 when said districts are unable to fulfill for one or more schools as officially scheduled the requirement of a full school year of one hundred eighty days or the annual average total instructional hour offering imposed by RCW 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150 through *28A.160.220, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests.

[1992 c 141 § 504; 1990 c 33 § 111; 1981 c 285 § 1; 1979 ex.s. c 250 § 6; 1973 1st ex.s. c 78 § 1; 1972 ex.s. c 105 § 4; 1971 c 46 § 1; 1969 ex.s. c 3 § 2; 1969 ex.s. c 223 § 28A.41.170. Prior: 1965 ex.s. c 154 § 6. Formerly RCW 28A.41.170, 28.41.170.]

Notes:

***Reviser's note:** RCW 28A.160.220 was recodified as RCW 28A.300.035 pursuant to 1994 c 113 § 2.

Contingent effective date--1992 c 141 §§ 502-504, 506, and 507: See note following RCW 28A.150.205.

Findings--Part headings--Severability--1992 c 141: See notes following RCW 28A.410.040.

Effective date--Severability--1979 ex.s. c 250: See notes following RCW 28A.150.220.

Effective date--Severability--1972 ex.s. c 105: See notes following RCW 28A.150.250.

RCW 28A.150.295 General public school system--Maintained.

A general and uniform system of public schools embracing the common schools shall be maintained throughout the state of Washington in accordance with Article IX of the state Constitution.

[1969 ex.s. c 223 § 28A.02.010. Prior: 1909 c 97 p 230 § 1; RRS § 4518; prior: 1897 c 118 § 1; 1890 p 348 § 1. Formerly RCW 28A.02.010, 28.02.010.]

RCW 28A.150.300 Corporal punishment prohibited--Adoption of policy.

The use of corporal punishment in the common schools is prohibited. The state board of education, in consultation with the superintendent of public instruction, shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted by the state board of education no later than February 1, 1994, and shall take effect in all school districts September 1, 1994.

[1993 c 68 § 1.]

RCW 28A.150.305 Alternative educational service providers--Student eligibility.

(1) The board of directors of school districts may contract with alternative educational service providers for eligible students. Alternative educational service providers that the school district may contract with include, but are not limited to:

- (a) Other schools;
- (b) Alternative education programs not operated by the school district;
- (c) Education centers;
- (d) Skills centers;
- (e) Dropout prevention programs; or
- (f) Other public or private organizations, excluding sectarian or religious organizations.

(2) Eligible students include students who are likely to be expelled or who are enrolled in the school district but have been suspended, are academically at risk, or who have been subject to repeated disciplinary actions due to behavioral problems.

(3) If a school district board of directors chooses to initiate specialized programs for students at risk of expulsion or who are failing academically by contracting out with alternative educational service providers identified in subsection (1) of this section, the school district board of directors and the organization must specify the specific learning standards that students are expected to achieve. Placement of the student shall be jointly determined by the school district, the student's parent or legal guardian, and the alternative educational service provider.

(4) For the purpose of this section, the superintendent of public instruction shall adopt rules for reporting and documenting enrollment. Students may reenter at the grade level appropriate to the student's ability. Students who are sixteen years of age or older may take the GED test.

(5) The board of directors of school districts may require that students who would otherwise be suspended or expelled attend schools or programs listed in subsection (1) of this section as a condition of continued enrollment in the school district.

[1997 c 265 § 6.]

Notes:

Severability--1997 c 265: See note following RCW 13.40.160.

RCW 28A.150.350 Part time students--Defined--Enrollment authorized--Reimbursement for costs--Funding authority recognition--Rules, regulations.

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

- (a) "Private school student" shall mean any student enrolled full time in a private school;
- (b) "School" shall mean any primary, secondary or vocational school;
- (c) "School funding authority" shall mean any nonfederal governmental authority which provides moneys to common schools;

(d) "Part time student" shall mean and include: Any student enrolled in a course of instruction in a private school and taking courses at and/or receiving ancillary services offered by

any public school not available in such private school; or any student who is not enrolled in a private school and is receiving home-based instruction under RCW 28A.225.010 which instruction includes taking courses at or receiving ancillary services from the local school district or both; or any student involved in any work training program and taking courses in any public school, which work training program is approved by the school board of the district in which such school is located.

(2) The board of directors of any school district is authorized and, in the same manner as for other public school students, shall permit the enrollment of and provide ancillary services for part time students: PROVIDED, That this section shall only apply to part time students who would be otherwise eligible for full time enrollment in the school district.

(3) The superintendent of public instruction shall recognize the costs to each school district occasioned by enrollment of and/or ancillary services provided for part time students authorized by subsection (2) of this section and shall include such costs in the distribution of funds to school districts pursuant to RCW 28A.150.260. Each school district shall be reimbursed for the costs or a portion thereof, occasioned by attendance of and/or ancillary services provided for part time students on a part time basis, by the superintendent of public instruction, according to law.

(4) Each school funding authority shall recognize the costs occasioned to each school district by enrollment of and ancillary services provided for part time students authorized by subsection (2) of this section, and shall include said costs in funding the activities of said school districts.

(5) The superintendent of public instruction is authorized to adopt rules and regulations to carry out the purposes of RCW 28A.150.260 and 28A.150.350.

[1990 c 33 § 112; 1985 c 441 § 5; 1977 ex.s. c 359 § 8; 1972 ex.s. c 14 § 1; 1969 ex.s. c 217 § 4. Formerly RCW 28A.41.145.]

Notes:

Severability--1985 c 441: See note following RCW 28A.225.010.

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

Severability--1972 ex.s. c 14: "If any provision of this 1972 amendatory 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 held invalid." [1972 ex.s. c 14 § 2.]

Basic Education Act, RCW 28A.150.350 as part of: RCW 28A.150.200.

RCW 28A.150.360 Adjustments to meet emergencies.

In the event of an unforeseen emergency, in the nature of either an unavoidable cost to a district or unexpected variation in anticipated revenues to a district, the state superintendent is authorized, for not to exceed two years, to make such an adjustment in the allocation of funds as is consistent with the intent of this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010 in providing an equal educational opportunity for the children of such district or districts.

[1995 c 335 § 101; 1990 c 33 § 113; 1969 ex.s. c 223 § 28A.41.150. Prior: 1965 ex.s. c 154 § 4. Formerly RCW 28A.41.150, 28.41.150.]

Notes:

Part headings, table of contents not law--1995 c 335: "Part headings and the table of contents as used in this act do not constitute any part of the law." [1995 c 335 § 805.]

RCW 28A.150.370 Additional programs for which legislative appropriations must or may be made.

In addition to those state funds provided to school districts for basic education, the legislature shall appropriate funds for pupil transportation, in accordance with this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.035, 28A.300.170, and 28A.500.010, and for special education programs for students with disabilities, in accordance with RCW 28A.155.010 through 28A.155.100. The legislature may appropriate funds to be distributed to school districts for population factors such as urban costs, enrollment fluctuations and for special programs, including but not limited to, vocational-technical institutes, compensatory programs, bilingual education, urban, rural, racial and disadvantaged programs, programs for gifted students, and other special programs.

[1995 c 335 § 102; 1995 c 77 § 5; 1990 c 33 § 114; 1982 1st ex.s. c 24 § 1; 1977 ex.s. c 359 § 7. Formerly RCW 28A.41.162.]

Notes:

Reviser's note: This section was amended by 1995 c 77 § 5 and by 1995 c 335 § 102, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Effective date--1982 1st ex.s. c 24: "Sections 2 and 3 of this amendatory act shall take effect September 1, 1982." [1982 1st ex.s. c 24 § 6.]

Severability--1982 1st ex.s. c 24: "If any provision of this amendatory 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." [1982 1st ex.s. c 24 § 7.]

Effective date--Severability--1977 ex.s. c 359: See notes following RCW 28A.150.200.

Basic Education Act, RCW 28A.150.370 as part of: RCW 28A.150.200.

RCW 28A.150.380 Appropriations by legislature.

The state legislature shall, at each regular session in an odd-numbered year, appropriate from the state general fund for the current use of the common schools such amounts as needed for state support to the common schools during the ensuing biennium as provided in this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010.

[1995 c 335 § 103; 1990 c 33 § 115; 1980 c 6 § 3; 1969 ex.s. c 223 § 28A.41.050. Prior: 1945 c 141 § 2; Rem. Supp. 1945 § 4940-2. Formerly RCW 28A.41.050, 28.41.050.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Severability--1980 c 6: See note following RCW 28A.515.320.

RCW 28A.150.390 Appropriations for special education programs.

The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW 28A.150.250, 28A.150.260, federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256, and other state and local funds, excluding special excess levies.

[1995 c 77 § 6; 1994 c 180 § 8; 1993 c 149 § 9; 1990 c 33 § 116; 1989 c 400 § 2; 1980 c 87 § 5; 1971 ex.s. c 66 § 11. Formerly RCW 28A.41.053.]

Notes:

Conflict with federal requirements--Severability--1994 c 180: See notes following RCW 74.09.5243.

Conflict with federal requirements--Severability--Effective dates--1993 c 149: See notes following RCW 74.09.5241.

Intent--1989 c 400: "The legislature finds that there is increasing demand for school districts' special education programs to include medical services necessary for handicapped children's participation and educational progress. In some cases, these services could qualify for federal funding under Title XIX of the social security act. The legislature intends to establish a process for school districts to obtain reimbursement for eligible services from medical assistance funds. In this way, state dollars for handicapped education can be leveraged to generate federal matching funds, thereby increasing the overall level of resources available for school districts' special education programs." [1989 c 400 § 1.]

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.150.400 Apportionment factors to be based on current figures--Rules and regulations.

State and county funds which may become due and apportionable to school districts shall be apportioned in such a manner that any apportionment factors used shall utilize data and statistics derived in the school year that such funds are paid: PROVIDED, That the superintendent of public instruction may make necessary administrative provision for the use of estimates, and corresponding adjustments to the extent necessary: PROVIDED FURTHER, That as to those revenues used in determining the amount of state funds to be apportioned to school districts pursuant to RCW 28A.150.250, any apportionment factors shall utilize data and statistics derived in an annual period established pursuant to rules and regulations promulgated by the superintendent of public instruction in cooperation with the department of revenue.

[1990 c 33 § 117; 1972 ex.s. c 26 § 3; 1969 ex.s. c 223 § 28A.41.055. Prior: 1955 c 350 § 1. Formerly RCW 28A.41.055, 28.41.055.]

Notes:

Severability--1972 ex.s. c 26: "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." [1972 ex.s. c 26 § 4.]

RCW 28A.150.410 Basic education certificated instructional staff--Salary allocation schedule--Limits on post-graduate credits.

(1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260.

(2) The superintendent of public instruction shall calculate salary allocations for state funded basic education certificated instructional staff by determining the district average salary for basic education and special education instructional staff using the salary allocation schedule established pursuant to this section.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the biennial appropriations act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

[1997 c 141 § 1; 1990 c 33 § 118; 1989 1st ex.s. c 16 § 1; 1987 3rd ex.s. c 1 § 4; 1987 1st ex.s. c 2 § 204. Formerly RCW 28A.41.112.]

Notes:

Intent--Severability--Effective date--1987 1st ex.s. c 2: See notes following RCW 84.52.0531.

RCW 28A.150.420 Reimbursement for classes provided outside regular school year.

The superintendent of public instruction shall establish procedures to allow school districts to claim basic education allocation funds for students attending classes that are provided outside the regular school year to the extent such attendance is in lieu of attendance during the regular school year: PROVIDED, That nothing in this section shall be construed to alter the basic education allocation for which the district is otherwise eligible.

[1989 c 233 § 10. Formerly RCW 28A.41.172.]

RCW 28A.150.500 Educational agencies offering vocational education programs--Local advisory committees--Advice on current job needs.

(1) Each local education agency or college district offering vocational educational programs shall establish local advisory committees to provide that agency or district with advice on current job needs and on the courses necessary to meet these needs.

- (2) The local program committees shall:
 - (a) Participate in the determination of program goals;
 - (b) Review and evaluate program curricula, equipment, and effectiveness;

(c) Include representatives of business and labor who reflect the local industry, and the community; and

(d) Actively consult with other representatives of business, industry, labor, and agriculture.

[1991 c 238 § 76.]

Notes:

Effective dates--Severability--1991 c 238: See RCW 28B.50.917 and 28B.50.918.

RCW 28A.150.510 Release of education records to department of social and health services.

In order to effectively serve students who are under the jurisdiction of the juvenile justice system as dependent pursuant to chapter 13.34 RCW, education records shall be released upon request to the department of social and health services provided that the department of social and health services certifies that it will not disclose to any other party the education records without prior written consent of the parent or student unless authorized to disclose the records under state law. The department of social and health services is authorized to disclose education records it obtains pursuant to this section to a foster parent, guardian, or other entity authorized by the department of social and health services to provide residential care to the student.

[2000 c 88 § 1.]

**Chapter 28A.155 RCW
SPECIAL EDUCATION**

Sections

28A.155.010	Purpose.
28A.155.020	Administrative section or unit for the education of children with disabling conditions--"Children with disabilities" and "appropriate education" defined--Approval when child under jurisdiction of juvenile court.
28A.155.030	Division administrative officer--Appointment--Duties.
28A.155.040	Authority of districts--Participation of department of social and health services.
28A.155.050	Aid for children unable to attend school--Apportionment--Allocations from state excess funds.
28A.155.060	District authority to contract with approved agencies--Approval standards.
28A.155.070	Services to children of preschool age with disabilities--Apportionment--Allocations from state excess cost funds.
28A.155.080	Appeal from superintendent's denial of educational program.
28A.155.090	Superintendent of public instruction's duty and authority.
28A.155.100	Sanctions applied to noncomplying districts.
28A.155.105	Braille instruction--Definitions.
28A.155.115	Braille instruction--Assessment--Provision in student's curriculum.
28A.155.140	Curriculum-based assessment procedures for programs for children with handicapping conditions.
28A.155.160	Assistive devices--Transfer for benefit of children with disabilities--Record, inventory.

RCW 28A.155.010 Purpose.

It is the purpose of RCW 28A.155.010 through 28A.155.100, 28A.160.030, and 28A.150.390 to ensure that all children with disabilities as defined in RCW 28A.155.020 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state.

[1995 c 77 § 7; 1990 c 33 § 120; 1971 ex.s. c 66 § 1. Formerly RCW 28A.13.005.]

Notes:

Severability--1971 ex.s. c 66: "If any provision of this 1971 amendatory 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." [1971 ex.s. c 66 § 13.]

Effective date--1971 ex.s. c 66: "This 1971 amendatory act will take effect July 1, 1973." [1971 ex.s. c 66 § 14.]

RCW 28A.155.020 Administrative section or unit for the education of children with disabling conditions--"Children with disabilities" and "appropriate education" defined--Approval when child under jurisdiction of juvenile court.

There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with disabling conditions.

Children with disabilities are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental disability, or by reason of emotional maladjustment, or by reason of other disability, and those children who have specific learning and language disabilities resulting from perceptual-motor disabilities, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all children with disabilities between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. The superintendent of public instruction, by rule, shall establish for the purpose of excess cost funding, as provided in RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, functional definitions of the various types of disabling conditions and eligibility criteria for special education programs for students with disabilities. For the purposes of RCW 28A.155.010 through 28A.155.100, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the children with disabilities. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for children with disabilities, or prohibit the continuation of needed related services to

school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.155.070.

No child shall be removed from the jurisdiction of juvenile court for training or education under RCW 28A.155.010 through 28A.155.100 without the approval of the superior court of the county.

[1995 c 77 § 8; 1990 c 33 § 121; 1985 c 341 § 4; 1984 c 160 § 1; 1971 ex.s. c 66 § 2; 1969 ex.s. c 2 § 2; 1969 ex.s. c 223 § 28A.13.010. Prior: 1951 c 92 § 1; prior: (i) 1943 c 120 § 1; Rem. Supp. 1943 § 4679-25. (ii) 1943 c 120 § 2, part; Rem. Supp. 1943 § 4679-26, part. Formerly RCW 28A.13.010, 28.13.010.]

Notes:

Effective date--1985 c 341 §§ 4 and 13: "Sections 4 and 13 of this act shall take effect August 1, 1985." [1985 c 341 § 18.]

Severability--1984 c 160: "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." [1984 c 160 § 6.]

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.030 Division administrative officer--Appointment--Duties.

The superintendent of public instruction shall appoint an administrative officer of the division. The administrative officer, under the direction of the superintendent of public instruction, shall coordinate and supervise the program of special education for eligible children with disabilities in the school districts of the state. He or she shall cooperate with the educational service district superintendents and local school district superintendents and with all other interested school officials in ensuring that all school districts provide an appropriate educational opportunity for all children with disabilities and shall cooperate with the state secretary of social and health services and with county and regional officers on cases where medical examination or other attention is needed.

[1995 c 77 § 9; 1990 c 33 § 122; 1975 1st ex.s. c 275 § 52; 1972 ex.s. c 10 § 1. Prior: 1971 ex.s. c 66 § 3; 1971 c 48 § 3; 1969 ex.s. c 223 § 28A.13.020; prior: 1943 c 120 § 3; Rem. Supp. 1943 § 4679-27. Formerly RCW 28A.13.020, 28.13.020.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.040 Authority of districts--Participation of department of social and health services.

The board of directors of each school district, for the purpose of compliance with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity and give other appropriate aid and special attention to children with disabilities in regular or special school facilities within the district or

shall contract for such services with other agencies as provided in RCW 28A.155.060 or shall participate in an interdistrict arrangement in accordance with RCW 28A.335.160 and 28A.225.220 and/or 28A.225.250 and 28A.225.260.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to establish, operate, support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to children with disabilities.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those students with disabilities eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those students with disabilities not eligible under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: PROVIDED, That no school district shall be financially responsible for special aid programs for students who are attending residential schools operated by the department of social and health services: PROVIDED FURTHER, That the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 shall not preclude the extension by the superintendent of public instruction of special education opportunities to children with disabilities in residential schools operated by the department of social and health services.

[1995 c 77 § 10; 1990 c 33 § 123; 1971 ex.s. c 66 § 4; 1969 ex.s. c 223 § 28A.13.030. Prior: 1959 c 122 § 1; 1953 c 135 § 1; 1943 c 120 § 4; Rem. Supp. 1943 § 4679-28. Formerly RCW 28A.13.030, 28.13.030.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.050 Aid for children unable to attend school--Apportionment--Allocations from state excess funds.

Any child who is not able to attend school and who is eligible for special excess cost aid programs authorized under RCW 28A.155.010 through 28A.155.100 shall be given such aid at home or at such other place as determined by the board of directors of the school district in which such child resides. Any school district within which such a child resides shall thereupon be granted regular apportionment of state and county school funds and, in addition, allocations from state excess funds made available for such special services for such period of time as such special aid program is given: PROVIDED, That should such child or any other child with disabilities attend and participate in a special aid program operated by another school district in accordance with the provisions of RCW 28A.225.210, 28A.225.220, and/or 28A.225.250, such regular apportionment shall be granted to the receiving school district, and such receiving school district shall be reimbursed by the district in which such student resides in accordance with rules adopted by the superintendent of public instruction for the entire approved excess cost not reimbursed from such regular apportionment.

[1995 c 77 § 11; 1990 c 33 § 124; 1971 ex.s. c 66 § 5; 1969 ex.s. c 223 § 28A.13.040. Prior: 1943 c 120 § 5; Rem. Supp. 1943 § 4679-29. Formerly RCW 28A.13.040, 28.13.040.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.060 District authority to contract with approved agencies--Approval standards.

For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating special education programs for students with disabilities. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools.

[1995 c 77 § 12; 1990 c 33 § 125; 1971 ex.s. c 66 § 6. Formerly RCW 28A.13.045.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.070 Services to children of preschool age with disabilities--Apportionment--Allocations from state excess cost funds.

Special educational and training programs provided by the state and the school districts thereof for children with disabilities may be extended to include children of preschool age. School districts which extend such special programs to children of preschool age shall be entitled to the regular apportionments from state and county school funds, as provided by law, and in addition to allocations from state excess cost funds made available for such special services for those children with disabilities who are given such special services.

[1995 c 77 § 13; 1971 ex.s. c 66 § 7; 1969 ex.s. c 223 § 28A.13.050. Prior: 1951 c 92 § 2; 1949 c 186 § 1; Rem. Supp. 1949 § 4901-3. Formerly RCW 28A.13.050, 28.13.050.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.080 Appeal from superintendent's denial of educational program.

Where a child with disabilities as defined in RCW 28A.155.020 has been denied the opportunity of an educational program by a local school district superintendent under the provisions of RCW 28A.225.010, or for any other reason there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardian of such a child within ten days of such decision that

(1) No agency or other school district with whom the district may contract under RCW 28A.155.040 can accommodate such child, and

(2) Such child will not benefit from an alternative educational opportunity as permitted under RCW 28A.155.050.

There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by the superintendent and in accordance with RCW 28A.155.090.

[1995 c 77 § 14; 1990 c 33 § 126; 1971 ex.s. c 66 § 8. Formerly RCW 28A.13.060.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.090 Superintendent of public instruction's duty and authority.

The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with disabling conditions, to:

(1) Assist school districts in the formation of total school programs to meet the needs of children with disabilities;

(2) Develop interdistrict cooperation programs for children with disabilities as authorized in RCW 28A.225.250;

(3) Provide, upon request, to parents or guardians of children with disabilities, information as to the special education programs for students with disabilities offered within the state;

(4) Assist, upon request, the parent or guardian of any child with disabilities in the placement of any child with disabilities who is eligible for but not receiving special educational aid for children with disabilities;

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to children with disabilities;

(6) Adjudge, upon appeal by a parent or guardian of a child with disabilities who is not receiving an educational program, whether the decision of a local school district superintendent under RCW 28A.155.080 to exclude such child with disabilities was justified by the available facts and consistent with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100. If the superintendent of public instruction shall decide otherwise he or she shall apply sanctions as provided in RCW 28A.155.100 until such time as the school district assures compliance with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100; and

(7) Promulgate such rules as are necessary to implement the several provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 and to ensure educational opportunities within the common school system for all children with disabilities who are not institutionalized.

[1995 c 77 § 15; 1990 c 33 § 127; 1985 c 341 § 5; 1971 ex.s. c 66 § 9. Formerly RCW 28A.13.070.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.100 Sanctions applied to noncomplying districts.

The superintendent of public instruction is hereby authorized and directed to establish appropriate sanctions to be applied to any school district of the state failing to comply with the provisions of RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 to be applied beginning upon the effective date thereof, which sanctions shall include withholding of any portion of state aid to such district until such time as compliance is assured.

[1990 c 33 § 128; 1971 ex.s. c 66 § 12. Formerly RCW 28A.13.080.]

Notes:

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.155.105 Braille instruction--Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply in RCW 28A.155.115.

(1) "Student" means a student who:

(a) Has a visual acuity of 20/200 or less in the better eye with conventional correction or having a limited field of vision such that the widest diameter of the visual field subtends an angular distance not greater than twenty degrees;

(b) Is unable to read printed material at a competitive rate with facility due to functional visual impairment or lack of visual acuity; or

(c) Has a physical condition with a medical prognosis of a significant visual deterioration to the extent that (a) or (b) of this subsection could apply.

(2) "Braille" means the system of reading and writing through touch commonly known as standard English Braille.

[1996 c 135 § 2.]

Notes:

Findings--1996 c 135: "It is the goal of the legislature to encourage persons who are blind or visually impaired to participate fully in the social and economic life of the state and to engage in remunerative employment. The legislature finds that literacy is essential to the achievement of this goal. Furthermore, the legislature finds that literacy for most persons who are blind or visually impaired means the ability to read and write Braille with proficiency. The legislature sets as a further goal that students who are legally blind or visually impaired shall be given the opportunity to learn Braille in order to communicate effectively and efficiently." [1996 c 135 § 1.]

RCW 28A.155.115 Braille instruction--Assessment--Provision in student's curriculum.

(1) Each student shall be assessed individually to determine the appropriate learning media for the student including but not limited to Braille.

(2) No student may be denied the opportunity for instruction in Braille reading and writing solely because the student has some remaining vision.

(3) This section does not require the exclusive use of Braille if there are other special education services to meet the student's educational needs. The provision of special education or

other services does not preclude Braille use or instruction.

(4) If a student's individualized learning media assessment indicates that Braille is an appropriate learning medium, instruction in Braille shall be provided as a part of such student's educational curriculum and if such student has an individualized education program, such instruction shall be provided as part of that program.

(5) If Braille will not be provided to a student, the reason for not incorporating it in the student's individualized education program shall be documented in such plan. If no individualized education program exists, such documentation, signed by the parent or guardian, shall be placed in the student's file.

[1996 c 135 § 3.]

Notes:

Findings--1996 c 135: See note following RCW 28A.155.105.

RCW 28A.155.140 Curriculum-based assessment procedures for programs for children with handicapping conditions.

School districts may use curriculum-based assessment procedures as measures for developing academic early intervention programs and curriculum planning: PROVIDED, That the use of curriculum-based assessment procedures shall not deny a student the right to an assessment to determine eligibility or participation in learning disabilities programs as provided by RCW 28A.155.010 through 28A.155.100.

[1991 c 116 § 4; 1990 c 33 § 131; 1987 c 398 § 1. Formerly RCW 28A.03.367.]

RCW 28A.155.160 Assistive devices--Transfer for benefit of children with disabilities--Record, inventory.

Notwithstanding any other provision of law, the office of the superintendent of public instruction, the Washington state school for the deaf, the Washington state school for the blind, school districts, educational service districts, and all other state and local government educational agencies and the department of services for the blind, the department of social and health services, and all other state and local government agencies concerned with the care, education, or habilitation or rehabilitation of children with disabilities may enter into interagency cooperative agreements for the purpose of providing assistive technology devices and services to children with disabilities. Such arrangements may include but are not limited to interagency agreements for the acquisition, including joint funding, maintenance, loan, sale, lease, or transfer of assistive technology devices and for the provision of assistive technology services including but not limited to assistive technology assessments and training.

For the purposes of this section, "assistive device" means any item, piece of equipment, or product system, whether acquired commercially off-the-shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of children with disabilities. The term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology

service includes:

- (1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- (3) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for a child with a disability or if appropriate, the child's family; and
- (6) Training or technical assistance for professionals, including individuals providing education and rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities.

[1997 c 104 § 3.]

Chapter 28A.160 RCW STUDENT TRANSPORTATION

Sections

- | | |
|-------------|---|
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| 28A.160.020 | Authorization for private school students to ride buses--Conditions. |
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- 28A.160.195 Vehicle acquisition--School bus categories--Competitive specifications--Purchase--Reimbursement--Rules.
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- 28A.160.210 School bus drivers, training and qualifications--Rules and regulations for.

Notes:

- Age limit for bus drivers: RCW 46.20.045.*
- Rules for design, marking, operations: RCW 46.61.380.*
- School buses--Crossing arms: RCW 46.37.620.*
- Signs required: RCW 46.37.193.*
- Stop signal and lamps: RCW 46.37.190.*

RCW 28A.160.010 Operation of student transportation program--Responsibility of local district--Scope--Transporting of elderly--Insurance.

The operation of each local school district's student transportation program is declared to be the responsibility of the respective board of directors, and each board of directors shall determine such matters as which individual students shall be transported and what routes shall be most efficiently utilized. State moneys allocated to local districts for student transportation shall be spent only for student transportation activities, but need not be spent by the local district in the same manner as calculated and allocated by the state.

A school district is authorized to provide for the transportation of students enrolled in the school or schools of the district both in the case of students who reside within the boundaries of the district and of students who reside outside the boundaries of the district.

When children are transported from one school district to another the board of directors of the respective districts may enter into a written contract providing for a division of the cost of such transportation between the districts.

School districts may use school buses and drivers hired by the district or commercial chartered bus service for the transportation of school children and the school employees necessary for their supervision to and from any school activities within or without the school district during or after school hours and whether or not a required school activity, so long as the school board has officially designated it as a school activity. For any extra-curricular uses, the school board shall charge an amount sufficient to reimburse the district for its cost.

In addition to the right to contract for the use of buses provided in RCW 28A.160.080 and 28A.160.090, any school district may contract to furnish the use of school buses of that district to other users who are engaged in conducting an educational or recreational program supported wholly or in part by tax funds or programs for elderly persons at times when those buses are not

needed by that district and under such terms as will fully reimburse such school district for all costs related or incident thereto: PROVIDED, HOWEVER, That no such use of school district buses shall be permitted except where other public or private transportation certificated or licensed by the Washington utilities and transportation commission is not reasonably available to the user: PROVIDED FURTHER, That no user shall be required to accept any charter bus for services which the user believes might place the health or safety of the children or elderly persons in jeopardy.

Whenever any persons are transported by the school district in its own motor vehicles and by its own employees, the board may provide insurance to protect the district against loss, whether by reason of theft, fire or property damage to the motor vehicle or by reason of liability of the district to persons from the operation of such motor vehicle.

The board may provide insurance by contract purchase for payment of hospital and medical expenses for the benefit of persons injured while they are on, getting on, or getting off any vehicles enumerated herein without respect to any fault or liability on the part of the school district or operator. This insurance may be provided without cost to the persons notwithstanding the provisions of RCW 28A.400.350.

If the transportation of children or elderly persons is arranged for by contract of the district with some person, the board may require such contractor to procure such insurance as the board deems advisable.

[1990 c 33 § 132; 1986 c 32 § 1; 1983 1st ex.s. c 61 § 1; 1981 c 265 § 10; 1980 c 122 § 2; 1973 c 45 § 1; 1971 c 24 § 3; 1969 ex.s. c 153 § 3; 1969 ex.s. c 223 § 28A.24.055. Prior: (i) 1969 c 53 § 1; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 90 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58.100, part. (ii) 1965 ex.s. c 86 § 1. Formerly RCW 28A.24.055, 28.58.421.]

Notes:

Severability--1983 1st ex.s. c 61: "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." [1983 1st ex.s. c 61 § 9.]

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.
Elderly persons defined--Program limitation: RCW 28A.160.070.

RCW 28A.160.020 Authorization for private school students to ride buses--Conditions.

Every school district board of directors may authorize children attending a private school approved in accordance with RCW 28A.195.010 to ride a school bus or other student transportation vehicle to and from school so long as the following conditions are met:

- (1) The board of directors shall not be required to alter those bus routes or stops established for transporting public school students;
- (2) Private school students shall be allowed to ride on a seat-available basis only; and
- (3) The board of directors shall charge an amount sufficient to reimburse the district for

the actual per seat cost of providing such transportation.

[1990 c 33 § 133; 1981 c 307 § 1. Formerly RCW 28A.24.065.]

Notes:

Severability--1981 c 307: "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." [1981 c 307 § 2.]

RCW 28A.160.030 Authorizing individual transportation or other arrangements.

Individual transportation, board and room, and other arrangements may be authorized or provided and, in whole or part, paid for or reimbursed by a school district, when approved by the educational service district superintendent or his or her designee pursuant to rules promulgated by the superintendent of public instruction for that purpose: PROVIDED, That the total of payments for board and room and transportation incidental thereto shall not exceed the amount which would otherwise be paid for such individual transportation.

[1981 c 265 § 11; 1977 c 80 § 2; 1971 ex.s. c 66 § 10; 1969 ex.s. c 223 § 28A.24.100. Prior: 1965 ex.s. c 154 § 9. Formerly RCW 28A.24.100, 28.24.100.]

Notes:

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

Severability--1977 c 80: "If any provision of this 1977 amendatory 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." [1977 c 80 § 5.]

Severability--Effective date--1971 ex.s. c 66: See notes following RCW 28A.155.010.

RCW 28A.160.040 Lease of buses to transport children with disabilities and elderly--Limitation.

The directors of school districts are authorized to lease school buses to nonprofit organizations to transport children with disabilities and elderly persons to and from the site of activities or programs deemed beneficial to such persons by such organizations: PROVIDED, That commercial bus transportation is not reasonably available for such purposes.

[1995 c 77 § 16; 1973 c 45 § 2; 1971 c 78 § 1. Formerly RCW 28A.24.110.]

Notes:

Elderly persons defined--Program limitation: RCW 28A.160.070.

RCW 28A.160.050 Lease of buses to transport children with disabilities and elderly--Directors to authorize.

The directors of school districts may authorize leases under RCW 28A.160.040 through 28A.160.060: PROVIDED, That such leases do not conflict with regular school purposes.

[1990 c 33 § 134; 1971 c 78 § 2. Formerly RCW 28A.24.111.]

RCW 28A.160.060 Lease of buses to transport children with disabilities and elderly--Lease at local level--Criteria.

The lease of the equipment shall be handled by the school directors at a local level. The school directors may establish criteria for bus use and lease, including, but not limited to, minimum costs, and driver requirements.

[1971 c 78 § 3. Formerly RCW 28A.24.112.]

RCW 28A.160.070 Lease of buses to transport children with disabilities and elderly--Elderly persons defined--Program limitation.

For purposes of RCW 28A.160.010 and 28A.160.040, "elderly person" shall mean a person who is at least sixty years of age. No school district funds may be used for the operation of such a program.

[1990 c 33 § 135; 1973 c 45 § 3. Formerly RCW 28A.24.120.]

RCW 28A.160.080 School buses, rental or lease for emergency purposes--Authorization.

It is the intent of the legislature and the purpose of RCW 28A.160.010, 28A.160.080, and 28A.160.090 that in the event of major forest fires, floods, or other natural emergencies that boards of directors of school districts, in their discretion, may rent or lease school buses to governmental agencies for the purposes of transporting personnel, supplies and/or evacuees.

[1990 c 33 § 136; 1971 c 24 § 1. Formerly RCW 28A.24.170.]

RCW 28A.160.090 School buses, rental or lease for emergency purposes--Board to determine district policy--Conditions if rent or lease.

Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW 28A.160.080, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the director of community, trade, and economic development or any of his or her agents so authorized has, at the request of an involved governmental agency, declared that an emergency exists in a designated area insofar as the need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto.

[1995 c 399 § 20; 1990 c 33 § 137; 1986 c 266 § 21; 1985 c 7 § 88; 1974 ex.s. c 171 § 1; 1971 c 24 § 2. Formerly RCW 28A.24.172.]

Notes:

Severability--1986 c 266: See note following RCW 38.52.005.

RCW 28A.160.100 School buses, transport of general public to interscholastic activities--Limitations.

In addition to the authority otherwise provided in RCW 28A.160.010 through 28A.160.120 to school districts for the transportation of persons, whether school children, school personnel, or otherwise, any school district authorized to use school buses and drivers hired by the district for the transportation of school children to and from a school activity, along with such school employees as necessary for their supervision, shall, if such school activity be an interscholastic activity, be authorized to transport members of the general public to such event and utilize the school district's buses, transportation equipment and facilities, and employees therefor: PROVIDED, That provision shall be made for the reimbursement and payment to the school district by such members of the general public of not less than the district's actual costs and the reasonable value of the use of the district's buses and facilities provided in connection with such transportation: PROVIDED FURTHER, That wherever private transportation certified or licensed by the utilities and transportation commission or public transportation is reasonably available as determined by rule and regulation of the state board of education, this section shall not apply.

[1990 c 33 § 138; 1980 c 91 § 1. Formerly RCW 28A.24.175.]

RCW 28A.160.110 School buses, authorization for parent, guardian or custodian of a student to ride--Limitations.

Every school district board of directors may authorize any parent, guardian or custodian of a student enrolled in the district to ride a school bus or other student transportation vehicle at the request of school officials or employees designated by the board: PROVIDED, That excess seating space is available on the vehicle after the transportation needs of students have been met: PROVIDED FURTHER, That private or other public transportation of the parent, guardian or custodian is not reasonable in the board's judgment.

[1980 c 122 § 1. Formerly RCW 28A.24.178.]

RCW 28A.160.115 Bus routes.

On highways divided into separate roadways as provided in RCW 46.61.150 and highways with three or more marked traffic lanes, public school district bus routes and private school bus routes shall serve each side of the highway so that students do not have to cross the highway, unless there is a traffic control signal as defined in RCW 46.04.600 or an adult crossing guard within three hundred feet of the bus stop to assist students while crossing such multiple-lane highways.

[1990 c 241 § 11.]

RCW 28A.160.120 Agreements with other governmental entities for transportation of public or other noncommon school purposes--Limitations.

Any school district board of directors or any intermediate school district board may enter into agreements pursuant to chapter 39.34 RCW or chapter 35.58 RCW, as now or hereafter amended, with any city, town, county, metropolitan municipal corporation, and any federal or other state governmental entity, or any combination of the foregoing, for the purpose of providing for the transportation of students and/or members of the public through the use, in whole or part, of the school district's buses, transportation equipment and facilities, and employees: PROVIDED, That any agreement entered into for purposes of transportation pursuant to this section shall conform with the provisions of RCW 35.58.250 where applicable and shall provide for the reimbursement and payment to the school district of not less than the district's actual costs and the reasonable value of the use of the district's buses, and transportation equipment and supplies which are incurred and otherwise provided in connection with the transportation of members of the public or other noncommon school purposes: PROVIDED FURTHER, That wherever public transportation, or private transportation certified or licensed by the Washington utilities and transportation commission is not reasonably available, the school district or intermediate school district may transport members of the public so long as they are reimbursed for the cost of such transportation, and such transportation has been approved by any metropolitan municipal corporation performing public transportation pursuant to chapter 35.58 RCW in the area to be served by the district.

[1974 ex.s. c 93 § 1. Formerly RCW 28A.24.180.]

RCW 28A.160.130 Transportation vehicle fund--Deposits in--Use--Rules for establishment and use.

(1) There is created a fund on deposit with each county treasurer for each school district of the county, which shall be known as the transportation vehicle fund. Money to be deposited into the transportation vehicle fund shall include, but is not limited to, the following:

(a) The balance of accounts held in the general fund of each school district for the purchase of approved transportation equipment and for major transportation equipment repairs under RCW 28A.150.280. The amount transferred shall be the balance of the account as of September 1, 1982;

(b) Reimbursement payments provided for in RCW 28A.160.200 except those provided under *RCW 28A.160.200(4) that are necessary for contracted payments to private carriers;

(c) Earnings from transportation vehicle fund investments as authorized in RCW 28A.320.300; and

(d) The district's share of the proceeds from the sale of transportation vehicles, as determined by the superintendent of public instruction.

(2) Funds in the transportation vehicle fund may be used for the following purposes:

(a) Purchase of pupil transportation vehicles pursuant to RCW 28A.160.200 and 28A.150.280;

(b) Payment of conditional sales contracts as authorized in RCW 28A.335.200 or payment of obligations authorized in RCW 28A.530.080, entered into or issued for the purpose of pupil transportation vehicles;

(c) Major repairs to pupil transportation vehicles.

The superintendent of public instruction shall adopt rules which shall establish the standards, conditions, and procedures governing the establishment and use of the transportation vehicle fund. The rules shall not permit the transfer of funds from the transportation vehicle fund to any other fund of the district.

[1991 c 114 § 2; 1990 c 33 § 139; 1981 c 265 § 7. Formerly RCW 28A.58.428.]

Notes:

***Reviser's note:** RCW 28A.160.200 was amended by 1995 1st sp.s. c 10 § 2, changing subsection (4) to subsection (3).

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

RCW 28A.160.140 Contract for pupil transportation services with private nongovernmental entity--Competitive bid procedures.

As a condition of entering into a pupil transportation services contract with a private nongovernmental entity, each school district shall engage in an open competitive process at least once every five years. This requirement shall not be construed to prohibit a district from entering into a pupil transportation services contract of less than five years in duration with a district option to renew, extend, or terminate the contract, if the district engages in an open competitive process at least once every five years after July 26, 1987. As used in this section:

(1) "Open competitive process" means either one of the following, at the choice of the school district:

(a) The solicitation of bids or quotations and the award of contracts under RCW 28A.335.190; or

(b) The competitive solicitation of proposals and their evaluation consistent with the process and criteria recommended or required, as the case may be, by the office of financial management for state agency acquisition of personal service contractors;

(2) "Pupil transportation services contract" means a contract for the operation of privately owned or school district owned school buses, and the services of drivers or operators, management and supervisory personnel, and their support personnel such as secretaries, dispatchers, and mechanics, or any combination thereof, to provide students with transportation to and from school on a regular basis; and

(3) "School bus" means a motor vehicle as defined in RCW 46.04.521 and under the rules of the superintendent of public instruction.

[1990 c 33 § 140; 1987 c 141 § 2. Formerly RCW 28A.58.133.]

Notes:

Severability--1987 c 141: See note following RCW 28A.335.170.

RCW 28A.160.150 Student transportation allocation--Operating costs, determination and funding.

Funds allocated for transportation costs shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW 28A.160.160(3). In addition, funding shall be provided for transportation services for students living within one radius mile from school as determined under RCW 28A.160.180(2).

[1996 c 279 § 1; 1990 c 33 § 141; 1983 1st ex.s. c 61 § 2; 1981 c 265 § 1. Formerly RCW 28A.41.505.]

Notes:

Application--1996 c 279: "This act shall be effective for school transportation programs in the 1996-97 school year and thereafter." [1996 c 279 § 4.]

Severability--1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date--1981 c 265: "With the exception of sections 8 and 13 of this amendatory act, the effective date of this amendatory act is September 1, 1982. The superintendent of public instruction and the office thereof prior to the effective date of this amendatory act may take such actions as necessary for the orderly implementation thereof and during such period may carry out such data collection activities and district notification provisions as provided for herein." [1981 c 265 § 16.]

Severability--1981 c 265: "If any provision of this amendatory 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." [1981 c 265 § 17.]

RCW 28A.160.160 Student transportation allocation--Definitions.

For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is more than one radius mile from the student's school, except if the student to be transported is disabled under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies.

(2) "Superintendent" means the superintendent of public instruction.

(3) "To and from school" means the transportation of students for the following purposes:

(a) Transportation to and from route stops and schools;

(b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;

(c) Transportation of students between schools and learning centers for instruction specifically required by statute; and

(d) Transportation of students with disabilities to and from schools and agencies for special education services.

Extended day transportation shall not be considered part of transportation of students "to and from school" for the purposes of chapter 61, Laws of 1983 1st ex. sess.

(4) "Transportation services" for students living within one radius mile from school means school transportation services including the use of buses, funding of crossing guards, and matching funds for local and state transportation projects intended to mitigate hazardous walking conditions. Priority for transportation services shall be given to students in grades kindergarten through five.

[1996 c 279 § 2; 1995 c 77 § 17; 1990 c 33 § 142; 1983 1st ex.s. c 61 § 3; 1981 c 265 § 2. Formerly RCW 28A.41.510.]

Notes:

Application--1996 c 279: See note following RCW 28A.160.150.

Severability--1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

RCW 28A.160.170 Student transportation allocation--District's annual report to superintendent.

Each district shall submit to the superintendent of public instruction during October of each year a report containing the following:

(1)(a) The number of eligible students transported to and from school as provided for in RCW 28A.160.150 for the current school year and the number of miles estimated to be driven for pupil transportation services, along with a map describing student route stop locations and school locations, and (b) the number of miles driven for pupil transportation services as authorized in RCW 28A.160.150 the previous school year; and

(2) Other operational data and descriptions as required by the superintendent to determine allocation requirements for each district.

Each district shall submit the information required in this section on a timely basis as a condition of the continuing receipt of school transportation moneys.

[1990 c 33 § 143; 1983 1st ex.s. c 61 § 4; 1981 c 265 § 3. Formerly RCW 28A.41.515.]

Notes:

Severability--1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

RCW 28A.160.180 Student transportation allocation--Allocation rates, adjustment--District-owned passenger cars--Report.

Each district's annual student transportation allocation shall be based on differential rates

determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for determining the transportation allocation for those services provided for in RCW 28A.160.150. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may be adjusted to include such additional differential factors as distance; restricted passenger load; circumstances that require use of special types of transportation vehicles; student with disabilities load; and small fleet maintenance.

(2) For transportation services for students living within one radius mile from school, the allocation shall be based on the number of students in grades kindergarten through five living within one radius mile as specified in the biennial appropriations act.

(3) The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining the transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus.

(4) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the allocation rates to be used the following year.

[1996 c 279 § 3; 1995 c 77 § 18; 1990 c 33 § 144; 1985 c 59 § 1; 1983 1st ex.s. c 61 § 5; 1982 1st ex.s. c 24 § 2; 1981 c 265 § 4. Formerly RCW 28A.41.520.]

Notes:

Application--1996 c 279: See note following RCW 28A.160.150.

Severability--1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date--Severability--1982 1st ex.s. c 24: See notes following RCW 28A.150.370.

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

RCW 28A.160.190 Student transportation allocation--Notice--Revised eligible student data, when--Allocation payments, amounts, when.

The superintendent shall notify districts of their student transportation allocation before January 15th. If the number of eligible students in a school district changes ten percent or more from the October report, and the change is maintained for a period of twenty consecutive school days or more, the district may submit revised eligible student data to the superintendent of public instruction. The superintendent shall, to the extent funds are available, recalculate the district's allocation for the transportation of pupils to and from school.

The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW 28A.510.250. Such allocation payments may be based on estimated amounts for payments to be made in September, October, November,

December, and January.

[1990 c 33 § 145; 1985 c 59 § 2; 1983 1st ex.s. c 61 § 6; 1982 1st ex.s. c 24 § 3; 1981 c 265 § 5. Formerly RCW 28A.41.525.]

Notes:

Severability--1983 1st ex.s. c 61: See note following RCW 28A.160.010.

Effective date--Severability--1982 1st ex.s. c 24: See notes following RCW 28A.150.370.

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

RCW 28A.160.195 Vehicle acquisition--School bus categories--Competitive specifications--Purchase--Reimbursement--Rules.

(1) The superintendent of public instruction, in consultation with the regional transportation coordinators of the educational service districts, shall establish a minimum number of school bus categories considering the capacity and type of vehicles required by school districts in Washington. The superintendent, in consultation with the regional transportation coordinators of the educational service districts, shall establish competitive specifications for each category of school bus. The categories shall be developed to produce minimum long-range operating costs, including costs of equipment and all costs in operating the vehicles. The categories, for purposes of comparative studies, will be at a minimum the same as those in the beginning of the 1994-95 school year. The competitive specifications shall meet federal motor vehicle safety standards, minimum state specifications as established by rule by the superintendent, and supported options as determined by the superintendent in consultation with the regional transportation coordinators of the educational service districts.

(2) After establishing school bus categories and competitive specifications, the superintendent of public instruction shall solicit competitive price quotes from school bus dealers to be in effect for one year and establish a list of the lowest competitive price quotes obtained under this subsection.

(3) The superintendent shall base the level of reimbursement to school districts and educational service districts for school buses on the lowest quote in each category.

(4) Notwithstanding RCW 28A.335.190, school districts and educational service districts may purchase at the quoted price directly from the dealer who is providing the lowest competitive price quote on the list established under subsection (2) of this section. School districts and educational service districts may make their own selections for school buses, but shall be reimbursed at the rates determined under this section and RCW 28A.160.200. District-selected options shall not be reimbursed by the state.

(5) This section does not prohibit school districts or educational service districts from conducting their own competitive bid process.

(6) The superintendent of public instruction may adopt rules under chapter 34.05 RCW to implement this section.

[1995 1st sp.s. c 10 § 1.]

Notes:

Effective dates--1995 1st sp.s. c 10 §§ 1 and 2: "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [June 14, 1995].

(2) Section 2 of this act shall take effect September 1, 1995." [1995 1st sp.s. c 10 § 5.]

RCW 28A.160.200 Vehicle acquisition--Reimbursement schedule--Maintenance and operation--Depreciation schedule.

(1) The superintendent shall develop a reimbursement schedule to pay districts for the cost of student transportation vehicles purchased after September 1, 1982. While it is the responsibility of each district to select and pay for each student transportation vehicle purchased by the district, each district shall be paid a sum based on the category of vehicle, anticipated lifetime of vehicles of this category, and state reimbursement rate for the category plus inflation as recognized by the reimbursement schedule established in this section as set by the superintendent. Categories and reimbursement rates of vehicles shall be those established under RCW 28A.160.195. The accumulated value of the payments and the potential investment return thereon shall be designed to be equal to the replacement cost of the vehicle less its salvage value at the end of its anticipated lifetime. The superintendent shall revise at least annually the reimbursement payments based on the current and anticipated future cost of comparable categories of transportation equipment. Reimbursements to school districts for approved transportation equipment shall be placed in a separate transportation vehicle fund established for each school district under RCW 28A.160.130. However, educational service districts providing student transportation services pursuant to RCW 28A.310.180(4) and receiving moneys generated pursuant to this section shall establish and maintain a separate transportation vehicle account in the educational service district's general expense fund for the purposes and subject to the conditions under RCW 28A.160.130 and 28A.320.300.

(2) To the extent possible, districts shall operate vehicles acquired under this section not less than the number of years or useful lifetime now, or hereafter, assigned to the category of vehicles by the superintendent. School districts shall properly maintain the transportation equipment acquired under the provisions of this section, in accordance with rules established by the office of the superintendent of public instruction. If a district fails to follow generally accepted standards of maintenance and operation, the superintendent of public instruction shall penalize the district by deducting from future reimbursements under this section an amount equal to the original cost of the vehicle multiplied by the fraction of the useful lifetime or miles the vehicle failed to operate.

(3) The superintendent shall annually develop a depreciation schedule to recognize the cost of depreciation to districts contracting with private carriers for student transportation. Payments on this schedule shall be a straight line depreciation based on the original cost of the appropriate category of vehicle.

[1995 1st sp.s. c 10 § 2; 1990 c 33 § 146; 1987 c 508 § 4; 1981 c 265 § 6. Formerly RCW 28A.41.540.]

Notes:

Effective dates--1995 1st sp.s. c 10 §§ 1 and 2: See note following RCW 28A.160.195.

Effective date--Severability--1981 c 265: See notes following RCW 28A.160.150.

Transportation vehicle fund--Deposits in--Use--Rules for establishment and use: RCW 28A.160.130.

RCW 28A.160.210 School bus drivers, training and qualifications--Rules and regulations for.

In addition to other powers and duties, the state board of education shall adopt rules and regulations governing the training and qualifications of school bus drivers. Such rules and regulations shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: PROVIDED, That such rules and regulations shall insure that school bus drivers are provided a due process hearing before any certification required by such rules and regulations is cancelled: PROVIDED FURTHER, That such rules and regulations shall not conflict with the authority of the department of licensing to license school bus drivers in accordance with chapter 46.25 RCW. The state board of education may obtain a copy of the driving record, as maintained by the department of licensing, for consideration when evaluating a school bus driver's driving skills.

[1989 c 178 § 20; 1981 c 200 § 1; 1979 c 158 § 89; 1969 ex.s. c 153 § 4. Formerly RCW 28A.04.131.]

Notes:

Severability--Effective dates--1989 c 178: See RCW 46.25.900 and 46.25.901.

**Chapter 28A.165 RCW
LEARNING ASSISTANCE PROGRAM**

Sections

28A.165.010	Intent.
28A.165.012	Program created.
28A.165.030	Definitions.
28A.165.040	Application for state funds--Needs assessment--Plan.
28A.165.050	Identification of students--Coordination of use of funds.
28A.165.060	Services or activities under program.
28A.165.070	Eligibility for funds--Distribution of funds--Development of allocation formula.
28A.165.080	Monitoring.
28A.165.090	Rules.

RCW 28A.165.010 Intent.

The legislature finds that an important and effective means of improving the educational performance of many students with special needs is to improve the general education program. The legislature also finds that there is a continuum of educational program needs among students with learning problems or poor academic performance. The legislature wants to encourage school districts to serve students with special needs within the regular classroom. Therefore, the

legislature intends to replace the remediation program with a broader range of program options, without reducing special instructional programs when those services are both necessary and appropriate. The legislature intends to enhance the ability of basic education teachers to identify and address learning problems within the regular classroom. The legislature further intends to stimulate development by local schools and school districts of innovative and effective means of serving students with special needs. The goal is to increase the achievement of students with special needs in a shorter period of time using processes that are more timely, appropriate and effective in producing better outcomes.

[1989 c 233 § 1; 1987 c 478 § 1. Formerly RCW 28A.120.010.]

RCW 28A.165.012 Program created.

There is hereby created a state-wide program designed to enhance educational opportunities for public school students who are deficient in basic skills achievement. This program shall be known as the learning assistance program.

[1987 c 478 § 2. Formerly RCW 28A.120.012.]

RCW 28A.165.030 Definitions.

Unless the context clearly indicates otherwise the definitions in this section apply throughout RCW 28A.165.010 through 28A.165.090.

(1) "Basic skills" means reading, mathematics, and language arts as well as readiness activities associated with such skills.

(2) "Placement testing" means the administration of objective measures by a school district for the purposes of diagnosing the basic skills achievement levels, determining the basic skills areas of greatest need, and establishing the learning assistance needs of individual students in conformance with instructions established by the superintendent of public instruction for such purposes.

(3) "Approved program" means a program conducted pursuant to a plan submitted by a district and approved by the superintendent of public instruction under RCW 28A.165.040.

(4) "Participating student" means a student in kindergarten through grade nine who scores below grade level in basic skills, as determined by placement testing, and who is identified under RCW 28A.165.050 to receive additional services or support under an approved program.

(5) "Basic skills tests" means state-wide tests at the third grade level established pursuant to RCW 28A.230.190 and *eighth grade level established pursuant to RCW 28A.230.230.

[1999 c 78 § 1; 1990 c 33 § 148; 1987 c 478 § 3. Formerly RCW 28A.120.014.]

Notes:

*Reviser's note: The eighth grade test in RCW 28A.230.230 was changed to a ninth grade test by 1999 c 373 § 401.

RCW 28A.165.040 Application for state funds--Needs assessment--Plan.

Each school district which applies for state funds distributed pursuant to RCW 28A.165.070 shall conduct a needs assessment and, on the basis of its findings, shall develop a plan for the use of these funds. The plan may incorporate plans developed by each eligible school. Districts are encouraged to place special emphasis on addressing the needs of students in the early grades. The needs assessment and plan shall be updated at least biennially, and shall be determined in consultation with an advisory committee including but not limited to members of the following groups: Parents, including parents of students served by the program; teachers; principals; administrators; and school directors. The district shall submit a biennial application specifying this plan to the office of the superintendent of public instruction for approval. Plans shall include:

- (1) The means which the district will use to identify participating students to receive additional services or support under the proposed program;
- (2) The specific services or activities which the funds will be used to support, and their estimated costs;
- (3) A plan for annual evaluation of the program by the district, based on performance objectives related to basic skills achievement of participating students, and a plan for reporting the results of this evaluation to the superintendent of public instruction;
- (4) Procedures for recordkeeping or other program documentation as may be required by the superintendent of public instruction; and
- (5) The approval of the local school district board of directors.

[1990 c 33 § 149; 1989 c 233 § 2; 1987 c 478 § 4. Formerly RCW 28A.120.016.]

RCW 28A.165.050 Identification of students--Coordination of use of funds.

Identification of participating students for an approved program of learning assistance shall be determined in each district through the implementation of the findings of the district's needs assessment and through placement testing. School districts are encouraged to coordinate the use of funds from federal, state, and local sources in serving students who are below grade level in basic skills, and to make efficient use of these resources in meeting the needs of students with the greatest academic deficits.

[1987 c 478 § 5. Formerly RCW 28A.120.018.]

RCW 28A.165.060 Services or activities under program.

Services or activities which may be supported under an approved program of learning assistance shall include but not be limited to:

- (1) Consultant teachers to assist classroom teachers in meeting the needs of participating students;
- (2) Instructional support staff and instructional assistants to assist classroom teachers in meeting the needs of participating students;
- (3) In-service training for classroom teachers, instructional support staff, and instructional

assistants in multicultural differences and the identification of learning problems or in instructional methods for teaching students with learning problems;

(4) Special instructional programs for participating students, of sufficient size, scope, and quality to address the needs of these students and to give reasonable promise of substantial progress toward meeting their educational objectives;

(5) Tutoring assistance during or after school or on Saturday provided by instructional support staff, a student tutor, teacher, or instructional assistant;

(6) In-service training for parents of participating students; and

(7) Counseling, with an emphasis on services for elementary students who are in need of learning assistance, provided by instructional support staff such as school counselors, school psychologists, school nurses, and school social workers. Pursuant to the provisions of *section 4(2) of this act, learning assistance funds may be used to provide counseling for students who in the absence of counseling would likely become in need of such learning assistance.

[1989 c 233 § 3; 1987 c 478 § 6. Formerly RCW 28A.120.020.]

Notes:

***Reviser's note:** Section 4(2) was vetoed by the governor.

RCW 28A.165.070 Eligibility for funds--Distribution of funds--Development of allocation formula.

Each school district which has established an approved program shall be eligible, as determined by the superintendent of public instruction, for state funds made available for the purposes of such programs.

(1) For the 1995-96 school year and thereafter, the superintendent of public instruction shall distribute funds appropriated for the learning assistance program in accordance with the biennial appropriations act. The distribution formula shall be based upon an assessment of students and a poverty factor.

(2) The distribution of funds is for allocation purposes only.

(3) The superintendent of public instruction shall recommend to the legislature a new allocation formula that uses additional elements consistent with performance-based education and the new assessment system developed by the commission on student learning. The superintendent of public instruction shall develop the recommendations for a new allocation formula not later than the 1997-98 school year, based upon the initial implementation of the assessment system for reading, writing, communication, and mathematics.

[1995 1st sp.s. c 13 § 1; 1993 sp.s. c 24 § 520; 1990 c 33 § 150; 1987 c 478 § 7. Formerly RCW 28A.120.022.]

Notes:

Severability--1993 sp.s. c 24: "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." [1993 sp.s. c 24 § 932.]

Effective dates--1993 sp.s. c 24: "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 shall take effect July 1, 1993, except for section 308(5) of this act which shall take effect immediately [May 28, 1993]." [1993 sp.s. c 24 §

933.]

RCW 28A.165.080 Monitoring.

In order to insure that school districts are meeting the requirements of an approved program, the superintendent of public instruction shall monitor such programs no less than once every three years. The results of the evaluations required by RCW 28A.165.040 shall be transmitted to the superintendent of public instruction annually. Individual student records shall be maintained at the school district.

[1990 c 33 § 151; 1987 c 478 § 8. Formerly RCW 28A.120.024.]

RCW 28A.165.090 Rules.

The superintendent of public instruction shall promulgate rules pursuant to chapter 34.05 RCW which he or she deems necessary to implement RCW 28A.165.010 through 28A.165.080.

[1990 c 33 § 152; 1987 c 478 § 9. Formerly RCW 28A.120.026.]

**Chapter 28A.170 RCW
SUBSTANCE ABUSE AWARENESS PROGRAM**

Sections

- | | |
|-------------|---|
| 28A.170.050 | Advisory committee--Members--Duties. |
| 28A.170.075 | Findings--Intent. |
| 28A.170.080 | Grants--Substance abuse intervention. |
| 28A.170.090 | Selection of grant recipients--Program rules. |

RCW 28A.170.050 Advisory committee--Members--Duties.

The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and classified staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the traffic safety commission; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation.

[1997 c 13 § 3; 1987 c 518 § 209. Formerly RCW 28A.120.038.]

Notes:

Intent--1994 c 166; 1987 c 518: See note following RCW 28A.215.150.

Severability--1987 c 518: See note following RCW 28A.215.150.

RCW 28A.170.075 Findings--Intent.

(1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teachers, and better enable students to realize their academic and personal potentials.

(2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.

(3) Substance abuse awareness programs funded under this chapter do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk.

[1995 c 335 § 204; 1990 c 33 § 156; 1989 c 271 § 310. Formerly RCW 28A.120.080.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.

Severability--1989 c 271: See note following RCW 9.94A.310.

RCW 28A.170.080 Grants--Substance abuse intervention.

(1) Grants provided under RCW 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

- (a) Individual and family counseling, including preventive counseling;
- (b) Assessment and referral for treatment;
- (c) Referral to peer support groups;
- (d) Aftercare;
- (e) Development and supervision of student mentor programs;
- (f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and
- (g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under state board of education rules adopted pursuant to RCW 28A.305.130;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A counselor, social worker, or other qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020.

[1990 c 33 § 157; 1989 c 271 § 311. Formerly RCW 28A.120.082.]

Notes:

Severability--1989 c 271: See note following RCW 9.94A.310.

RCW 28A.170.090 Selection of grant recipients--Program rules.

(1) The superintendent of public instruction shall select school districts and cooperatives of school districts to receive grants for drug and alcohol abuse prevention and intervention programs for students in kindergarten through twelfth grade, from funds appropriated by the legislature for this purpose. The minimum annual grant amount per district or cooperative of districts shall be twenty thousand dollars. Factors to be used in selecting proposals for funding and in determining grant awards shall be developed in consultation with the substance abuse advisory committee appointed under RCW 28A.170.050, with the intent of targeting funding to districts with high-risk populations. These factors may include:

(a) Characteristics of the school attendance areas to be served, such as the number of students from low-income families, truancy rates, juvenile justice referrals, and social services caseloads;

(b) The total number of students who would have access to services; and

(c) Participation of community groups and law enforcement agencies in drug and alcohol abuse prevention and intervention activities.

(2) The application procedures for grants under this section shall include provisions for comprehensive planning, establishment of a school and community substance abuse advisory committee, and documentation of the district's needs assessment. Planning and application for grants under this section may be integrated with the development of other substance abuse awareness programs by school districts. School districts shall, to the maximum extent feasible,

coordinate the use of grants provided under this section with other funding available for substance abuse awareness programs. School districts should allocate resources giving emphasis to drug and alcohol abuse intervention services for students in grades five through nine. Grants may be used to provide services for students who are enrolled in approved private schools.

(3) School districts receiving grants under this section shall be required to establish a means of accessing formal assessment services for determining treatment needs of students with drug and alcohol problems. The grant applications submitted by districts shall identify the districts' plan for meeting this requirement.

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

(5) The superintendent of public instruction may adopt rules to implement RCW 28A.170.080 and 28A.170.090.

[1995 c 335 § 205; 1990 c 33 § 158; 1989 c 271 § 312. Formerly RCW 28A.120.084.]

Notes:

Part headings, table of contents not law--1995 c 335: See note following RCW 28A.150.360.
Severability--1989 c 271: See note following RCW 9.94A.310.

Chapter 28A.175 RCW DROPOUT PREVENTION AND RETRIEVAL PROGRAM

Sections

28A.175.010 Educational progress information--Reporting requirements--Rules--Reports to legislature.

RCW 28A.175.010 Educational progress information--Reporting requirements--Rules--Reports to legislature.

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

- (1) For students enrolled in each of a school district's high school programs:
 - (a) The number of students eligible for graduation in fewer than four years;
 - (b) The number of students who graduate in four years;
 - (c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;
 - (d) The number of students who transfer to other schools;
 - (e) The number of students who enter from other schools;
 - (f) The number of students in the ninth through twelfth grade who drop out of school over

a four-year period; and

- (g) The number of students whose status is unknown.
- (2) Dropout rates of students in each of the grades nine through twelve.
- (3) Dropout rates for student populations in each of the grades nine through twelve by:
 - (a) Ethnicity;
 - (b) Gender;
 - (c) Socioeconomic status; and
 - (d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades nine through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

[1991 c 235 § 4; 1986 c 151 § 1. Formerly RCW 28A.58.087.]

Chapter 28A.180 RCW TRANSITIONAL BILINGUAL INSTRUCTION PROGRAM

Sections

28A.180.010	Transitional bilingual instruction program--Short title--Purpose.
28A.180.020	Transitional bilingual instruction program--Annual report by superintendent of public instruction.
28A.180.030	Transitional bilingual instruction program--Definitions.
28A.180.040	Transitional bilingual instruction program--School board duties.
28A.180.060	Transitional bilingual instruction program--Guidelines and rules.
28A.180.080	Transitional bilingual instruction program--Budget request for--Allocation of moneys, priorities--English language skills test.

RCW 28A.180.010 Transitional bilingual instruction program--Short title--Purpose.

RCW 28A.180.010 through 28A.180.080 shall be known and cited as "The Transitional Bilingual Instruction Act." The legislature finds that there are large numbers of children who

come from homes where the primary language is other than English. The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW 28A.180.010 through 28A.180.080 to provide for the implementation of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to school districts to meet the extra costs of these programs.

[1990 c 33 § 163; 1984 c 124 § 1; 1979 c 95 § 1. Formerly RCW 28A.58.800.]

Notes:

Severability--1979 c 95: "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." [1979 c 95 § 9.]

RCW 28A.180.020 Transitional bilingual instruction program--Annual report by superintendent of public instruction.

The superintendent of public instruction shall review annually the transitional bilingual instruction program and shall submit a report of such review to the legislature on or before January 1 of each year.

[1984 c 124 § 8. Formerly RCW 28A.58.801.]

RCW 28A.180.030 Transitional bilingual instruction program--Definitions.

As used in RCW 28A.180.010 through 28A.180.080, unless the context thereof indicates to the contrary:

(1) "Transitional bilingual instruction" means:

(a) A system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. Concepts and information are introduced in the primary language and reinforced in the second language: PROVIDED, That the program shall include testing in the subject matter in English; or

(b) In those cases in which the use of two languages is not practicable as established by the superintendent of public instruction and unless otherwise prohibited by law, an alternative system of instruction which may include English as a second language and is designed to enable the pupil to achieve competency in English.

(2) "Primary language" means the language most often used by the student for communication in his/her home.

(3) "Eligible pupil" means any enrollee of the school district whose primary language is other than English and whose English language skills are sufficiently deficient or absent to impair learning.

[1990 c 33 § 164; 1984 c 124 § 2; 1979 c 95 § 2. Formerly RCW 28A.58.802.]

Notes:

Severability--1979 c 95: See note following RCW 28A.180.010.

RCW 28A.180.040 Transitional bilingual instruction program--School board duties.

Every school district board of directors shall:

(1) Make available to each eligible pupil transitional bilingual instruction to achieve competency in English, in accord with rules of the superintendent of public instruction.

(2) Wherever feasible, ensure that communications to parents emanating from the schools shall be appropriately bilingual for those parents of pupils in the bilingual instruction program.

(3) Determine, by administration of an English test approved by the superintendent of public instruction the number of eligible pupils enrolled in the school district at the beginning of a school year and thereafter during the year as necessary in individual cases. If, however, a preliminary interview indicates little or no English speaking ability, eligibility testing shall not be necessary.

(4) Before the conclusion of each school year, measure each eligible pupil's improvement in learning the English language by means of a test approved by the superintendent of public instruction.

(5) Provide in-service training for teachers, counselors, and other staff, who are involved in the district's transitional bilingual program. Such training shall include appropriate instructional strategies for children of culturally different backgrounds, use of curriculum materials, and program models.

[1984 c 124 § 3; 1979 c 95 § 3. Formerly RCW 28A.58.804.]

Notes:

Effective date--1979 c 95 § 3: "Section 3 of this act shall take effect September 1, 1980." [1979 c 95 § 7.]

Severability--1979 c 95: See note following RCW 28A.180.010.

RCW 28A.180.060 Transitional bilingual instruction program--Guidelines and rules.

The superintendent of public instruction shall:

(1) Promulgate and issue program development guidelines to assist school districts in preparing their programs;

(2) Promulgate rules for implementation of RCW 28A.180.010 through 28A.180.080 in accordance with chapter 34.05 RCW. The rules shall be designed to maximize the role of school districts in selecting programs appropriate to meet the needs of eligible students. The rules shall identify the process and criteria to be used to determine when a student is no longer eligible for transitional bilingual instruction pursuant to RCW 28A.180.010 through 28A.180.080.

[1990 c 33 § 165; 1984 c 124 § 5; 1979 c 95 § 5. Formerly RCW 28A.58.808.]

Notes:

Severability--1979 c 95: See note following RCW 28A.180.010.